

Special Called Council Meeting & Joint Public Hearing with the Damascus Planning Commission - Minutes

Monday, April 11, 2022
6pm at Damascus Town Hall

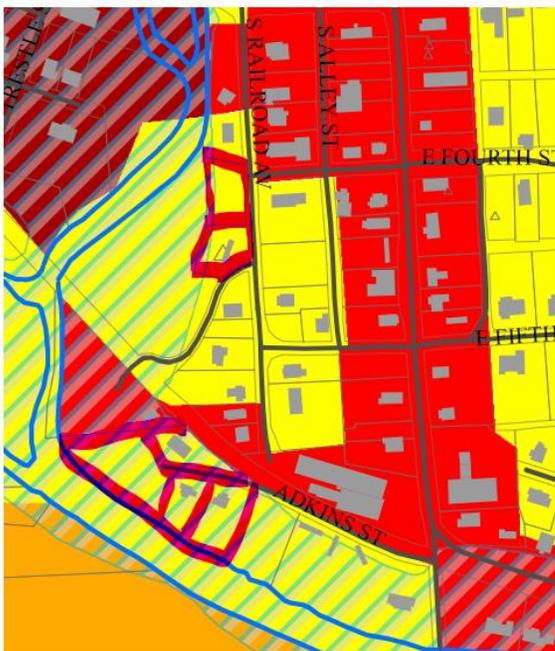
Council Members Present: Mitchel Greer, Susan Coleman, Tony Doss and Beaty Jackson

Absent: Tom Hayes and Charles Fields

Also Present: Katie Lamb, Mayor
Gavin Blevins, Town Manager
Tuesday Pope, Town Clerk

- Mayor Lamb Called the meeting of the Damascus Town Council to Order.
- Brian Schmidt Called the meeting of the Damascus Planning Commission to Order, with the following members present: himself, Larry Ginn, Ralph Wilson, Hilary Greenberg, Jack McCrady and Mitchel Greer.
- Mayor Lamb Mayor Lamb opened the Joint Public Hearing to solicit comments

At this time a Joint Public Hearing of the Damascus Town Council and the Damascus Planning Commission is being called for discussion and consideration regarding proposed rezoning to amend the Zoning Map of the Town of Damascus, Virginia, to rezone the properties at 217 S. Railroad Ave. (tax map ID #172B2-A-116, and 172B2-A-117); and 536, 538, 539, and 553 Adkins St. (tax map ID# 172B3-A-71A, 172B3-A-71A2, 172B3-A-71A3, and 172B3-A-71A4) from R-1/Residential to General Commercial.



Scott Smith

Is it customary for me to go first, or if it's my property that you're talking about? Or I don't know how you would normally do that, if people comment after I present.

Mayor Lamb

You should go first, you're first on the agenda.

Scott Smith

I have some information here. I had intended on doing a PowerPoint, but it doesn't appear that you have the capability to do that, so I've got some handouts.

Scott Smith

Good evening, my name is Scott Smith. I live at 225 North Railroad Avenue. It is my property at 217 Whistlestop Road I've placed an application for this evening. Before I even get into that I just wanted to express all the gratitude in the world to all of the kind citizens of this town who have been so supportive of our venture here, of my family's venture. Everybody's been super nice about it. Everybody seems very excited about it. I've had tons of people already trying to book us at different places and different events and things like that, so it seems like it's going to be a very positive thing for the community, and it seems like the public is very excited about it. And I just wanted to say that that seems to be the norm to me, that the people of this town are very welcoming, and helpful and generous and kind, and I appreciate that. I think that's what we're trying to do here in Damascus.

Mayor Lamb

Let me remind you that there's a five minute limit.

Scott Smith

Is that a five minute limit for me too, even though it's my property? Okay, well then let's get moving. In front of you, you'll see this is the application for the rezoning a 217 Whistlestop there is a black and white picture of the state of the property when it was purchased. As you can see it sat for the better part of two decades as a vermin infested meth flophouse pretty much. It remained that way untouched and unchanged until we purchased it. When we purchased the property, our initial intention was that we wanted to put a home on the property. However, shortly after the purchase we discovered that a public dog park has been approved for the area directly behind our house, which curbs my enthusiasm to live there, so we did purchase another property that we currently live at. There are quite a few challenges in developing that property, as it is currently residentially rezone. The property itself would require quite a bit of zoning relief most likely to do just about anything on it. There is also the issue of the single lane, small gravel road that will be used to access the dog park, which would inhibit anything that I could do there as well. I have a couple statistics for you about the area that I think are interesting, you'll see some of their current conditions for the district there. But I actually have some other stuff that I find really interesting.

Within a block and a half radius of the property, there are 37 commercial properties, and there are eight residential. Of those eight residential, several of them are under CUPs, as transient lodging, and at least one more will soon be under a CUP for transient lodging. There are, amongst those businesses are a church, which creates quite a bit of parking issue over there. My business wouldn't do that. There are several bike shops which create quite a bit of traffic through there with buses and whatnot. My property would not do that. There are several restaurants, including restaurants with liquor licenses, that can cause a burden on the local police, my property would not do that. The benefits of allowing me to operate this business here are that obviously we're going to clean up a property that's been an eyesore for a long, long time. And it was unaddressed for several decades, there was no worry about the impact on the neighbors of having a safety danger there, of having a constant issue for the police to have to deal with. We have already cleaned that up substantially and intend on cleaning it up more and making it a beautiful part of this beautiful town. Other benefits would be that we are going to provide a beneficial service. It's something that is needed. Obviously, I already have bookings coming in from a bunch of people in town who are looking for this exact business to exist. We would also contribute to the meals tax. If the assumption is made that we could do \$200,000 to \$300,000 in sales in a year the meals tax would be somewhere around \$15,000 to \$20,000 coming into the town, which I'm sure that the town could use. Another thing that I constantly hear is that we want to keep people in town, and this is another way to keep people in town. Providing more dining options, providing different ideas. It's just a great way to keep people from leaving town to go to Abingdon. It will increase our tourism and help with that. We will employ people, we will support local businesses by aiding the distillery, the brewery, places that can't have food that lose business because of that. We're always been active in the community throughout my 30 years in the business. We've been involved with supporting local sports teams and getting involved in charities and helping out the local fire and police and rescue. I'm closing down sorry. I just have one last thing please, can I say my last factoid here and that I will be done? Okay. The total acreage for commercially zoned use for South Railroad and Whistlestop is 2.812 acres. If you add the two acres of the dog park which is non residential, you're now at 4.812 acres. The total for residential zone in that same area is two acres. Obviously it is a predominantly commercial area. My property actually touches commercial property on both sides. It also has non residential behind it which is the dog park. Thank you.

Sammy Campbell

I am Sammy Campbell, 220 South Railroad Avenue. I've been a town resident for 12 years. Every day for that 12 years the first thing I saw in the morning, last thing I saw at night before I went to bed was the dilapidated property across the street. Property has seen numerous, numerous police calls. Also reports for town management. Multiple break-ins. Trespassing calls, vagrants, squatters, vermin, some of the things Mr. Scott had already mentioned, vandalism both to the trailer and the car that were parked there beside of it. For an extended period of time the front door was left wide open to that trailer, exposing what was inside. There were visible signs of obvious garbage and drug use. From the road you could see right through, there were burned spoons, syringes, I mean just melted candle wax in the floor, broken liquor bottles. This was a dangerous property. Tried to

get the town to take action for many requests in years. Nothing ever came out of it. I want to personally compliment Mr. Smith for the great job he did, putting his time and efforts into cleaning up a dilapidated property, all at his personal expense since he's acquired it. The property, like I said, it was a danger to the community, an obvious eyesore. Mr. Smith successfully accomplished, in just a few weeks, what I have been trying to get done for 12 years. I even checked when there was a for sale sign, I inquired about purchasing the property but never got any kind of return. Residents along Railroad Avenue are very pleased with his efforts, and I just want to say thank you to Mr. Smith, for improving his property, the lot, you've increased the values of our property and, you've improved this town. Thank you.

Mayor Lamb

Anyone else seeking to provide some information?

Jack McCrady

Jack McCrady, 577 Bowlin Street. I would like to remind the panel first of all, one question on the permit that Mr. Smith handed in, one of them was to be determined and the other one is food and drink. What?

Scott Smith

It would be a food truck, yes. No permanent structure.

Jack McCrady

Is that a vacant lot?

Scott Smith

Yes sir, it is now that I cleared another.

Jack McCrady

Now the trailer that was removed that had the tree on it. Which lot was that on?

Scott Smith

That's on the lot that will have the food truck. The rest of the property is virtually unusable. It's a thin strip along Whistlestop.

