

**CITY OF BUENA VISTA
REGULAR COUNCIL MEETING & PUBLIC HEARING
COUNCIL CHAMBERS
August 17, 2023, 6:00 P.M.**

The City of Buena Vista City Council met for a Regular Meeting and Public Hearing on Thursday, August 17, 2023, at 6:00 p.m.

Members Present:

Melvin Henson
Tyson Cooper
Steve Webb

Mayor Bill Fitzgerald
Vice-Mayor Cheryl Hickman
Stanley Coffey
Danny Staton

Members Absent: None.

ADG #1: PLEDGE OF ALLEGIANCE AND PRAYER

Councilman Cooper delivered the opening prayer.

ADG #2: BUENA VISTA CITY COUNCIL PUBLIC HEARING

Zoning Text Amendment for the Institutional Zone to Update Permitted and Conditional Uses, Dimensional Regulations, and Outdoor Lighting

Tom Roberts stated that this update was spurred by Austin Rehl's purchase of the property and his request to rezone it. Mr. Roberts went through the proposed changes. The biggest update is the one that he had spoken about at the last meeting which is rewording the intent statement and defining the word "institution". The intent statement is at the beginning of every zone that we have; it states why we have the zone and what the purpose of the zone is. The intent statement for the Institutional Zone in the proposed language reads: "Uses in the Institutional district are oriented to or supportive of one or more institutions. The regulations are designed to provide for a high level of human interaction with relatively compact, cohesive development of public and private space." Mr. Roberts noted that the important statement there is "uses are oriented to or supportive of one or more institutions". He further noted that this is to cement that the purpose of this zone is just for institutions and not for miscellaneous uses that might surround a college or some kind of other institution.

Other changes to the text include adding language to several of the permitted uses and conditional uses about being directly affiliated with an institution. Retail stores and shops, eating establishments, and small-scale production establishments are all permitted uses, but it says, "permitted if they are directly affiliated with an institution". That means that for example, a fast-food restaurant set up on SVU's campus as part of their dining program, would be permitted because it is directly affiliated with an institution. But, if someone across the street wanted to set up "Bob's Saloon", that's not directly affiliated with the institution and would not be permitted by right. If Bob's Saloon wanted to set up across the street from SVU or at Austin Rehl's property, then he would need a conditional use permit. Retail stores and shops, eating establishments, and small-scale production establishments that are not affiliated with an institution would require conditional use permits that would go before the Planning Commission and then Council to determine on a case-by-case basis. Mr. Roberts then addressed "small-scale production establishments". Several years ago, we defined those and added those as a permitted use in the Mixed Use Zone, but he wanted to remind everyone that they are defined in our code as: "an establishment where shared or individual tools, equipment, or machinery are used to make or

grow products on a small scale, including the design, production, processing, printing, assembly, treatment, testing, repair, and packaging, as well as any incidental storage, retail or wholesale sales and distribution of such products. Typical small-scale production establishments include, but are not limited to, vertical farming or the making of electronics, food products, non-alcoholic beverages, prints, jewelry and clothing/apparel, metal work, furniture, glass, ceramics; together with accessory uses such as training or educational programs." The purpose of that is to define small-scale production establishments as distinguished from major industrial companies such as Northwest Hardwood or ADS. We anticipate that Austin Rehl's property is going to have something like a blacksmith shop or a workshop for teaching masonry, so we want to make sure those potential uses are covered.

Athletic fields and indoor athletic uses are the next thing that was changed. Currently all indoor and outdoor recreational uses require a conditional use permit, but that is not really necessary. Mr. Roberts gave the example that if either SVU or Austin Rehl wanted to build a 5,000 square foot building with dance studios, as of today that would require a conditional use permit even though there aren't major impacts that dance studios would have, for example. The proposed text makes indoor and outdoor recreation uses permitted by right unless they involve outdoor lighting. Mr. Roberts then gave another example that if someone had a small soccer field, that wouldn't be bothering anyone or affect the adjacent properties unless they had 75-foot-tall lights. Mr. Roberts noted that once you add outdoor lighting to an athletic facility, then it would require a conditional use permit, so we will be able to review those on a case-by-case basis.

Mr. Roberts then discussed camping and campgrounds. He mentioned that Austin Rehl may want to offer some small camping on his site. Mr. Roberts clarified that this would not be a big campground or "Glen Maury Park 2" at all; this would just be some modest camping facilities to support his school. The Planning Commission discussed this at length and ways they might be able to do that, and what they decided on is that any campground will require a conditional use permit. This will allow us to evaluate on a case-by-case basis and see a very detailed site plan on how a campground will be laid out, how many spaces, waste management, bathroom facilities, etc.

