



**AGENDA**  
**Wytheville Planning Commission**  
**Thursday, June 13, 2019**  
**6:00 p.m.**  
**Council Chambers**  
**150 East Monroe Street**  
**Wytheville, Virginia 24382**

- A. **CALL TO ORDER** — Chairman Brad M. Litton
- B. **ESTABLISHMENT OF QUORUM** — Chairman Brad M. Litton
- C. **CONSENT AGENDA**
  - 1. Minutes of the regular meeting of May 9, 2019
- D. **PUBLIC HEARING**
  - 1. Consider an amendment to the Zoning Ordinance, Article XVI – General Provisions, Section 16-16.5, Buffer Yard Specifications, regarding the types and required numbers of trees/shrubs to be planted in a buffer yard
- E. **RECOMMENDATION TO TOWN COUNCIL**
  - 1. Consider an amendment to the Zoning Ordinance, Article XVI – General Provisions, Section 16-16.5, Buffer Yard Specifications, regarding the types and required numbers of trees/shrubs to be planted in a buffer yard
- F. **CITIZENS' PERIOD**
- G. **OTHER BUSINESS**
  - 1. Continued discussion regarding regulating the number of inoperative vehicles allowed to be stored at auto body and repair shops
  - 2. Review of proposed amendments to the Zoning Ordinance regarding Temporary Family Health Care Structures
  - 3. Discussion regarding including dog parks as a permitted use in M-1 and M-2 Industrial Zoning Districts
- H. **ADJOURNMENT**

**MINUTES OF THE REGULAR MEETING OF THE WYTHEVILLE PLANNING COMMISSION  
HELD IN THE COUNCIL CHAMBERS ON THURSDAY, MAY 9, 2019, AT 6:00 P.M.**

Members present: Bradford M. Litton, Kenny W. Ervin, Terrance E. Suarez, Cathy D. Pattison, M. Bradley Tate, John W. Jones, Jr.

Members absent: Kevin L. Varney

Others present: Assistant Town Manager Stephen A. Moore, Town Clerk Sharon G. Corvin, Town Attorney Christopher R. Menerick, Assistant Director of Planning and Development Brian Freeman, Carl W. King, Chris Fox, Millie Walsh, Uva Havens, Jerry Creger, Polly Miller, Garnett Miller, Mike Forrest

**RE: CALL TO ORDER, QUORUM**

Chairman Litton called the meeting to order and established that a quorum was present.

**RE: CONSENT AGENDA**

Chairman Litton presented the consent agenda consisting of the minutes of the regular meeting of April 11, 2019. He inquired of the Commission if there were any additions or corrections to the consent agenda or if there was a motion to approve the consent agenda, as presented. A motion was made by Mr. Jones and seconded by Dr. Suarez to approve the minutes of the regular meeting of April 11, 2019, as presented. Chairman Litton inquired if there was any discussion on the motion. There being none, the motion was approved with the following voting in favor and there being no opposition: For: Bradford M. Litton, Kenny W. Ervin, Terrance E. Suarez, Cathy D. Pattison, M. Bradley Tate, John W. Jones, Jr. Against: None.

