

Alex Bridges Government Writing W13

Planners pan mayor's request for street in housing project

By Alex Bridges
The Northern Virginia Daily

The Front Royal Planning Commission panned the mayor's request on Wednesday for an exception to a development rule in his company's construction project.

Mayor Christopher W. Holloway, owner of Chris Holloway Construction, applied for a special exception for a new, non-dedicated private street into a site under development.

Chairman Douglas Jones, Vice Chairwoman Connie Marshner and commissioners William Gordon, Joshua Ingram and Darryl Merchant voted in favor of the motion to recommend that the Town Council deny the request over concerns about the proposed width and naming of the private street.

The Town Council now must hold its own public hearing on the request.

Front Royal allows subdivisions on new, private streets not dedicated to the town with an approved special exception, which the applicant needs in order to provide access to several parcels. The private street is required because Carter Street was vacated and the applicant seeks to name the proposed, private street Ryder Benson Lane or Court. Front Royal regulations require that the Town Council approve the street name and that new streets must bear the name of the existing street that aligns with it.

Merchant voiced concerns about the requirements for private versus public streets. Town streets are 50-feet of public right-of-way with 36 feet of pavement, Merchant noted. Property owners can petition the town to bring their private street into the public road system. However, Merchant said that the ordinance does not say the town should change its standards for public streets.

Merchant also said he opposed the naming of the street, as an extension of Carter Street, to Ryder Benson Lane or Court. Merchant noted that the town ordinance requires that such an extension bear the name of the existing street. Holloway told the commission that Ryder Benson is the name of his grandson.

Karen Tinkham spoke at the public hearing and said she and some neighbors who live on Steele Avenue downhill from the site worry about water runoff possibly caused by the proposed road. She said her property floods when it rains. Holloway acknowledged that heavy rains caused runoff and some flooding but his crews have taken steps to try to prevent the runoff.

Later in the meeting, during the commissioners comments, Merchant raised more concerns about the Holloway project.

“Allowing a subdivision of six townhouse lots on a 20-foot-wide private street without following the town code for special exceptions is a breach of policy and of concern to me,” Merchant said, reading from a written statement. “To me, it’s imperative that the public has confidence in the zoning and subdivision review process and that said regulations are applied equally and fairly to all applicants.

“Mistakes in the application approval process can happen,” Merchant said. “We all make mistakes at some time or another in our lives and I don’t wish to hammer anyone if a mistake was made, but I have so much conflicting information that I really think is something that we need to look at, and by look at I mean I want to question how did the application process fail?”

Merchant went on to question the approval and then vacation of a plat drawn up for the property; did town staff tell the applicant that a 20-foot street was allowed; was a pre-application meeting held; why was the application incomplete and did not include a justification for a street that would fall below the standard width. Merchant also questioned why other departments did not review the request.

“I can’t believe that Public Works or somebody didn’t look at the plan to determine the street, at least how it ties in to Scott Street and Carter Street,” Merchant said. “Was the existing review process followed? Is the system broken?”

Merchant asked if the signatories to the plat - the interim planning director, town manager and finance director - knew about the circumvention of the subdivision ordinance.

“Was it intentional?” Merchant said. “Is it because our staff, our people are not properly trained?”

Merchant then recommended that Planning Director Lauren Kopishke investigate the matter.

“I mean, it may be very simple, that it was just a simple mistake that has a lot of implications here and that maybe all we need to do is just retrain staff on proper procedures for a minor subdivision for a private street ‘cause, to be honest with you, in my 13 years on the Planning Commission, this is the first time we’ve had an application for a subdivision in this manner on a new, private street,” Merchant said.

Marshner said she supported Merchant’s suggestion that the department create a checklist of steps necessary for the application process.

Planning and Zoning Department staff have already started to review and, if needed, edit applications as well as make a checklist to prevent a similar situation from happening again, Kopishke said.

Merchant made a formal motion that the commission ask Kopishke to investigate the circumstances specific to the Holloway application. The motion also calls for Kopishke to provide a written report to the commission, which may include recommendations for preventing similar criticisms from arising again with other applications. All members voted in favor of the motion.

Also at the meeting, commissioners voted 5-0 in favor of a motion to recommend that the Town Council approve a special exception requested by Poe's River Edge LLC for a new, private, non-dedicated street. The street would serve industrial-zoned property at the western end of Kendrick Lane, beyond a railroad trestle, and between the South Fork of the Shenandoah River to the west and Norfolk Southern Railroad to the east.

