

**FRUITLAND PLANNING COMMISSION  
TUESDAY, JULY 1, 2008  
MINUTES**

The Fruitland Planning Commission met at City Hall on Tuesday, July 1, 2008, with the following members present: Chairman Charles Shores, Leland Bonneville, Councilman Theodore Lokey, Annette Noble, and Robin Townsend. Staff in attendance were City Manager John McDonnell, Asst. City Manager/Clerk Joyce Crouch, City Solicitor Andy Mitchell, Utilities Director Joe Derbyshire, Public Works Director Cooper Townsend, and Code Enforcement Officer Danny Scholl. Guests included Steve Fuller, of Fuller Hall & Associates, Michael Hickson and Steve Capelli of the Rotary Club of Salisbury, and numerous concerned citizens.

Chairman Shores called the meeting to order at 7:05 p.m. and asked for comments or changes to the minutes of May 6, 2008. There being none, Mr. Lokey moved to adopt the minutes as written. Mr. Townsend seconded and the motion was unanimously approved.

**Old Business**

***Comprehensive Plan Update:*** City Manager McDonnell reminded members to review the material sent to them regarding the Plan's update, as he had some questions regarding some of the content. McDonnell also stated the draft plan is proposed to be ready for review by the end of August. Chairman Shores mentioned he had seen that the draft plan would be ready by the end of July, but McDonnell confirmed that after speaking with the consultant, Tim Bourcier, the draft plan would not be available until the end of August in order to be in the hands of the County and State by September. Members were asked to review and e-mail or call the City Manager with their concerns or comments.

In a response to Ms. Noble's concern about using 2000 Census figures in the Plan, Clerk Crouch revealed that Mr. Bourcier has estimated Fruitland's current population at 4,854.

Member Townsend expressed his concern regarding the section on the local fire department, advising he has not been contacted by the consultant for information. He also mentioned there was no section on EMS in the material submitted.

Member Bonneville questioned the future growth area not being included in the material. Other members mentioned having seen it in earlier material offered for review.

Clerk Crouch described the consultant's work on certain sections of the Plan and the distribution of the material to members and staff to review as they are prepared. Comments can then be made to the City Manager or City Clerk, who, in turn, will forward any concerns to the consultant for changes prior to the entire draft plan being submitted.

***Colonial Village Townhouse Plan Changes:*** Steve Fuller returned with a final plat of the Colonial Village Townhouse project for approval. Mr. Fuller described the plan of changing the driveways from an ingress/egress easement behind the South Brown Street units to the Brown Street side, with shared entrances from the street.

Discussion followed regarding the right-of-way width along Brown Street and the closing of the 15-foot easement behind the townhouses. Mr. Fuller explained that he can record a release of easement and provide an exhibit drawing showing that the rear easement will be abandoned when the townhouses are constructed.

Member Townsend asked about any fencing proposed for the common areas behind the units in case the fire company needs access to the interior areas. Mr. Fuller advised the lots will not be fenced but property owners will be allowed to fence in portions of their lots such as patio areas.

Solicitor Mitchell suggested marking more plainly the 15-foot easement area on Brown Street.

Having no further questions or comments, Councilman Lokey moved to approve the final plat of the Driveway Exhibit Drawing for Colonial Village as presented. Member Townsend seconded and the motion was unanimously approved.

***E.S. Adkins - Sharps Point Road Boundary Line Adjustment:*** Steve Fuller, of Fuller Hall & Associates, and Bill Turner, of E.S. Adkins & Company, presented the final plat of Parcels 2118 and 2119, having made the changes of locating the cemetery area and access to the utility line. Mr. Fuller added that they would more clearly define the easement area with bearings and distances surrounding the cemetery.

Solicitor Mitchell suggested, and members agreed, to make the 15-foot easement dedicated for road and utility purposes clearer on the plat, comment on the easement to the cemetery and encircle the cemetery, and any new building on new Parcel 2118 must be constructed in the R1-C zone and should be so noted on the plat.

