

FLOYD TOWN COUNCIL RECESSED MEETING
W. SKIP BISHOP JR., TOWN HALL
April 22, 2015
6:30 P.M.
MINUTES

Meeting call to Order—Vice-Mayor Turner called the April 22, 2015 recessed meeting of the Floyd Town Council to order.

Roll Call- Vice-Mayor Turner, Councilman Patton, Councilman Turner, and Councilman LeMay, and Interim Town Manager Cox were present.

Meeting call to Order—Chairman Shelor called the April 22, 2015 recessed meeting of the Town Planning Commission to order.

Roll Call-Chairman Shelor, Vice-Chairman Maslaney, Commissioner Parrish, and Commissioner LeMay were present.

Chairman Shelor states that everyone is there to discuss a possible rezoning and/or subdivision and relinquishes the meeting over to Vice-Chairman Maslaney. Chairman Shelor introduces Kevin Byrd from the PDC and thanks him for making the trip to Floyd to meet with everyone.

CITIZENS COMMENT PERIOD- None.

ITEMS FOR DISCUSSION/ACTION

Vice-Chairman Maslaney opens the floor to discuss the rezoning application that has been submitted to the Town Council and the Planning Commission from William LaVancher. Vice-Chairman Maslaney explains concerns from the Town Council and the Planning Commission about Mr. LaVancher wanting to build the development in stages and not all at once. Vice-Chairman Maslaney requests that everyone receive clarification of the process from Kevin Byrd in regard to the Town Ordinances. Vice-Chairman Maslaney states that the Ordinances state that they will have to receive a detailed plan for the development and that this plan shall serve as a “contract” on how the development will be built. Vice-Chairman Maslaney states that in order to use the R5 zone that Mr. LaVancher must have all of the environmental surveys completed, and actually be spending a great deal of money, and that he would essentially be negotiating with the Planning Commission and the Town Council on the development. Vice-Chairman Maslaney asks Mr. Byrd if it would be more feasible to subdivide the property into five or six lots rather than rezone the property to a R5.

Mr. Byrd states the PDC is available to assist the Town Council and the Planning Commission in understanding the Ordinances but it will be the responsibility of the Town Council and the Planning Commission to shoulder the decision of what is best for the Town. Mr. Byrd states that the R5 zone is a really nice district for a project like this one because it gives a lot of flexibility to the developer and the Town. Mr. Byrd addresses the question of how to complete this project in phases; it would be best the Town and the developer if they had a complete site plan developed before it gets presented to the

Town for their consideration and that the ordinance calls for a number of identifications on a number of things to be a part of that process. It is not until the final development plan gets approved in which phasing needs to be identified. The reason that he thinks that is a better approach than going with a phased rezoning as you go approach is that it provides guarantees to the developer, so that they only have to go through this process one time. Because there is no guarantee that the investment that he has been made will be protected due to the possibility of each phase not being approved. It is better to have a general total picture of the site plan in front of you regardless of the time that it will take.

Vice-Chairman Maslaney asks, what if part of the phasing is that he wants to change a part of it based upon how phase one turns out.

Mr. Byrd states that it is unknown and that the developer would want to disclose that upfront and that the Business Plan will show that this is where the development is going today. Conditions change and that the developer will need to come back before the Planning Commission and ask for an amendment to that part of the development.

Vice-Chairman Maslaney clarifies that if the developer does a phase one, phase two, etc. that if there are changes the developer would have to come before the Planning Commission for their approval.

Chairman Shelor states that the changes can't be more than 10% without of the approval of the Planning Commission. Mr. Byrd states the 10% does not necessarily pertain to use but more towards density configuration.

Chairman Shelor asks if density is negotiable. Mr. Byrd states that in some ways it is negotiable, the maximum per acre is 10 units, but the Planning Commission could relax on that as long as all other aspects on how the developer intended to utilize the property was met, primarily the traffic flow and parking.

Chairman Shelor states that R5 is the only place you can do that because in the other ones it's not in conditional usage to change density.

Mr. Byrd says that one thing to keep an eye on is that units are to be counted not by the structure but by the number of dwelling units. It is counted by the dwelling unit, not by the bedroom, but by the total dwelling unit.