The next proposed change is adding dimensional regulations. Dimensional regulations are height limits, setbacks, and lot area requirements. The Institutional Zone currently does not have any of that because that is addressed by the Seminary Hill district. The Seminary Hill Overlay district applies some height limits and there is a review process. Since the Seminary Hill district is not going to apply to Mr. Rehl's property, we want to add in some basic dimensional regulations.

Councilman Coffey asked if all of this amendment is for Austin Rehl's property. Mr. Roberts responded that this would cover Austin Rehl's property as well as where SVU is, the Seminary Hill Zone that we currently have. Councilman Coffey then asked how they are being combined if they are not affiliated. Mr. Roberts responded that the Institutional Zone doesn't have the word SVU anywhere in the regulations. These text amendments will apply to both or anywhere that is zoned institutional which right now is basically SVU's campus and Austin Rehl's property and it will apply to both equally; he noted that he is citing examples of SVU and Austin Rehl because that is where it is going to apply. Mayor Fitzgerald further explained that this is just cleaning up the language. Vice-Mayor Hickman asked if those are the only two institutional zones in the City of Buena Vista; Mr. Roberts confirmed that they are. He then noted that this is changing the rules across the board; this was spurred by Austin Rehl having his property rezoned to institutional, but this will apply to both equally, not just for Austin. Vice- Mayor Hickman furthered that this

would also apply to anywhere that would become institutional in the future and Mr. Roberts confirmed that.

Mr. Kearney asked Mr. Roberts to clarify if this change interferes with the Seminary Hill Overlay. Mr. Roberts stated that it does not. The Overlay will still remain around SVU, but it will not apply to Austin Rehl's property because the Seminary Hill Overlay is there because [the City] decided 15-20 years ago that we want to preserve historic neighborhoods around the school and along 29th Street, so Council instituted the Seminary Hill Zone which allows for some architectural controls. But that is not true of Austin Rehl's property. The Seminary Hill Zone is there because of the historic architecture and neighborhoods and the desire to preserve and control that, but there are different circumstances on Austin Rehl's property.

Mr. Kearney asked if the dimensional regulations proposed in the text amendment are more stringent than those of the Seminary Hill Overlay. Mr. Roberts stated that the height regulations in the Seminary Hill Overlay zone are actually defined in terms of elevation above sea level and it is all about not blocking the view of Main Hall from town. He furthered that the regulations are all in reference to Main Hall; preserving the view of Main Hall from most of the City. By adding these dimensional regulations to the Institutional Zone, they would actually be more stringent than what is in the Seminary Hill Overlay right now. This text proposes a height limit of three stories or 40 feet. There could be places on SVU's campus where you could build something taller under the Seminary Hill height limit. In the language in the Institutional Zone, if you get a conditional use permit you can build taller. Mr. Roberts also pointed out that the proposed height limit and maximum lot coverage of 80% are both the same as the Mixed Business district and the height limit is also the same as the Mixed-Use district.

The final item is lighting regulations. If you look throughout our land use regulations, there is very little about outdoor lighting. Other localities do a lot with outdoor lighting regulations, such as extensive rules about what you can have, and Mr. Roberts opined that we do not need to go that far. He has set a few parameters with the lighting: "Outdoor lighting shall be designed to limit light trespass or light pollution to the greatest extent feasible. Fixtures shall be full cutoff type or otherwise limit the amount of light escaping upward. Photosensor or motion sensor lighting should be used where possible. Light poles shall not exceed 24 feet in height." He clarified that "full cutoff" means that the light is only directed downward and not directed upward.

The staff report shows a bulleted list of "housekeeping" updates. Duplexes were listed twice in the permitted uses, so we are taking that out; signs were listed as a permitted use; tourist homes were listed, but that has been superseded so it is obsolete; added parks and playgrounds as a permitted use so you could legally have a public park; theaters were also listed twice; there was confusing wording where laundries are listed as a conditional use, so that was fixed.

The last thing Mr. Roberts pointed out is that there is a section in the zoning code that sets a threshold of size of an individual building for large buildings and above that threshold you have to get a conditional use permit no matter what. For the Institutional Zone that is 25,000 square feet. In the Institutional Zone anytime that you have a building that is over 25,000 square feet, regardless of what it is and regardless of any other rule, because it's that large you have to get a conditional use permit. This is something that is not changing, this is just a reminder that it is in there.