**RE: PUBLIC HEARING – PLACEMENT OF SMALL-LOT/SMALL-HOME OVERLAY ZONE**

Chairman Litton advised that the meeting constituted a public hearing (due notice having been given) to consider placing the Small-Lot/Small-Home Overlay Zone on certain properties bounded by: (a) West Jefferson Street, Railroad Avenue and South 8<sup>th</sup> Street; (b) West Jefferson Street, South 14<sup>th</sup> Street, South 18<sup>th</sup> Street and West Washington Street; and, (c) West Jefferson Street, South 12<sup>th</sup> Street, South 10<sup>th</sup> Street and West Union Street, all in R-3 Residential or M-1 Industrial Zoning Districts. Assistant Director of Planning and Development Brian Freeman stated that for the benefit of the citizens attending the meeting, he would review the information in greater detail because he would like to make sure that everyone attending the meeting understands what is being proposed regarding the placement. He explained the placement of the Small-Lot/Small-Home Overlay Zone to the citizens and the Planning Commission. Mr. Freeman advised that one action the Town Council has taken as a result of this process was the reduction of the dwelling size requirements in R-3 Residential Zoning Districts and those governed by the R-3 Residential Zoning District standard. He noted that the dwelling size was reduced from a 900 square foot minimum requirement to a 700 square foot minimum requirement. Mr. Freeman continued to discuss the proposed placement of the Small-Lot/Small-Home Overlay Zone and depicted on the map the locations where the overlay would be placed. He reviewed examples of small homes meeting the Small-Lot/Small-Home Overlay Zone requirements with the Planning Commission. Mr. Freeman reviewed the composed list of conditions that goes with the Overlay Zone. He stated that the Town Council adopted an ordinance within the last month defining the Small-Lot/Small-Home Overlay Zone. Mr. Freeman explained that the Planning Commission will need to consider placement of a zone on certain properties roughly bounded by the areas depicted on the map. He reviewed the initial Small-Lot/Small-Home Overlay Zone proposed area with the Commission. Mr. Freeman noted that Town staff did receive some feedback, and at least one property owner does not want to be a part of the Overlay Zone and has requested to be removed from the Overlay Zone. He depicted on the map the location of that property owner's home. Mr. Freeman commented that the owner may be in attendance and have some comments regarding this topic. He stated that if there are questions from the Planning Commission and/or citizens attending the meeting, Town staff will be happy to address those.

Ms. Millie Walsh was recognized and stated that she is the property owner who wishes to have her property removed from the proposed Overlay Zone. She noted that she purchased her property with it zoned for industrial use which has the broadest usage. Ms. Walsh explained that as it currently stands, she could have five residential homes located on her property or she could use it as commercial property. She stated that she does not want to change the zoning of her property and wants to keep the property the way she purchased it. Ms. Walsh inquired of the Planning Commission if she is allowed to opt out of the proposed Overlay Zone placement. Discussion ensued regarding whether Ms. Walsh's property could be removed from the proposed placement of the Overlay Zone. Mr. Freeman explained to Ms. Walsh that the zoning

of her property is not actually changing, the property would still be zoned M-1 Industrial and all of the uses that come with M-1 Industrial Zoning will still be allowed and will not change. He explained to Ms. Walsh that the placement of the Overlay Zone will expand her ability to develop her property in ways that, currently, are not allowed. Chairman Litton stated that the Planning Commission would certainly take all of Ms. Walsh's comments into consideration when making their recommendation to the Town Council. Ms. Walsh advised that she simply would like to opt out of the proposed placement of the Overlay Zone, if possible. Discussion continued regarding the zoning of Ms. Walsh's property staying zoned as M-1 Industrial use even if the proposed placement of the Overlay Zone is approved by the Town Council. Discussion ensued regarding the purpose of the Small-Lot/Small-Home Overlay Zone and how the placement of the Overlay Zone is intended to work. Ms. Walsh inquired of the Planning Commission if the Overlay Zone would give homeowners a special grant to build in the Overlay Zone. Town Attorney Menerick stated that it would not. Ms. Walsh noted that she does not want her property to have any third party bureaucracy association clouding the fee simple ownership. Town Attorney Menerick explained that there would not be a third party involved. Discussion continued regarding the Overlay Zone and Ms. Walsh's objection to her property being included in the placement of the zone. Chairman Litton thanked Ms. Walsh for her comments. Ms. Walsh thanked the Planning Commission for allowing her to speak during the public hearing.

