



TOWN COUNCIL

Special Meeting

Town Hall
July 31, 2012
6:00 PM

At 6:00 p.m., Mayor Dora Sullivan, having established a quorum, called to order the Special Meeting of Town Council. In addition to Mayor Sullivan, present were Vice Mayor Bannon, Councilmen Godwin, Sullivan, Veber and Wendell and Councilwoman Natali. Also present were Town Manager Heather Arcos, Assistant Town Manager Bob Panek, Town Planner Tom Bonadeo and Town Clerk Libby Hume. There were about 20 members of the public in attendance.

Mayor Sullivan announced the business for the evening would be A) Review recommendation from Planning Commission regarding the proposed rezoning from Open Space to Residential (R-1) of the area bounded on the north by Madison Avenue, on the east by Plum Street, on the south by parcel 83A3-1-23 and on the west by parcel 83A3-1-287 (lot 287) – the area contains parcels 83A3-1-281 through 83A3-1-286 (lots 281 through 286), a portion of the area that was originally North Park Row, and the old Cape Charles High School building (collectively, the “Old School Area”). Schedule a public hearing as appropriate; and B) Review recommendation from Planning Commission regarding the Conditional Use Permit submitted by Echelon Resources, Inc. to rehabilitate and use the Old School Area for an Adaptive Reuse. The proposed Adaptive Reuse included the historic rehabilitation of the Old School Area for use as 17 residential apartment units and surrounding grounds (the “Old School Rehabilitation”) in accordance with applicable guidelines. Schedule a public hearing as appropriate.

A. *Planning Commission Recommendation on Rezoning the Old School Area*

Heather Arcos stated that Council adopted Resolution 20120628 to refer to the Planning Commission the proposed amendment of the zoning map for public necessity, convenience, general welfare, and good zoning practice as well as for consideration of the rezoning of the Old School Area from Open Space (OS) to Residential (R-1). The current zoning of the Old School Area as OS did not allow for the Old School Rehabilitation. The OS zoning district was intended for open air types of activities and did not allow for adaptive reuse. Zoning district R-1 allowed, by conditional use permit, for the Old School Rehabilitation as an adaptive reuse.

On July 26, 2012, the Planning Commission held a public hearing to hear comments regarding the rezoning of the Old School Area followed by a special meeting. Ten citizens spoke during the public hearing. After some discussion, the Commissioners were in agreement that the rezoning was necessary for anything to be done to the former school building other than demolition. The Planning Commission vote was unanimous to recommend that the Town Council approve the rezoning of the Old School Area from Open Space to R-1.

Motion made by Vice Mayor, seconded by Councilman Veber, to schedule a public hearing for August 23, 2012 at 6:00 p.m. to hear public comment regarding the rezoning of the Old School Area from Open Space to R-1.

Councilman Wendell stated that the R-3 zone allowed for the density for an apartment building so the project could be done without the need for a conditional use permit and asked why the Old School Area was not being proposed to be rezoned as R-3 vs. R-1. Tom Bonadeo stated that the surrounding area was zoned as R-1 and adaptive reuse was allowed under the R-1 zone definition. There were also other considerations for space issues under the R-3 zone.

Councilman Wendell asked if the R-3 zone allowed for adaptive reuse, to which Tom Bonadeo replied that there was no adaptive reuse clause in the R-3 zone.

Councilman Wendell stated that he did not think it was a good idea to zone an area for a use that was not permitted except by conditional use and added that he felt that it would violate the Comprehensive Plan. Councilman Wendell continued to state that the OS definition was contrived to not allow this 100-year old building. As a municipality, the Town had the ability to change the definition of OS to include the 100-year old building. Tom Bonadeo stated that it was not good business practice to change a definition which was taken from the International Zoning Ordinance as an area without structures or buildings and used by FEMA and numerous other entities.

Councilwoman Natali asked whether it would be considered spot zoning if the Town were to rezone the Old School Area as R-3, in the middle of the R-1 zone to which Tom Bonadeo responded in the affirmative.

Councilwoman Natali went on to state that the Comprehensive Plan placed value on preserving historic buildings and this historic rehabilitation would be in line with the Comprehensive Plan.

Councilman Wendell stated that this building was a 100-year old public building and the use was noteworthy. Mayor Sullivan and Councilwoman Natali responded that the age of the building was what made it a contributing historic structure, not the use.

