

**Planning Commission
Town of Front Royal, Virginia**

July 20, 2016

Present: **Deborah Langfitt, Chairman**
 Douglas Jones, Vice Chairman
 Christopher Morrison, Commissioner
 David Gushee, Commissioner
 Joseph McFadden, Commissioner
 Connie Marshner, Commissioner

Staff: **Jeremy Camp, Director**
 Darryl Merchant, GIS Analyst/Planner/Surveyor
 Connie L. Potter, Sr. Administrative Assistant

The July 20, 2016 meeting of the Planning Commission for the Town of Front Royal, Virginia was called to order by Chairman Langfitt at 7:00 p.m.

CITIZEN COMMENTS

There were no comments.

MINUTES – June 15, 2016

Vice Chairman Jones moved, seconded by Commissioner Marshner that the minutes be approved as distributed.

VOTE: Yes – Gushee, Marshner, Morrison, McFadden, Jones, Langfitt

PUBLIC HEARING

- SUP16-06-265, a Special Use Permit Application, submitted by Gary Bunch, requesting authorization to construct a new house on a nonconforming lot in the R-1 Zoning District, identified by Tax Map 20A1512, lot 24.

Mr. Camp reviewed the staff report stating this was a request to construct a single family dwelling on a nonconforming lot in the R-1 Zoning District. The property is located on the east side of Jefferson Avenue between 14th and 15th Streets and directly across the street from 1404 Jefferson Avenue. Section 175-128 of the Town Code details

requirements for construction of a new house on a nonconforming lot. This lot is nonconforming because it does not meet the minimum area of lot width requirements, but it is an existing vacant lot that was created some time ago. The code states that in cases where the minimum lot width or minimum lot area is less than 80% of the R-1 zoning district, a special use permit is required. In this case, it is less than 80% and requires a special use permit.

The code provides instructions on the criteria for evaluating such requests. Mr. Camp reviewed that criteria.

Staff has recommended that the Planning Commission evaluate any public input received at the meeting and make that part of their evaluation process. It is also suggested by Staff, that if the Planning Commission is supportive of the request, they ask that the applicant consider an exterior that is brick, which would be more compatible with the homes on 15th Street and would generally improve the condition of the neighborhood.

The public hearing was opened.

Planning Commission members held a brief discussion and asked if there was any off-street parking at this location.

Mr. Camp believes that off-street parking is allowed at this location.

David Means, 210 W. First Street, Front Royal, Va. Mr. Means asked if in the future the property owner ran a driveway down the back and put in a garage would there be any screening for the three (3) residences that back up to the property.

There is currently a privacy fence screening those properties.

There were no additional speakers and the public hearing was closed.

Vice Chairman Jones moved, seconded by Commissioner Morrison to recommend approval of SUP16-06-265, submitted by Gary Bunch, for authorization to construct a house on a nonconforming lot in the R-1 District on Jefferson Avenue.

VOTE: Yes – Morrison, Langfitt, Gushee, Jones, Marshner, McFadden

- **Property Maintenance Code / Rental Inspection Program**, a public hearing for input from the public on the possible adoption of the Property Maintenance Code and establishment of a Rental Inspection District.

This was referred to the Planning Commission by Town Council to review and provide recommendations on the possible adoption of the Property Maintenance Code (PMC) and Rental Inspection Program (RIP). The meeting was to assess input from the public before moving too far into the project. Following the public hearing, the Planning Commission will create a draft ordinance to potentially submit to Town Council.

Property Maintenance Code = Part III, Virginia Maintenance Code, of the Virginia Uniform Statewide Building Code.

- Can be adopted in full or in part.
- Requires modifications to older buildings when the condition endangers “life or health”.
- Helps prevent property deterioration, unsafe living conditions, neighborhood blight by requiring minimum maintenance requirements.

Rental Inspection Program = Virginia Code §36-105.1:1.

- Allows for the adoption of an inspection program for rental units.
- Requires the establishment of a rental inspection district.
- Does not require adoption of the PMC for the entire locality.
- Requires landlords to register all rental units.