Mr. Jerry Creger was recognized and stated that he is requesting for his property to be removed from the proposed placement area of the Overlay Zone, as well. He remarked that he feels like the Small-Lot/Small-Home Overlay Zone will create more low income houses, which the area already has too many of anyway. Mr. Creger continued to express his objection to the placement of the Overlay Zone over his property, which is located at 950 West Railroad Avenue and abuts Ms. Walsh's property. Chairman Litton explained that the prompting of the proposed Overlay Zone is due to interest from citizens inquiring about smaller homes. He remarked that the small homes that are proposed by the Planning Commission will not be like the tiny homes seen on television. Chairman Litton explained that the Commission has tried to make the requirements for these small homes at a higher standard than a typical tiny home. He inquired of Mr. Creger if he understands correctly that Mr. Creger absolutely would like to be excluded from the proposed placement area of the Overlay Zone. Mr. Creger stated that is correct. Chairman Litton thanked Mr. Creger for his comments. Mr. Creger thanked the Planning Commission for allowing him to speak during the public hearing.

Chairman Litton advised that if the Commission is agreeable, he is taking the Chairman's prerogative and moving the agenda around so that following the Small-Lot/Small-Home Overlay Zone placement public hearing, the Commission will then consider the recommendation to Town Council. He noted that he will then return to the public hearing for the rezoning of the Cassell-Smith property, and then the Commission will consider the recommendation to Town Council for the rezoning and the same for the third public hearing. Chairman Litton explained that this would give some of the citizens attending the meeting for specific topics a chance to leave once the topic has been addressed.

Chairman Litton inquired if there were any others who wished to speak regarding this public hearing. There being none, he declared the public hearing closed and proceeded with the agenda.

#### **RE: RECOMMENDATION TO TOWN COUNCIL — PLACEMENT OF SMALL-LOT/SMALL-HOME OVERLAY ZONE**

Chairman Litton advised the next agenda item is for the Planning Commission to make a recommendation to the Town Council to consider placing the Small-Lot/Small-Home Overlay Zone on certain properties bounded by: (a) West Jefferson Street, Railroad Avenue and South 8<sup>th</sup> Street; (b) West Jefferson Street, South 14<sup>th</sup> Street, South 18<sup>th</sup> Street and West Washington Street; and, (c) West Jefferson Street, South 12<sup>th</sup> Street, South 10<sup>th</sup> Street and West Union Street, all in R-3 Residential or M-1 Industrial Zoning Districts. Mr. Jones inquired if the Planning Commission recommends to the Town Council to consider placing the Overlay Zone on the properties but to exclude Mr. Creger's property, would the Council be able to omit Ms. Walsh's property if she were to change her mind and want her property excluded later. Assistant Town Manager Moore stated that is correct. Mr. Jones commented that he wanted to make sure Ms. Walsh is aware that if the Planning Commission includes her property in the Overlay Zone, and she decides before the Town Council public hearing that she would like for her property to be excluded, it is still possible for the Council to do so at their public hearing. Ms. Walsh inquired of the Planning Commission what the reason was for leaving one of the parcels of her property out of the placement area of the Overlay Zone. Mr. Freeman stated that, basically, Town staff was trying to keep the area contiguous. Discussion ensued regarding the adding of Ms. Walsh's other parcel of land to the Overlay Zone. Chairman Litton inquired of Ms. Walsh if she is stating that she would like to add her third parcel of land or not. Ms. Walsh advised that she would like to have all of her properties removed from the placement of the Overlay Zone.

Ms. Uva Havens was recognized and stated that her parents' property is located at 645 West Union Street. She noted that her house is located at 495 South 10<sup>th</sup> Street. Ms. Havens explained that she is not in opposition of the Overlay Zone, however, she is concerned about the traffic. She continued to express her concern regarding the traffic volume and speed currently in this area and how more housing would affect the traffic. Ms. Havens remarked that she would request the Planning Commission to add additional safety signage to the Overlay Zone. Ms. Havens thanked the Planning Commission for allowing her to speak. Chairman Litton thanked Ms. Havens for her comments.

