

Planning Commission Note: Concern was raised on the accuracy of the minutes shown below; Commission was unable to verify correctness due to the tapes being unavailable.

**ROUND HILL PLANNING COMMISSION
SPECIAL MEETING MINUTES
DECEMBER 8, 2009**

The special meeting of the Round Hill Planning Commission was held on Tuesday, December 8, 2009, in the Town Office, 23 Main Street, Round Hill, VA beginning at 7:31 p.m.

Present

Craig Fredericks, Chairman
Sarah Etro, Vice-Chair
Mike Hummel
Kathleen Luckard
Betty Wolford

Staff Present

Robert Kinsley, Town Planner/Zoning Administrator
Patsy Tappan, Recorder

Others Present

John McBride, Odin, Feldman & Pittleman, PC
Jeff Browning, RHUMC
Mary Anne Graham, Vice Mayor
2 citizens

Attachments

- A. Agenda, December 8, 2009
- B. Round Hill United Methodist Church SPEX:
Applicant's Proposed Development Conditions, dated November 24, 2009 (Revised)

IN RE: CALL TO ORDER

Chairman Fredericks called the meeting to order at 7:33 p.m., noting that with every member of the Commission present, the meeting had a quorum.

IN RE: PLEDGE OF ALLEGIANCE

Commissioner Luckard led those present in the Pledge of Allegiance to the American Flag.

IN RE: PUBLIC COMMENTS

There were no public comments.

IN RE: APPROVAL OF AGENDA

Chairman Craig Fredericks moved approval of the agenda as presented Commissioner Kathleen Luckard seconded the motion.

The motion to approve the agenda as submitted was approved unanimously by voice vote of the Commissioners present, 5-0-0.

IN RE: DISCLOSURES AND COMMISSIONERS' COMMENTS

Vice Chair Sarah Etro disclosed that she and her family, at one point, were members of the Round Hill United Methodist Church, but they were not members at this time. They have not attended the church or made any monetary contributions to the church in at least five years. She stated that she had contacted Martha Mason Semmes, but Ms. Semmes was not comfortable speaking before the Planning Commission on a land use application. Ms. Semmes suggested that the Planning Commission hire an architect to speak before the Commission. Vice Chair Etro stated that she had also spoken to the County's Economic Development Department about use of the Design Cabinet. The Design Cabinet had questions, but there was a possibility of it providing free services in January.

IN RE: OLD BUSINESS

9a: Round Hill United Methodist Church Special Exception

Rob Kinsley, Town Planner/Zoning Administrator advised the Commission that he did not have any proposed changes since the last meeting. He distributed the applicant's revised Proposed Development Conditions, in which the applicant incorporated the changes that had been discussed at the last meeting.

Commissioner Hummel advised the Commission that he had created a red-line version of the Conditions, incorporating the changes that the Planning Commission had made during the December 1, 2009 regular meeting. He asked if the Commissioners had received his e-mail, because he noted that when he tried to send the e-mail to the PC e-mail address, the message was being kicked back, so he sent it to Mr. Kinsley.

Chairman Fredericks suggested that they have a weekly purge of the Planning Commission e-mail box, which should resolve the problem. He moved forward with reviewing the revisions that had been incorporated into the Applicant's Proposed Development Conditions.

Commissioner Luckard noted issues with several conditions. Condition #2, the very last line where it says a maximum of 29,142 square feet, she suggested that instead of "maximum" it should say a "total" of 29,142 square feet.

Commissioner Hummel noted that Condition #2 listed Phase One as 21,742 square feet and Phase Two as a maximum of 29,142 square feet.

Commissioner Luckard was concerned that in the future, these numbers might be confusing, so she recommended that they use "total maximum" or "aggregate" even though the phrase was awkward, it was more specific.

Commissioner Hummel suggested that the applicant should have the flexibility to build the phases however it saw fit, rather than having the condition specifying the square footage of Phase One and Phase Two. He suggested removing "**A maximum of 21,742 square feet of total gross floor area shall be allowed on the Property in Phase One.**"

Commissioner Luckard noted that Condition #7 and Condition #8 dealt with worship services and she felt it was unclear. She stated that Condition #16 had been changed from "Zoning Administrator or his designee" to Town Council and she was not sure that was correct.