Vice-Chairman Maslaney asks if the developer has one building that was two stories and it had five dwelling units in it then the developer could only have that one structure on an acre of land. Mr. Byrd states that this is correct.

Commissioner Parrish asks how mixed used dwellings are included in the density configuration. Vice-Chairman states that in the case of commercial property on the first floor and dwelling units on the second floor that the commercial units do not count towards the total number of dwelling units per acre.

Chairman Shelor asks how parking would be configured for the commercial aspect of the development. Mr. Byrd states that parking is a gray area in planning development and that the Commission needs to think about the operation that the Town would need for a business. The development needs to have the right amount of parking per unit (at least one per dwelling unit) but he cautions about having too many parking spaces because it will take away from what the development is trying to achieve.

Chairman Shelor asks if someone wants to rezone to a B2 and they don't give any particular use of the business that they want to rezone it to, do you default to the most stringent parking requirements or do you play ball with it? Mr. Byrd states that you do want them to disclose, if they can, to the extent of what they know. The situation that you want to avoid in commercial/residential developments is if the parking is so challenging that the developer has to restrict it to residents only and then you don't have parking for the businesses and then the businesses move out, it's a delicate balance.

Vice-Chairman Maslaney states that there is no room for on street parking because the roads are so narrow.

Mr. Byrd states that the number of units on this property would not trigger a traffic study by VDOT. The developer will need to take into consideration site distance and landscaping when configuring the parking and traffic flow to ensure that it will be safe. The Planning Commission can ask for the traffic flow, parking, and safety issues have been accounted for.

Commissioner Parrish states that any time you put in a driveway that VDOT has to be consulted.

Mr. Byrd states that the developer would need to have a statement from VDOT showing that they have looked at the plans and that it looks like it will work. Mr. Byrd spoke with Steve Semones of Balzer & Associates, a civil engineering firm in Christiansburg, who is helping Mr. LaVancher with this project and he has a solid understanding of what the needs are for this project. Mr. Byrd spoke with Mr. Semones about the traffic issue and Mr. Semones told Mr. Byrd that they would go ahead and look at traffic count for the development.

Mr. Byrd states that the ordinance requires a site line as a part of the proposal. The proposal should include parking, a full scale layout, the uses, the number of units, stormwater area. The final development plan would include a full blown stormwater plan. The applicant would need to address the stormwater issue in the initial plan but it is not required to be a complete plan until the final development plan is submitted.

Vice-Chairman Maslaney asks if anything under the ground has to be dealt with; Mr. Byrd states that it does.

Chairman Shelor asks about elevation requirements, Mr. LaVancher was talking about three story units at one point, is the Planning Commission allowed to restrict height of the units? Mr. Byrd replies that the Planning Commission can ask that it be shown on the final site plan. If the applicant is asking for something that is greater than currently allowed, then yes, absolutely, that is something that you can ask for because you want to demonstrate the impact that it would have. A simple and inexpensive

study such as floating a balloon in the sky to the height of where the building will be will help show everyone how high the buildings will actually be. These tests generally would only be required to be submitted with the preliminary application if they are asking for buildings taller than is currently allowed. The sight studies are typically required for the final application.

Chairman Shelor asks Mr. Byrd who is responsible for paying for these studies; Mr. Byrd states that the developer is responsible for the cost.

Mr. Byrd states that water and sewer is another issue that the Planning Commission needs to be sure and address. Also, the maintenance of the facility will be the responsibility of the owner of the site.

Vice-Chairman Maslaney asks Mr. Byrd if after the Planning Commission has received the preliminary application if they have to issue a statement on how they are feeling about the development. Mr. Byrd tells him that the Planning Commission has 90 days to give their decision.