Discussion ensued regarding the Planning Commission removing the two opposing property owners, Mr. Creger and Ms. Walsh, from the proposed placement area of the Overlay Zone. Chairman Litton inquired of the Planning Commission what their thoughts were in regard to removing the two properties from the proposed placement area. Dr. Suarez stated that he is in favor of removing the two properties from the Overlay Zone, however, the two property owners need to be clear that once their properties are removed from the Overlay Zone, then the option is no longer available to them. Mr. Freeman stated that he would like to remind the Commission that even if the two properties are removed at this meeting, if the property owners were to change their minds before the Town Council makes a decision, the placement of the Overlay Zone could still be added. He reiterated that the option would still be open to Mr. Creger and Ms. Walsh at a later date. Chairman Litton inquired if there were any further comments or questions regarding the Small-Lot/Small-Home Overlay Zone. He noted that he feels like the construction is clear, and it is simply a matter of where to place the overlay, however, it is clear that two property owners are in opposition to the Overlay Zone being placed over their property. Ms. Pattison stated that she is in agreement with the other Commission members regarding leaving the two opposing property owners out of the overlay placement. She continued to express her thoughts regarding the Overlay Zone.

Mr. Jerry Creger was recognized and explained to the Planning Commission the parcel of land he owns on West Railroad Avenue.

A motion was made by Dr. Suarez and seconded by Mr. Jones to recommend to the Town Council to approve placing the Small-Lot/Small-Home Overlay Zone on certain properties bounded by: (a) West Jefferson Street, Railroad Avenue and South 8<sup>th</sup> Street; (b) West Jefferson Street, South 14<sup>th</sup> Street, South 18<sup>th</sup> Street and West Washington Street; and, (c) West Jefferson Street, South 12<sup>th</sup> Street, South 10<sup>th</sup> Street and West Union Street, all in R-3 Residential or M-1 Industrial Zoning Districts, with the exception of excluding the properties located at 825 West Jefferson Street (owned by Mildred Walsh) and 950 West Railroad Avenue (owned by Jerry Creger). He noted that these two property owners requested to have their properties removed from the Overlay Zone. Chairman Litton inquired if there was any discussion on the motion. There being none, the motion was approved with the following voting in favor and there being no opposition: For: Bradford M. Litton, Kenny W. Ervin, Terrance E. Suarez, Cathy D. Pattison, M. Bradley Tate, John W. Jones, Jr. Against: None.

Mr. Jones inquired of Town Clerk Corvin when this item would be presented before the Town Council. Town Clerk Corvin advised that the Town Council could set the public hearing for Monday, June 24, 2019. Chairman Litton explained to Mr. Creger and Ms. Walsh that since their property has been removed from the proposed Overlay Zone, they would not have to attend the Town Council meeting unless they simply wanted to if they had other concerns. He remarked that the Overlay Zone property owners will receive another legal notice regarding the Town Council public hearing. Discussion ensued regarding the request of Ms. Havens for additional STOP signs in the area.

#### **RE: PUBLIC HEARING – REZONING OF CASSELL-SMITH PROPERTY**

Chairman Litton advised that the meeting constituted a public hearing (due notice having been given) to consider rezoning the Cassell-Smith property, which is located on the west side of Community Boulevard, between Lithia Road and Cassell Road, from A-1 Agricultural and R-3 Residential to B-2 Business. Chairman Litton stated that there are no citizens listed to address the Commission during this public hearing. Assistant Town Manager Moore commented that a real estate agent contacted Town staff regarding this particular parcel. He inquired of the Commission if there were any questions or comments that he could answer at this time. Chairman Litton inquired if the property owner was ever identified on the other side of the interstate. Assistant Town Manager Moore advised that most of the land has been acquired by the Virginia Department of Transportation (VDOT). Discussion ensued regarding the property located across the interstate from the Cassell-Smith property. Chairman Litton inquired if there were any citizens attending the meeting who wished to address the Planning Commission during this public hearing.

Mr. Chris Fox inquired of the Planning Commission if they knew the proposed acreage that would be changed to B-2 Business. Assistant Town Manager Moore stated that he did not.

Chairman Litton inquired if there were any others who wished to address the Planning Commission during the public hearing. There being none, he declared the public hearing closed and proceeded with the agenda.

