

**MINUTES OF THE MEETING OF THE TOWN OF VINTON PLANNING
COMMISSION HELD ON TUESDAY, DECEMBER 10, 2013, AT 7 P.M., AT THE VINTON
MUNICIPAL BUILDING, 311 SOUTH POLLARD STREET.**

MEMBERS PRESENT: **Dave Jones, Chairman
Paul Mason, Vice Chairman
Bob Patterson
Dawn Michelsen
Bill Booth**

STAFF PRESENT: **Anita McMillan, Planning and Zoning Director
Karla Turman, Associate Planner/Code Enforcement Officer
Julie S. Tucei, Planning and Zoning Coordinator**

OTHERS PRESENT: **Theresa Fontana, Town Attorney
Robert Quam, Petitioner
Sherman Sligh, Petitioner
Melvin Bennett, Petitioners' Representative
Riley and Anne Overbay, Adjoining Property Owners
Chris McMurry, Land Surveyor
John R. "Bob" Patterson, Attorney-at-Law
Debbie Howard, Transcriptionist for Mr. Patterson
Kevin Oddo, Attorney-at-Law
Roger Dunagan, Resident, 705 Olney Road, Vinton
Mick Michelsen, Resident, 225 N. Maple Street, Vinton**

AGENDA

- I. Call to Order**
- II. Approval of Minutes:**
 - 1. June 13, 2013 Meeting**
 - 2. October 29, 2013 Joint Meeting**
- III. Closed Meeting**
- IV. Reconvene and Adopt Certification of Closed Meeting**
- V. Public Hearing:**
 - 1. A request by Robert O. and Linda M. Quam, owners of Lot 1, Block 12; and Sherman E. and Barbara B. Sligh; owners of Lot 7, Block 9, of Plat Book 6, Page 30 showing Map of Section Number 4, Bali Hai Subdivision, property of W.E. and Olney G. Cundiff, prepared by C. B. Malcolm & Son and dated August 31, 1964, recorded in the Clerk's Office of the Circuit Court for the County of Roanoke, Virginia, on January 5, 1965, to abandon, vacate and deed a fifty (50) foot wide by approximately one hundred and fifty (150) foot long undeveloped right-of-way, known as Daleview Drive, to the adjoining property owners.**
- VI. Briefing:**
 - 1. Proposed amendment to the zoning ordinance regarding temporary family health care structures (Med Cottages).**
 - 2. Proposed amendment to the zoning ordinance regarding floodplain districts, the issuance of permits for development, and by providing factors and conditions for variances in the floodplain districts.**
- VII. Citizens Comments**
- VIII. Comments of Planning Commissioners and Planning Staff**
- IX. Adjournment**

**PLANNING COMMISSION
PUBLIC HEARING
DECEMBER 10, 2013
PAGE 2**

The meeting of the Vinton Planning Commission was called to order at 6:33 p.m. by Chairman Jones. Roll was called and all members were present.

Minutes from the June 13, 2013, meeting, and the October 29, 2013, joint meeting, were considered for approval. Chairman Jones asked for a motion on the minutes. Mr. Patterson made a motion to approve both sets of minutes as submitted, and Mr. Booth seconded the motion. Roll was called, and all members present voted in favor of the motion to approve two sets of minutes.

The next item on the agenda was a request to convene in a closed meeting, pursuant to § 2.2-3711 (A) (7) of the 1950 Code of Virginia, as amended, for consultation with legal counsel regarding possible disposition of real property. Mr. Booth made a motion to convene a closed meeting at 6:35 p.m., which was seconded by Mr. Patterson. All members voted in favor of the motion.

The Vinton Planning Commission reconvened at 7 p.m. The closed meeting certification, a copy of which will be made a part of the permanent record, was read aloud by Chairman Jones. A motion to reconvene the meeting and approve the closed meeting certification was made by Mr. Patterson and seconded by Mr. Mason. All members voted in favor of the motion.