Commissioner Hummel responded that he had made that change because he felt that if the applicant decided it wanted significant changes prior to submission of the building permit application, then the Town Council would have to approve those changes, rather than the Zoning Administrator. He added that he did not feel that a lower body should be able to approve those changes.

Commissioner Wolford commented that there was still not as much parking as she would like to see with the building enlarged.

Chairman Fredericks asked that the Commissioners focus on the conditions and they could discuss other issues later in the meeting.

Vice Chair Etro suggested a change to Condition #2 to reference the square footage back to the Plat.

Commissioner Hummel reiterated that they had removed the Phase One sentence, but he also removed "**at the completion of Phase Two**" at the end of the sentence.

Vice Chair Etro agreed, stating that there is a box on the Plat that lists the square footage, including a 6,000 square foot basement. She added that she thought that they should recognize the basement in the totals. She read from the Ordinance, "Gross Floor Area - Total area of the building measured by taking the outside dimensions of the building and each floor level intended for occupancy or storage." She suggested that if they referred the size back to the Plat, then it would be more accurately shown as 25,250 plus 6,000 for a total of 31,250.

Mr. McBride noted that there is a cellar, not a basement, and it was not clear if it would be occupied or not. He added that in the Building Code, cellar space is not counted in the total square footage, which they had discussed before. He stated, as they move forward, they would all need to know if the cellar space counted or not.

Vice Chair Etro commented that throughout the materials, this space is shown as a basement. She stated that there had been some confusion as to whether this space would be used

or not, so she felt it was up to the applicant to advise the Commission as to whether the space would be used or not.

The Commissioners discussed several options and decided to add **at the completion of Phase 2 the total maximum square footage on the property shall not exceed the totals shown on the Special Exception Plat, dated November 24, 2009.** at the end of Condition #2.

Mr. McBride stated that the Parsonage had a cellar that was not "occupy-able", and the Sanctuary has a cellar, which was not used or occupied. He stated that he was sure there were other buildings in the Town that had similar cellar spaces. He stated that they did not want to get into a situation where they would have to include these cellar spaces, because it would make the size of the building much bigger than it really is. There would be some space under the expansion area that would be cellar space that would not be viable for occupancy.

Vice Chair Etro responded that she was not concerned about the use of the space, but that the information on the Plat be accurate. She added that she had asked several times what that space would be used for and she had not gotten a specific answer from the applicant. She stated that the applicant had answered that it might be used for youth programs, or for storage, but there had not been a specific use noted.

Commissioner Hummel noted that the applicant controlled the size chart on the Plat.

Mr. McBride responded that he realized that, but they were talking about useable space, and he was trying to clarify what Vice Chair Etro was referring to.

Vice Chair Etro stated that since this space may be used, it should be included in the total square footage, unless it was identified as "not usable." She moved on to Condition #7, and suggested striking "**Notwithstanding these restrictions, one Easter sunrise service per year, one Christmas midnight service per year and an overnight youth ministry event twice per year shall be allowed.**" She explained that she felt the Commission was concerned with the hours of use, not worship, to ensure that there were not a lot of activities taking place early in the morning or late at night, and she felt the first sentence covered that issue.

Commissioner Hummel noted that if they were to strike the proposed sentence, then they would have to amend the previous sentence to allow for the special services. He suggested that they remove "**worship and**" from Condition #7 to make it more clear.

Vice Chair Etro referred to Condition #11 and suggested adding **required** before permits in line 5. Condition #13 and Condition #15, she suggested changing SPEX "Plan" to SPEX **Plat**.

Mr. McBride stated that they were trying to identify a few more off-site locations.

Vice Chair Etro commented that she would like to see the off-site parking agreements being incorporated into the conditions.

Commissioner Hummel asked if Vice Chair Etro was suggesting an addition to Condition #26 regarding the off-site parking agreements.

Vice Chairman Etro responded that they had talked about adding an additional condition.

Chairman Fredericks asked where they were in the process and what they were hoping to gain by furthering the discussion regarding the number of parking spaces and the intensity of use on the property. He stated that he was not of the opinion that they would be able meet the parking or reach an agreement. He asked if the Commissioners had any new insight based on the research

The Commissioners discussed the research Commissioner Hummel had provided regarding parking for worship facilities in general.