**RE: RECOMMENDATION TO TOWN COUNCIL — REZONING OF CASSELL-SMITH PROPERTY**

Chairman Litton advised the next agenda item is for the Planning Commission to make a recommendation to the Town Council to consider rezoning the Cassell-Smith property, which is located on the west side of Community Boulevard, between Lithia Road and Cassell Road, from A-1 Agricultural and R-3 Residential to B-2 Business. A motion was made by Mr. Jones and seconded by Vice-Chairman Ervin to recommend to the Town Council to approve rezoning the Cassell-Smith property, which is located on the west side of Community Boulevard, between Lithia Road and Cassell Road, from A-1 Agricultural and R-3 Residential to B-2 Business. Chairman Litton inquired if there was any discussion on the motion. There being none, the motion was approved with the following voting in favor and there being no opposition: For: Bradford M. Litton, Kenny W. Ervin, Terrance E. Suarez, Cathy D. Pattison, M. Bradley Tate, John W. Jones, Jr. Against: None.

**RE: PUBLIC HEARING – HOMESTAY ORDINANCE**

Chairman Litton advised that the meeting constituted a public hearing (due notice having been given) to consider amending the Town of Wytheville Zoning Ordinance to amend Article III–Definitions by adding Section 3-42.2 Homestay, and to add the use of Homestay to Article V–Agricultural District A-1; Article VII–Residential District R-2; Article VIII–Residential District R-3; Article VIII–A–Residential District R-3MH; Article X–Business District B-1; Article XI–Business District B-2 (General); and, Article XI–A–Business District B-2DT General Business District–Downtown. Assistant Town Manager Moore continued to review the proposed ordinance with the Planning Commission. He inquired if anyone had any questions regarding the proposed ordinance.

Mr. Mike Forrest was recognized and inquired of the Planning Commission why the historic area located on Withers Road was excluded from the proposed Homestay Ordinance. Mr. Jones stated that the homeowners in that area requested that the area be excluded from the proposed ordinance. Chairman Litton commented that there were numerous homeowners from the Withers Road area who attended a Planning Commission meeting in opposition of the use being permitted in their Zoning District. He noted that it was made clear that the homeowners did not want anything to do with a Homestay in that area during a previous request for a Special Exception Permit request. Chairman Litton continued to explain to Mr. Forrest the reason the Withers Road area was excluded from the proposed Homestay Ordinance. He stated that he will not say that the Historical District will never be included, however, at this time it is not listed as a Zoning District that will permit Homestays in the proposed amendment.

Assistant Town Manager Moore inquired of the Planning Commission if there were any further questions or comments since the last meeting. Chairman Litton inquired if Assistant Town Manager Moore could inform the Commission regarding the items updated in the ordinance since the April meeting. Assistant Town Manager Moore explained the seven revisions in the Homestay Ordinance since the April meeting, which are listed in the Staff Report. Chairman Litton inquired if there were any others who wished to address the Planning Commission during the public hearing. There being none, he declared the public hearing closed and proceeded with the agenda.

**RE: RECOMMENDATION TO TOWN COUNCIL — HOMESTAY ORDINANCE**

Chairman Litton advised the next agenda item is for the Planning Commission to make a recommendation to the Town Council to consider amending the Town of Wytheville Zoning Ordinance to amend Article III–Definitions by adding Section 3-42.2 Homestay, and to add the use of Homestay to Article V–Agricultural District A-1; Article VII–Residential District R-2; Article VIII–Residential District R-3; Article VIII–A–Residential District R-3MH; Article X–Business District B-1; Article XI–Business District B-2 (General); and, Article XI–A–Business District B-2DT General Business District–Downtown. A motion was made by Dr. Suarez and seconded by Vice-Chairman Ervin to recommend to the Town Council to approve revising the Town of Wytheville Zoning Ordinance to amend Article III–Definitions by adding Section 3-42.2 Homestay, and to add the use of Homestay to Article V–Agricultural District A-1; Article VII–Residential District R-2; Article VIII–Residential District R-3; Article VIII–A–Residential District R-3MH; Article X–Business District B-1; Article XI–Business District B-2 (General); and, Article XI–A–Business District B-2DT General Business District–Downtown. Chairman Litton inquired if there was any discussion on the motion. There being none, the motion was approved with the following voting in favor and there being no opposition: For: Bradford M. Litton, Kenny W. Ervin, Terrance E. Suarez, Cathy D. Pattison, M. Bradley Tate, John W. Jones, Jr. Against: None.

