

**TOWN OF HERNDON, VIRGINIA**

**PLANNING COMMISSION PUBLIC HEARING MINUTES**

**AUGUST 2, 2010**

The Planning Commission met on Monday, August 2, 2010, in the Ingram Council Chambers located at 765 Lynn Street, Herndon, Virginia. Chairman Robert P. Burk called the meeting to order at 7:01 p.m.

**ROLL CALL:**

Chairman Burk asked the Recording Secretary to call the roll.

Ms. Tappan called the roll, as follows:

Commissioner Bettard:	Present
Commissioner Burke	Present
Commissioner East:	Present
Commissioner Jonas:	Present
Commissioner LeReche:	Present
Commissioner Moses:	Present
Chairman Burk:	Present

Ms. Tappan turned the meeting over to Chairman Burk, who noted that a quorum was present.

**Staff Present:**

Elizabeth M. Gilleran, Director of Community Development  
 Mark R. Holland, Zoning Administrator  
 Richard B. Kaufman, Town Attorney  
 Patsy Tappan, Recording Secretary

**APPROVAL OF MINUTES:**

Chairman Burk noted that no minutes were presented for approval this month.

**APPROVAL OF AGENDA:**

Chairman Burk suggested that the agenda move forward as presented.

**COMMISSIONERS' COMMENTS:**

Commissioner East commented that he had attended a roundtable discussion held on July 14, 2010, at ArtSpace Herndon regarding Downtown development that was hosted by the Herndon Dulles Chamber of Commerce. He estimated that there were approximately 30 people in attendance, including six Town Council members, two former Council members, numerous Downtown business owners, and some developers from outside of Herndon. The discussion was largely centered on the Master Plan that the Planning Commission had recommended to the Town Council earlier this year; what they liked about it, what they did not like and what would spur a developer to invest in Herndon under that plan or any other plan. He noted that there was lively discussion, but there was no attempt made to reach a consensus. The point was to get all points of view on the table, and there were, many different points of view on this subject. He concluded by stating that it was a remarkable session, and he personally thanked Don Owens and Eileen Curtis from the Herndon Dulles Chamber of Commerce and Bill Lauer, the Chairman of the Downtown Committee for the Chamber for hosting this session.

**STAFF COMMENTS:**

There were no staff comments.

**CITIZENS' COMMENTS:**

There were no citizens' comments.

**ELECTION OF OFFICERS:**

Chairman Burk called for a report from the nominating committee for the name of the candidate for Vice Chairman.

Commissioner Moses stated that due to the resignation of former Chairman Carl I. Sivertsen, the Vice Chairman assumes the responsibilities and takes the position of Chairman for the duration of the term, which ends in December 2010. The committee named Commissioner Paul C. LeReche as their candidate for the position of Vice Chairman. Commissioner Moses noted that Mr. LeReche had agreed to be nominated for the position and offered the following nomination:

**MOTION:** Commissioner Moses moved to nominate Paul C. LeReche for the position of Vice Chairman of the Planning Commission.

Commissioner East seconded the motion.

Chairman Burk called for nominations from the floor.

There were no nominations from the floor, so Chairman Burk closed the nominations and called for a vote on the motion.

The motion carried 6-0-1 (Mr. LeReche abstained.)

Commissioner Bettard asked Commissioner Moses for the source of his information regarding the Vice Chairman.

Chairman Burk responded that the By-Laws state the procedures for the Election of Officers.

Commissioner Bettard asked for a copy of the By-Laws.

Ms. Gilleran stated that she would be happy to provide copies of the By-Laws to the Commissioners. She explained that the By-Laws state that with the departure of the Chairman, the Vice Chairman automatically becomes the Chairman and the Commission shall elect a new Vice Chairman to serve for the duration of the term.

