

**New Market Planning Commission**

**January 3, 2023**

**CALL TO ORDER AND ESTABLISHMENT OF QUORUM**

The regular meeting of the New Market Planning Commission was held on Tuesday, January 3, 2023 at 6:30 p.m. The following Planning Commission members were in attendance: Chairman Larry Hale, Vice-Chairperson Sherri Erbaugh, Sonny Mongold, Bob King, George Daugharty, Tom Linski, Jr., and Harry Wine, Jr.

The pledge of allegiance was recited in unison.

Mr. Larry Hale opened the meeting and established a quorum with seven members present.

**Mr. Daugharty made a motion to amend the agenda to add the election of Planning Commission officers under “new business” items. Mr. Wine seconded the motion which passed on a unanimous 7-0 voice vote.**

**Mr. Daugharty then made a motion to approve the agenda with the aforementioned amendment. Mr. Linski seconded the motion which passed on a unanimous 7-0 voice vote.**

**APPROVAL OF MINUTES**

Mr. Hale stated that the minutes did not include mention of the funds granted to façade enhancement grant recipients. Mr. Walters advised that he would provide that information to Mr. Hale.

**Mr. Linski, Jr. made a motion to approve the minutes from the October 3, 2022 meeting of the Planning Commission. Mrs. Erbaugh seconded the motion which passed on a unanimous 7-0 voice vote.**

**PUBLIC HEARINGS**

There were no public hearings scheduled.

**OLD BUSINESS**

Mr. Walters provided the Zoning Administrator’s Report. He stated that he had issued a sign permit for 186 West Old Cross Road which is Subway. He had issued permits for a fence at 236 Periwinkle Lane, an out building at 9298 John Sevier Road, and he issued a zoning permit for a short-term rental at 9531 S. Congress Street. He is also currently reviewing a permit application for a new home at Lot 45 on Woodbine Way.

Mr. Walters remarked that at the previous meeting, the Planning Commission had discussed the Food Truck Ordinance. Mr. Walters wanted to make sure, before a public hearing is set, that Planning Commission Members are good with what was presented at the last meeting. Mr. Hale commented that he had some concerns. He remarked that the first thing that jumped out at him was that the name had been changed from Food Truck to Mobile Restaurant. He remarked that he preferred it be called a food truck, but whatever is decided, it needs to be consistent throughout the ordinance. Mr. Walters advised that the document included with the packet has not yet been put into ordinance format. When that happens, it will all match. Mr. Walters believes it will be worded as “food truck” and not “mobile restaurant”. He advised that he will speak to the attorney about the wording. The attorney will be the person who writes the ordinance and puts it in the correct form.

43 Mr. Hale asked about where the food truck ordinance will go. He said a section or heading would have  
44 to be created. He asked if it will fall under other similar temporary uses or if it will be a section by itself.  
45 Mr. Walters responded that the attorney working on it will determine where it will go. Mr. Walters  
46 believes that it will show up as a separate section and it will be allowed in B-1 and B-2. Mr. Hale then  
47 asked about health permits for the food trucks. Mr. Walters answered that the Town would probably  
48 require a copy of the Health dept. permit prior to issuing a permit for the food truck in Town. Mr.  
49 Walters further responded that whatever the vendors normally are required to get for the Town events  
50 are likely what will be required for food trucks in Town. Mr. Walters advised that food truck vendors  
51 would also be required to pay meals tax monthly to the Town. Mr. Hale asked if there is any  
52 information in the ordinance regarding where food trucks could be parked in Town when not conducting  
53 business. Mr. Walters stated that there is not currently anything in the ordinance regarding whether  
54 food trucks could be parked at a food truck owner's home in town. Discussion ensued regarding  
55 whether food trucks could be parked in residential areas in town when not serving food. Mr. Walters  
56 stated that he will see if there is anything currently in the Town Ordinance regarding the storing of the  
57 food truck. He further advised that the Town does not enforce subdivision covenants and some  
58 covenants may not allow food trucks to be parked in certain subdivisions. Mr. Walters asked planning  
59 commission members if they would be ready to move forward with a public hearing at next month's  
60 meeting if staff is able to get the Food Truck Ordinance to the attorney and have it put in ordinance  
61 form.