The draft concept is to:

- Consider adoption of the Property Maintenance Code for the entire Town, but only parts 104, 105, and 106 to address unsafe structures unfit for human occupancy.
- Consider adoption of a Rental Inspection Program for the downtown area.
 - Historic District Boundaries.
 - Only inspect every 4 years if unit passes initial inspection.
 - Registration requirement.
 - Modest fees.

Maps were shown identifying the property area to be included in the (2) programs.

The public hearing was opened.

Pat Younk, coordinator of projects at the Front Royal Presbyterian Church. He does a lot of work with needy, homeless and rental assistance. Mr. Younk stated he was also the president of C-CAP and also does volunteer work for the community action program in Winchester where he helps low income individuals rent apartments and he does inspections for them. Future tenants will find an apartment and he will go in and inspect

them. He sees the reality of what is going on in a lot of these apartments. He distributed pictures of the interior of some apartments in Front Royal for Commission members to view. These pictures showing the bad conditions in the apartment were taken a few months ago at the apartments across from Jack Evans Chevrolet on Royal Avenue. Rain water comes in through the ceilings. He receives complaints from these tenants all the time about different apartment complexes around town that look similar to the pictures. One had a ceiling fan fall out of the ceiling and nearly hit one of the tenants. Some have refrigerators that are not working and they are using coolers to store food. The tenants have no one to go to get assistance. Several landlords turn a blind eye to the tenants. The landlords refer to the tenants as “those people” and no respect is given to them. Mr. Younk said the Town may want to look into a program called “Tenants Assertion Rent Escrow Dwelling Units”. Through Virginia courts they can file for this application, an attorney is used that receives their rent money and it is put into escrow. In the meantime, a list of discrepancies that are against their lease that the landlord has not taken care of has to fix the problems before he/she receives any additional rent. This is the only thing he sees that has some teeth behind it to force slumlords to fix their properties. He believes the Town needs at least a part time individual to address complaints and use the tool like the tenant’s assertion and help the tenants with their basic problems. Another picture he showed was a lid to a pot covered in roaches. The landlord in this case refuses to do anything to address the roach problem. Residents really need this program in the Town.

Karen Donaly, 101 Blue Valley Road, Linden, Va., said she associates with a lot of people in Front Royal and younger people that she tries to help out and be a voice for them. She agrees with Mr. Younk’s statements. Many of these homes have small children. There are many working on minimum wage and they have no one to turn to. They cannot afford elaborate homes. Their homes have roaches, bedbugs, water leaks and mold. This program should have been adopted years ago. She questioned why the whole Town of Front Royal would not be included in the program. There are homes in need of severe help and noted that the area in Town that would be covered by this program should be expanded.

Chairman Langfitt noted that the Planning Commission was taking input from the public so that they could pass information on to Town Council and that the Planning Commission would not be making a decision at the public hearing.

Linda Allen, 416 Salem Avenue, Front Royal, Va., said that over the years she has worked with vulnerable adults in the Town because she gives a supper at Calvary Episcopal Church where many attend the dinners. The particular family mentioned at the meeting are vulnerable adults that live in an old building that has asbestos in the plaster and lead in the paint. There is mold on the walls, holes in the walls and large rats. When it rains they turn off the electricity because the rain comes in through the ceiling. There will soon be a baby at this apartment and there are currently pets there. The windows are

nailed or stuck shut by the landlord, when in fact windows are supposed to be an alternative fire escape method on the second floor. Ms. Allen explained a court case where the landlord placed sheetrock over where the plaster came down and then encouraged the tenant to sign off on the court case that it had been taken care off. The tenant did so and the case was closed. When the next rain came there were three (3) rooms with plaster falling down. Landlords will write in the contract that the bed bugs and roaches are the tenants problem. The mold is causing illness and the tenants cannot afford to be treated. We have to become spokesmen for these people and we need to expand the coverage area of this ordinance.