**PUBLIC HEARING ITEMS:**

- 1. ZONING ORDINANCE TEXT AMENDMENT, ZOTA #10-05.**  
**Summary of Proposed Action:** Consideration of an amendment to the Town of Herndon Zoning Ordinance (2007), Herndon Town Code (2000), to amend § 78-304.2, Floodplain overlay district, § 78-202.4, Variances, and § 78-701, Definitions, to comply with the regulations of Section 60.3(d) of the National Flood Insurance Program.

**STAFF COMMENTS:**

Mark R. Holland, Zoning Administrator, presented the staff report dated August 2, 2010, which is on file in the Department of Community Development.

**QUESTIONS FOR STAFF:**

Commissioner East asked for staff to outline the significant amendments to the language of the proposed Zoning Ordinance Text Amendment.

Mr. Holland responded that the double underlined language was added based on additional requirements specified by the Virginia Department of Conservation and Recreation (DCR). He noted that he would consider all of those additions “significant” in terms of interpretation, modifications and the description of the official map.

Commissioner East asked for clarification of the difference between the Town being eligible to participate in the Flood Insurance Program and individual homeowners applying for flood insurance.

Mr. Holland responded that he was not sure of all of the parameters and qualifications required for the Town to participate in the Flood Insurance Program, but he noted that it was a state mandated program.

Commissioner East asked if the Town must be declared a floodplain, in order for homeowners to receive flood insurance.

Mr. Holland responded, “That would be my understanding.”

Commissioner Moses asked if the Town would be required to make structural changes to the Town, such as deeper ditches, etc.

Mr. Holland responded, “To my knowledge, we would not be required to do anything of that nature.”

Vice Chairman LeReche asked if there were changes that would affect the way that the Town has done business in the flood zones.

Mr. Holland responded that the requirements and restrictions were more comprehensive and there would be more accountability, but there did not appear to be any drastic changes made to the text.

Commissioner LeReche asked if there had been substantial changes made to the distance of the setbacks.

Mr. Holland responded, “Not from what I’ve read. I don’t see anything that’s going to change that dramatically.”

Commissioner East asked if more or fewer property owners in Herndon would be eligible for flood insurance; if they had created more floodplain areas by redefining them.

Mr. Holland responded, “There were some minor changes along the eastern side of Town, because they have updated the map. There are some areas that have been enlarged and the map encompasses just a few more properties.”

Commissioner East asked, “How will those homeowners be notified that they now reside in the floodplain?”

Mr. Holland responded, “Typically, homeowners would find that out when a Building Permit is issued, or applied for.”

Ms. Gilleran added, “Once this is adopted, we will work with the Department of Public Works to have anyone who’s land has been added into the floodplain (that was not previously in the floodplain) notified of that change.”

Commissioner Moses asked, “Is this expansion of the floodplain going to require additional storm drainage?”

Mr. Holland responded, “If there is any development in one of these areas, the property owner/applicant has to address the concerns of the floodplain district as far as how the proposed development would encroach into the area. They would have to make necessary adjustments based on a review by the Town’s engineering staff to make certain that what is proposed is feasible within the floodplain area.”

Commissioner Jonas stated, “I did receive a letter from the County notifying me that my property was going to have a little more land in the floodplain, so the County has notified citizens of the change.”

**CITIZENS’ COMMENTS:**

There were no citizens’ comments.

Chairman Burk closed the public hearing.

**COMMENTS FROM THE COMMISSION:**

**MOTION:** Commissioner East moved to recommend adoption of ZOTA #10-05 as outlined in the staff report dated August 2, 2010.

Vice Chairman LeReche seconded the motion.

Commissioner East stated, “I would encourage, even though I am greatly relieved to hear that the County had taken some initiative to notify homeowners that their properties are, (either more in or hopefully), are now in the floodplain that the Town would follow up with the County to make sure that all homeowners are properly notified. Just to say that one was notified doesn’t mean that all were notified.”

Chairman Burk called for a vote on the motion. The motion carried unanimously, 7-0.