Councilman Wendell then asked if the school building was not in the park, why were the notices to adjacent property owners sent to residents on Tazewell Avenue. Tom Bonadeo stated that the requirement was to send the notice to at least the adjacent property owners. The Old School Area contained a portion of parcel 23 which abuts South Park Row. Tom Bonadeo continued to state that this area was zoned as residential before being zoned as OS.

Councilman Wendell stated that the Comprehensive Plan described the value of OS and added that the Town was giving up OS vs. protecting it. Tom Bonadeo stated that the Town was not giving up OS because this area was not truly open since the school building could not be counted as OS.

Councilman Wendell concluded by stating that he felt the rezoning was unwise and unnecessary.

With no further discussion, Mayor Sullivan called for a roll call vote.

The motion was approved by majority vote. Roll call vote: Bannon, yes; Godwin, yes; Natali, yes; Sullivan, yes; Veber, yes; Wendell, no.

B. Planning Commission Recommendation on Conditional Use Permit Application from Echelon Resources, Inc.

Heather Arcos stated that on July 26th, the Planning Commission heard ten citizens' comments regarding the conditional use permit (CUP) application from Echelon Resources, Inc. for the adaptive reuse to rehabilitate the Old School Area and convert it to 17 residential apartment units and surrounding grounds. After much discussion amongst the Planning Commissioners regarding the CUP application and comments made by the public, the Commissioners voted, by majority vote, that if the Town Council approved the rezoning of the Old School Area, to recommend that the Town Council grant the CUP application submitted by Echelon Resources, Inc. with the condition that the basketball court be relocated. Heather Arcos added that she informed the Planning Commission that the Town Council had discussed relocation of the basketball court but a definite location had not been decided upon.

Heather Arcos continued to state that on July 17th, the Historic District Review Board discussed the historic rehabilitation of the building and the proposed use as apartments. The Board agreed with a historic rehabilitation of the building in accordance with the Secretary of the Interior's Guidelines, but did not agree with the proposed use. In its advisory capacity, the Board did not recommend the use of the old school building as apartments and wanted a final review of the plans. Heather Arcos added that as part of the regular process, the Historic District Review Board would be presented with the final plans for their review.

Motion made by Councilwoman Natali, seconded by Vice Mayor Bannon, to schedule a public hearing for August 23, 2012 at 6:00 p.m. to hear public comment regarding the Conditional Use Permit application submitted by Echelon Resources, Inc.

Councilman Wendell stated that in looking at the conditional use permit application, this was the third version of the application. Heather Arcos responded that the information on the application was the same but the application form was updated because the previous version did not have an area for application / owner as on other applications used by the Town.

Councilman Wendell asked what standing the applicant had regarding submittal of the conditional use application if they did not own the property. Tom Bonadeo stated that many times, the conditional use permit was associated with the purchase of a property. Especially in cases where the buyers of a property wanted to use a property as a Bed & Breakfast. The buyers would not want to go through with the purchase if the property would not be able to be used as they wished. The conditional use permits, in those cases, would be approved based on the sale of the property.

Councilman Wendell referred to item #6 on the updated conditional use permit application and asked who submitted the disclosure statement signed and notarized

verifying ownership. Tom Bonadeo stated that it was included in Resolution 20120628 which was signed by the Mayor.

Councilman Wendell stated that the only condition recommended by the Planning Commission was the relocation of the basketball court and continued to ask about conditions for repurchase or a pro forma. Tom Bonadeo responded that the Town Council had the ability to set conditions as well, if needed.

Councilman Wendell asked if the Town had received an asbestos abatement plan. Tom Bonadeo stated that asbestos would fall under the Building Code, which would be followed, and not related to this discussion.

Councilman Godwin asked if Council could set a timeframe for relocation of the basketball court. Mayor Sullivan stated that the basketball court was a different issue. Heather Arcos added that this issue could be discussed at a later time.

Councilman Wendell stated that he did not want a basketball court in his backyard and the current location was the best location because the building would block the noise. Heather Arcos reiterated that locations for the basketball court had not been discussed as yet. Mayor Sullivan added that possible locations for the basketball court would be discussed at a future meeting.

With no further discussion, Mayor Sullivan called for a roll call vote.

The motion was approved by majority vote. Roll call vote: Bannon, yes; Godwin, yes; Natali, yes; Sullivan, yes; Veber, yes; Wendell, no.

Motion made by Vice Mayor Bannon, seconded by Councilman Veber, to adjourn the Town Council Special Meeting. The motion was approved by unanimous consent.

Mayor Sullivan

Town Clerk