Mr. McBride noted that he had spoken to his architect, and if the Commission thought it would be helpful, he would be happy to summarize recommendations made by the architect. He indicated on the Plat, that they had looked at gaining efficiencies by eliminating a set of stairs, combining bathrooms as well as considering moving some of the square footage underground. They heard two issues with square footage, one is what it looks like above ground, and the other is parking, which is occupied square footage. They were looking at 29,000 square feet above ground, which includes the Parsonage and the historic Sanctuary, which was slightly different than what the Planning Commission was establishing as the total square footage. The reason for keeping the Parsonage and the historic Sanctuary were to keep the historic character of the Town, but the two buildings did not do anything for them in terms of usability, because they need capacity for 324 people in one place for their service. The only way to do that with the historic Sanctuary, which is 180 seats, would be to expand it so that it would no longer look like an historic Sanctuary. The other way for them to accomplish the 324 seat capacity, would be to eliminate the historic Sanctuary, which would give them more parking space and less square footage, but they do not believe that would be a viable solution. Mr. McBride explained that they had considered moving a portion of the building back from Locust Street, which would also take the building further away from the closest house, and they believed that they could pursue that concept with some schematics and then take the proposal to the District for approval after it went through the local leadership of the Church. They would then come back to the Town with a specific plan, if those numbers worked.

Commissioner Hummel asked for clarification that the applicant was considering a reduction of 7,000 square feet to reach a total above ground square footage of 22,000 square feet.

Mr. McBride responded that was correct, with approximately 6,000 to 7,000 square feet below ground. He added that they were considering keeping the proposed 96 parking spaces, and they believed that they could add an additional 6 spaces by reducing the size of the building. He compared the proposal to Hamilton's FAR of 0.17 and found that without counting the Parsonage (which Hamilton also had) and the historic Sanctuary, the proposal came very close to Hamilton's numbers. He compared the proposal to Ashburn's, with an FAR of 0.47, and even with off-site parking, Ashburn could not meet the 1-4 parking per seats ratio. He stated that the

proposed expansion met the Ordinance with the number of parking spaces, but he asked if meeting the Ordinance was enough.

Commissioner Hummel asked for the number of seats proposed for the Fellowship Hall and asked if they were supposed to ignore the 180 seats in the Sanctuary.

Mr. McBride responded that there would be 324 seats in the Multipurpose Room and they were proposing that the Building Permits and Occupancy Permits list 324 seats.

Commissioner Hummel asked who would enforce the seating capacity.

Mr. McBride responded that the occupancy would be enforced through a complaint process, which would come from parking. They could not install any more fixed seating than the 180 seats they already have in the Sanctuary, and all of the new seating would be temporary seating.

Commissioner Hummel asked if they would take all of the chairs out of the Hall after the services were completed.

Pastor Jeffrey Witt responded that the chairs were taken down when necessary to have other events. It would not be done every single week; they would just take the seats down as necessary, which happened about twice a month.

Commissioner Wolford commented that temporary seating seemed to be the trend.

Mr. McBride stated that Fairfax County was one of the few jurisdictions that had an FAR cap for residential districts (R-2) of 0.2 FAR. Loudoun County does not have such a limitation, which is why Ashburn was able to build a facility that had 0.47 FAR.

Commissioner Hummel noted that they had discussed the parking issue for so long, that he was not sure what the correct number of spaces should be. He researched parking issues for churches and found that there seemed to be a pattern of issues with parking.

Chairman Fredericks and the Commissioners discussed the parking ratios and whether it would be necessary to have another public hearing before they could make a decision.

Commissioner Hummel asked if the Zoning Administrator and/or the Town Attorney were comfortable with the number of seats proposed with relation to the number of parking spaces.

Mr. Kinsley responded that the applicant would be applying for Occupancy Permits based on a maximum occupancy of 324 seats, which the Town would have to sign off on from a zoning perspective. He noted that the Special Exception was for all of the facilities.

Commissioner Wolford asked if the County Occupancy Permit included all buildings on the property.

Mr. McBride responded, "Yes."