Jack McCrady (PC)

I'd like to remind the council that according to the figures that the county treasurer provided, because the way our tax structure in Virginia is set up, it's based on age 5 to 19 of our paid through seniors, youth population, that's how we return our money. As of now we got less than 90 kids in town. Of all the tax monies that go to the state of Virginia, we receive 1.24% of those monies back. They can be substantiated by contacting the county treasurer if necessary. I think that the continued eroding of R1 /Residential is not complimentary of the town. It does erode the workforce,

it erodes the possibility of people that wish to move into town. And with the way the market is over here now, they don't even go on the market. They don't give it to a broker when someone passes away, or decides to sell their property. They're confronted with basically three groups people that wish to turn them into residential lodging. We have got to protect, and there's some case law that has been represented, R1 for strictly residential. And I would strongly encourage the council to vote no on these on these two applications that you have before you tonight. Simply because it's a continued erosion of our number of citizens. We're down to less, what 670 now, something like that? That's not very many people, and we'll end up like Meadowview with no town and no police force. And with that I want to thank you, hopefully you'll take my comments seriously, thank you

Tammy Rivenbark

My name is Tammy Rivenbark, and I live behind the Wicked Chicken. I really don't have a, really a thing to say other than the fact that they're doing the same thing with this property that they were going to do with us. And the fact that there's only a few residents that live on that road, I don't know how they feel about it, but I know how I feel about it. And I'm just concerned that this town is so small, and I love the people that live here and I love the businesses here, but I really believe that we need to stand up for each other. Thank you.

Tom Foltz

Good evening, I'm Tom Foltz, and I live at 560 Bowlin Street. I want to first just mention that I'm opposed to the and I would encourage you to vote no on this topic. And I have a few reasons why. I came here basically just to say that I agree with what Bill Kittrell and Melissa Morrison had written. So a portion of this is due to what they had emailed to the town council. So I'm very much pro business, actually, and as a former small business owner of 32 years, I do have a strong interest in letting any business that wants to open doors in Damascus, to come join us. Building a Business has many wonderful benefits that are not only personal, but they're also good for the community. We are in a very small community that relies heavily on tourists, and so as long as we can accommodate the tourists in good way, our town will benefit. But I think it's important to have some control over where and how the commercial growth takes place. When I was in chiropractic college, way back when Moby Dick was a guppy, which was back in the early 80s. Many of my fellow students were wondering where they would end up opening their practices. The advisors and the instructors at that time, would give an answer that go anywhere you want, there's always room for a good doctor. Well, as an outcome of that simple bit of advice, we now find chiropractors on almost every commercial street corner and shopping center in the United States. So how do you think that impacted the doctors that already established? There is a time when any business could saturate the market just as chiropractors do. So if we go back in time back to like 100, maybe 200 years, when the concept of zoning a town or a municipality was taking place, what do you think they wanted? Why would you think they wanted a map to map out our specific areas for businesses and specific areas for residents? Obviously, there must have been some conflicts between the businesses and the people that live nearby. So why would we think that things would work any differently in the year 2022, differently than it did back in, let's say, 1722? Why would we

think it would work any differently in our town of Damascus compared to anywhere else? Mr. Kittrell brought up some good points on his in his letter, and they need to be considered. A business's bottom line should not have such a negative impact on the residential areas. This is not to say that rezoning should not take place. But I'm just saying that it should be the result of some careful study. We have businesses that are currently occupying residential parcels that look like they will never be part of a neighborhood, so rezoning might be the logical solution in areas like those. Likewise, we have homes and some business districts. It would be illogical to rezone these areas to residential. So authorizing one business to amend current zoning or to allow commercial growth may not drastically change a neighborhood. But once one business does it, another business would expect the same. Eventually, certain types of businesses could saturate our market and saturate our town, our neighborhoods will be severely affected. So if that were to take place, this would not be good for anyone, residents or business owners.

Paula Smith

My name is Paula Smith, I live at 225 North Railroad. I would just like to say that we started, I've wanted to move to the Southwest Virginia for about the past eight years. We looked at Floyd for years, we started visiting Abingdon, Fourth of July, three years ago, we came here. And to me, it was the most magical thing I've ever experienced. All those people in the park from this tiny little town, and we're leaving, and it's just rows and rows and rows of cars parked along the streets having like, it was just such an incredible feeling that so many people turned out in such a small place. And everyone was having such a great time. And it was, that was it for me. I didn't want to live in Abingdon anymore. I didn't want to live in Floyd, I wanted to be here. We started coming here, every two to three months for three years, looking for a place to live, for a place that we could start a business down here. We had a very successful restaurant where we're from, I didn't need to leave, I wanted to be here. The friendliest town on the trail. I've made so many good friends here. I want to be able to have a business here. And as far as, I don't, I honestly don't believe we'd be having a negative impact on the neighborhood. As far as traffic, all we're looking for is the bicycles that drive by. We're not talking about cars up and down the street. We're not talking about loud music. We're not talking about late nights, we're not talking about early mornings, just a small quiet little food truck. And honestly, the dog park will create more traffic than I'm going to with my food truck sitting there. I came here because I wanted to be a part of this town. I wanted my children to grow up in this town, they have made the best friends here, and they want to be here. And I want to be here. And I just hope that the feeling is returned. Thank you.

Mayor Lamb

Any other comments regarding the proposed rezoning?

Pat Pritchett

My name is Pat Pritchett, I own the property at 333 South Railroad Avenue, basically right across Whistlestop from the property in question. Personally, on a general political standpoint, I would like to see people be able to do what they want to do with their property. We do have ordinances that

would prohibit loud music late, when they're enforced. For a little food truck on that corner, I don't know that I know that other folks that don't live there have objections to it. I guess you have to take it to account everybody's opinion. But I would think you would look at the folks that are most impacted by it first, and so with that being said, I would hope that you could approve this. There's obviously a business opportunity here for the gentleman, he wouldn't be doing this. If you look at the residential side, I kind of agree with you, if you are aware of the property, I'm not so sure that you could build a residential house there of much value that would compare with the business value for the town. Thank you.

Tamra Pope

Tamra Pope, owner of the Wicked Chicken, 409 Fritz Street. I'm here this evening, I mean, it's not my neighbor, but this is very similar to the meeting that we were at a couple months ago. And I would seriously asked the committee and the town to remember that there are areas in this town that are zoned specifically for specific areas. You have commercial, most of my life 51 plus years, okay, when you roll into a town, your commercial is on the street front, it does not encroach into residential neighborhoods. Now mind you, there might only be five people living on that street, but you are still in a residential neighborhood. And as a person, that if I own the home on that street, I will not want to roll up and look at a, and no offense, we're all neighbors, we're all friends, this isn't personal this is business, okay. I wouldn't want to roll up and look at a food truck every day as my next door neighbor. Okay, just saying, my business I've owned, this is my fourth year. But that restaurant has been there for 30 years on that corner. And I apologize to my neighbors every single day about the traffic, and I've only been there going on four years. And we try our hardest to make sure it doesn't affect them. Now we are working to try to get another street opened up that will have another access through there but that's another meeting. But I strongly want the committee and the town to understand that you have residential neighborhoods and you have commercial property. We should respect the people that own their homes in those residential neighborhoods and not convert them into commercial. Why else, then why not just take the whole dang Street and make it all commercial and tell everybody else sorry about your luck, it's commercial? We'll just rezone the whole damn road. But we're not here for that either. But I want you to keep that in your mind that we need to keep it separate and learn how to separate it, and if you set a precedence for Mr. Wes Graham, who could not turn that back lot into commercial on a residential street, we should not do it here.

Chad Jacklett

Chad Jacklett. I don't really understand why in a tourist town there's such a strong, not wanting tourists here, you know. It seems like we should be doing everything in our power to bring tourists in here. They come here they don't hang out because there's very little to do here, there's not many places to eat. He's trying to clean up an eyesore on his property, and he's not allowed to do what he wants with it? I mean, just seems like a no brainer that you ought to allow it to me.

Buddy Albro

I'm Buddy Albro, I live at 539 Adkins Street. I just want to respond to a couple of comments here because, I haven't seen that Kittrell/Morrison letter, but they don't live here. They have a house across the street, and it sounds like they're opposed to it, but they they rent their house as a vacation rental. So just what Jack doesn't want, but I don't understand why they would be against it when they're not here, and their house is a vacation rental. And also, most of that street is already zoned commercial, and the whole strip next to it pretty much, except for Pat's spot, has been bought by a developer already and one of them just received a conditional use permit to be a vacation rental. So the whole street is almost commercial already and from the neighbors I've heard speak tonight, they're, they're not opposed to it. So I'm not sure the people that are opposed to it aren't on that street. So I'm not sure who on that street is opposed to it. But there's not many.

Mayor Lamb

Any other comments regarding the proposed rezoning?