2. **COMPREHENSIVE PLAN AMENDMENT, CPA #10-01, DOWNTOWN MASTER PLAN.** Amend the Town of Herndon 2030 Comprehensive Plan adopted August 12, 2008, to incorporate by reference a Downtown Master Plan. The plan amendment will also make minor changes to the appropriate plan text (mainly Chapter III: Land Use Plan) in order to reference a master plan. The Downtown Master Plan includes a map of specific planned land use and related information. The general purpose of the plan amendment is to carry out the vision, goals and objectives of the 2030 Comprehensive Plan to encourage a vital downtown with a mix of land uses. The master plan depicts residential, commercial and public uses and parking facilities to support these uses; the plan displays the approximate height and level of density on each block of a core downtown area. The area is similar or equal to areas displayed as Sectors 1, 2 and 3 in the 2030 Comprehensive Plan. 16 block areas are affected; they are located in the center of the Town of Herndon in the general area of Elden Street, Center Street, Vine Street, Lynn Street, Station Street, Spring Street, Pine Street, Monroe Street, Jefferson Street, Jackson Street, Van Buren Street and the Washington and Old Dominion Railroad Regional Park. Downtown Master Plan maps and related information are posted on the Town of Herndon website at [www.herndon-va.gov](http://www.herndon-va.gov) (click on Planning and Zoning and follow links). A descriptive summary of the proposed action is to update plan text and maps to reflect changed conditions and to incorporate land use policy based on the results of a major community planning process.

**STAFF COMMENTS:**

Elizabeth Gilleran, Director of Community Development, presented a PowerPoint presentation outlining the Downtown Master Plan, which is on file in the Department of Community Development.

Staff recommended continuance of the public hearing and deferral of CPA #10-01 until the public hearing of September 13, 2010.

**QUESTIONS FOR STAFF:**

There were no questions for staff.

**CITIZENS' COMMENTS:**

Robin Carroll of 691 Old Hunt Way, read the following statement into the record:

“Good evening Mr. Chairman and members of the Planning Commission. I am speaking tonight as an advocate for the Arts and as President of the Herndon Foundation for the Cultural Arts. I would like to address the locations designated for an arts center in the Downtown Redevelopment Plans. My preferences for the Downtown Redevelopment Plan would include a viable, realistic site for a future expanded community arts center.

In **Option A**, the current option recommended by the Planning Commission, the site for the arts center is next to the Herndon Municipal Center at Lynn and Center Streets.

**I do not support this location for an arts center for three reasons:**

1. According to engineers and architects, the cost of developing this site would be approximately double the amount to build the same facility at a different location. The support structure needed to retrofit new construction over the existing parking lot increases the cost tremendously.
2. The site cannot be developed incrementally. Rather than being able to grow the arts facility as support for an arts center and its programming needs grow, the facility would have to be developed all at one time.
3. There is insufficient space for parking at that site. A future arts center, even a modest 12,000 square foot center with a performing arts space, will require more parking than is available in that section of Town.

**Option B** designates an alternative future location for an arts center – the arts center is located in Block E – in laymen’s terms, the block bounded by Center Street, Vine Street and the W&OD Trail. This is the current location of ArtSpace Herndon.

**I support Block E as the future long term arts center location for four reasons:**

1. This site can be developed more economically at an average or standard cost per square foot.
2. This site is located adjacent to the proposed location of the structure parking facility, and can utilize the spaces available in the evening when other demands on the parking are lower.
3. This site can be developed in such a way as to connect to and expand the open spaces in our Downtown.
4. This site can be developed in phases as the support for an arts center grows, as the programming grows, and as funding becomes available.

The arts community is not looking for the Town to hand us a lavish facility. Rather, we need a site that does not burden us or the arts community with higher costs and a site that allows us to grow incrementally. **Please designate Block E as the arts center location in the Downtown Master Plan that you return to the Town Council.**

Richard Downer, Vice President of the Herndon Foundation for the Cultural Arts, located at 750 Center Street, read the following statement into the record:

For over 30 years, we have been struggling to find the right formula to re-vitalize the Downtown. Many of you on the Commission and many of us in tonight’s audience have been involved in that effort, some of us for the whole 30 years. As we have seen, there have been numerous Commissions and many studies done over these years and we have all learned a lot. The Town has spent thousands of dollars and yet, we are here tonight trying to find the right formula for our Downtown.