Commissioner Hummel read from Condition #5, which states, "A maximum of 324 persons shall be allowed on site at any one time. This shall be reflected in the occupancy permit(s) for the Property. The maximum worship seats allowed to be in use at one time shall be 324 seats..." He noted that if they were considering 324 seats total, and there were 96 parking spaces with the possibility of an additional six spaces, then the parking would technically meet the Zoning Ordinance.

Chairman Fredericks disagreed, stating that he had issues with parking in the setbacks.

Mr. Kinsley responded that there were a couple of parking spaces in the yard areas, but not in the buffers. He cited the definitions of setback for clarification.

Commissioner Hummel asked the Zoning Administrator if parking was allowed in the yard and Mr. Kinsley responded that he was not sure. Commissioner Hummel suggested that they needed a determination from the Zoning Administrator and the Town Attorney about parking in the yard.

The Commissioners and Mr. McBride discussed the setbacks, definitions and where parking would be allowed on the property.

Mr. McBride suggested that if the Planning Commission was inclined to provide guidance on the square footage, then the applicant would agree to allow more time. Before they could agree to spend more money on a plan showing that reduced square footage, they would like to work with Mr. Kinsley and the Town Attorney to answer the outstanding questions about parking.

Chairman Fredericks commented that this issue had been raised over and over and had not been addressed as needed.

Chairman Craig Fredericks moved that because SPEX 2007-01 will not be in harmony with the zoning district in which it is located after taking into consideration all development intensity factors to include, but not limited to, VDOT estimated trips per day, proposed seating capacity, lot coverage and building size along with public hearing testimony from Town residents, and it will not comply with one or more of the requirements of this Ordinance regarding parking requirements and setback regulations, the Round Hill Planning Commission recommend that the Round Hill Town Council deny SPEX 2007-01 and the Special Exception Plat, dated November 24, 2009. Vice Chair Sarah Etro seconded the motion for discussion purposes.

Commissioner Wolford commented that, if the applicant was offering to allow an extension, she would prefer to get an answer from the Town Attorney on the setbacks and

occupancy to see if they could ignore the seating capacity of the sanctuary (180 seats); and she believed that they needed a legal opinion as to the parking ratio of one space per four seats prior to a the Commission making a recommendation. She noted that the applicant had also spoken of reducing the size of the building which may decrease concerns.

Commissioner Luckard asked if lot coverage was at issue.

Chairman Fredericks responded that he was not saying that it is in the Ordinance, but it talks about it being in harmony with the District.

Commissioner Hummel disagreed, and stated that he could not support the motion because he felt that half of the statements were not accurate.

Vice Chair Etro commented that there were technical zoning issues.

Commissioner Hummel asked when the idea of the motion had come up, and why the Chairman had not shared his feelings so the Commission could respond to them. He added that he had spent hours researching these issues and it was obvious that the Chairman was well prepared to make this motion.

Chairman Fredericks responded that he had made his own determination based on reading the application and the Ordinance. The Commission had been researching and thinking about these issues and they had been talking about the issues for quite some time.

Commissioner Hummel said that he had asked Mr. Kinsley at the last meeting, if the parking met the Ordinance and the response was "yes." He stated that he was not saying that Chairman Fredericks was not right, because he may be right, but it was a major issue, which he felt the Commission should have been given time to think about.

Vice Chair Etro asked how Commissioner Hummel felt his concerns could be addressed.

Commissioner Hummel responded that he would like the Zoning Administrator to give him answers to the questions that had been posed this evening.

Commissioner Wolford asked why they had a buffer that was allowed to be "chopped in half" from 25 feet to 12.5 feet if a fence is installed.

Vice Chair Etro responded that there were two different things - yard and buffer. The buffer shields two uses; and with a certain kind of screening, the buffer could be reduced.

Chairman Fredericks noted that there had been other conversations, including, at one point, discussion about having the parking 50 feet from the property line.

Vice Chair Etro stated that she had concluded, after reading the Ordinance and preparing for tonight's meeting that the Commission was up against a deadline and were expected to make

motion, moving the application onto the Town Council. She asked if Commissioner Hummel proposed waiting a couple of weeks before making the decision.

Commissioner Hummel agreed that he thought they had a plan of action, which had been shifted.

Vice Chair Etro stated that they had to stay within the parameters of the Ordinance; that they did not have the ability to change the Ordinance.

