

**FRUITLAND PLANNING COMMISSION
TUESDAY, NOVEMBER 4, 2008
MINUTES**

The Fruitland Planning Commission met at City Hall on Tuesday, November 4, 2008, with the following in attendance:

MEMBERS

Charles W. Shores
Councilman Theodore Lokey
Annette Noble
Robin Townsend

CITY OFFICIALS AND STAFF

Councilman Richard Tull
City Manager John McDonnell
City Solicitor Andy Mitchell
Utilities Director Joe Derbyshire
Public Works Director Cooper Townsend
Code Enforcement Officer Danny Scholl
City Clerk Diane Nelson

GUESTS

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|---------------|---------------|------------|------------------|
| Bob Marvel | Algy F. Giles | Doug Jones | Patricia Gardner |
| Paul Bradshaw | Roseann Jones | Eric Davis | Brock Parker |

Mr. Shores called the meeting to order at 7:03 p.m. and asked for comments or changes to the minutes of September 2, 2008. There being none, Mr. Lokey moved to adopt the minutes as written. Mr. Townsend seconded and the motion was approved by a four to zero vote.

Old Business

1. Comprehensive Plan – Update

City Manager McDonnell reported that the Comprehensive Plan is still under review by the state and the county, Tim Bourcier of Davis, Bowen & Friedel is still receiving comments from various state agencies, and the Planning Commission's recommendation of the Comprehensive Plan to the Council is still slated for the December Council Meeting.

City Solicitor Mitchell added that Mr. Bourcier had made the changes requested by counsel with regard to the likely use of a floating zone to deal with the adult business issue.

2. R-20-County matching zone

City Solicitor Mitchell stated that the Rotary had asked for a couple of minor changes to the Comprehensive Plan that would make it easier for a future annexation and that Tim Bourcier of Davis, Bowen & Friedel had made those changes with counsel approval. Mr. Mitchell further stated that the Rotary had withdrawn their recent request for annexation, citing Mayor and Council of Rockville VS. Ryland's Enterprises as a case that convinced the Rotary that a match up zone was essential to the approval of their annexation request. Mr. Mitchell explained that previous review of the Rotary's request for annexation had elicited comments from Maryland Department of Planning that the County's R-20 zone that they were exiting and the City's R-1-C zone they were then entering were not the same. Fruitland's R-1-C zone has a certain density while the County's R-20 zone has a "less dense" mode if there is no water and sewer available and a "more dense" mode if there is water and sewer available. The County's "more dense" and Fruitland's "normal" terminologies are substantially the same. MDP took the position that since Fruitland, unlike the County, did not specify that with no water and sewer at a location the R-1-C zone has a "lesser density", the zones were different; Fruitland took the position that with no water and sewer at that location there would be no permission to build. MDP took further

exception to the proposed lift station because it was not in the County water and sewer plan; Fruitland, on the other hand, was prepared to request a change to the County water and sewer plan if needed when the installation of the lift station became imminent, which could be years away. In order to eliminate the confusion and technical issues that arise when Fruitland's R-1-C zone is compared with the County's R-20 zone, the Rotary is requesting Fruitland consider passing a zoning district that mirrors the County's R-20 zone; the Rotary would further request that this mirror district be passed prior to the actual passing of the Comprehensive Plan. The end result would be that, without question, the two zones were the same. Mr. Mitchell further clarified that passing the zone would effectively deal with potential issues arising with the future annexation of Timberlake or Tony Tank properties if they have failed septic systems. New issues could arise with allowed uses (such as a bus depot) in the new zone. Mr. Mitchell suggested that if the commission wanted to directly compare the R-1-C to R-20 zones and entertain the Rotary's request, he would advise the Rotary to prepare information and to come back before the commission. After some discussion, Commission members reached a consensus that they would invite the Rotary back to present a detailed request regarding the passing of a mirror zone.

NEW BUSINESS

1. Eric Davis – West Cedar Lane Commercial Shops – Variance Request – Greenbelt Provision

Brock Parker of Parker & Associates requested a variance relief from the greenbelt requirement now imposed on Eric Davis for his West Cedar Lane Commercial Shops; the greenbelt was not thought to be required at the inception of this project and the overall site plans remain the same with one shop entrance from Cedar Lane and one shop entrance from Warrior Avenue. Mr. Parker proposed substantial landscaping on the islands in lieu of the greenbelt provision that would cut off shop access from Warrior Avenue as well as eliminate one shop stall. He also noted that a twenty-four foot stretch of paving along with a solid buffer of cedar trees on the adjoining land already separate the shops from the adjacent property owner.