Next to be heard, was a request by Robert O. and Linda M. Quam, owners of Lot 1, Block 12; and Sherman E. and Barbara B. Sligh; owners of Lot 7, Block 9, of Plat Book 6, Page 30 showing Map of Section Number 4, Bali Hai Subdivision, property of W.E. and Olney G. Cundiff, prepared by C. B. Malcolm & Son and dated August 31, 1964, recorded in the Clerk's Office of the Circuit Court for the County of Roanoke, Virginia, on January 5, 1965, to abandon, vacate and deed a fifty (50) foot wide by approximately one hundred and fifty (150) foot long undeveloped right-of-way, known as Daleview Drive, to the adjoining property owners. Chairman Jones opened the public hearing at 7:05 pm. He read the request aloud. Chairman Jones stated that everyone in the room will have the chance to speak one at a time. He also said that there would be a three to five minute time limit for each speaker. He asked that they refrain from bringing up items that others have already discussed and not to repeat what others have already said. Chairman Jones asked Ms. McMillan for a brief summary of the issue. Ms. McMillan mentioned that Mr. Sligh and Mr. Quam had made a request to close the Daleview Drive right-of-way. She stated that the hearing was advertised as required and that the adjoining property owners were notified. She asked everyone who addresses the Planning Commission about this request to please state their name for the record. The floor was opened for comments. Mr. Quam requested that Mr. Bennett speak on his and Mr. Sligh's behalf. Mr. Melvin Bennett stepped forward and stated his home address—709 Olney Road, Vinton. He said the property owned by the Overbays has been vacant for 48 years. He stated that the original developer planned to develop the lot behind this right-of-way, but the City of Roanoke annexed it before he was able to do so. The driveway that the current owner/developer of the property wants to place in the right-of-way will be shared, but he said that the Town will not regulate if someone parks a big motor home in it. Mr. Bennett said the City of Roanoke should make access available to the lot since it is not in the Town or County. He mentioned that they had submitted a signed petition (a copy of which will be made a part of the permanent record) by the neighbors in favor of the closure of the right-of-way. He asked that they close the right-of-way as requested by Mr. Quam and Mr. Sligh. Mr. Kevin Oddo, attorney for the developer, the Overbays, said he would speak on their behalf regarding this request. He stated that part of the Overbay's property is in the Town, but the majority of it is located in the City of Roanoke. He said that they would like to subdivide the property into two parcels—one 10 acre parcel and one 15 acre parcel. Mr. Oddo said there

**PLANNING COMMISSION
PUBLIC HEARING
DECEMBER 10, 2013
PAGE 3**

would be no more than two houses built on the property, and the Overbays are willing to put that in writing. He stated that the City will allow the subdivision if Mr. Overbay has access from Daleview Drive. Mr. Oddo said that Mr. Overbay is willing to be reasonable and put everything in writing with the other adjoining owners. He listed seven reasons why the Overbays oppose this request: 1. The request will, if approved, only benefit the Slighs and the Quams. Mr. Oddo said they do not want the two houses behind them so this request, if approved, would stop that. 2. In previous hearings, the people who support the issue now were against it at the earlier meetings. Mr. Oddo read statements from the minutes of previous meetings made by Mr. Quam, Mr. Sligh, and Mr. Bennett indicating that they were against the closure of the right-of-way. 3. The right-of-way has been there for 50 years with no issues. 4. The Overbays bought property based on the plat showing the right-of-way. 5. The Slighs and Quams use the public right-of-way as if it were their own property. Mr. Oddo stated that they have their driveways in it and use it to access their properties, and Mr. Overbay should have same right. 6. If the right-of-way is closed, Mr. Overbay will be irreparably damaged due to City's access requirement from this right-of-way. 7. With regard to the concerns about traffic, there will only be two houses constructed by the Overbays, so the right-of-way will not be a major thoroughfare. Mr. Oddo said that Mr. Overbay plans to construct a driveway that will match what is in the right-of-way now. He said there will be no parade of cars and no one will be parking big RVs there. Mr. Oddo stated that the Overbays ask that the petition to close the right-of-way be denied. Chairman Jones asked for other speakers to come forward on this request. Mr. Riley Overbay spoke next. He stated that he has owned this property for 20 years. He said that all he is asking for is the same rights as what Mr. Quam and Mr. Sligh have had for the last 30 years. He said he is willing to sign an agreement stating that there will only be two houses constructed. Chairman Jones asked for others who wish to speak to come forward. Mr. Bob Patterson, attorney, stood and stated that he also represents Mr. Overbay. He said he had nothing further to add to Mr. Oddo's statements. Mr. Fredrick Michelsen addressed the Commission next. He said he does not have a dog in the fight, so to speak. He said he is concerned, as a citizen of the Town, with taking Vinton resources and using them for a property that is located in the City of Roanoke. Citizens in the area that he talked to were against it. He said he was told that there is another access to this property that may not be as desirable. He does not think it is in the Town of Vinton's or its citizens' best interests. Mr. Quam spoke next. He stated that Mr. Cundiff, the original developer of the subdivision, had promised him years ago that he would always have a corner lot. Mr. Quam said if there is going to be an easement; it is going to have to be for a street. However, he would just as soon have it vacated, as they have requested. He asked what would happen if the City allows more houses to be built back there than just one. He said there could be a hundred houses built on 25 acres. Mr. Quam said he felt there are no guarantees, even if it is in writing. Chairman Jones read the petition from the adjoining owners that said they are in agreement with abandoning and vacating the Daleview Drive right-of-way. Chairman Jones stated that there are 24 names signed on the petition. He said it will be made a part of the permanent record of this meeting. Mr. Booth asked Mr. Oddo if Vinton will be supplying the water for the property. Mr. Oddo said he understands that Vinton would provide the water to the two lots. Ms. McMillan said the City has made that one of the requirements. The Town has agreed to provide the water, but sewer will not be provided which, Ms. McMillan said, is why they can only do two lots. Mr. Booth wanted to know why the City would not provide water for its own citizens. Ms. McMillan said it was cost prohibitive for the City to provide it. Mr. Booth asked why the City requires the access to be through Daleview Drive. Mr. Oddo said he could not answer that since it is the City of Roanoke's requirement. He thinks it is because the Daleview Drive access would come in right between the two lots. Mr. Booth asked why they cannot use the access that is available from Olney Road. Mr. Oddo said the City will not allow it to be subdivided into two lots unless the Daleview Drive