Commissioner Hummel stated that the Town Zoning Administrator's staff report says that the application is in compliance with the Ordinance.

Vice Chair Etro stated, that with their current Ordinance, she did not see how they could get out of it. She noted that the definition of yard includes "unoccupied except by specific uses and structures allowed in such area by the provisions of this Ordinance". She asked if the parking use was specifically identified.

Mr. Kinsley stated that he thought the answer was the "use" question, which he had brought up a year earlier. At that point, it was addressed and it was determined that parking in the setback was not prohibited, so it could be allowed.

Vice Chair Etro commented that they had worked through a large range of issues with this application over a long period of time.

Chairman Fredericks noted that they had a determination.

Mr. Kinsley stated that he felt that the use was implied under the Parking Regulations in the Zoning Ordinance. He added that it was not specifically allowed, but it was not unusual to allow parking in the yard with buffers.

Commissioner Hummel asked if the way that the Ordinance was written would impact every residential property that had a driveway in the yard.

Vice Chair Etro commented that she believed that the Parking Regulations said that you can park in your driveway, and the driveway can be in the front yard.

Mr. Kinsley read from the Parking Regulations, "...a parking space adequate to park one automobile and including adequate driveways, if necessary ..."

Commissioner Hummel stated that it would affect residences, as well as, doctor's offices, the Baptist Church, pretty much everything except for your commercial districts. He commented that just about every property in Town that was zoned residential would be in non-conformance.

Vice Chair Etro commented that it appeared that a parking space could be allowed in the driveway.

Chairman Fredericks noted that they had an option for outside guidance; the option to get agreement to extend the deadline with the motion on the table and pick up in January 2010; or suggest modifications to the motion; or take a vote.

After additional discussion, Vice Chair Etro called the question.

The motion to recommend denial of SPEX 2007-01 failed by voice vote of the Commissioners present, 2-3-0, the votes being recorded as shown below:

<u>MEMBER</u>	<u>VOTE</u>
Mike Hummel	Nay
Kathleen Luckard	Nay
Betty Wolford	Nay
Sarah Etro	Aye
Craig Fredericks	Aye

Commissioner Wolford stated that if they were allowed an extension, she would like to receive a written determination from the Zoning Administrator regarding parking in the setbacks.

Vice Chair Etro stated that they had to preserve the integrity of the Zoning Ordinance.

Commissioner Hummel stated that he would like to have Mr. Kinsley consult with Ms. Gilmore, the Town Attorney, regarding the impact this would have on all R-2 residents.

The Commissioners continued their discussion regarding parking in driveways.

Chairman Fredericks asked if they would like Mr. Kinsley to research the issue and come back to the Commission at the next meeting.

Commissioner Hummel asked if they would need to wait until the next meeting. If Mr. Kinsley came up with the answer sooner, could he relay that information to the Commission and to the applicant. After additional discussion, Commissioner Hummel asked if the applicant was dedicating an area on Church Street to the public right-of-way.

Mr. McBride responded that they were not necessarily dedicating space on Church Street, because the parallel spaces were decided by VDOT.

Commissioner Hummel noted that the wording was contradictory, because Condition #13 states, "Parking shall not be permitted on yard areas, adjacent properties or within the public street rights-of-way (other than the parallel parking spaces on Church Street)." He also suggested that they change the term "yard" to grass or lawn.

Vice Chair Etro referred to Commissioner Wolford's question about meeting the parking requirements, and asked if the parallel spaces in the public right-of-way would be included in the

spaces required to meet the Ordinance. She commented that if the spaces were in the public right-of-way, then they would be shared on-street parking for anyone in the Town.

Commissioner Hummel agreed, stating that the spaces would not be exclusive to the Church.

Chairman Fredericks commented if Mr. Kinsley conveyed his answer to these questions, he should convey the answers to the applicant and to the Commission as soon as possible, since their request for an extension would be contingent on the answers.

Mr. McBride stated that they planned to submit a request for a determination on the issue of the parking ratio of 1 space per 4 seats, and if the Town was going to count the seating in the Sanctuary for the total occupancy. They need certainty of those two things in order to consider more time.