Ann Marie Mack-Schmidt

My name is Ann Marie Mack-Schmidt. I live at 605 Appalachian Trail Drive. And I also am not a neighbor of Scott, but the reason I felt like I had come forward is because fear of precedence. I do know a person that, as you've got the letter, that does not want that road to turn commercial because his residence or his house is there. And to me, this just seems like somebody decides they want a commercial business in their house, I'll put a request in for rezoning of commercial. Now true, there may be some conditional use permits, vacation rentals, that's not zoned commercial. That is a business entity within a residential area, which we are trying to fight. Because, and I don't want to go there again, it's not very pleasant for residents. But I feel like I had to come forward because of the precedence, because one person says, I want to do this and I want to change this commercial. Then when the next person comes in and asks for a request, and say, well, you did it for this person, why aren't you doing it for me? Just like with the conditional use permits, they don't get turned away. Because I think it's because precedence has been set, and so nobody's ever been rejected. It's true. I have not heard of it conditional use permit being rejected. No, you're saying no. I have not heard of a conditional use permit being declined, and I mean, if you want to go ahead and do this, um, this is this is not my decision, but I just want the Council to take into consideration that sometimes these things set a precedence. And that is the fear that next time somebody will come in and want their street to be done the same way. And we really do need, and we don't hate tourists, I love tourists, but we do need a residential area that's flourishing along with a commercial area that's flourishing, we can't do one without the other and have a town that is going to survive. That's all I have to say.

Mayor Lamb

Any other comments regarding the proposed rezoning?

David Atwood

David Atwood 203 North Legion Street, which is zoned commercial. And I would like to say that our whole area, that whole part of town, is zoned commercial and somehow, we have managed to have a neighborhood with neighbors and everything. So I don't believe changing a lot that Scott can use for commercial is going to erode the other residents there, their feeling of community because there was no one being a resident at the property to begin with, and in their words, for a couple of decades. So, appreciate the history lesson and the other comments and about the erosion of the tax base for the schools, but if the town wanted to they could donate money to the school system that's getting raised from more businesses in town. Also two, Holston High School does not offer AP classes for their Students in person at the school itself, so anybody moving here for the schools is going to take that into consideration, and most likely go to other high school school systems that are in the county that do offer those things. So yes, we need residents. Yes, we need people to work the businesses. We also need the businesses there that can provide jobs for the people to come here to live. So that's my comments.

Mayor Lamb

Any other comments regarding the proposed rezoning? Any other comments regarding the proposed rezoning? The third and final time, are there any other comments regarding the proposed rezoning? Okay, at this time, we will close the open joint public hearing and move into the Planning Commission discussion and possible action.

Brian Schmidt (PC)

I hereby call the planning commission meeting to order. Comments> Does anybody have any discussion?

Jack McCrady (PC)

Are we going to have these one at a time? We're going to discuss Mr. Smith's and

Brian Schmidt (PC)

Well, what we've done, and what seems to work is that we start a discussion. and basically almost everybody else in the room participates. I could shut it off that we're the only ones talking, but I think it works well when the council can participate as well, ask questions. Why are we saying this and so on, and we may have questions for the folks who own the properties, and open up for a little bit of discussion.

Buddy Albro

I think Jack was asking if we're doing the applications one at a time. Not mine yet.

Brian Schmidt (PC)

Oh yes, we can do that. If you would like to.

Larry Ginn (PC)

We should probably discuss each one individually. Make a recommendation after discussion on each one individually. Then make a proposal to them, and then they can have discussion and questions from us.

Buddy Albro

We will have a discussion on mine next, right?

Mayor Lamb

Well, on the agenda, we have Scott Smith's properties at 217 South Railroad Avenue.

Brian Schmidt (PC)

So that would be first.

Buddy Albro

I just wanted to make sure that we were going to have another open discussion, reopen the comments for my property next.

Brian Schmidt (PC)

That's what I'm hoping we can do. We've done that in previous and it's worked well.

Buddy Albro

Right, because I assumed just now this open discussion was just for his, and nobody's talked about ours yet.

Mayor Lamb

The open joint public hearing to provide information and solicit comments regarding the proposed rezoning was for everything that I've stated in a joint public hearing of Damascus Town Council. But that doesn't mean that we can't converse with the property owners if we should have questions, or the commission should have questions.

Buddy Albro

Nobody's addressed mine yet.

Mayor Lamb

Not the public anymore. But the property owners if we own a portable

Jack McCrady

Point of order. We had a public hearing that included landowners and anyone that was interested in pro or con on the issue. Are we going to have another public hearing by including the audience into discussion between the Planning Commission and the Council?

Mayor Lamb

No.

Jack McCrady (PC)

So then it's going to be closed.

Mayor Lamb

We closed the Public Hearing.

Buddy Albro

That was for both, for everything? That was that was not clear.

Mayor Lamb

This is exactly what we're not going to be doing. So at this time, the Planning Commission is going to conduct their meeting to discuss these parcels and I think are going to begin with the Smith property at 217 South Railroad Avenue that includes two tax map ID numbers. And then I think if the Planning Commission and the Council have questions, concerns, or we can communicate with property owners to move forward, but there will be no more comments from the public. Thank you.

Tamra Pope

Madam Mayor.

Mayor Lamb

No, sorry.

Cindy Hartsfield

Nobody addressed his yet, nobody at all, nobody got a chance.

Mayor Lamb

Thank you ladies, but there's no comment from the public.

Brian Schmidt (PC)

Okay, we call this meeting to order. We are addressing Mr. Smith's property first, opening, we're opening the floor for some discussion. I want to make one comment, I was at the property today and I saw a structure located roughly where the, where the old trailer was located. And Mr. Smith was limited in time, maybe you'd like to address that?

Scott Smith

Yes, I did. I did put a storage shed on it.

Brian Schmidt (PC)

But I thought you mentioned that there would be no structure, permanent structure.

Scott Smith

I said there'll be no construction done on the property that would, so there would be nothing, there'd be no noise issues for people while construction is being done, no construction vehicles.

Sorry, that was misunderstood.

Brian Schmidt (PC)

I just wanted to give you the opportunity first. Any other discussion about this?

Hilary Greenberg (PC)

Is this not considered spot zoning?

Brian Schmidt (PC)

I mean, I would like to address that, but I'd like to entertain any other thoughts before that.

Larry Ginn (PC)

I have a question for you guys, and Gavin, you're probably the one who could answer it. And it's, it's in relation to the property, that's going to be the dog park on one side? What, what is that currently zoned as now that it's going to be a dog park? Or what is it zoned out right now? And is it going to change when it becomes a dog park?

Gavin Blevins

It's still zoned R1.

Larry Ginn (PC)

It is okay. And the intent of the town will be to change that to a green space, or what?

Gavin Blevins

No, it would be left as a park.

Mayor Lamb

It's currently green space.

Larry Ginn (PC)

So it is green space, not R1?

Mayor Lamb

It's overlapping.

Gavin Blevins

The green space is an overlay zone.

Scott Smith

I do but again, you know, that's it's kind of very general, unless you're really looking at a survey map. It's vague, it's general. That's what I was kind of asking, and if it's going to be a dog park, it really can't be R1.

Scott Smith

It's zoned R1 the same as the town pool the town park, and all the other public parks are.

Jack McCrady (PC)

They are an allowed use of R1.

Mayor Lamb

I guess my biggest question, if I can interrupt, if either one of these properties perhaps the one that the trailer was on, it's closer to the dog park. I mean, are either of those even large enough for a residence or a home? Because they're tiny? So, you know, that's my question.

Brian Schmidt (PC)

That's a good question.

Mayor Lamb

You know, would there would anyone, and part of it is in the floodway there, so my question is, you know, would anyone be able to get a permit to build a residence there anyway?

Jack McCrady (PC)

Well, all you need is five feet off the property boundaries on the sides, 15 front and rear, correct me if I'm wrong.

Larry Ginn (PC)

Right. But it has to be enough a certain area in between there for the square footage of that.

Mayor Lamb

And there's a bank that you know, is included in there that goes behind.

Jack McCrady

Be considered boundary, not the lay of the land.

Larry Ginn (PC)

That was That was my next question or concern is, how does that lay in the 100 year floodplain?

Jack McCrady

It didn't get wet in the 500 year floodplain, because we had that in 1977.

Brian Schmidt (PC)

I believe that's also on that map.

Mayor Lamb

So do we know what the square footage is then?

Brian Schmidt (PC)

It should be on the tax map. Does it provide it?

Jack McCrady (PC)

Now there seems to be some confusion as to, I think Mr. Smith can clear it up. There was two trailers, one on 117, and then another one, Ronnie Reed's grandmother's trailer that he demolished it also correct, Mr. Smith?

Scott Smith

No, there was only one trailer there on my property. There was one that was down below where the dog park is, that was not there when I bought the property and not part of my company.

Scott Smith

There was two trailers on Railroad Avenue.

Larry Ginn (PC)

That's Trey Waters', the other one.