Finally, Ms. Noble moved to approve the resubdivision of Parcels 2118 and 2119 on Sharps Point Road with the three noted items included on the plat. Mr. Bonneville seconded and the motion was unanimously approved.

Bill Turner then discussed the rural road standards and asked the opinion of members regarding the more “green” development concept, as he is considering using it for the five-lot subdivision on Sharps Point Road which has received preliminary approval. Chairman Shores expressed his favorable response to the idea. Public Works Director Townsend advised he was not familiar with the concept and would like to see other developments in the area prior to forming an opinion. Mr. Turner advised that he would provide a list of developments for Director Townsend.

***Wal\*Mart Shops Tract Variance*** – Steve Fuller, representing Fruitland (Southtowne) WMS, LLC, presented the request for a 55-foot Variance for the front setback of proposed Shops Tract Parcel B. A 75-foot front setback from U.S. Route 13 is required in the C-4 Highway Business District. Mr. Fuller expressed his belief that the front setback should be measured from Pollitt Avenue, not from Route 13 because the railroad is between Route 13 and the property.

Member Bonneville asked how far back McDonald’s and Ruby Tuesday are from Route 13. Fuller acknowledged those two businesses are set back at least 75 feet from the highway. Bonneville then asked why would Mr. Fuller’s client would want to change the setback from what already exists. Mr. Fuller explained that his client wants as much buildable area as possible. Clerk Crouch asked about the creation of another new parcel in the development and the contour of the land where the new parcel is being formed. Mr. Fuller explained the contour of the land is a part of the problem as well as a forest conservation area which limits the building space desired. Fuller advised his argument for approval of the variance would be that the property does not have road frontage on Route 13 so he did not believe the front setback should have been established from there.

Chairman Shores commented that if a building is placed closer to the railroad tracks, then it would block the visibility of other businesses coming south on Route 13. Member Bonneville agreed that it could affect Ruby Tuesday. Solicitor Mitchell added it would also affect the vacant

lot between Ruby Tuesday and proposed Parcel B. Fuller responded that Parcel B does not have much visibility from southbound Route 13 because of the wooded area blocking it.

Councilman Lokey advised he saw no problem with the variance request.

Member Bonneville asked about the easement agreements with the other property owners. Fuller advised he had contacted his client who is to e-mail an agreement with Rinnier to access the back portion of the Rinnier parcel onto proposed Parcel B, instead of using the Ruby Tuesday parking lot.

Other comments entailed the space between the shopping center building and the outparcels. Fuller advised there is 24 feet drive aisle for two-way traffic access there.

Member Townsend commented that he agreed with the free flowing traffic pattern behind the outparcels, rather than access through the parking lots of the outparcels.

In answer to a question from Clerk Crouch, Fuller advised he is seeking the Variance first before moving forward with the final approval of the resubdivision plat.

With no further comments, Councilman Lokey moved to recommend approval of the variance to the Board of Zoning Appeals. Member Townsend seconded and the motion was unanimously approved.