Mr. McBride continued, stating that regarding the issue of more time, they thought it was in everyone's best interest to allow those determinations and decisions to come out. They still would like an indication of a benchmark for square footage, whether the range he proposed was acceptable, or if the Commission needed more information to make a decision.

Commissioner Luckard commented that the numbers seemed to be reasonable with 21,000, 22,000 or 23,000. She appreciated the proposed reduction, although she realized that the District organization would need to approve any reduction in size.

Vice Chair Etro commented that her issue was with the proposed layout meeting the Ordinance. She did not need a limit, as long as the size meets the requirements of the Ordinance.

Commissioner Hummel stated that for Special Exceptions, they were looking at the entire package and its impact on the surrounding neighborhood. They consider the mass, and consider that this property could accommodate four houses by-right, and this project was equivalent to 13 to 15 houses. He stated that it was a great deal of massing for the R-2 district.

Vice Chair Etro commented that she would like to see the applicant reconfigure the space and make better use of the basement to reduce the impact of the building.

Commissioner Hummel agreed.

Chairman Fredericks recessed the meeting from 9:30 to 9:34 p.m.

Mr. McBride stated that the applicant proposed to send an e-mail granting a 45 day deferral. He stated that the applicants would not be available on January 5, 2010, and he asked if they could change the meeting date. He also stated, based on the square footage, that he would try to have elevations ready by the next meeting.

Vice Chair Etro asked if they should try to pursue the Design Cabinet.

Pastor Witt stated that there was no need to incur costs without answers to the outstanding issues.

Mr. McBride stated that he believed that they would have time to create a revised footprint and plan, but he did not know if they would be able to have their architect get involved with the Design group, because that is where it would run into money for them. He thought the offer from the Design Cabinet was something to follow up on, but perhaps not right now.

Chairman Fredericks stated that the 45 day extension would give them until late January 2010. He commented that he would be having surgery around January 8th, so they could wait until later in the month, perhaps sometime after January 19, but the 26th would be the 46th day.

Vice Chair Etro stated that they would have to make a decision on the day, since they would be up against the deadline again.

IN RE: NEW BUSINESS

7a. Resolution Setting Forth Meeting Dates for 2010

Chairman Craig Fredericks moved to adopt the regular meeting schedule, as presented, with the following changes: the addition of a Special Meeting on January 26, 2010 at 7:30 p.m. Commissioner Kathleen Luckard seconded the motion.

Commissioner Mike Hummel offered a Friendly Amendment to change the November 2, 2010 Regular Meeting to November 11, 2010 at 7:30 p.m. due to the conflict with Election Day.

Chairman Fredericks and Commissioner Luckard agreed to the Amendment.

Commissioner Wolford asked if they should consider moving the meeting on May 4, 2010, due to a conflict with the Town's Elections.

Chairman Fredericks asked staff to verify the date of the Town Elections and report back to the Commission at the next meeting.

The amended motion to adopt the regular meeting schedule with changes was approved unanimously by voice vote of the Commissioners present, 5-0-0, the ayes being recorded as shown below:

<u>MEMBER</u>	<u>VOTE</u>
Mike Hummel	Aye
Kathleen Luckard	Aye
Betty Wolford	Aye
Sarah Etro	Aye
Craig Fredericks	Aye

IN RE: OTHER BUSINESS

Commissioner Hummel asked for the Commissioners to comment on whether he should stay on the Commission for an additional month.

Vice Chair Etro stated that Commissioner Hummel added a huge value to the Commission's discussions, and his research was very valuable to the Town. She added that she believed it was their job to air what they find and discuss it.

Chairman Fredericks stated that the official last meeting was when Commissioner Hummel chose for it to be.

IN RE: DRAFT AGENDA FOR THE NEXT MEETING

Items to be placed on the Commissions' January 5, 2010 Meeting agenda include:

- 1) Officer Elections
- 2) Strategy for RHUMC
- 3) Minutes

Chairman Craig Fredericks moved to adjourn the meeting, with Commissioner Kathleen Luckard seconding the motion.

The motion to adjourn was approved unanimously by voice vote of the Commissioners present, 5-0-0.

There being no further business, Chairman Craig Fredericks adjourned the meeting at 9:51 p.m.

Craig Fredericks, Chairman

Patsy Tappan, Secretary