Poe's River Edge owns roughly 74 acres of industrial-zoned property on the west side of town, north of the former Avtex Fibers site. Rural Rustic Furniture owns 4.5 acres adjacent to Poe's River Edge and to the west of the Old Virginia Industrial Park. Joseph Brogan Jr., of Brogan Land Surveying, and local developer Donnie Poe, are listed on the application.

The applicant intends to subdivide the property into separate lots, one of which would be landlocked without a street. The applicant must first receive an exception to the town's requirement that lots must abut streets dedicated to Front Royal. ‘

The Department of Planning and Community Development recommended that the commission endorse the request provided that the width of the right-of-way is increased from 40 feet to 55 feet and extended along the eastern property line.

During the public hearing, William Biggs expressed concerns about a problematic storm drain leading to the property. William Barnett said the street is needed to access the long-vacant property. Commissioners voted in favor of a motion to forward to the Town Council that they conditionally approve the exception provided that the width of the right-of-way be increased from 45 feet to 55 feet and extended along the property line of the parcel, and that a turnaround be provided for emergency response vehicles. Marshner added to her motion that council pay attention to concerns about drainage.

The commission also voted 5-0 in favor of a motion to recommend that Town Council approve a special-use permit requested by Allen Walters to build a new, single-family dwelling on a nonconforming lot zoned residential. The lot fronts Warren Avenue but the width is less than 80% of the required minimum. Department staff recommended that the town approve the permit request on the condition that the house plan may be modified, but the finished floor area not be reduced to less than 1,234 square feet; and that the facade and main entrance face Warren Avenue.

Several people spoke against the request during the public hearing and voiced concerns that the proposed use does not fit with the neighborhood.

Report: No wrongdoing by staff with Front Royal mayor's exception for road development

By Alex Bridges

The Northern Virginia Daily

Front Royal officials did not give the mayor's construction company priority over other projects in approving the firm's housing development, a town attorney's report states.

But mistakes were made, Town Manager Steven Hicks states in a media release issued Wednesday along with Town Attorney Douglas Napier's report several hours before the commission's meeting.

Town staff did not follow procedures for processing applications submitted by developers for special exceptions, Napier explains in the report. The document doesn't identify any staff members by name or position.

Front Royal Town Council voted on Sept. 27 to approve an application for a special exception to the subdivision regulations in order for Chris Holloway Construction Inc. to build a six-unit townhouse development. The exception allows the company to build a private street narrower than the town subdivision ordinance requires.

The Planning Commission had recommended the company's request be denied. But Town Council members did not accept the recommendation, and by law it does not have to. Christopher W. Holloway, the town's mayor and owner of the construction company, did not attend the council meeting when his company's request was approved.

At the Planning Commission's Sept. 15 meeting, in addition to making its recommendation to deny, it approved a motion requesting that the town's planning director prepare a report on policy and procedures of the subdivision ordinance with a focus on the Holloway project. Later, the chairman of the planning commission asked Napier to take over the inquiry.

After weeks of review, Napier concluded that there was no wrongdoing by the town manager, the administration staff or Holloway Construction, according to the report.

Planning Commission members reviewed the report at their meeting Wednesday night. Chairman Douglas Jones, Vice Chairwoman Connie Marshner and commissioners William Gordon, Joshua Ingram and Darryl Merchant attended the meeting.

Merchant made a motion that the commission accept the report titled "The Planning Commission Internal Inquiry Report" containing 20 pages, dated Oct. 7, revised Oct. 21, as prepared by Napier.

Merchant went on to move that the recommendations in the report be forwarded to the planning director for implementation as policy.

But Merchant withdrew his motion after commissioners raised more questions about discrepancies between various versions of the report. Merchant then directed the planning director to provide a final version of the report to the commission for review at its December meeting.

Merchant and other members raised concerns and questions earlier about the report as they appeared to read it for the first time, in particular about the dates of earlier versions of the document. Director of Planning Lauren Kopishke told commissioners that the version presented to them is the same document provided to the Town Council and released to the public.

According to the report, Kopishke discovered after she began working for the town in early August that the requirements related to the special exception were not followed. The department already had started working on the special exception by the time the town hired Kopishke. She replaced Timothy Wilson who left the position in March.

“In the facts set out here, it became clear that there was a desire and pressure for much faster than usual land use decision approval. This is understandable that a builder would want this,” the report said.