Jack McCrady (PC)

Okay, I'm sorry. I apologize.

Scott Smith

I do have the survey if anybody's interested in seeing it.

Larry Ginn (PC)

So where's the floodplain?

Gavin Blevins

It shows up on your map here, it runs basically the back edge of the parcel.

Larry Ginn (PC)

The back edge?

Ralph Wilson (PC)

If it didn't get zoned commercial, could you do a conditional use, and it still get zoned for a food truck?

Jack McCrady

Reapplication is all that would be necessary, isn't it?

Mayor Lamb

Well, it seems like it's me that there's two applications in the packet. One is for a or change of use, and one a variance rezoning.

Brian Schmidt (PC)

Yeah, we do need an explanation of that one says food truck.

Tuesday Pope

That's just additional info. It's not part of this rezoning request, it's just additional info.

Gavin Blevins

Yeah, this this one was submitted on the third of April, so it's not part of the rezoning. The one that states that is a food truck, because that would depend on, I mean, that would fall into planning commission and other stuff. It would be outside the purview of this particular meeting.

Brian Schmidt (PC)

Sure, we are only looking at change of zoning here. Without any reference to intent. Which is correct. That's what we're doing, so the food truck isn't part of our decision.

Larry Ginn (PC)

No, but he's given you an indication of his reason why he is requesting that change and paying the application fee for it to be considered.

Brian Schmidt (PC)

I understand.

Jack McCrady

That's not in question though, the question is the rezoning. That's the question.

Brian Schmidt (PC)

Right. And I have a short, hopefully I can keep it short, thing to say about this, and it applies to Buddy's properties as well. It has to do with spot zoning and what that is, and how that applies or

doesn't apply here. And I'll try to keep it short, but there's a body of laws and regulations and case law that sets up everything we're doing tonight. Sets up the Planning Commission, the purpose for the Planning Commission, purpose for a comprehensive plan, a, a general zoning map for the entire town, our zoning rules and regulations. If you if you summarize everything, and a lot of this is at the state level, the enabling legislation, so to summarize all this, basically, it says that municipalities are supposed to follow a process, have a comprehensive plan. and that comprehensive plan looks at the future of the town, looks at the issues, what's going on? What are our trends, where are we going? And what are the implications of that. And it makes recommendations. Those recommendations result in possible changes to our zoning regs and they result in a general zoning map for the town, and that zoning map is developed through a process where there's a very broad discussion where everybody in the town participates. It's a broad conversation that looks at the future of the town, looks at the whole town and puts together a puzzle as to what should happen where in the future and that's how zoning comes together. Spot zoning is when you don't follow that process, in general, that's what it says. If you want to get, I'd like to get just a little more specific on there is a definition of spot zoning that resulted from a 1967 Supreme Court of Virginia case, and just to give you the very little bit of it because there's, you know how cases have lots of words, and wading through it all, I think the main thrust and this is this is repeated everywhere else, it's in our stuff, too, is the legislative purpose is to further the welfare of the entire municipality, as part of the overall zoning plan, the ordinance does, if it is, if it is that, if it's part of the overall zoning plan, the ordinance does not constitute legal spot zoning. And it's based upon the welfare of the entire county, or excuse that says County and other things here, but municipality or town. So any, if you're making a decision about zoning, you're not looking at individual benefits if you do, your spot zoning, and that's also in here, but I don't want to read all of that. The bottom line is if you don't follow a process and look at the big picture and take individual properties like we are here, it gives the impression that you're making the decision for the benefit of the people who own these properties, and that's not how zoning supposed to work. The statements are that when you do that, it's illegal. So my argument is that, is not for or against either properly being changed, is against the the venue that they should be taking place. Looking at our larger zoning map, we attempted this back in 2018, and it didn't work, we never finished that map, it still has never been changed. We changed our zoning regulations, but never, the town council never approved a new map. There was a lot of dissension, we just couldn't, people that were there could tell you, can tell this as well as I do, but it just, we weren't able to carry it forward. My argument here would be that the right way of doing this is to go back to that map, and that process and say, as a town, what makes, where should commercial take place, you know. A vision of this town may be that Railroad Avenue should be commercial, but to make that decision, piecemeal, is not the right way to go about it. If you do that, you give the impression that you're making those decisions for the benefit of an individual, and once you get that impression, or you do it that way, you are spot zoning, and it says very clearly here, is illegal.

Larry Ginn (PC)

Where does it say that?

Brian Schmidt (PC)

Right here. The purpose of zoning ordinance is solely to serve the private interest if the purpose is to serve the private interests of one or more landowners the ordinance represents an arbitrary capricious exercise of legislative power, assisting constituting illegal spot zoning.

Larry Ginn (PC)

So what is that copy? That's what I'm asking.

Brian Schmidt (PC)

This is the Virginia, I have a copy for you, this is a Virginia Supreme Court decision made in 1967. Everywhere you go that when you look at Virginia spot zoning it wherever comes up, pretty much it refers to that decision as the definition they based it on. And it's expressed everywhere, but not always in the same words, and so once I figured out that's where it comes from, I thought we were better off looking right at that. That's case law, By deciding that case and coming up with that decision during that, deciding that case, the State of Virginia Supreme Court established law. It's not legislated, it comes through the cases. They do that, when they do that, it kind of fills in holes that the legislation didn't address. So that said, and I also want to say, to give you also the feel of where we are, that all that body of legislation,

Mayor Lamb

I'm sorry, are you speaking on behalf of the planning commission when you say we? What are you saying we?

Brian Schmidt (PC)

The planning commission, I'll be more specific here in a moment,

Larry Ginn (PC)

We still have open discussion, so you're not speaking for us right now.

Brian Schmidt (PC)

No, I am. I'm speaking for me. But I'm addressing what the state laws and everything says the Planning Commission is all about. And the planning commission is, its role is to bring the perspective of following this logical sequence of events to make decisions to the table when we're here. We are totally advisory, we have no power.

Mayor Lamb

Well, you know,

Brian Schmidt (PC)

I'm bringing this to you as, as advice. Right? You can decide, you know, to approve these individually. I'm just saying when you do that, you're treading in this territory, and you should know that.

Mayor Lamb

Well, and you all are supposed to be having a conversation to bring forth to us a recommendation of what you recommend.

Brian Schmidt (PC)

Right, but I'm putting this on the table for discussion, and then I'm addressing it to you all because, well I'm addressing to everybody, I guess, this is my best understanding of how, where we are and what we're doing.

Mayor Lamb

And we also have to, I think, remember that none of us are up here to, to put in our own opinions of what we feel like ourselves want personally, we have to follow the codes and the ordinances and the laws and the bylaws in order to do what's right.

Brian Schmidt (PC)

Exactly, and that's what I'm trying to express is what those bylaws and laws are.

Jack McCrady

Well if you're in contempt of a Supreme Court determination, at that point, we're all in trouble.

Mayor Lamb

We do not want to do that. I mean, we appreciate you bringing that up.

Jack McCrady

Usually you can go, when legislation is passed, you can go to the intent of the legislation, it's a letter to go for all pieces of legislation as to why they come to this determination, the legislature did. In this particular case, they went through a court proceeding somewhere around the line, a preceding court case, and the Supreme Court determined that these are guidelines, and we, when I look at that, and then I think we've been, we have done a lot that we shouldn't have done. And rezoning, now allowing special use, that's another issue. But in rezoning, that's a permanent hit and just like, Mr. Albro, like, I'll discuss that we'll get to his some of the properties, you can see a boot leg off of the of the bicycle property. Let me wait to get to this and then I'll go into that, there's some basic history there. But I think the overall thing that everybody has to take a look at, regardless of your thoughts, whether or not well we got to have more be B&Bs, or we you know, what's good for the town, and all of this. We'll not have a town if we continue on with our population in decline that we have so far. We went from 1,100 some in 2010, something like that, maybe it was 1000 some, whatever. I don't recall the figure, but we're down to below 700 residents in this town now. We're

not far from Meadowview. You know, most of y'all probably don't remember, Meadowview was a town at one time. They had a mayor and a police department, and now they're just part of the county. And I will remind everyone that any debts that the town may have incurred while it was a incorporated Town, fall back, if they unincorporated it, fall back on every citizen that owns property in this town. That means there'll be a lien placed on every piece of property to concentrate or to pay off the debt of the town as far as federal loans and grants and those sorts of things. So it is a serious situation for our town, and we are depleting very rapidly, and I think the only way we can stop it is just to reinforce R1. Anyone else?

Larry Ginn (PC)

Yes. I would just like to clarify that it is not against the law, for someone to request a zoning change, nor is it against the law for you all, to grant it. Our ordinances in 19.6-8 that identifies the ability of any property owner to do so, and for the planning commission to review and make recommendation. And then, and even then that's just recommendation that comes down to you all making the decision whether to. It also clarifies does the fund schedule that that applicant pays for that consideration. So it is not against the law to either request or grant.