## **RE: CITIZENS' PERIOD**

Chairman Litton advised that the next agenda item is Citizens' Period. He noted that there are no citizens attending the meeting who requested to address the Commission during Citizens' Period, therefore, he would proceed with the agenda.

## **RE: BUFFER YARD REGULATIONS**

Chairman Litton advised the next agenda item is the continued discussion regarding the types of trees permitted under the Buffer Yard Regulations. Assistant Town Manager Moore stated that Town staff has prepared a revision of the Buffer Yard section of the General Provisions that was reviewed at the April meeting. He noted that the species list was extensive and that some provision for assuring trees and shrubs of appropriate size for the required screening be included in the draft revision. Assistant Town Manager Moore remarked that the revision is being presented to the Planning Commission for review. Chairman Litton commented that the revision states that "The Zoning Administrator shall determine the appropriate selection and may require revisions to the plans submitted for review prior to approval." Dr. Suarez stated that the draft still specifies that the trees shall consist of "sixty percent (60%) evergreen." He remarked that he thinks this needs to be revised. Discussion ensued regarding the wording that should be included in the regulations rather than what is included in the draft at this time. Assistant Town Manager Moore stated that the draft would be revised to state "at least sixty percent." The Planning Commission continued to discuss the draft Buffer Yard Regulations. Chairman Litton inquired if there was any further discussion concerning the Buffer Yard Regulations. Mr. Jones inquired if the Planning Commission is stating that the Buffer Yard Regulations will state that trees will consist of at least sixty percent evergreen. Chairman Litton advised that is correct and inquired of Assistant Town Manager Moore if there needs to be a vote. Assistant Town Manager Moore stated that the Planning Commission could schedule the public hearing at this meeting, if they would like to do so at this time. A motion was made by Mr. Jones and seconded by Dr. Suarez to set a public hearing for the Thursday, June 13, 2019, Planning Commission meeting, at 6:00 p.m., in the Council Chambers, to consider an amendment to the Zoning Ordinance, Article XVI – General Provisions, Section 16-16.5, Buffer Yard Specifications, regarding the types and required numbers of trees/shrubs to be planted in a buffer yard. Chairman Litton inquired if there was any discussion on the motion. There being none, the motion was approved with the following voting in favor and there being no opposition: For: Bradford M. Litton, Kenny W. Ervin, Terrance E. Suarez, Cathy D. Pattison, M. Bradley Tate, John W. Jones, Jr. Against: None.

## **RE: INOPERATIVE VEHICLES**

Chairman Litton advised the next agenda item is further discussion regarding regulating the number of inoperative vehicles allowed to be stored at auto body and repair shops. Assistant Town Manager Moore stated that Town staff proposed a list of auto body and repair shops for the Commission to review. He commented that Town staff has included a photographic review that will include a bigger listing than the listing in the Commissioner's packets. Assistant Town Manager Moore continued to review the photographs of the auto body and repair shops with the Planning Commission. A brief discussion was held regarding whether there were any inoperable vehicles parked at the former Hedrick's Automotive located on North Fourth Street. Assistant Town Manager Moore stated that he would suggest that the Planning Commission look at an amendment to the towing services regulations like was discussed in the prior meeting that would require screening, if a towing service is going to have more than a certain number of vehicles at a location, which should be no more than five or six inoperable automobiles. He commented, however, if vehicles are awaiting service and are licensed and tagged, then those vehicles would be acceptable. Discussion ensued regarding how to tell if a vehicle is an inoperable vehicle. Chairman Litton inquired what the Town Code currently states regarding inoperable vehicles. Assistant Town Manager Moore stated that an inoperable vehicle must be screened from view. He noted that the definition of an inoperable vehicle in the Town Code is a vehicle without a valid license plate, inspection sticker or both. He commented that the vehicle is inoperable if it is not valid to drive or has mechanical problems that render the vehicle inoperable. Discussion continued regarding inoperable vehicles and how to define the vehicles. Assistant Town Manager Moore commented that the towing services are the biggest issue, and if they were required to screen their lots, it would solve most of the issues and complaints regarding inoperable vehicles. He noted that the other issue is enforcing the issues and complaints. Assistant Town Manager Moore remarked that derelict or inoperable vehicles are normally reported to the Department of Motor Vehicles to deal with, which is a lengthy process. Discussion continued regarding the inoperable vehicles and how the Planning Commission should proceed with regulating these vehicles. Assistant Town Manager Moore stated that the Commission's original discussion was if the Planning Commission could place a limit regarding the number of inoperable vehicles that are wrecked, damaged or disabled at an auto body and repair shop before the owners are required to screen the vehicles. Mr. Jones commented that the Town Police Department has an officer who tries to enforce this, however, it is very difficult