This action caused town staff to make mistakes when the re-subdivision plat for the development was approved, and the department issued zoning permits before the town issued the special exception. The private road then would not have been legal, the report states.

The town kept the report, dated Oct. 7, from the public for several weeks. Napier, in response to The Daily’s request for a copy of the report, said he could not release the document citing attorney-client privilege. The Virginia Freedom of Information Act did not require that the town release the public document, Napier added in his response to The Daily.

Hicks' release further addresses the findings in the report.

“While it appeared that more time could have been taken to review requests, the findings indicated that the mayor’s company was not given priority over other projects,” the release states, noting that the town was without a planning director during the time of Holloway Construction's request.

“With a smaller staff, the town manager did not want any development projects delayed, so he offered assistance to planning staff in moving all types of development projects forward, which included the Holloway Construction plans,” the release states.

Front Royal Town Council blocks vaccine ordinance

By Alex Bridges

The Northern Virginia Daily

The Front Royal Town Council shot down a proposed ordinance on Monday aimed at protecting unvaccinated workers.

Council members voted 3-2 against a motion to adopt an emergency ordinance enacting a new town code chapter that prohibited employers in the Front Royal corporate limits from firing employees who do not receive a COVID-19 vaccine.

Councilman E. Scott Lloyd, who pushed the measure, made the motion to adopt the ordinance. Councilman Joseph E. McFadden, participating in the meeting remotely, seconded the motion. Mayor Lori A. Cockrell and council members Gary L. Gillispie and Letasha T. Thompson voted against the motion. Lloyd and McFadden voted in favor of the motion.

A few people in the audience booed after the vote. One man shouted “evil triumphs.” Thompson replied: “Watch your mouth. You’re not going to disrespect me from your seats,” and the two proceeded to shout at each other. Thompson then shouted for a police officer in the room to “take his ass out.” The audience quieted down and one woman could be heard saying “we will remember this.”

Council members voted on the matter at the end of a nearly 4-hour meeting. Earlier in the meeting, during the public comment period, more than 50 people spoke about the proposed ordinance, mostly in favor. Some of the speakers expressed concerns about potential dangerous side effects with an emphasis on the rare occasion it can cause death. Others questioned the public data including the number of deaths from the coronavirus.

Valley Health, which operates Warren Memorial Hospital in town, recently announced it would require that employees be vaccinated or face termination. Some of the speakers who also work for Valley Health spoke in support of the ordinance. Some speakers claimed the mandate violated their rights while others equated the policy to “coercion.”

Toward the end of the meeting and before the vote, Town Attorney Douglas Napier told council members that “there is no mechanism, legally, for the enforcement of this ordinance if it did pass,” given Virginia’s status as a Dillon Rule state. Local governments have only the powers granted to them by the state.

Lloyd asked that members consider and approve the emergency ordinance that would add the code chapter. Lloyd has said in previous work sessions on the subject that some employers should not be allowed to fire or threaten to terminate an employee for not receiving a COVID-19 vaccine.

Thompson referenced the science fiction novel movie Hunger Games when she commented on the motion.

“I will volunteer as tribute,” Thompson said. “You can call me Katniss tonight.”

Thompson went on to call the doctors and nurses in the audience “heroes” before, during the COVID-19 pandemic and now.

“You are even a hero if you get fired by Valley Health,” Thompson said. “I do want to thank everybody for coming out because I think it’s important and I’m hoping that Valley Health and administration and other employers are looking at this and paying attention, saying this is what our employers want, this is what, you know, they’re requiring from us, and I hope that they take it into consideration as other companies might want to jump in on this vaccination policy situation.”

But, as Thompson said at nearly a half-dozen times, the town cannot prevent employers from firing employees who do not receive a vaccine if required.

“We have no authority and we can’t prevent you from being fired, so I have to say that because I feel that I would be doing a disservice if I give a false hope that we can protect you

and you can take this ordinance to your employer and be, like, ‘damn, I’m not doing it’ and you still suffer a consequence.

“The one thing that has come from this, being forced onto our agenda ... which is fine because it did get a conversation started,” Thompson said, noting that people can contact their legislators who have more authority with their concerns. “I will take the boos for this and that is fine but this has been political theater because we can’t do anything so we came up here and essentially to appease Scott (Lloyd), which is fine because, like I said, we got a conversation going -

A man in the audience interrupted Thompson by booing her and she responded by saying people can boo or hiss because “it’s a free country,” at which point a woman started to shout “it’s not a free country.” Mayor Christopher W. Holloway then started to tell the woman not to shout.