As my wife, Linda, and I have traveled around Virginia and the U.S., we've always made it a point to go through smaller communities, especially those involved in the MainStreet program of the National Trust for Historic Preservation. It is interesting to visit these communities, rural, suburban and urban, and see how they have been able to make themselves "stand out from the crowd." They are places you want to visit again...I wouldn't mind going back there and having lunch. In short – they are unique.

How do we make our Downtown unique?

On the rear bumper of my car is a bumper sticker that reads, "Arts Build Communities," and I think that is an idea that could truly make our Downtown unique. I have passed out a map of Virginia arts organizations, which also has a copy of the enabling legislation passed by the 2009 Virginia General Assembly that now allows "any locality" to establish an "arts and cultural district" with certain benefits that are available. Virginians for the Arts, Americans for the Arts and the Commonwealth of Virginia are ready to help us.

By establishing the Downtown Arts Center with the performing arts facility, whether it's the Elden Street Players or not, we can generate the type of activities that will attract citizens and visitors to our Town. What we have been able to do at ArtSpace, in just 2,800 square feet and all volunteers, is absolutely amazing. Just imagine what could be accomplished with 12,000 square feet, which would include a performing arts space. By the way, that is all the local arts community has requested, not the 25,000 square feet that one study said the Greater Herndon area could support. Just one example of what could happen is the Elden Street Players, currently located in Sunset Business Park. They generate over 9,000 patron visits a year to Herndon, in a theater that seats 114 patrons. Can you imagine what they could do, if they were to re-locate to a 275 seat theater like the Franklin Park Arts Center in Purcellville, Virginia, but in our Downtown? Add to that some art gallery and studio space, along with arts related businesses in our Downtown...that generates activity, and that activity would benefit Downtown businesses and the Town's finances. That's how you pay for an arts center.

Imagine a pedestrian friendly, attractive Downtown, with street art on every corner and open space. With banners and flower baskets on the lampposts. Add to that a true community based arts center with daily activities for citizens and visitors, and I think you will agree that that could make our Downtown unique and a place where citizens will want to live and folks will want to visit.

In 2002, the Town Council of Herndon purchased what we are now calling Parcel E, specifically to be the Downtown Arts Center. Les Zidel will give you a presentation of the vision of what Parcel E could be and do for our Downtown. Tonight is the first time we've heard the possibility of locating an arts facility across from the caboose in that area. I, personally, think that is another possible solution, at least it needs to be explored. Thank you for your time.

Mr. Downer stated, "Mr. Chairman, I wear several different hats, and I would like to testify separately about something that has nothing to do with the arts center if that's allowed.

Chairman Burk responded, "By all means."

Les Zidel of 1458 Kingsvale Circle stated, "About 25 years ago, when we began thinking about revitalization in the Downtown, I remember we came to one conclusion: That as we began to work on the Ordinances, we should not be trying to create a Downtown in the image of our childhood. That time is gone. We're not going to have a fish market, meat store or the kind of little shops that we grew up with (at least I did, since I'm of a little older generation than most of you). What I've always tried to do is to think about a Downtown 25 years from now, not in the past. What we see coming about, and I'm going to quote Richard Florida a professor at the University of Toronto who's written a book called "Who's your city?" He is the person who coined the term "creative class." What the creative class is, is taking the economic viability of the United States. What is it that we have that China and other developing countries don't have? How is the