### **New Business**

***Parking Plan for 100 West Main Street*** – There was no discussion, as applicant was not present.

***Variance Request – Sign Setback – 101 N. Fruitland Blvd.*** Withdrawn by request of applicant.

***Annexation Petition - Rotary Club of Salisbury Scout House – 1715 Riverside Drive:*** Mike Hickson and Steve Capelli, on behalf of the Rotary Foundation (at times referred to as Rotary Club), came forward and presented a Petition for Annexation for their Riverside Drive Scout House property. Mr. Hickson mentioned the submission of documents forwarded to the Planning Commission members. He then explained that the proposed annexation was basically the same as requested in 2006, involving the same land and zoning, but with a couple of significant differences. Mr. Hickson expounded that the Rotary Foundation proposes to eliminate self-imposed rules, complying with existing Fruitland laws that apply to all property owners, residents and visitors of Fruitland. Also described was the almost weekly use of the Rotary Club's facility for the past two years by the Rotary Club, including serving alcohol, without incident or complaints. Mr. Hickson added that the Rotary is requesting R1-C zoning, which allows the use of the property as a community building for non-profit civic and patriotic clubs, upon approval of the Planning Commission. He also mentioned allowing other non-profit organizations to use the facility and how the annexation would be beneficial to the City of Fruitland and the citizens of Fruitland. Hickson further described that the property is located within the City's Comprehensive Plan growth area, the existing problem of failing septic systems in the area and that the annexation would provide a City presence to deal with the problem, the benefit of providing Fruitland citizens and staff members use of the facility, and the fact that there are already 16 similar facilities located in residential zones within the City of Fruitland, including schools, churches and recreational facilities.

Councilman Lokey mentioned that during the City's current undertaking of updating our Comprehensive Plan and it has been determined that the City lacks sufficient acreage of recreational and park facilities for our population, especially on the west side. He asked if the Rotary Club would be receptive to consider discussing with the City the provision of a playground that would be open for public use. Mr. Capelli, president of the Rotary Club, advised that the Club would be receptive to discussing the issue with the City. Mr. Hickson expressed his concern with the insurance and liability issues but agreed that the membership could discuss the proposal at the appropriate time. It was suggested a portion of the property on Shad Point Road could be leased to the City for \$1.00 per year and covered under the City's insurance. Mr. Capelli also mentioned the offer to provide an easement for a lift station for the City's future use. Councilman Lokey suggested a meeting with Rotary members and City staff to further discuss possible recreational uses if the annexation is approved. Further discussion of a park included suggesting an entrance from Shad Point Road to access the area.

Solicitor Mitchell explained that the Petition of Annexation has to be accepted by the City Council at their July 8, 2008 meeting prior to any further consideration by the Commission. He suggested, however, that Members could consider two things: whether to approve the annexation, and whether to consider the facility for approval as a permitted use as a non-profit, civic, or patriotic club, as described in the Zoning Ordinance. He stressed that tonight's presentation was primarily informational, and that until the City Council has acted, it would be inappropriate to vote on these issues

Mr. Hickson mentioned that other clubs such as the Moose and Elks host scout troops and other events with no issues or concerns.

A general consensus of Commission Members emerged as being in favor of the annexation proposal based only on what information had been provided so far.

Member Townsend questioned the recreational use in an R1-C zone. Clerk Crouch advised that our recreational park is a residential zone. Solicitor Mitchell read from the Zoning Ordinance that parks and playgrounds are permitted in the R1-C zone after approval of the Planning Commission and if municipally owned.

Chairman Shores opened the floor for comments.

Lester Simpson, of 706 Burning Tree Circle, read a prepared statement suggesting that this annexation agenda item be withdrawn until proper notice has been given to adjoining property owners. Solicitor Mitchell interrupted Mr. Simpson and advised that most of the previous opponents were present and that this request had not been accepted for First Reading by the City Council. Mitchell further explained that the Rotary Club was simply appearing before the Commission to get their feeling prior to moving forward with their annexation request and no vote will be taken at this time. Mitchell added that public comments will be received at the July City Council meeting. Mr. Simpson expressed his opinion that the annexation will not affect Fruitland residents. He also implied that Fruitland officials planned the meeting during the July 4 vacation week to minimize objections to the annexation request and that he assumed there had been some dialogue and correspondence between town officials and the Rotary. Simpson added that he felt the process should be delayed until proper notice has been given.

Ms. Noble asserted that the Planning Commission does not take vacations during the year and that this is the normal meeting night of the Commission.