Misty Thomas, 204 Virginia Ave #202, Front Royal, Va. Ms. Thomas explained that she and her 2 young children live in the apartment where the ceiling fan fell out of the ceiling and the stove and refrigerator don't work. This needs to change. She works for minimum wage and cannot afford first month's rent and deposit in order to move. Ms. Thomas said she has 2 young children and she does not get welfare or any government assistance. She would like to see the ordinance adopted. There is a problem with slumlords and this brings in the drugs and everything that is harmful to our younger society. There are no hand railings on her front stairs, which is a safety issue. I need help. Something that has power, someone who has power.

David Means, 210 W. First Street, Front Royal, Va. Looking on the map he notices that there are three (3) properties that are tenant properties where they pay rent out of their salaries to live there. These are the RMA properties and he wanted to commend RMA for doing what they can to maintain their properties in good fashion. On Virginia Avenue there is a problem with parking from the rentals on Virginia Avenue. There are varying degrees of these units in terms of how they are kept up, how they are rented, etc. One of the units located at Virginia and First Street possibly have more than one vehicle and there is not room for them to park in the parking lot. Possibly because it is being rented out to contractors to park their trucks. It's becoming a safety issue at the intersection which is a "T" intersection. There are no markings on the map to include any rentals on First Street, Massie and Virginia which all have many rental units. Mr. Means believes this ordinance is absolutely a necessity and we needed to look at it carefully.

Lorie Noakes, 115 Chester Street, Front Royal, Va. stated she is the Executive Director of the Blue Ridge Housing Network. We administer the tenant based rental assistance for Warren County for the regional commission. Everything the previous speakers have said is true. Before we provide any assistance we have to do the housing quality standard inspection. Many of the homes do not pass. The biggest issue is there is nowhere to put the people. We have seven families living in hotels and have a stack of folders where she can't find homes for people. Sometime we are forced to put these people with the slumlords. She referred to one particular place and did not want to name names. This landlord will not paint or clean. There are holes in the walls, missing railings, concrete collapsing and he states the tenant is responsible for any pest problems. She would like

to see the Town come up with a program to address these problems. There needs to be places to live for low to medium income families. She would be glad to give the addresses of the places that need to be addressed and noted that the area of enforcement needs to be expanded.

David Silek, 165 Hickerson Hollow Road, Front Royal, Va. He and many of his family members as well as clients own quite a bit of rental property in the Town. You've heard sad stories about generally one property or many properties owned by the same guy. The properties you hear about at least the majority of the complaints, is on Royal Avenue. There is a simple solution. It's called a market. If you don't like it when you go to look at it, don't rent it. Why would anybody want to go into a house that they know has bed bugs and know it's not safe for them or their children. It doesn't make sense. They may argue there is no other place to go, which may be true. But it's not the job of government to make sure that occurs. We live in a capitalistic, representative democracy, not a communistic society. The right to have property and control your property is a fundamental right as Justice Scalia said. Mr. Silek had a phone call with Mr. Camp over a property he now owns. It looks nice but it has boards on it because the Town of Front Royal told him that he could not fix it up, after another division of Mr. Camp's office sent him a letter telling him he had to fix it up. This was back in the days of a woman named Nimet Soliman, who was the Assistant Town Manager and the Director of Planning and Zoning. She sent an order to his client, at the time, to fix up the property, so they started fixing it up. Three days later he got an orange sticker called a stop work order on the front door from the same department. We were told that if we were going to spend more than \$10,000 to fix up the property they would have to stop. That's the Town of Front Royal telling you how to manage property. The Town of Front Royal tried this ordinance once before. It was a failure. Landlords were cited if you had a crack in the sidewalk. Jim Pitzvada was the enforcer of the Town Code. He wrote up landlords and would not provide a certificate of occupancy if you did not fix the crack in the concrete. Being fed up with that, Mr. Silek decided to walk the streets of the Town of Front Royal. On streets owned by the Town he counted over 400 chunks of concrete that needed to be replaced on Royal Avenue alone. If the Town enforces rules, don't you think the Town should have to abide by them? The biggest hypocrisy he finds with the proposed ordinance is that the Town owns the most dilapidated building on Royal Avenue at the intersection of Main Street and Royal Avenue, the Afton Inn. Are you proposing that the Town abide by the ordinance that your saying landlords should have to abide by? He didn't see it in the ordinance and asked why it wasn't in there. You are proposing to declare an area blighted. With regards to the Historical District he finds no legislative findings of facts, or preliminary findings to declare the area blighted. But if you do, I can guarantee you are going to have a law suit of every property owner in the area because you just devalued everybody's property. I would welcome a tax rebate, so would ever other property owner who has nice looking property, as his are. But you just made it more difficult to sell and asked if that was their job. No. Should you have that authority again, the answer is no. Mr. Silek asked why they chose the proposed area of enforcement. If