Brian Schmidt (PC)

Yes, and it does say if you look at D there, it makes an attempt at reiterating what I just talked to you about at the state level. By saying that it's, that unless we determined that no property owner or small group of property owners would benefit materially from the change, to the detriment of the general public. The other guidance says it a little differently, but basically when you make your decision, you're making the final decision, and us and our decision as well as the Planning Commission, we should do it based upon, clearly they do it based upon benefit to our town, not benefit to any individuals. And if you if you cross that line, and give the impression that it's for the town, or for individuals, then you're getting into violating spot zoning.

Ralph Wilson (PC)

But who makes that determination whether it's beneficial to the person or the town? What if it's beneficial to both?

Brian Schmidt (PC)

We do, and we must. When we make our decision it has to be, we have to clearly define that, that must clearly be the reason we do it. That's why I'm saying the process itself, and this has been argued different places too, the process itself of not doing zoning at all larger level where you're looking at zoning in the whole town, and just doing it in individual places, it gives the impression of spot zoning by following that process. You know, why are you just looking at these?

Mayor Lamb

Well they made a request.

Brian Schmidt (PC)

Right. But the town doesn't have to accept those requests based upon the fact that you know?

Mayor Lamb

That's why we're looking at it, is that they've made a request.

Larry Ginn (PC)

No, they do, they have to accept them for consideration.

Brian Schmidt (PC)

That's all, consideration. But we need to just look at whether that violates spot zoning by the very process.

Larry Ginn (PC)

But spot zoning is not even a definition in our ordinances in the index. There's no reference to it at all.

Gavin Blevins

Spot zoning is a terminology through the state.

Jack McCrady

it's a legal determination.

Gavin Blevins

It's a legal determination. It's not part of our ordinances. It's a legal determination, so basically any law that goes into effect, until it is tried and basically put to the test against court, you don't know exactly how a lot of the cases that he has are basically, when another town or county did A, B or C, when it went to court, this was the verdict of the court and how that's interpreted.

Larry Ginn (PC)

So for town council, then it would probably be to the benefit to look at this particular thing as one of those interim things in the ordinances that may need to be revised if it's our current ordinances aren't serving us to the next, review.

Jack McCrady

I'm not sure of that, I think what happens if you get a lawsuit over it?

Gavin Blevins

No, our ordinances are mostly fine. The thing here is the only thing that you might update in the ordinances is if there's a new case law that comes out with some language in your ordinance that is tried it as part of that case, and you find that it didn't stand up in that particular incident, you

would amend your ordinances because of that determination by that court. So in the case of Brian, he's talking about case laws from 2000, 1981, 1967, 2004, all similar instances where spot zoning is the determination was discussed as part of those court cases, And it was determined that whatever happened then was spot zoning. So in those cases, it was challenged and whatever party was involved was found that they had spot zoned a particular thing.

Larry Ginn (PC)

Well, anytime that you review an application for a change in zoning, I would say that's a review for a spot zoning change. I mean, with anything. That's what we've got set up for is for someone to request a change of zoning.

Gavin Blevins

Yes, and zoning changes can be made, in this case spot zoning is this particular terminology. So said here, in this case, a spot zoning is the up zoning, which is allowing more intensive use of land to a classification that is different than that of the surrounding land. So it's basically a simple definition that that is what they're looking at.

Larry Ginn (PC)

Yes. So really, then the definition of spot zoning doesn't apply to this property because it's not totally surrounded by R1. It has, different it has properties of different classifications around it.

Larry Ginn (PC)

That's not necessarily true, it has to have a proximity of a like zone.

Larry Ginn (PC)

Well, if it's got some commercial next to it and residential for

Jack McCrady (PC)

Where at?

Mayor Lamb

My question is why did we not ask the town attorney to attend this meeting?

Jack McCrady (PC)

I wish that he was here.

Gavin Blevins

He was requested and was not available.

Mayor Lamb

And his partner was not available either? Because maybe we should not be having any of these meetings that the town attorney cannot be present.

Brian Schmidt (PC)

That's an excellent point. I hoped that he could be here and hopefully help with this.

Gavin Blevins

You can have the public hearings and then table or recess until another date if you'd like, before making an official determination

Jack McCrady

Do you all want to table? I'm sorry, it's his place to say this.

Brian Schmidt (PC)

Well you can make the motion.

Scott Smith

I'm sorry, can I present this to you guys, since you were asking where and how does it touch commercial?

Jack McCrady

I've got a question for you. I wonder why on the tax ticket, there's no square footage on your property, I've never seen one like that?

Scott Smith

I don't know they just resurveyed it.

Gavin Blevins

It has to do with the Washington County GIS.

Scott Smith

Comes down over here, touches Albro, that's commercial. Up here, this is commercial up here.

Brian Schmidt (PC)

Across the street.

Scott Smith

And everything here is non residential as well.

Brian Schmidt (PC)

Thank you. I want to clarify what I just said, I'm not talking about spot zoning the way Larry is using it.

Mayor Lamb

Let's see that map.

Brian Schmidt (PC)

The thing that could keep us out of trouble with spot zoning is making clear in the decision that this is for the public benefit. It's not, we can't when we make a decision, give the impression that we're doing it for these individuals who own the property, or based upon their use of their property. We should be looking at what the town intends that property, how does it fit into the big picture of how their property should be used? That's all I'm saying. So, when we make the decision, it be based upon that.

Ralph Wilson (PC)

So if we deem is for the good of the town, it's okay.

Brian Schmidt (PC)

If we can come up with good reasons and document that you know, make that part of our decision. I think that could keep us safe.

Larry Ginn (PC)

I don't see it really is spot zoning if it that parcel has adjacent R1, and yet commercial adjacent as well. And then again back to my original question about the dog park is that's a public area and that road, I really don't know if that's a right-of-way across his property, is it? Yes, it's a right-of-way across his very own property to a public area that the town's going to use or visitors and people are going to use it that are in town. Use it to run their dogs in a public place, just like the creeper trail. So with that being said, a place to get a cold drink or a hot dog or whatever he's doing would not be unreasonable, since he's adjacent to that type of structure, as well as residential. He's, right there. He's got adjacent to it. So it's not spot. It's not like you're asking to commercial zone something in the middle of an R1 community, or the middle street of Bowlin, you know.

Gavin Blevins

Just as a matter of practice, and again in this particular situation, the discussion is the zone of the parcel, not off of the use that it may be conducted within one year or two years, but the zone of the parcel for the town wide over the course of many, many years, because the town exists long beyond whatever immediate activity that may take place on the lot.

Larry Ginn (PC)

So even if you're still touching, if he's if he's adjacent to both, then I don't think it's an unreasonable request that he has spent the the solid money to be considered for, to be considered for the other side he's adjacent to, you know, it's not an unreasonable request that he's asked.

Gavin Blevins
I didn't say that.

Larry Ginn (PC)
No, I'm not debating you, I'm just discussing that just for revealing it to anybody who might have a better understanding. He's got both around him. And if I'm not mistaken, we're going on to Buddy's application next and I think his property has changed to commercial. This was commercial before, am I correct? Do I remember that? Is that right? Were those properties commercial before at some point in time before you bought it?

Buddy Albro
Not to my knowledge.

Jack McCrady
Yes they were. Let me get into that just a minute, this ties into Buddy's property. Ronnie Reed owned, probably some of you all don't know what I'm talking about, but he

Buddy Albro
He didn't own any of ours.

Brian Schmidt (PC)
Sorry Jack, I have a question. Are we not, didn't we decide to take these in order?

Larry Ginn (PC)
Yes, but this is touching it as well, so.

Brian Schmidt (PC)
So what you're bringing up, relates to Buddy's property? Great, just wanted to make sure we're not moving on yet.

Jack McCrady
No, the previous landowner had the then town manager, and I believe it was your boss. Two properties at the end of Railroad Avenue change commercial so that they can change the commercial status of the parcel that Mr. Albro owns now, the one down at the end. Yes it is, I lived it, I was here and I was on the Town Council.

Buddy Albro

Jack, that's not the parcel we're talking about.

Jack McCrady (PC)

The parcel at the very end is the one that's commercial.

Buddy Albro

And we're not talking about that one, that has nothing to do with what we're talking about.

Mayor Lamb

I think he's looking at how it how the commercial connects.

Buddy Albro

It's adjacent or ours, we're talking about two different things.

Jack McCrady

Well it is adjacent down at the bottom.

Buddy Albro

It's adjacent to ours, right.

Jack McCrady

That's what I'm referring to, and that's how he got the way it was, and it was because of Ronnie and the then town manager got together and the two houses at the end of Railroad Avenue were moved to commercial, and I don't even remember a public hearing on it. There would have to be a record check to see if that happened. But anyway, that's the connection of how that property got to be commercial. And I would say that you were offered commercial before we did the comprehensive plan. But it's got X on it down there, now why is that?