Ernest Cornbrooks, of 710 Burning Tree Circle, reviewed the previous objections from the adjoining property owners as before, claiming the Rotary desires an enterprise in a residential

area which will generate income for the Rotary. Cornbrooks claimed the Club is planning to operate a restaurant and bar which will produce noise, lighting, dirt, trash and other issues associated with something that is generating a stream of income. He stated there were no objections with the Scouting groups or this particular Rotary Club using the facility for weekly meetings, but his personal objection was to open the facility up for others to use which would increase traffic and create other issues in the area. He further explained he understood where the Commission stood procedurally and was not sure when he received a phone call that afternoon.

John Nicholson, of Princess Anne and member of the Rotary, explained that the Club is not asking to run a restaurant and the use is not proposed to be changed from the current use except to allow other service organizations to possibly use the facility. Nicholson claimed they did not desire to run a bar and that their use of the facility over the past two years has shown that.

Chairman Shores asked about renting the facility for something such as a wedding reception. Mr. Hickson replied he did not believe that particular use fit the definition of permitted uses in the City's Zoning Ordinance. Mr. Nicholson added that it is already spelled out in the Rotary's rules that they would not rent the facility out for wedding receptions and similar events. Mr. Hickson reiterated that the use of the facility would have to be by a non-profit, civic or patriotic club. Mr. Cornbrooks commented using an example of a charitable fundraising activity which would affect their neighborhood, hypothetically citing the Coastal Hospice gala.

Member Bonneville asked if the objections were due to noise from possible events. Mr. Cornbrooks repeated noise, lights, trash, traffic, etc., explaining if there are activities at the facility every night, then there will be car lights, noise, trash and garbage from meals, disturbances, depending on the type of crowd. Member Bonneville advised that Fruitland has Ordinances which would govern complaints such as noise or other problems which may arise. Cornbrooks replied, however, that they would have to react and depend on someone else to take care of the problems. Mr. Hickson advised we all have to react to situations in society so the question would be are we going to allow civic organizations that perform good deeds exist in society or outlaw them because someone may make noise or turn on car lights. Hickson further expressed his thoughts that if someone locates next to a city that has existed for 200 years, one should expect that the city will grow as more residents come to the city and the boundaries expand.

Member Townsend asked about the previous request for an adult day care facility. Mr. Hickson advised the use had been previously considered and mentioned that it would not be permitted under the current zoning laws.

Marion Keenan, of 513 Dogwood Drive, spoke on behalf of the Rotary Club and Coastal Hospice, stating she could confidently say that Coastal Hospice would not use this property as suggested by Mr. Cornbrooks and that Rotary would be exceptionally careful to respect Fruitland's ordinances.

Lillian Simpson, of 706 Burning Tree Circle, commented about the expansion of the Rotary property in a residential neighborhood. She mentioned that the Rotary's plan from 2000 mention six to eight jobs created at the facility if the property is used as intended. Mr. Hickson advised that back in 2000 the Rotary was discussing the plan to include such uses as wedding receptions but that is not being proposed at this time and there is no intention to create any jobs at the facility.

M. Calafiura, of 4351 Sturbridge Drive, remarked about the previous comments regarding the possible problem with trash, describing the original condition of the Rotary property during construction of the cabin and the overgrown lots with junk vehicles adjoining the Rotary's property. She further described how the Rotary property had been cleaned up and is being well kept and properly maintained.

Mara Chen, of 713 Burning Tree Circle, described the quiet neighborhood in which she lives and asked how the surrounding neighborhood would benefit by the expanded use of the facility. Councilman Lokey suggested the benefits offered would be extended to the entire community, not just Fruitland residents. Ms. Chen questioned the traffic generated by the expanded use of the Rotary facility and questioned why change the use of the facility now.

Hugh Livingston, of 110 Covered Bridge Lane, Fruitland, a member of the Rotary Club and supporter of their annexation request, described his having been involved in Scout activities at the Rotary property as a young boy and his involvement in Fruitland activities for many years. Mr. Livingston advised that the Rotary has shown that they are good neighbors and has the community's best interest at heart. Ms. Chen admitted that she is relatively new to the area and expressed her concern for changes of use at the facility. Mr. Livingston again replied that it is the Rotary's intent to continue to be good neighbors.