you go to Royal Village you are going to find a much more depressed and dilapidated area than Royal Avenue, Cloud Street, Blue Ridge Avenue or Short Street, etc. Go to Royal Village if you want to see poor people that live in really dilapidated places. That area is far more depressed and blighted than the historical district. The purpose of the regulations that are proposed is to address blight and deterioration of buildings and to protect the public health, safety and welfare. Tell me how you are addressing blight with properties that are owned and owner occupied. Why should a tenant be entitled to greater rights than adjoining property owners? There are plenty of properties that are owner occupied that look like crap, but they are exempt from the ordinance. If landlords have to keep their properties up, why not owner occupied properties which would be fair. Otherwise you have created a second class of citizenship and afforded a certain class higher protections than the others and you are denying equal protection under the law. Does that make sense to you? Was that your intent? Mr. Silek looks forward to your findings and recommendations with respect to that, because that can give him claim to a civil rights action for violating civil rights and creating a second level of citizenship and protection. Mr. Silek believes Ms. Allen is wrong. He knows her heart is in the right place and he directed her about "tenant's assertion". There is a remedy at law. People just have to exercise those rights. It doesn't mean we need more laws, especially laws that are misguided and misplaced.

There were no additional speakers and Chairman Langfitt closed the public hearing.

CONSENT AGENDA

There were no items on the consent agenda.

NEW BUSINESS

- DEV16-02-226, a Site Plan Application, submitted by BB&W Enterprises, for a proposed 2,032 square foot retail building, located in the C-1 District, identified by Tax Map 20A715, lot 16, between 215 and 231 South Street.

Mr. Camp explained that the applicant is proposing the construction of a retail building on South Street beside Mountain Mystic. It will be connected to the two existing buildings that the applicant also owns. There was previously a house on the property that has been recently demolished. The proposed structure will consist of 2,032 square feet designed for retail space. The site plan shows proposed parking being added in front of the building. Staff has asked the applicant to include additional landscaping where possible. There are 35 proposed parking spaces, including two handicap spaces and a screened dumpster. The property is zoned C-1 commercial where retail uses are allowed. Staff recommends approval of the application with three conditions: 1) a directional one-

way sign be added to the plans at the South Street entrance, 2) lots be consolidated before issuing a zoning permit, and 3) the proposed easement be recorded with the lot consolidation plat or prior to the issuance of the zoning permit.

Mr. Biggs explained that the new building will be connected to the existing buildings. The interiors will not be connected by doorways, but the exterior walls will be connected. The lots have already been consolidated. He noted that the façade will match the existing structures.

Commissioner Gushee moved, seconded by Commissioner McFadden to authorize Town Staff to issue final administrative approval of DEV16-02-226, a retail building proposed by BB&W Enterprises. Approval is conditional on the following: 1) a lot consolidation plat is submitted, approved, and recorded prior to the issuance of a zoning permit; 2) the proposed easements shall be recorded with the lot consolidation plat; and 3) a one-way sign is added to the South Street Entrance.

VOTE: Yes – Marshner, Jones, McFadden, Langfitt, Morrison, Gushee

- DEV16-03-228, a Site Plan Application, submitted by DG Amp Solar, LLC for a proposed 2.5 MW Solar Power Facility (“solar farm”), located on public property in the R-E Zoning District, identified by Tax Map 20A132, lot 13.