Vice-Chairman Maslaney voices his concerns about the stormwater issue. Mr. Byrd states that the new State law in regard to stormwater management went in effect last year and any site that serves an acre or more has to go through a review by the State to get that permit and then get it inspected every five years. Vice-Chairman Maslaney asks if the developer should get the permit at the preliminary stage or at the final stage. Mr. Byrd says no, that everything in the preliminary stage is "proposed". What needs to be shown on the preliminary proposal is how the developer proposes to handle the stormwater issue. The developer will have to show how the stormwater will be handled and treated before it leaves the site and that the developer is only responsible for the water that falls on the property not for the water that comes in on the property. The water that comes in could be the responsibility of the Town. Vice-Chairman Maslaney asks if they should be looking for a letter that the stormwater issue has been addressed and Mr. Byrd tells him that the civil engineering firm should be taking care of that. If the water on that site is not being dealt with properly then it becomes a civil issue and the Town would not be held responsible. Chairman Shelor asks about the requirements for treating the water. Mr. Byrd states that it is the quantity and quality of the water as it leaves the site, a treatment process would not need to be installed it would just be the bio treatment of the water, i.e. retention ponds.

Vice-Chairman Maslaney asks if they issue a letter after they have received all of the requirements of the ordinance (parking, height, density, stormwater, etc.), Mr. Byrd says yes. Interim Town Manager Cox asks if the letter is issued after a public hearing, Vice-Chairman Maslaney and Mr. Byrd say yes. Chairman Shelor asks if Interim Town Manager Cox receives the preliminary plans first and makes sure that everything is checked off before the plan is handed over to the Planning Commission. Mr. Byrd states that page 38 of our ordinance should be used as the checklist of the things that Interim Town Manager Cox should be looking for and once that total plan has been handed over to the Planning Commission the 90 day approval period begins.

Chairman Shelor states that the subdivision ordinance doesn't mention the Planning Commission at all, the ordinance was last updated before the Town had their own Planning Commission, the subdivision ordinance refers to the Town Council as having the final say; does that need to be inserted or are they

to assume that issues come before the Planning Commission as well. Mr. Byrd states that they should look at adding the Planning Commission into the subdivision ordinance.

Mr. Byrd suggests that when staff receives updated plans after the preliminary plan has been submitted that they be dated so that it will be easier to keep track of which plan is the most current.

Vice-Chairman Maslaney asks if the developer will have to submit the final plan before a building permit can be issued; Mr. Byrd says yes. Vice-Chairman Maslaney asks if they will have to go through this entire process again for the final plan that is submitted; Mr. Byrd says yes but that there shouldn't be that many changes to the final plan because most issues are addressed in the preliminary plan. The civil engineers address the stormwater concerns that the Planning Commission has.

Chairman Shelor asks if the amendment of the future land use map can be piggybacked with the rezoning request. Mr. Byrd states that you could address both items at one Public Hearing but the future land use of the property would need to be taken care of first and then the rezoning request second.

Interim Town Manager Cox asks if Town Council and Planning Commission could have a joint Public Hearing or separate ones to amend the future land use and the rezoning request; Mr. Byrd says yes.

Councilman Patton asks if there is contention that you would probably see that during the preliminary stage and not during the final stage; Mr. Byrd states that 9 times out of 10 that once plans make it through the preliminary stage will go to the final stage without many further issues. Councilman Patton asks if issues that are not addressed before the final plan, can the final plan be denied? Mr. Byrd says that it can be denied at that point if the issues haven't been addressed but that typically issues are addressed before the plan goes before Town Council and that the Council should be up to speed on the project as it progresses.

Chairman Shelor asks about "the clock", Mr. Byrd states that "the clock" is put on the Council for the benefit of the developer so that the Council can't "sit" on a plan. Vice-Chairman Maslaney asks if the clock stops if the developer is stalling on the plan; Mr. Byrd states that the preliminary approval is only good for a certain amount of time. Vice-Chairman Maslaney states that the Planning Commission has 100 days to before they have to submit the plan to the Town Council. Vice-Chairman Maslaney asks if the clock stops if the developer has to make significant changes; Mr. Byrd says that the clock does not stop you would just table it and pick it up at the next meeting.

Vice-Chairman Maslaney asks how it works for the developer to sell properties within the R5. Mr. Byrd states that you can do detached single family; you can have zero lot lines with the developer or the HOA owning the property. While discussing zero lot lines fire safety and air circulation needs to be addressed.

Vice-Chairman Maslaney asks about utilities would be handled, Mr. Byrd states that isn't a zoning issue but that they need to discuss with the civil engineer, PSA, and AEP about the sewer, water, and electric.