United States going to be competitive in the marketplace? You're probably wondering what this has to do with the arts. It has everything to do with the kind of people who settle in Northern Virginia and who are attracted to this Town. They are creative people. They don't have to be artists, necessarily, but they are people who have learned that what they bring to the table is not just studying engineering or architecture. Not just studying computer science, but the people who can communicate these ideas. They write manuals that people can understand and create software that understands how we think as human beings and not as machines. Now this kind of relationship between creative fields and technology is going to create a whole new cottage industry. I'm already beginning to see this happening. Graphic art is an example of art and technology coming together. We need to be thinking about how we can attract people who are in these fields, or interested in these fields, to settle in Herndon. Almost like the dotcoms of the 1980's, which were very short lived. How are we going to attract the kind of well educated people who enjoy the arts, and enjoy other forms of recreation, into the Downtown? That's why, about four or five years ago, when we began thinking about what site should house the arts center, this was in the back of our minds. The future of Herndon, not the past. The future on Block E is that you have 40,000 and it is right next to the trail. The planners have been saying that we need to cross over The Green from one side of the trail to the other. This is very important because we have a very small Downtown. Block E helps to accomplish this. If you build a performance arts center and gallery on several levels, with the second level going out towards the trail, then you can use The Green, which is already established as a performance area as well as the indoor performance area directly across from it. That was one idea, although it was not mine. I want to point out that I avoided the Station Street and the bike trail and let me tell you why. Performance areas are multi-story requirements. You don't build a theater that doesn't have the height. It's a pretty blank wall and you've got to hide that blank stage wall. You can't just shove this anywhere in the Downtown and make it work. It belongs in the center of a block that is surrounded by other development that will hide it. This is really important for us. Access in and out of this kind of facility is extremely important; I'm talking about loading in and loading out, not just pedestrian access. I don't mean this to be in any negative way toward this new idea, but, believe me, we looked at the Municipal Parking Lot several times and we came to the conclusion that Block E was the right place to put it. I'm somewhat perturbed that there has been this idea that there should be multi-family housing, right up against the trail? Across from where Friday Night Live is? We're going to build four-story apartments? I don't quite follow this kind of logic. To me, what Block E should become is a district with the arts center as a small portion of this block, and acting as the catalyst for these cottage industries. Let me tell you what I have in mind. There could be an art gallery there that is publicly run by a foundation like us. Next to it could be a music studio, privately owned. Next to that a framing shop. Next to that some design or architectural firm. Next to that it could be something literary. I don't know what else that we could attract here, but I want to see the arts space become, not bigger, but a catalyst for more associated, creative businesses. I think that's the future. We must remember that our population is getting older. Not just in Herndon, but in all of Northern Virginia. People who are 65 and retiring are not dying off, but they are looking for other forms of recreation. We have the bike trail running through there for active recreation. The library is there, and if there was an arts center nearby, then you would have a reason to come Downtown. If we think that by just building multi-family housing that that's some reason for people to walk around...I don't think so. I think we'd be making a terrible mistake by using the few remaining acres that we have left. I realize that I'm probably way over my time, but I have at least a hundred more things to talk about, but I'll save them. I hope I've stimulated you to think a little bit more about this on a more global scale. I keep hearing about the value of this parcel. Yeah, we'd lose a million dollars we could make by putting multi-family housing on it. Stop thinking about each parcel's value. Think about the 4.2 square miles with 7,300 dwelling units. How much of an increase is it when you take \$2 billion worth of real estate in the Town and you make this a walkable and livable community that addresses future needs? How much increase would the Town get from doing it right, rather than worrying about the check from Parcel E? With that, I'll leave you."

Richard Downer of 44354 Oakmont Manor Square, Ashburn, Virginia stated, "I work at 718 Pine Street three days a week, and my wife and I also own property at 216 Herndon Station Square. I have lived or worked in the Town of Herndon since I was 11

years old and I figured out that the only way that I'm going to go away is through Green's Funeral Home or when you build an Arts Center and a Nature Center. Now; the Downtown. Please don't rush. My understanding is that once you hand this to the Town Council, they have 90 days with which to pass it. Is that correct?"

Mr. Kaufman responded, "The general statement is correct, but I always have to look at the Code book."