Jack McCrady

That's just somebody making a note.

Mayor Lamb

Where is the x? Are we looking at this map?

Brian Schmidt (PC)

It's the larger map, looking at the larger map that's in our packets. Yeah, I think it's just notes somebody made.

Gavin Blevins

Oh, that was part of Mr. Albro's application packet, a draft.

Jack McCrady

Oh I see, I'm sorry. I seem like I bring up more confusion. I've been at this a long, long time. Okay, what do we want to do? Do we want to table it?

Jack McCrady

Is there any more discussion? Ralph, do you have anything?

Ralph Wilson (PC)

Like I said, I do have mixed feelings, but I don't think, you know, I don't want to do anything against the Supreme Court. But also, if you're saying that, you know, is it for the benefit of the town, I think it does benefit the town to have a food truck. I own a restaurant, own two restaurants, but I still think would benefit the town to have another restaurant.

Larry Ginn (PC)

In the proximity of a dog park and the creeper trail.

Ralph Wilson (PC)

Yeah, I mean, and I really never went up that road, I didn't see a trailer or whatever was there before. But it does look like it's made an improvement on the land, which is what we strive to do, is we try to improve things, and you know, I think a little competition is healthy. That makes us all better.

Jack McCrady

Well, I think that it still the total scheme of the town is it, it's eroding. R1. We're losing our population with every R1 strip that's changed. There's people that would like to move here, but there's no place to move. There's no houses available, and the ones that are, are transient lodging. Anyway, that's my opinion. I'm sorry.

Brian Schmidt (PC)

Any other comments?

Hilary Greenberg (PC)

Well, couldn't he just could leave it as R1 and get a variance, like as if you were putting in a bed and breakfast or anything else? I mean is there a reason it would have to be changed to commercial?

Ralph Wilson (PC)

Right? Isn't that what I said 10 minutes ago? And we are here to decide that?

Brian Schmidt (PC)

Say it again.

Ralph Wilson (PC)

Can he not just get a variance and do what he wants to do on there anyway? And the answer was, we're not here to decide that.

Hilary Greenberg (PC)

Larry said we can't.

Jack McCrady

If you're doing a variance, you're doing the same thing is eroding R1. It's not a single family dwelling R1 it's got a variance for. B&Bs are wonderful, we've got residents that own them.

Gavin Blevins

Mitchel, you're also on planning commission, so you could speak also.

Mitchel Greer

You probably could put a residence on it, considering there was a trailer there before.

Scott Smith

You're not allowed to have trailers in town.

Brian Schmidt (PC)

Anyway, we're not here to decide that. But if we can decide whether that keeping it residential would still, would restrict or not, any use along those lines. Okay, we had some discussion, if it's not good for residence, but it may be good for a food truck. And keeping it a residential, if we keep it residential, is that going to prevent the food truck?

Jack McCrady

He can still get a business permit, and he could lease property from the landowner if he didn't own it, but of course he owns it, and set up as a business, even though it's in R1, because certain things are allowed outright in R1, and one of them are restaurants I believe isn't it Gavin?

Gavin Blevins

I don't believe so. You would not, you would only grant a variance to certain things like lot dimensions, or the minimum lot size for construction, or something like that change. And so if it's a use, it would be something under a specialty, an activity that would occur such as whatever it would be, it would be under some kind of special use provision. If that provision were something that were deemed to be beneficial to a residential district, right so like a daycare or something might be beneficial to a residential district. Because parents can just literally drop the kids off right there and drive out of the way and you know, whatever that is. So that's a particular use that would not be allowed out right. But if determined could be a benefit.

Larry Ginn (PC)

Like a dog park in a neighborhood?

Jack McCrady

Do you have a available to you real quick, what is a allowed in R1? Can you pull that up real quick?

Mayor Lamb

For a conditional use permit?

Jack McCrady

No, just what's outright allowed, and then he signs off on.

Brian Schmidt (PC)

A list of permitted uses.

Gavin Blevins

It would be like accessory structures, or fences, or stuff like that, as far as the principal use, it would be, in R1, it would be a house.

Jack McCrady

What if I had a yard trailer year round?

Gavin Blevins

I mean, it would be a commercial enterprise at that point. And it'd be like a flea market basically.

Brian Schmidt (PC)

And that would not be allowed

Mitchel Greer

I think if you're going to put a food truck or something like, you'd have to make it commercial, because if you've got a variance or whatever for doing it in a residential area, then somebody could come here and put a restaurant in the middle of your residential area, and you don't want that.

Larry Ginn (PC)

Stand by, it's coming.

Mitchel Greer

That's what I'm saying, if you do something like that, that's what's going to happen, and you don't want to do that?

Larry Ginn (PC)

A restaurant at the park, is that what you're speaking of? I didn't say that.

Ralph Wilson (PC)

I did,

Hilary Greenberg (PC)

It's public knowledge.

Brian Schmidt (PC)

Anything else?

Mitchel Greer

I think if you're going to do it, just go ahead and make it commercial. You don't want to do spot commercial in a huge residential area that has none at all.

Brian Schmidt (PC)

I would like to make a motion that we suggest, we recommend to the town council that we do this, we make these decisions, we revisit the town map zoning map and make these decisions for both of these properties.

Jack McCrady

At a later date?

Brian Schmidt (PC)

And I'll just say this, at a later date

Larry Ginn (PC)

You're the chairman, so you should be having one of us make that motion.

Brian Schmidt (PC)

Okay. Anybody have a motion?

Jack McCrady

Motion that we have legal counsel available, and table this discussion for both applications until we can get guidance from legal counsel and determination on Supreme Court decision. Is that fair?

Mayor Lamb

Well, I still think before we close your meeting, and then bring that to this meeting we need to give Buddy Albro a chance to have this same discussion for his property separately, because I think it is a little bit different on the zoning map.

Brian Schmidt (PC)

Let's hold voting on that motion. Thank you, Katie. After we address Mr. Albro's. Everybody in agreement.

Gavin Blevins

You could make the same motion twice, they are two separate applications.

Brian Schmidt (PC)

I could make a motion.

Gavin Blevins

Yes, you are a voting member. In this case, it might not be standard practice, but you live technically do it.

Brian Schmidt (PC)

Are we ready to address Mr. Albro's? Yes, thanks. So let's do this.

Buddy Albro

Do you want me to it speak on it?

Brian Schmidt (PC)

Now I would like to, well, I think we can do what we want. Yeah. I would like to ask Mr. Albro to present, please.

Buddy Albro

Okay, I'll come up here.

Brian Schmidt (PC)

Thank you.

Buddy Albro

So mine is a lot different. It's four, you see where it is surrounded by commercial, the lot Jack's talking about which I do not own. My brother owns it, it's in the family, but it's not mine. And that's not up for, we're not discussing that one today.

Mayor Lamb

Is it 338 that's already commercial?

Buddy Albro

338 is already commercial, that's the rock bottom property that Dennett used to own. The other four lots there we bought, this is our eighth season of running them as the creeper trail cottages. We bought them from the Horsch family, who operated them as the creeper trail cottages for over 20 years before us. They, so this is a business that's been here for 30 years. I mean, the reason I want to change the zoning to commercial from residential, because there's a strong push that you see tonight even, to eliminate all conditional use from residential properties, which would mean I could never, I couldn't sell it or pass it on to my kids or the grandkids or somebody else, if the conditional use was taken away from residential properties. They couldn't have the business ever, it would be gone. Right now I can continue to operate it. So whatever you do, it's not going to change anything tomorrow, whether you tell us no or you change it to commercial, still going to be the creeper trail cottages tomorrow, but it's huge down the road and it depreciates the value of our cottage business. Because we would never be able to sell it as a cottage business if conditional use we're, and again, I'm tired of fighting about it. I mean, all of y'all know, I've been very outspoken against it. And I'll continue to have to be if I can't do this. If we can change it to commercial, then I'll just sit home quietly and be done with it. Somebody else can fight, The map that Brian's talking about in 2018, I have that I think I gave you that. This was the zoning map that this planning commission put forward at that time, and if you see on there, they changed my property to commercial, they actually rezoned it to commercial, and the council didn't act on it. But at one point they thought it was a good idea for it to be commercial, that was the map they put forward.

Mayor Lamb

Is this where we are Buddy?

Buddy Albro

Yes.

Ralph Wilson (PC)

So, did you not say you wanted it residential at that time?

Buddy Albro

Yes.

Jack McCrady

Yes, you did, and you were adamant, because we tried to do commercial for you.