to enforce this because when the officer approaches one property owner, the property owner reports another property with inoperable vehicles and wants to know why the Police Department is not enforcing the Town Code on everyone. He remarked that the Town Police Department is who will have to enforce this and suggested that the Police Department give the Planning Commission the guidelines or what regulations they would like to see adopted, since this is the department that will have to enforce the regulations. Discussion continued regarding the enforcement of the inoperable vehicles. Assistant Town Manager Moore stated that Town staff would contact Chief Arnold and have this information for review at the next meeting. Chairman Litton inquired if there was any further discussion concerning the inoperative vehicles. There being none, he proceeded with the agenda.

#### **RE: TEMPORARY FAMILY HEALTH CARE STRUCTURES**

Chairman Litton advised the next agenda item is the review of zoning provisions for Temporary Family Health Care Structures. Assistant Town Manager Moore explained that the placement of Temporary Family Health Care Structures is governed by State law and noted that a copy of this is in the Planning Commission packets. He continued to give a brief summary regarding what the State law notes that localities must permit with these structures. Assistant Town Manager Moore explained that the Town received an application for a Temporary Family Health Care Structure, which is what has prompted this discussion. He stated that the Planning Commission may want to narrow the State Code and the Zoning Ordinance, at least in the Definition section, and require a permit fee or whatever the Commission feels is appropriate or what they think the Council may feel is appropriate. Discussion ensued regarding the square footage allowed for the structures. Assistant Town Manager Moore inquired of the Planning Commission if they would like to set a fee amount, which can only be up to \$100, and is there any other particular criteria that the Commission would like to include in the regulations. He noted that Town staff would draft a section for the Zoning Ordinance that will be very similar to the State Code. Mr. Jones remarked that if the limit on the fee is \$100, then he would vote to charge \$100. He noted that the regulations state, "Provides for removal of the facility within 60 days after the need for the occupancy no longer exists." He inquired of Assistant Town Manager Moore what happens if the occupancy extends past 60 days. Assistant Town Manager Moore remarked that he would think that the Town would have to hire someone to move the structure and then charge the owner. Chairman Litton inquired if the days could be shortened to 30 days. Assistant Town Manager advised that State Code requires an allowance of 60 days. It was the consensus of the Planning Commission for the fee to be set at \$100. Discussion continued regarding the Temporary Family Health Care Structures. Dr. Suarez inquired if an HOA requirement states that a homeowner cannot place any type of building structure in their backyard or sideyard, does the State law supersede the HOA. Assistant Town Manager Moore stated that he is unsure, but he would think that if a covenant states that something is not allowed then it would not be allowed, however, State Code may supersede a covenant. Discussion ensued regarding covenants and HOA restrictions versus State Code. Assistant Town Manager Moore remarked that one of the attachments in the packet included a statement from an attorney, which is why he decided to include a copy of the difference between an industrialized building unit and manufactured housing. He expressed that the Town needs to differentiate in its Zoning Ordinance between the two, therefore, he thinks it can be done and he thinks the Planning Commission has done this. Assistant Town Manager Moore advised that he disagreed with the attorney's statement and he may be wrong, but he does not agree with the attorney and the attorney's definition of manufactured housing. Chairman Litton inquired if there was any further discussion concerning the Temporary Family Health Care Structures. There being none, he proceeded with the agenda.