62 **Mr. Mongold made a motion to move forward to schedule the public hearing on the food truck**  
63 **ordinance. Mr. Linski seconded the motion which passed on a 7-0 unanimous voice vote of members.**

64 A copy of Mr. Walter's power point presentation is on file with the minutes.

#### 65 **NEW BUSINESS**

66 The first agenda item under new business was the discussion and consideration a Conditional Use  
67 Permit (C.U.P.) Application by Creek Village Investments for the Village at Smith Creek (Courtyard  
68 Terrace). Mr. Walters explained that the property owner has applied for a C.U.P. The application has  
69 not been paid for yet. Mr. Walters is not doing anything at this meeting other than providing the  
70 Planning Commission with information. On the C.U.P. application, the owner wants to increase the  
71 number of lots from 26 to 37, which is an increase of 11 lots. He also wants to change from zero setback  
72 single family dwellings to townhouses/ villa units. Mr. Walters remarked that he is unable to find  
73 anything from the last time Mr. Carr came to New Market, other than he knows Mr. Carr was here at a  
74 meeting. In addition, he cannot find anything that shows that Mr. Carr went through the formal  
75 application process. Mr. Daugharty mentioned that Mr. Carr had been at a meeting about seven years  
76 ago. Mr. Wine advised that he thought Mr. Carr had been here about a year ago with another request.  
77 Mr. Walters explained that this is a similar request to that one. Mr. Daugharty mentioned that he  
78 believed there is a prohibition in town against dead end streets being more than 1000 feet long so this  
79 concept would already be in violation of the current rules in Town. This is a fire safety issue. Mr.  
80 Daugharty explained that about seven years ago a smaller number of lots had been approved by the  
81 Planning Commission and recommended to the Town Council. The Town Council tabled the application  
82 for a C.U.P. at that time. They requested that Mr. Carr provide them with more detail. Mr. Walters  
83 remarked that he is asking the Planning Commission this evening how much detail they want from Mr.  
84 Carr. Mr. Walters has advised him that he needs to be present at the Planning Commission's next

85 meeting in February and he needs to have what the Planning Commission is looking for. Mr. Walters  
86 remarked that Mr. Carr is asking for a Conditional Use Permit which means the Planning Commission can  
87 put conditions on what they approve. Mr. Walters advised that he believes Mr. Carr needs to show the  
88 Planning Commission what he wants to do and the Planning Commission needs to decide if they want to  
89 recommend approval and if they recommend approval with conditions, then Mr. Carr needs to follow  
90 what has been stipulated. Mr. Walters stated that he thinks there is some fear that Mr. Carr is going to  
91 show one thing and then come in and build something else – something cheaper. Discussion ensued  
92 regarding what could be built there as well as what sort of support Mr. Carr will need from the  
93 neighbors. The property values of the existing properties on that street will be affected by whatever Mr.  
94 Carr builds. Mr. Walters commented that he had advised Mr. Carr that the best thing he could do is to  
95 have a public meeting and let the neighbors come and talk through the idea. Concessions will likely  
96 need to be made from both sides. Issues can be discussed and worked out in a meeting to which the  
97 public is invited. Mr. Walters mentioned that he has met with VDOT down at the site and there is a lot  
98 of work to be done at that location. It is not a matter of just paving the street. Curb and gutter will need  
99 to be put in and the road will need a base coat and then a top coat after units are built.

100 Mr. King mentioned that if the site concept is changed all the civil engineering will need to be changed.  
101 Mr. Walters agreed because if Mr. Carr is adding units, the laterals will all have to be moved and  
102 additional ones put in.

103 Mr. King remarked that at a minimum the Planning Commission would need to see a site layout and a  
104 concept of the elevation in order for a discussion to take place regarding the requested Conditional Use  
105 Permit. Mr. King asked if on the original plans there was a concept for a park area. Mr. Walters  
106 mentioned that all the area in the back is common space. The current plan shows a walking trail.

107 Discussion ensued regarding the need for a bond to be posted prior to any approval of a site plan. Mr.  
108 Walters advised that before Mr. Carr does anything at this location he will need to post a bond.

109 He further stated that the plan is for Mr. Carr to be at the Planning Commission February meeting. After  
110 that, if he is interested he can move forward with it. It is in his best interest to meet with the  
111 surrounding neighbors of the property as well.

112 Mr. Daugharty mentioned that Mr. Carr is not asking for 37 lots. There are already 5 lots in the  
113 subdivision, so Mr. Carr is actually asking for 42 lots total and Mr. Daugharty has a problem with that  
114 many lots on the property.

115 The next item under new business was the discussion of a possible text amendment to the Short-Term  
116 Rental Ordinance.

117 Mr. Walters explained that he had been contacted by a man who owns a two-story home on John Sevier  
118 Road who is going to be gone from his home for an extended period of time and is interested in doing a  
119 short-term rental at his house. The current ordinance states that in zones R-1 and R-2, the short-term  
120 rental must be owner-occupied. This man's property is in one of those zones so he can't do what he'd  
121 like to do. He asked Mr. Walters to run it by the Planning Commission to see if they'd consider revising  
122 the ordinance. Mr. Walters stated that more than likely in R-1 and R-2, it is unlikely that there will be  
123 short-term rentals because the owner occupies it and people don't prefer to rent places where that are

124 owner occupied. Mr. Walters mentioned that he believes when the ordinance was created that the  
125 concern was that if it's in an R-1 neighborhood and the owner is not there, there could be issues.