Lou-Anne Almond, of 703 Burning Tree Circle, Salisbury, advised she believes the Rotary has good intentions and expressed her respect for the organization. Ms. Almond expressed her concerns with noise at night, traffic on Riverside Drive, alcohol served onsite, and security of a playground on Shad Point Road.

Henry Vineyard, of 409 Rolling Road and current president of the Rotary Club, described much effort and money in the Scout House facility and emphasized that a Rotarian will be present onsite when another organization uses the facility. Intention is not to disrupt the neighborhood and the Rotary would lose economically if damage is done to the property.

City Councilman Richard Tull, of 114 Oaklee Drive, after hearing comments of concern for noise at night, suggested offering copies of Fruitland's Noise Ordinance to residents. Chairman Shores asked if the Ordinance is on the website and Clerk Crouch advised it is not but it would be made available to anyone who would like a copy.

Mr. Hickson reiterated that the City's ordinances provide for lighting restrictions, buffers, and other areas of concern.

Mr. Chen, of 713 Burning Tree Circle, shared his concerns about noise and safety concerns. Solicitor Mitchell asked for specifics involving safety concerns besides the traffic issue. Mr. Chen advised events would bring more people to the neighborhood.

Leslie Hughes, of 708 Burning Tree Circle, advised there are several single women in the Timberlake neighborhood where there is currently no traffic except from those living in the neighborhood. Ms. Hughes expressed her concern for foot traffic through the neighborhood with any changes to the use of the Rotary property, including a playground.

Mara Chen, of 713 Burning Tree Circle, again commented about opening up the property for public use and the possibility of additional traffic blocking entrances.

Ms. Almond supported Ms. Chen's comments by elaborating that the main concern is the unknown concentrated number of people being drawn to the area which will affect their neighborhood.

Assistant City Manager/Clerk Joyce Crouch ended with describing the unprecedented growth that Fruitland has experienced and that the Riverside Drive area has been included in Fruitland's comprehensive growth area for many years. She conveyed the reality that the Fruitland area will continue to grow and changes in our neighborhoods are to be expected, including more traffic and noise.

Jessaline Stanley, of 116 Williams Avenue, acknowledged not being present regarding the Rotary plans but commented on the deplorable condition of a property on Williams Avenue. Ms. Stanley was directed to Code Enforcement Officer Danny Scholl.

Chairman Shores then thanked everyone for attending and expressed appreciation for all the comments.

### **Other**

Chairman Shores asked if the Commission is willing to hold a special meeting on Tuesday, July 15, to discuss Gary Pusey's variance request for the setback of a sign at 101 North Fruitland Boulevard. Members expressed their desire to wait until the Commission's next regular meeting to discuss the matter.

Member Bonneville asked about members' comments regarding the Rotary annexation since the City Council meets the following week. Solicitor Mitchell advised statements on how each member feels can be made but the Petition has not been accepted yet. Each member expressed their response to the Rotary's annexation request which resulted in four favorable and one undecided.

Mr. Livingston clarified that any recreational use and entrance would be along Shad Point Road and not adjoining the Timberlake neighborhood which should eliminate residents' concerns for additional traffic resulting from a possible playground.

Chairman Shores then announced that he plans to marry on July 25.

Ms. Noble announced that she plans to retire effective July 30.

Member Townsend mentioned that at the last meeting we discussed radio transmission problems in some buildings and that he will share material as soon as he receives it.

With no further business to discuss or comments, Member Townsend moved to adjourn. Councilman Lokey seconded and the motion was unanimously approved. The meeting adjourned at 8:55 p.m.

Respectfully submitted,

Joyce E. Crouch  
Asst. City Manager/Clerk