Mr. Downer continued, "You don't have that time limit. Our Downtown has to be integrated with what is going to happen at the Metro stop. Where is our transportation center going to be in the Downtown? It could be the Depot. How are we going to make sure that people can get back and forth to our Downtown? I agree that Parcel F should be multi-family housing of some type. I think the market is there, and I can tell you personally, if it had been built, I would be living there right now instead of nine miles away. Parcel F is a good example, but I think with all of these parcels, I don't think it should always be narrowed down to one option. I think age restricted housing could be good, or high end rental could be good. The right configuration of townhouses could be good. I recommend that you don't lock in to some of these places. Some of the parcels need to have what is already on there, but the others may need to wait and see which developer comes in first with something that meets the standards. One parcel that's not even been dealt with (and I'm surprised about) is behind Herndon Service Center (the old property owned by Barbara Harding and her family.) Something is going to happen to that lot someday and we don't really deal with it at all. Also, the condos that I believe fall in the Downtown are aging quite a bit. Please don't rush. Please get options where they are available, since more than one thing may come through."

Chairman Burk closed the public hearing.

**COMMENTS FROM THE COMMISSION:**

Commissioner LeReche referred to the package received from the Foundation for the Cultural Arts, and stated, "I read and appreciated the history provided. I think it would be helpful to have the history, as well as the testimony that was given to the consultants who were asked to listen to certain interest groups. I think it is important for us to listen and to go through the process on Wednesday, to pick up the concerns of the citizens and keep all of our options open for those sites that we are discussing."

Mr. Kaufman stated, "Mr. Downer was correct. The State Code states that "Enacting on the plan or part thereof, or any amendments to the plan, the governing body (Town Council) shall act within 90 days of the local Planning Commission's recommending Resolution."

Ms. Gilleran advised the Commission that since this item was placed on the public hearing agenda, it would need to be formally deferred until the next public hearing.

**MOTION:** Commissioner East moved to continue the public hearing and defer CPA #10-01, Downtown Master Plan until the public hearing of September 13, 2010.

Vice Chairman LeReche seconded the motion.

Chairman Burk called for a vote on the motion. The motion carried unanimously, 7-0.

Vice Chairman LeReche moved to adjourn.

Commissioner East seconded the motion.



Chairman Burk called for a vote on the motion. The motion carried unanimously, 7-0.

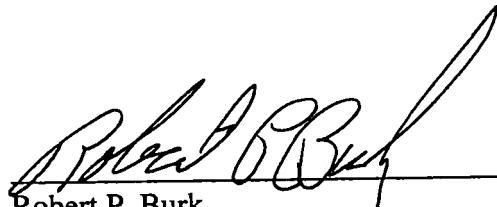
The Planning Commission adjourned at 8:00 p.m.

**GENERAL ITEM:**

**1. RSTP/CMAQ Projects: Fiscal Year 2012 funding proposals.**

Ms. Gilleran advised the Planning Commission that Mr. Duceman was unable to attend the public hearing and the staff had encountered difficulties scheduling time to discuss the item with the Department of Public Works, so she recommended deferral of this discussion. She advised the Commission that the staff was looking at several possible projects for CMAQ funding; including alternative fuel vehicles or diesel retrofits for existing vehicles, not just for passenger vehicles, but looking at trying to obtain larger vehicles such as clean fuel garbage or dump trucks. The other possible project being considered is the Folly Lick Trail. For the RSTP funding, they were looking at Herndon Parkway intersection improvements; Van Buren Street, Sterling Road and Spring Street, which would continue a project that staff has been adding to over the years. This project had been approved by the Town in the past, and this project had been listed on VDOT's six year plan. She explained that whenever a project is listed on VDOT's six year plan, it gives a foot up for the grant money. Another project is the East Elden Street roadway improvement plan, which is not only listed on VDOT's six year plan, but also in the Town's Capital Improvements Program and the Northern Virginia Transaction Regional Plan, which also gives proposals a step for funding. The Town is also building funds toward those improvements on East Elden Street.

No action was taken.

  
 Robert P. Burk  
 Chairman, Planning Commission

  
 Patsy Tappan, Recording Secretary

Minutes Approved: 09/13/2010