**PLANNING COMMISSION
PUBLIC HEARING
DECEMBER 10, 2013
PAGE 4**

right-of-way is used. Chairman Jones suggested that they could construct a long driveway from Olney Road to serve the two lots. He asked what needed to be done to get the owners to work together on this issue. Mr. Oddo suggested that either the Town Attorney could try to facilitate a meeting between the owners, or perhaps a private person (a mediator) could work with them and try to help bring about a resolution. He reiterated that Ms. McMillan had just stated that there will only be two lots due to the number of water connections the Town has agreed to provide. Mr. Oddo thinks that the neighbors fear a large subdivision will be built. He said that Mr. Overbay is willing to work with the neighbors to resolve this issue. Mr. Patterson said he would like to see that happen. Mr. Booth asked if there was a way to get to the property from Berkley's Bottom. Mr. Oddo said he asked Mr. Overbay about that today, and unfortunately there is no access from the Berkley Road. Chairman Jones asked if there were other questions. There were no further questions. Mr. Booth said he would like to see the three parties reach a consensus in the matter and come to an agreement. Mr. Mason asked what has stopped the parties from getting together and coming up with an agreement. Mr. Sligh said they were lied to by Mr. Overbay, and they refuse to have anything more to do with him. Mr. Oddo stated that he has no idea what lies Mr. Sligh refers to and said Mr. Overbay does not know either. Mr. Mason said they should attempt to come to an agreement because the Planning Commission has to make its recommendation in the best interest of the Town and its citizens. Mr. Bennett asked if he could speak about what has been brought up. Ms. Michelsen said she would like to hear from him. Mr. Bennett stated that Mr. Overbay lied to Mr. Sligh and Mr. Quam when he told them he had acquired the right-of-way and wanted to give them some of it. He said that the Slighs and the Quams signed a paper giving their ok, but Mr. Overbay did not have the paperwork notarized. Later, the Slighs and Quams realized they had been lied to about the right-of-way by Mr. Overbay. Mr. Bennett said they will not agree to anything. Mr. Patterson, attorney for Mr. Overbay, asked that the Planning Commission table the request so they can try to go through mediation. He said he has seen many cases where it was said there would never be an agreement that have come to one with mediation. Mr. Patterson said the worst that could happen is that mediation will fail, and they will have to come back before the Planning Commission. Mr. Overbay stated that he does not know what the lie is that they speak of and said he has not lied about anything that he knows of. Mr. Overbay said it would be in the best interest of the neighbors to go this route where they have some control over what will be built on the property. Mr. Booth mentioned that if Mr. Overbay comes into the lot from the Olney Road side, he might be able to put more houses back there. Mr. Overbay said that was not the case, but that he could do whatever City zoning allows and the neighbors would have no control over it. Chairman Jones closed public hearing at 7:45 pm. He asked the Town Attorney for some guidance. Ms. Fontana stated that they could table it to give time for mediation, or they could make a recommendation to Council to either vacate it or not. She mentioned that they do need to state the reason as to why they vote they way they do. Ms. McMillan said the Council hearing on this request will be held next week, and they will make the final decision as to whether to table, approve, or deny the request. Chairman Jones asked if, as chairman, he could make a motion. Ms. Fontana said he could not. Mr. Booth asked if Council would vote to table the request. Ms. Fontana said Council would have to make the decision. Mr. Booth said he would like to see the three parties reach an agreement. He made a motion that the Planning Commission table the request for an appropriate amount of time for the parties to reach an agreement. Chairman Jones asked to amend the motion to state that it be tabled for 60 days. Mr. Mason seconded the motion. The roll call vote was recorded as follows: Chairman Jones-"Yes" to tabling the request for 60 days. If no agreement is reached, the Planning Commission will reconvene and vote on it. Mr. Mason-"Yes" because he would like to see the three parties resolve it, rather than the Planning Commission telling them what to do. Mr. Booth-"Yes" because he would like to see it worked out and wants to see the Town and its citizens