Buddy Albro

No it was all or nothing. So that problem is, it was an all or nothing deal. You didn't get to pick and choose what you wanted out of here. But there was a big difference. There was a reason we wanted it residential at that time, was because at that time, we didn't own this property next to it. And this house right here that Dennett, this was Dennett's house right here, and we have a duplex

here, and as you know, Jack, the setbacks are different when there's commercial property next to a commercial property.

Jack McCrady

You strongly advised me that your brother strongly advised you that finances was different for commercial, and that's why you did not want to. It wasn't anything to do with zoning. It was financial and that's what you told me. Well, I checked and that told you that there is no difference in finances.

Buddy Albro

Oh, there is.

Jack McCrady (PC)

No there isn't.

Buddy Albro

No, there is I mean, that's a whole argument that doesn't have anything to do with this.

Jack McCrady

That's how it got there, the R1.

Mayor Lamb

Now, this is the current request and I think we need to make that.

Buddy Albro

You know, Brian just said that it just didn't go forward. The whole plan was killed.

Mayor Lamb

Let's stick with what was requested. And let's focus on that.

Brian Schmidt (PC)

May I make a comment before you sit down? I'm so glad you brought that up, because this relates to what I was saying earlier, you know, that it looks, it's clear that you're not violating spot zoning when you make the decisions based upon a larger venue, you know, like, like 2018 looking at that map. And what you brought up is true at that time, the Planning Commission and the Council were recommending a change. And so if you wanted to make the decision, or we wanted to make the decision, well, we're making recommendations to the council. But if the decision were based upon that map and a former discussion, it would be, it would avoid looking like, you could state it in a way that avoids looking like spot zoning because it took place the right way. The only argument against it would be that it's was four years ago, things may have changed. But I think we could recommend to the council that if they made the decision that way, based upon the former map,

that they would avoid any possibility of looking like they were spot zoning. Does that make sense to everyone?

Mayor Lamb

Well, and there's commercial all around it.

Brian Schmidt (PC)

Right, and that's why I think the change was made back then.

Ralph Wilson (PC)

I personally think it should be commercial. My curiosity was four years ago, you were pretty adamant about changing residential?

Buddy Albro

No, no. Leaving it like it was. And the reason, there was a couple of reasons. One, which I just mentioned, the setback, we didn't own the property next to us at that time. And that was a big deal because Dennett wanted to build up to the property line. He was trying to get us to make it commercial so he could build all the way up to the property line, on our property line, and it wouldn't have been good for our cottage business. But also, it wasn't, it wasn't something where we could just pick we want to keep this, but we don't want to keep this. Also with that plan, it rezoned all the houses downtown residential, including yours. You rezone the Dragonfly Inn as residential, and you didn't even want that at the time.

Ralph Wilson (PC)

Oh, I agree. I bought it commercial.

Buddy Albro

Right. So it was It wasn't just, you couldn't just pick well I want this, but I don't want this. It also rezoned my house, that's on Laurel, residential and the Dancing Bear and the River's Edge and a whole bunch of businesses would have been rezoned residential, and they didn't want and it and hat's why just, it died.

Ralph Wilson (PC)

Because it was an existing business, and a commercial business.

Buddy Albro

Right. But we're not here to talk about them. My whole point was that this planning commission thought it was good for the town to rezone this commercial at some point, regardless of what I want. It doesn't matter. This Planning Commission thought that was a good move.

Ralph Wilson (PC)

And it was, but my question being is that every four years when the sands shift, can somebody come back and have something rezoned?

Larry Ginn (PC)

They can at any given time,

Ralph Wilson (PC)

At any given time?

Larry Ginn (PC)

Yes, they can request it.

Ralph Wilson (PC)

Yeah. So we have to be consistent on that, right?

Buddy Albro

But we've been in business for 30 years, over 30 years, I mean, and that's not changed, it's going to be the same.

Mayor Lamb

And things change, so when this first zoning thing appeared in 2018, you know, things have changed since then, and now he's requesting for it to be commercial. Thank you. Planning Commission and the council need to focus on that.

Brian Schmidt (PC)

Any other discussion? Anything else?

Scott Smith

Is anyone else allowed to speak on Buddy's property?

Mayor Lamb

The joint public hearing has been closed, so no, unfortunately.

Scott Smith

Oh I'm sorry, I thought we were reopening as a separate thing for Buddy.

Brian Schmidt (PC)

If it hasn't been said, we can allow it.

Gavin Blevins

The public hearing on the agenda was read out for all properties on the agenda and was opened and closed as which we follow the process of the agenda. However, if the planning commission wishes to ask a question of any one any consulting party, you may do so.

Brian Schmidt (PC)

That's what I was hoping to do. Yes.

Gavin Blevins

But now, just understand that, that is what you're doing. It's not open. It's not open to the public.

Mayor Lamb

Unless you specifically, ask someone.

Brian Schmidt (PC)

I ask to recognize Mr. Smith.

Scott Smith

Yes sir, thank you. What I keep hearing is spot zoning, residential neighborhood, and I just want to clarify for everyone who's involved in here tonight, if you didn't listen to what I said at the beginning of this, within a block and a half radius of both mine and Buddy's property 37 commercially zoned lots. Eight residential lots, it is not a residential area, it is a predominantly commercial area. So we keep saying about preserving the residential area, it is a very, very, very small portion of that neighborhood that is residential. There are 37 commercial lots and eight residential lots within a block and a half of both mine and Buddy's property. So the idea that this is somehow spot zoning, where it's, where it goes contrary to the neighborhood, is not applicable here. It's simply not, that entire area of town is red, with the exception of a few homes on South Railroad, and the homes on South Railroad, several of them are already being used for Airbnb and transient lodging. So the idea that we're breaking up a residential neighborhood is simply not true. And in addition to that we had the residents who live on that street spoke on behalf of these things, saying that they are in favor of it. So this, we're recreating, I think we're creating a false image of what's going on here. And we need to be clear on what we're talking about. Look at the zoning map, look at all the red, understand what you're looking at. It is not a residential area, it is a commercial area that happens to have a few residents in it. Thank you.

Brian Schmidt (PC)

I want to clarify the definition of spot zoning, it is not about the location of the property when it's adjacent. It's about making decisions piecemeal. It's about how you make your decisions. Regardless of what's around it, what makes sense, it's giving the appearance that you're making the decision without looking at the big picture. And that's why a few moments ago, I made the motion, which we'll look at later, but since we looked at the big picture in 2018 and already decided

that it would be a good idea to change Buddy's property to commercial at that time, if we think that those conditions still exist, four years later, we can make a good case for approving his change.

Jack McCrady

It's still eradicating R1. And Mr. Smith's statement, if you look around, North or South Shady is already commercial, because we piecemealed the thing, the way it happened. And that's how R1 is getting eradicated and our population is dropping That is a major issue for this town. It's not for one little business or two businesses, and I think that, hope that the council would take that into consideration.

Brian Schmidt (PC)

And if I may that that argument would be something that would be more appropriate to a larger venue. Looking at the big map. I think what you're saying is maybe we need to, because things have changed in the town over four years. We need to go back to you know, having a wider conversation.

Jack McCrady

How long have you been here, Buddy four years?

Buddy Albro

This is our eighth year.

Jack McCrady

Eight years. not four years. It was eight years ago we offered the R1, the other one, the planning commission, it didn't fly and everything went back to the regular map because of the outpouring of dissension on everything to be in R1, and I can understand that. It was the council, I was mayor at the time, we never saw that map until it was presented that night. You remember that, don't you, on the previous map. So we kind of got blindsided along with a lot of other citizens. But I still think we have stand up for R1.

Brian Schmidt (PC)

Any other comments with regards to that property?

Mitchel Greer

I agree with his property, it's already surrounded that commercial. I don't think reason for it to not be commercial.

Brian Schmidt (PC)

Any other comments?

Larry Ginn (PC)

And he's purchased that other property sense.

Gavin Blevins
His brother.

Brian Schmidt (PC)
We have a motion?

Larry Ginn (PC)
A standing motion.

Brian Schmidt (PC)
Yeah, do we vote on that motion?

Jack McCrady
Are we going to do Mr. Smith's first? Is that the one you're discussing?

Gavin Blevins
You could pick up the original motion and do one per each, or you could amend the first motion.

Brian Schmidt (PC)
My motion applies to both properties and I want to keep it that way. That to follow proper procedure, we should go back to the large map. Four years since, things may have changed and that would be clearly following, to avoid the idea of looking like we're favoring individuals.

Jack McCrady
I hate to do you this way Brian. I like to make a substitute that we table Mr. Smith's until we get legal counsel here the determination on the Supreme Court decision, and we can proceed forward with Mr. Albro's.

Brian Schmidt (PC)
Okay. Any discussion on that?

Ralph Wilson (PC)
I believe Mr. Smith is needing to have an answer, because we're getting into tourist season. And I think tabling this is going to hinder him in doing what he needs to do, just as the council meeting's decision on my variance is impeding me for tourist season. So I can relate to it.