Mr. Camp stated this is Town property where DG AMP Solar, LLC is proposing a 2.5 Megawatt Solar Power Generating Facility. The proposed solar farm was shown on a Power Point presentation. There is a lease agreement with DG AMP Solar LLC that he believes has recently been approved. This is part of a group project with DG AMP to develop facilities throughout the nation. The project is partially located within the floodplain. Part of the review comments is to make sure that the solar panels will be elevated above the base flood level. They have made those provisions on the plan. It has also been designed to make minimal disturbance to the area along the creek.

The lease agreement with the Town is for 25 years. At the end of that time period the applicant would have to remove the structures from the property unless the lease agreement was continued by the Town at that time. The proposed solar farm will benefit the Town by securing our power sales agreement through the project which will be a benefit to the public. It helps to ensure that we can buy the electricity at a lower rate and this is also renewable energy which is a positive. For safety reasons, a fence is proposed around the facility. The applicant will be responsible for maintenance of the facility. Staff recommends approval of the site plan.

Planning Commission members asked several questions which were addressed by the Director of Energy Services, Joe Waltz.

Mr. Waltz explained that the site is slated for 2.5 megawatts which is full capacity. The Town is actually taking 3 megawatts and will be taking 2.5 off this site. As Mr. Camp alluded, this whole project is about 80 megawatts, coming from about 6 states of which the Town of Front Royal is part of. The construction should start in August/September and finish by the end of the year. Each panel is fixed and will not follow the rotation of the sun and will face south.

Vice Chairman Jones moved, seconded by Commissioner Marshner to authorize Town Staff to issue final administrative approval of DEV16-03-228 for a 2.5 megawatt Solar Power Generating Facility, conditional on final approval of the lease agreement and power sales agreement by the Town.

VOTE: Yes – Gushee, Marshner, McFadden, Morrison, Langfitt, Jones

OLD BUSINESS

There were no items for old business.

PLANNING DIRECTOR'S REPORT

Mr. Camp reviewed the June monthly report noting that permitting trends were ahead compared to this time last year.

The Town continues to work with the county to integrate EnerGov. Training is expected to start in September and going live with the system is expected in October.

Front Royal Limited Partnership has submitted a written request to table their proffer amendment request. This was submitted following the June 22nd joint meeting with the Planning Commission and Town Council. The special exception request is scheduled for the Town Council work session on August 1st.

A site plan was submitted for the expansion of the Brotherhood of Railroad Signalmen at the facility located off of Shenandoah Shores Road and will be coming to the Planning Commission in the near future.

The project management team for the CDBG downtown revitalization project met two times in June. They have selected an architectural firm to work with in preparation of the renderings for the development of the façade improvement program. They will be

meeting July 21st to select the branding firm that will work with them to develop a brand for the Town and possibly also include way finding signage plans and other marketing and business recruiting strategies.

The Board of Zoning Appeals met in June and conditionally approved a variance request for the Good Shepherd Lutheran Church. Their sign was constructed without a permit in the public right-of-way. The approval included the order to remove the sign from the public right-of-way unless Town Council grants an encroachment license.

In June the Board of Architectural Review met and approved a sign permit for a new business on East Main Street, granted conditional approval for a new vinyl fence on West First Street and approved a front porch renovation project with conditions on Chester Street.

COMMISSON MEMBER REPORTS

Commissioner Marshner asked if there had been any follow-up from the last Planning Commission meeting where the residents on Royal Lane spoke regarding the proposed affordable housing project.

Mr. Camp said that the Economic Development Authority requested an additional 30 days. The motion to table was not contingent on any time period, just to give them time to meet with the neighbors. They needed additional time because some of the neighbors couldn't meet until later in July.

ADJOURNMENT

Commissioner Gushee moved, seconded by Commissioner Marshner to adjourn the meeting.

VOTE: Yes – Marshner, Gushee, Jones, Langfitt, McFadden, Morrison

The meeting adjourned at 8:25 p.m.

Connie L. Potter
Sr. Administrative Assistant