126 Mr. Daugharty added that Bed and Breakfasts are also not allowed in R-1 or R-2 zoning districts. It  
127 would be inconsistent to allow short-term rentals but not Bed and Breakfasts.

128 Mr. Walters mentioned that the only difference in R1 and R2 is that they have to be owner-occupied. If  
129 the location is in R2A, short-term rentals do not have to be owner-occupied.

130 Mr. Walters mentioned that two permits have been issued in the past week for short-term rentals. To  
131 date, there have not been any issues with short-term rental properties which Mr. Walters has verified  
132 with the Police Department. Mr. Walters asked if Planning Commission Members would like to revisit  
133 the ordinance for short-term rentals. Planning Commission members agreed to look at it again.

134 Mr. Walters advised that when Planning Commission members discuss options for amending the short-  
135 term rental ordinance, they may consider whether or not they want owners to apply for a conditional  
136 use permit in the R-1 and R-2 zones.

137 Planning Commission members discussed some issues in allowing short-term rentals in the R-1 and R-2  
138 zones without being owner-occupied.

139 Mr. Walters advised that the ordinance will be revisited at the February meeting and options for  
140 possible amendments to the ordinance will be presented.

141 The next item under "new business" was the discussion of the appointment of a secretary to the  
142 Planning Commission. Mr. Walters advised that with Ms. Rupkey, the former Town Planner leaving, a  
143 secretary to the Planning Commission is needed. Previously, when there was a vacancy for the position  
144 of secretary to the Planning Commission, Planning Commission members had appointed Mrs. Lohr for  
145 that position in the interim. Staff's recommendation is for the Planning Commission to appoint Mrs.  
146 Lohr temporarily to that position.

147 **Mr. Mongold made a motion to appoint Mrs. Lohr as the temporary secretary to the Planning**  
148 **Commission. Mr. Linski, Jr. seconded the motion which passed on a 7-0 unanimous voice vote of**  
149 **Commission Members.**

150 The next item under "new business" was the election of officers for the Planning Commission.

151 **Mr. Daugharty made a motion to appoint Mr. Larry Hale as Chairman of the Planning Commission and**  
152 **Mrs. Sherri Erbaugh as Vice-Chairperson of the Planning Commission. Mr. Wine seconded the motion**  
153 **which passed on a unanimous 7-0 voice vote of Commission Members.**

154 Mr. Walters gave a brief update to Planning Commission Members of the status of the Amended  
155 Voluntary Settlement Agreement with Shenandoah County. The County has voted to move forward  
156 with looking into it. The Town and County have already met with the Commission on Local Government.  
157 A Public Hearing will be held at the Town Office on March 9, 2022. The Commission on Local  
158 Government will be on location all day and they will likely be hearing from Shenandoah County and  
159 Town staff during the day. The public hearing will be held at the Town Office in the evening for anyone  
160 who wishes to come and speak. The amendment is for changing the zoning of 100 acres on Clicks Lane  
161 and 72 acres along Smith Creek Road. There is also a change that allows the Town and the County to

162 negotiate in the future and not have to go through this process. Once the public hearing is held, the  
163 Commission on Local Government will provide a recommendation sometime in April to the Town and  
164 the County. It is possible they could recommend changes. Once that happens Town Staff will need to  
165 meet in front of the 3 judge panel. Mr. Walters cautioned everyone that all the County did was move  
166 forward with looking into the amendment. At any time, even right up until possible approval of the  
167 amendment, the County could refuse to agree to it. Mr. Walters mentioned that if the amendment goes  
168 through, the Town will likely want to annex as much land as possible at one time. The Town will only be  
169 able to annex land from the County twice a year. At one of those times, the Town will likely include  
170 Driver Lane as part of the land that will be annexed. Mr. Walters mentioned that it would be good if any  
171 members of the Planning Commission can be there for the March 9, 2023 public hearing. Mr. Walters  
172 will notify members once the date and time are set for sure.

173 Mr. Hale asked what the status of the town manager job opening is.

174 Mr. Walters advised that applications have been received and are in the review process.

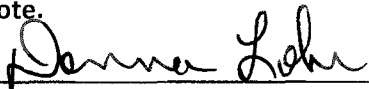
175 Mr. Mongold asked for a status update on the water tower project.

176 Mr. Walters advised Council members that the Town has 90% plans for the new water tower project.  
177 Mr. Walters would like to see this project bid in the near future. There is a 45-60 day bid application  
178 process. Mr. Walters added there is also a lag time on water tanks of 36-38 weeks. The new water tank  
179 will likely not be in the construction phase until 2024.

180 **ADJOURNMENT**

181 **At 7:43 p.m., Mr. King made a motion to adjourn the meeting. Mrs. Erbaugh seconded the**  
182 **motion which passed on a unanimous 7-0 voice vote.**

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Donna Lohr, Secretary