#### **RE: LAND USE EDUCATION PROGRAM LEGAL SEMINAR**

Assistant Town Manager Moore advised the next agenda item is discussion regarding a 2019 Land Use Education Program Legal Seminar. He explained that a seminar is scheduled to be held on June 11, 2019, in Richmond, Virginia. He remarked that Town Clerk Corvin has more information if the Commissioners are interested in attending the seminar. Assistant Town Manager Moore inquired if there was any further discussion concerning the 2019 Land Use Education Program Legal Seminar. There being none, he proceeded with the agenda.

#### **RE: DOG PARK**

Assistant Town Manager Moore advised that the next agenda item is the interpretation of the Zoning Ordinance. He noted that this item came to light this week. Assistant Town Manager Moore explained that the Commissioners have a copy of a section of the Zoning Ordinance, which states "when there are uses that are not specifically defined in the Zoning Ordinance....." He stated that there is a citizen who would like to open a private dog park in the area behind Madison Street and across the railroad tracks. Assistant Town Manager Moore explained that it would be located in an M-1 Industrial Zoning District. He noted that the Planning Commission has a copy of the uses in the M-1 Industrial Zoning District, which allows kennels and veterinary

clinics. Assistant Town Manager Moore stated that Town staff's question to the Planning Commission would be if they feel like a private dog park would be an appropriate interpretation to be allowed in an M-1 Industrial Zoning District. He commented that Town staff's thought was that it should be allowed and could not be any worse than a dog kennel. Assistant Town Manager Moore continued to explain the proposed operating hours, etc. of the dog park to the Planning Commission. Councilwoman Pattison inquired of Assistant Town Manager Moore if he was aware of an address of the proposed location. Chairman Litton inquired if it is going to be in the vicinity of the old State Surplus store. Assistant Town Manager Moore stated that is correct. He advised that it is Ms. Jennifer Anders who is proposing the private dog park. He remarked that it is not just for Ms. Anders but all M-1 and M-2 Industrial Zoning Districts. Assistant Town Manager Moore stated that if the Planning Commission is uncertain, a public hearing could be held to let the public know that the Town is considering adding this particular use into the M-1 Industrial Zoning District, if they feel it is controversial enough. Chairman Litton remarked that he is confident enough to make a decision because over a year ago they were going to place a dog park near residential housing. He commented that it would be hard to turn around a year later and say that the Commission is denying to add the use in the M-1 and M-2 Industrial Zoning District. Discussion ensued regarding an amendment to the Zoning Ordinance to add the use of dog parks in M-1 Industrial Zoning Districts. A motion was made by Dr. Suarez and seconded by Councilwoman Pattison for the Planning Commission to recommend to the Town Council to amend the Zoning Ordinance to add the use of dog parks in M-1 Industrial Zoning Districts based on the kennel and veterinary services provision. Chairman Litton inquired if there was any discussion on the motion. Mr. Jones inquired if this is where the dogs go to play. Dr. Suarez stated that is correct. Mr. Jones inquired if there are any boarding areas in the same area. Assistant Town Manager Moore stated there are not. Discussion continued regarding the proposed dog park. There being no further discussion, the motion was approved with the following voting in favor and there being no opposition: For: Bradford M. Litton, Kenny W. Ervin, Terrance E. Suarez, Cathy D. Pattison, M. Bradley Tate, John W. Jones, Jr. Against: None.

Assistant Town Manager Moore stated that the Town staff will need to craft language for the definition of a dog park to place in the Definitions section of the Zoning Ordinance for it to be adopted, as well.

#### **RE: ADJOURNMENT**

There being no further business, a motion was duly made, seconded and carried to adjourn the meeting (7:42 p.m.).

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Bradford M. Litton, Chairman

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Sharon G. Corvin, CMC, Town Clerk