Brian Schmidt (PC)
I can understand. Unfortunately I allowed two motions to stand at the same time.

Jack McCrady

No, I brought an alternate up, so I'll call for the question.

Brian Schmidt (PC)

Which one?

Jack McCrady

On my last one, that would approve Buddy Albro's and table until we get legal guidance on Mr. Smith's.

Brian Schmidt (PC)

Ok are we ready to vote on that?

Jack McCrady (PC)

I did not get a second.

Larry Ginn (PC)

He needs a second.

Hilary Greenberg (PC)

I'll second.

Brian Schmidt (PC)

We have a second. Okay. All in favor? So how many ayes do we have?

Ralph Wilson (PC)

I said my opinion.

Brian Schmidt (PC)

So we have three favor, and four or three against. So we have a tie.

Gavin Blevins

In that case, the motion will fail, so you'll have go back to something else.

Brian Schmidt (PC)

Okay, we can test my motion. That we go back to the big map.

Jack McCrady

What are you saying when you say that?

Brian Schmidt (PC)

What I'm saying is this, is the impression of neighboring individuals comes from just looking at individual lots at a time, that what that does is negates the larger conversation that should take place when you consider zoning for the entire town. Because it's not, it looks like you're favoring individuals, if you take in the whole conversation saying, you know, it makes sense for this area of town to be commercial. And, you know, that gets argued back and forth with some of these things that, you know, that people are bringing up with residential areas. We're not having that same conversation every time we looked at these, and giving the impression that if we, if we allow these, it looks like the town is doing that just by taking it piecemeal, is favoring individuals.

Larry Ginn (PC)

The motion you're making is a motion to alter the rules. And what we're here is to vote on and come up with a majority recommendation on the two applications. Just try to keep things straight.

Jack McCrady

Wait a minute, say that again Larry, that didn't sound straight.

Brian Schmidt (PC)

These are not changing the rules.

Larry Ginn (PC)

Well he's talking about going back to a map, that's changing.

Jack McCrady

I believe that what he's referring to is that we need to take the whole town into consideration and have a real rezoning of the entire town.

Mayor Lamb

That is exactly what he is talking about. The thing is that these folks are have come to us requesting this. They've paid their money and we need to look at these applications, and we cannot punish them that we don't have our stuff together, to put that plan together before they came to this meeting.

Brian Schmidt (PC)

I'm sorry, I have no interest in punishing anyone. My role here is to advocate.

Mayor Lamb

Okay, but the thing is.

Brian Schmidt (PC)

A logical process, whether we followed it or not, in the past is not of concern. In fact, our decision should not be based on their needs. I mean, what you just said violates the very thing I've been trying to say.

Mayor Lamb

It's not based on their needs. Ralph even said.

Brian Schmidt (PC)

He's going to lose money. These are considerations.

Mayor Lamb

You have to think about what you're asking. What you're asking about a comprehensive plan and rezoning of town, which could take, obviously we're still waiting for the comprehensive plan that was due. When was that due?

Gavin Blevins

Madam Mayor, just as a point, the planning commission is in session at the moment and if the chair recognizes, you may speak, but it normally it's their discussion.

Mayor Lamb

Well he asked us earlier.

Brian Schmidt (PC)

I would like to allow it. I think this works better for everyone. And I like hearing what Katie has to say, I think it needs to be here.

Mayor Lamb

Thank you.

Brian Schmidt (PC)

Thank you. And, and I may very well agree with everything you're saying Katie, but I can't because of my position. I can't advocate it.

Mayor Lamb

Well, I don't think we should base our decisions this evening on a zoning map that was done four years ago, or the proposal that was done four years ago. Other than, you know, that it made sense to make this here commercial. And, you know, I think that you guys need to consider that.

Jack McCrady

I think you need legal advice on it. Can we have an expedited meeting, table it and have an expedited meeting with legal counsel available?

Gavin Blevins

You could just continue the meeting to another day, I mean it couldn't be tomorrow.

Jack McCrady (PC)

Could we do it in a week or so? Nothing would change, and it would expedite their needs.

Brian Schmidt (PC)

Now are we talking about both properties with that idea?

Gavin Blevins

That's up to you guys.

Jack McCrady

To me, the Albro's property is completely grounded and being commercial, even though it's been R1. I'm opposed to eradicating R1 like the town has been doing, but in that case it's totally owned by the same person. I don't see that that would hurt the future of R1. .

Brian Schmidt (PC)

Yeah, I understand. Any more discussion on what he just said?

Ralph Wilson (PC)

No, I agree that Buddy's property should be commercial.

Ralph Wilson (PC)

Do we have a motion?

Jack McCrady

I'd like to make that motion, to approve the Albro's property, and to table the Smith property until we get a expedited meeting within the next week or so.

Larry Ginn (PC)

An accelerated meeting? Is that doable? Is that achievable? Do you have to talk to the attorney?

Mayor Lamb

It's fine with me. How's the council feels about it?

Gavin Blevins

You all can recommend it, but they can still do what they want.

Larry Ginn (PC)

What about advertising it?

Gavin Blevins

If it's a continuation of the meeting, it does not fall into new advertising.

Larry Ginn (PC)

So we could roll it into a following week?

Gavin Blevins

Yes.

Larry Ginn (PC)

That'd be great.

Mayor Lamb

And we will contact the town attorney, Gavin, to make sure that he can?

Gavin Blevins

We can try to set a date and hope he's available.

Jack McCrady

We've retained another attorney in Abingdon, Bragg? We retained him at the same time. You all have never used him.

Gavin Blevins

We use him for special things, yeah.

Jack McCrady

But he's also a constitutional lawyer.

Mayor Lamb

So if Cassell and Crewe are not available, then perhaps Mr. Bragg is. That's a good recommendation.

Brian Schmidt (PC)

Thank you all. And do we have any more discussion before we go? Okay.

Larry Ginn (PC)

Yes, so can I clarify?

Brian Schmidt (PC)

Yes, please.

Brian Schmidt (PC)

What the motion was is it just a motion to table his and to review his?

Jack McCrady (PC)

Approve Albro's.

Ralph Wilson (PC)

Approve Buddy's and table for an expedited.

Gavin Blevins

Continuation.

Mayor Lamb

Expedited continuation, yes.

Brian Schmidt (PC)

Okay.

Larry Ginn (PC)

You've got a second.

Brian Schmidt (PC)

Okay. All in favor? Aye. Any opposed? Noboby opposed.

Ralph Wilson (PC)

Quick. The definition of expedite.

Hilary Greenberg (PC)

He's going to see when the attorney is available.

Mayor Lamb

So then the date will be determined based on when the attorney or do we need to?

Gavin Blevins

You all need to determine a date to, once you get into your discussion again, we still have to.

Brian Schmidt (PC)

Any other discussion, any further.

Jack McCrady (PC)

Okay, I'll make a motion to adjourn.

Larry Ginn (PC)

Second.

Jack McCrady (PC)

All in favor. Aye.

Brian Schmidt (PC)

The meeting is now closed. Thank you all.

Mayor Lamb

Okay. So the town council discussion and possible action is open at this time. And if you would like to take the request of the Planning Commission,

Susan Coleman

For the Smith property.

Mayor Lamb

For the Smith property, to table the Smith property conversation until we have counsel, and it would be a continuation of this meeting to expedite that and in as timely of a manner as we can to have legal counsel, And then they made a motion to approve Buddy Albro's commercial, residentially zoned properties to be zoned commercial.

Beaty Jackson

So moved.

Mitchel Greer

Second.

Mayor Lamb

All those in favor? 4-0.

Gavin Blevins

So you accepted the continuation? Do you want to set a date for said continuation?

Susan Coleman

Really depends on the lawyer.

Gavin Blevins

Right, through the process, you should set a date and I'll just make sure one of them is there.

Susan Coleman
Next week.

Mayor Lamb
Next Tuesday?

Gavin Blevins
19th.

Mayor Lamb
What time, 6pm?

Mitchel Greer
Can everybody do that?

Mayor Lamb
Planning Commission, Larry. Next Tuesday, the 19th at 6pm for a continuation of this meeting.

Jack McCrady (PC)
Sounds great for us.

Mayor Lamb
Okay, great. So planning commission would need to close your meeting.

Brian Schmidt (PC)
We already did.

Mayor Lamb
So then, do I have a motion to adjourn this part?

Gavin Blevins
You will have a motion to continue this meeting to that date.

Mayor Lamb
Okay. That's right to continue this meeting for the 19th of this month, which is next Tuesday at 6pm.

Susan Coleman
So moved.

Mitchel Greer
Second.

Mayor Lamb

All those in favor? 4-0. Okay, see you next week. Thank you all so much.

Katie Lamb, Mayor

Tuesday Pope, Clerk