After much discussion Solicitor Mitchell summarized that the original site plans were planned out tightly without the greenbelt, and the landscaped islands as proposed, along with the right of way that remains open for access to Warrior Avenue as part of the closing of Warrior Avenue, do create some type of barrier in lieu of the actual greenbelt; Dr. Taylor, the adjacent property owner, should be notified of a variance hearing so that he may attend if he has any objections, should the Planning Commission recommend approval of the variance to the Board of Zoning Appeals..

Mr. Lokey moved to recommend to the Board of Zoning appeals that the Board approve Mr. Davis's variance request for relief from the greenbelt requirement for his West Cedar Lane Commercial Shops; Mr. Townsend seconded and the motion carried by a four to zero vote.

2. Kevin Taylor – Request to park commercial vehicle on residential lot

A short discussion ensued regarding Mr. Taylor's request that included identifying the specific lot on St. Luke's Road that was involved, acknowledging the Fire Department's permission granted to drive across their property, discussing recent complaints regarding the commercial vehicle, and applying R-1-C zoning criteria when considering the request. The Planning Commission ultimately decided to table the issue at this time since Mr. Taylor was not in attendance.

3. Trinity Baptist Church – Proposed new church structure and Boundary Line Adjustment

Doug Jones summarized on behalf of Trinity Baptist Church that they have been trying to build a new church where an existing non-conforming use church already exists and that several items in the code have so far prevented them from pursuing their outreach ministry that includes vans to bring people to church and onsite daycare facilities. Mr. Jones further stated that the size of the existing lot does not support any expansion or upgrade of their existing facility and requisite parking; the Church representatives were here this evening to discuss the feasibility of the Planning Commission approving a boundary line adjustment in conjunction with a setback variance should the Church enter into a contract

with neighboring property owner Oliver Farrare to purchase part or all of one of his lots in order to bring the Church's parcel up to code for the desired expansion or upgrade. After much discussion it was determined that even with the full purchase of Mr. Farrare's lot, the one and one half acre land requirement for the church property would still not be met; the land acquisition would not support the parking requirements either, of one space per three seats. There was a general consensus among commission members to allow Trinity Baptist Church to withdraw their application and have their application fee refunded since the lack of adequate building and parking space severely inhibits their proposed project at this time.

GENERAL DISCUSSION

1. City Manager McDonnell advised the Planning Commission that Charles Shores had tendered his resignation from the Planning Commission and his Chairmanship thereof on Oct. 14, 2008 since he was moving from the Fruitland area; since tonight marked his last meeting, Mr. McDonnell took the opportunity to thank Mr. Shores for his many years of dedicated service as a member and chair of the commission. Mr. McDonnell continued to advise the commission members that they needed to make a recommendation to the City Council for a new Chairperson and stated that current planning commission member Leland Bonneville, although absent this evening, was agreeable when approached as serving as Planning Commission Chair. Ms. Noble moved to recommend to the City Council that Leland Bonneville be appointed as the new Chairman of the Planning Commission; Mr. Townsend seconded, and the motion carried by a four to zero vote. Mr. McDonnell then acknowledged that the Planning Commission vacancy now created by Mr. Shores' resignation would be filled by appointment of the City Council with input and or recommendation from any Board or Commission regarding replacements. Two candidates interested at present in serving on the Planning Commission are Ed Cowell and Algy Giles. The commission members declined at this time to make any recommendation to the Council to fill the vacancy.

2. As part of the ongoing upkeep and maintenance of the new City Clerk record book initiated at the September 2008 Council Meeting to chronicle oaths of office given, the following Planning Commission members reaffirmed en masse their oaths of office and were sworn in by Clerk Nelson effective today's date: Charles Shores, Theodore Lokey, Annette Noble, and Robin Townsend.

ADJOURNMENT

Mr. Shores concluded his last meeting by expressing his thanks for serving on the Planning Commission, acknowledging how much he had enjoyed it and how much he would miss it.

With no further business to discuss, Councilman Lokey moved to adjourn. Ms. Noble seconded and the motion was approved by a four to zero vote. The meeting adjourned at 8:00 p.m.

Respectfully submitted,

Diane C. Nelson
City Clerk