Vice-Chairman Maslaney states that once the property is transferred from the developer to new owner and becomes a taxable property within the town there will need to be a mechanism in place to be able to tax it appropriately, Commission Parrish informs him that will be taken care of during the titling of the property.

Commissioner Parrish states that due to the nature of this development that some of the utilities will be a-typical and Vice-Chairman Maslaney states that these a-typical utilities will need to be addressed with the building inspector to make sure it is up to code.

Chairman Shelor asks if the public garden areas need to be shown on the preliminary plan; Mr. Byrd states that the public garden areas are something that is included in the 30% green space requirement and that there is some room for flexibility within that requirement.

Councilman Patton states that he understands that this project is a phasing project. At the end of each phase who is responsible for the maintenance of the roadways during each phase? Mr. Byrd states that essentially VDOT is responsible for maintaining the roadways. Commissioner Parrish states that there will be no streets within the development. Chairman Shelor asks Mr. LaVancher if there will be a street; Mr. LaVancher states that there is a specific parking area and there will be emergency services access but there will not be any streets only pedestrian walkways. Mr. Byrd informs Mr. LaVancher that if he decides to have a roadway that it will need to be approved by VDOT and included in the preliminary plan submitted to the Planning Commission. However, another option would be for it to be a private roadway that is owned and maintained by the land owner or HOA but would still need to be included in the preliminary plan and it would need to be there for any transfer of property.

Vice-Chairman Maslaney asks what would happen if the developer ran out of money after phase one; Mr. Byrd states that you are allowed to do some bonding on the public roads, utilities, and/or properties.

Mr. Byrd states that the 10% variation between the preliminary plan and the final but there is no variance.

Councilman Patton states that he is concerned about the Council and the Commission being on the same page. Mr. Byrd states that the ordinance is a guide and that the members who are on the Council and the Commission should serve as a liaison between the two entities along with the Town Manager. They should keep the lines of communication open so that the process runs smoothly.

Councilman Patton voices concerns about the parking issue, commercial vs. residential parking. Mr. Byrd states that in regard to the parking the developer has to come up with a plan that will be approved and that if the plan needs to be altered the developer will have to have a Proper along with a hearing to get the changed plans approved. Councilman Patton voices concerns about the parking spaces being in one area and the commercial parking being too far away from the store fronts. Other things that can be included in a Proper Statement are, ascetics, hours of operation, etc.

Councilman Patton asks who makes sure that fire coverage is as it should be. Mr. Byrd states that the Council and Commission can request documentation from Emergency Services showing that the issue has been addressed.

Councilman LeMay asks if handicapped parking is required. Mr. Byrd states that there are no requirements for handicap parking for residential units but there are requirements on the commercial properties.

Councilman Patton asks who is responsible for the maintenance of the sidewalks. Mr. Byrd states that if the sidewalks are within the VDOT right-of-way then the sidewalk will be maintained by VDOT.

Chairman Shelor asks if the developer can stop the construction after phase one. Mr. Byrd states that yes the developer can stop the construction process, the balance of the property would be sold and if someone wanted to develop the property they could do so if they follow the original plan, if the new developer wanted to alter the plan they would have to go through the entire process just as the original developer did.

Chairman Shelor asks when charrettes should be completed and if they are required. Mr. Byrd states that they are not required but they are good if the developer wants to have public input to the development design.

Vice-Chairman Maslaney asks if the Town should get legal help to go through the rezoning process. Mr. Byrd states that the Town Attorney will need to be involved and that the engineering firm that Mr. LaVancher is using is well versed and will be a great asset. Councilman Patton asks if the Council and the Commission will still be able to look to Mr. Byrd for guidance. Mr. Byrd says yes.

Councilman Patton asks if the development stops for a number of years does the new developer have to use the same plan in order to move forward without having to go through the entire process again. Mr. Byrd says yes, if they want to alter the plan the new developer would have to go through the process again.

Councilman Patton makes a motion, seconded by Councilman LeMay, to adjourn until Thursday, May 7th at 6:30 p.m.

Councilman Patton—aye
Vice-Mayor Turner—aye
Councilman LeMay—aye
Councilwoman Bingham—absent
Mayor Griffin—absent

Bruce Turner, Vice-Mayor

Chrissy Mandzak, Town Clerk