**PLANNING COMMISSION
PUBLIC HEARING
DECEMBER 10, 2013
PAGE 5**

served as best as possible. Ms. Michelsen-“Yes” because she would like to see these folks sit down together to come up with a solution that is best for everyone. She said this is an opportunity for citizens to figure out what they want to do instead of the government telling them what to do. She agrees with the 60 day timeframe, as Chairman Jones amended the motion, due to the holidays. Mr. Booth added that Daleview Drive has been there for years and is not going anywhere in the next 60 days. Mr. Patterson-“Yes”.

The next item was a briefing on the proposed amendment to the zoning ordinance regarding temporary family health care structures (med cottages). Ms. McMillan said Ms. Turman has been working on the amendment. She mentioned that state code requires a provision for med cottages. She said this is the work session on it, and once it is agreed upon, they can have a public hearing on it in January or February 2014. Chairman Jones asked Ms. Turman to provide an update on it. Ms. Turman went over the changes that the state is requiring. She said that there are two required updates: an increase from 30 to 60 days and to allow for occupancy of two for caretaker and patient. Chairman Jones said he is encouraged that the State Government is allowing these. He said the cottages are really advanced – even having sensors in them that alert if someone falls down. Ms. Michelsen mentioned that it is expensive to put people in nursing homes, and you are not sure what kind of care they will get. She said she is supportive of it. Chairman Jones, Mr. Mason, Mr. Patterson and Mr. Booth also said they have no problems with it.

Next to be discussed was the proposed amendment to the zoning ordinance regarding floodplain districts, the issuance of permits for development, and by providing factors and conditions for variances in the floodplain districts. Chairman Jones said he needed help on this ordinance. Ms. Turman stated that the previous version of the ordinance is only 8 pages, and the revised one is about 27 pages. Ms. Turman said that FEMA and the DCR visited the Town, and found that the current ordinance needed to be updated. These changes are mandated in order for the Town to remain a NFIP community and so people will still be able to obtain flood insurance. Ms. McMillan mentioned that the floodplain is an overlay district. Chairman Jones asked if there was anything negative or that stands out in the new ordinance. Ms. Turman mentioned the Cedar Avenue mobile home park, in which many of the trailers are located within the floodplain. She said that FEMA stated that, if a trailer is damaged, the owners will not be allowed to replace it. She said that FEMA has become more restrictive on this. Chairman Jones wondered if they carry flood insurance on the trailers. He also wanted to know if FEMA wants the Town to close the trailer park. Ms. Turman said if the trailers are damaged by flooding, they cannot be replaced. Ms. McMillan mentioned that normally the requirement for commercial construction is that it be built a foot above flood elevation, and residential requires it to be built two feet above flood elevation. She recommended that the owners who might be affected by the changes be notified about when the public hearing on this amendment will be held. Ms. McMillan asked that they read over the information provided to them and email any questions they have to her or Ms. Turman. She said, if they do not have the answer, they will contact FEMA to find out. Ms. Michelsen asked, since FEMA is requiring the updates, if this has to be done regardless. Ms. McMillan said if the Town wants to remain in the NFIP and have flood insurance, they will have to do this update. Chairman Jones said affected property owners definitely should be notified. Ms. McMillan said her office can send letters out soon to allow time for the property owners to ask any questions they may have about it. She stated that the Planning Commission could have the public hearing in February, and Council could hear it in March.

**PLANNING COMMISSION
PUBLIC HEARING
DECEMBER 10, 2013
PAGE 6**

There were no further citizen comments. In Planning Commission and Staff Comments, Chairman Jones said he thought that tonight's meeting went well. He said that he appreciated town attorney being here for the meeting. He stated that this is a difficult issue. He asked if there was anything else to be discussed. Ms. McMillan said she would like the Planning Commission to review the stormwater regulations at a later date even though they are not a part of the zoning ordinance.

There were no further comments from citizens, commissioners, or staff. Therefore, with there being nothing further to discuss, the meeting was adjourned at 7:13 p.m.

Respectfully Submitted,

Anita McMillan
Planning Commission Secretary