“I personally feel that everyone should have a choice to do what’s best for them and their family,” Thompson said. “I am sure my counterparts feel the same way. I don’t think any of us believe that Valley Health or anyone else should essentially force you, right, because they’re kind of saying ‘do this or be fired.’

“I also believe that businesses have a right to what they feel is best for their business,” Thompson said. “Freedom has always gone in both directions.”

Virginia is a right-to-work state so employees “can be fired for practically anything,” Thompson added.

Gillispie told the audience he takes insulin injections regularly to treat his Type I diabetes. Referring statements made by a speaker, Gillispie said he did not know fetuses or fetal tissue was being used in vaccines. A Reuters article published Feb. 26 states that the vaccines do not contain the cells of aborted fetuses.

“There’s nobody in this world that’s even more pro-life than me, I’m tellin’ you,” Gillispie said. “I was heartbroken to hear that and if I would’ve known that, I would’ve definitely not gotten (the vaccine) even over my health concerns.”

Gillispie then read from a written statement in which he says he appreciates Lloyd’s intentions. Gillispie echoed Thompson’s remarks about the town’s lack of authority over private business policies.

Lloyd said that council members were defaulting to positions taken six weeks ago and reading statements written before the Monday meeting. Lloyd then cited his experience as an attorney licensed to practice law in Virginia.

“I would not propose something that gives people false hope and has no hope of there being any legal argument to make in court,” Lloyd said.

The Town Charter grants Front Royal powers such as policing and the ability to create its own hospital and a regulatory health board, among others, Lloyd said. He went on to cite a

civil case from the early 1900s in which the court ruled that a local government could require that people receive a vaccine or face paying a fine. But Lloyd argued that, in the current case, people face losing their livelihoods if fired for not getting vaccinated.

“But the dramatic irony here is that (the court decision) was rooted in the police power so what we’re hearing from several of our fellow councilmen and from the town attorney is that the police power would give us the right, if we wanted to have a mandatory vaccine regime in this town, we would have the right to do that,” Lloyd said. “But at the same time, they’re also telling us that we cannot find anywhere in the police power the right to say to an employer ‘no, you cannot have (a) compulsory or coerced vaccine regime.’”

Lloyd admitted that enacting the ordinance could expose Front Royal to a legal challenge, which he said the town would fight.

“So all I’m saying is that ... the arguments that can be made before a reasonable judge might have a chance in court and I think ... it’s worth taking that chance,” Lloyd said. “But sitting in front of a room full of people when the epidemic or pandemic or whatever you want to call it was young walked into rooms with people who were infected and faced the unknown.”

Employees showed up for work in spite of not knowing the facts about the virus, Lloyd said.

“And we’re going to turn and say ‘we’re not going to risk a lawsuit in order to defend these people,’” Lloyd said.

McFadden said he received an experimental vaccine for anthrax while serving in the U.S. Marine Corps so he can understand some people’s fear of taking one for COVID-19, especially if mandated. McFadden said that a source told him that Valley Health will no longer use the word “mandate” and, instead, prohibit employees from working around patients unless vaccinated. McFadden said he would support the ordinance but admitted he didn’t know how much good it would do. McFadden said the action could set a precedent and a message.

A resolution attached to the proposed ordinance states that “the entity that operates the only hospital and the majority of health facilities in town, and is one of the largest employers in the Town, has retroactively stated that all employees must receive one of the available COVID-19 vaccines or be “subject to suspension or termination.” The resolution does not identify the entity by name but Valley Health operates Warren Memorial Hospital and other medical facilities in Front Royal.

The resolution states that “although exemptions are available, management of this entity has stated that these exemptions will be ‘carefully...evaluated.’ Several employees have stated to Town Council that they read this to mean that the entity will deny many requests for exemptions that they believe to be valid;

“(N)umerous employees at the same employer have contacted Town Council members to describe a campaign of what they have described as ‘harassment,’ ‘coercion,’ and ‘undue influence,’ including the public sharing of vaccination status among fellow employees,

personnel walking through the halls of a facility calling out the names of those who have not received the vaccination, and other egregious acts,” the resolution states.

Visit <https://frontroyalva.new.swagit.com/videos/129551> to watch the meeting in full.