Councilman Webb asked if Mr. Rehl has shown any interest in the camping spots. Mr. Roberts stated that yes, he has. He noted that those discussions have been around building this program and having instructors that come in from out of the area teaching a week-long workshop or maybe teaching for a semester. Since the instructor is coming from out of the area, could he bring an RV and park it there? Councilman Webb opined that he could just park it at Glen Maury. Mr. Roberts agreed that that is another option as well. From Mr. Rehl's perspective, he has the acreage, and it could be a little cost savings versus paying the rate at Glen Maury Park and it is all in proximity if you can walk to your classroom as opposed to driving across town. This is something Mr. Rehl has expressed interest in, but with the conditional use process, we can look at any proposal on a case-by-case basis. Councilman Webb opined that this could be competition for Glen Maury Park when we just spent over \$1M to fix it up. Mayor Fitzgerald noted that it will still have to come before Council to be approved before it can be done.

Mayor Fitzgerald opened the floor to the public; no one spoke.

Mayor Fitzgerald closed the public hearing.

ADG #3: APPROVAL OF THE AGENDA

Councilman Cooper moved to approve the agenda, seconded by Councilman Coffey, and carried by Council.

ADG #4: APPROVAL OF MINUTES FROM THE AUGUST 3, 2023, REGULAR COUNCIL MEETING AND PUBLIC HEARINGS

Motion to approve the minutes was made by Councilman Cooper, seconded by Councilman Webb, and carried by Council.

ADG #5: RECOGNITION/COMMUNICATION FROM VISITORS

Citizens who desire to speak to council will be recognized at this time. Please limit your statement to three (3) minutes.

Miss Kristina Ramsey reported that Jean Clark, our Tourism Director, announced her retirement effective August 31st. Miss Ramsey updated Council on the hiring process and what the board's plan is. They finalized the job description and approved it at yesterday's meeting. The plan is to publish the job opening tomorrow. It will be in local papers as well as on multiple state websites and all three locality websites. They are hoping to start reviewing applications on September 15th and begin interviews the first week of October. They have elected not to have someone in the interim; the Visitor Services Manager, Holly, and the Marketing Director, Patty, will be able to manage the day-to-day responsibilities in the meantime. Councilman Cooper asked what is being done for Jean as she has done this for "a lifetime". Miss Ramsey stated that Holly and Patty have planned a party for next week with a guest list of about 150 people including the Mayor. The board is planning a separate event that will be more open so they can have an opportunity for everyone to come in and thank her.

ADG #6: REPORTS

1. Mayor

Mayor Fitzgerald stated that Jean Clark is a remarkable woman and if you had spent any time at all with her, it was a pleasure. He noted that the time he has spent with her was a true pleasure and if you haven't known her, you have missed out.

2. City Manager

Mr. Tyree reminded everyone of the 52nd Annual Labor Day Festival on September 4th and let them know if they would like to participate in the parade, to reach out to Sarah or Millie. The Festival kicks off at 8:00 a.m. with the Kids' Fun Run at Camden Field; the 5K Road Race begins at 8:30; at 9:30 the parade starts; the opening ceremony will be at 11:00 a.m. at the multi-purpose pavilion at Glen Maury Park. The Paxton House will be hosting tours and activities from 12 – 230. From 2 – 5 p.m. will be the Party Crashers Band; from 6 – 9 p.m. is the Moving On Band; and fireworks begin at 9:15. Weather depending, there will be carnival games, bounce houses, pony rides, and vendors.

Mr. Tyree then reported that a couple of months ago Lori Turner was here and wanted to apply for a grant with the Opioid Abatement Authority (OAA) and they received notice yesterday from the Chairman of the OAA that "he is pleased to announce that the City of Buena Vista acting as fiscal agent has been awarded a grant for cooperative partnerships, coupled with the localities Rockbridge and Lexington, individual distributions in the total amount of \$210,231 for the renovation and operational cost of the Hope House located on Magnolia in Buena Vista".

Vice-Mayor Hickman asked if the parade will be going all the way to the park. She noted that that is how it used to be done, but stopping and cutting off at Camden field has created a mess the last couple of years. Mr. Tyree said that he will get with Millie about that.

3. City Attorney

None.

4. Council Committees/Representatives

Councilman Coffey stated that he read the minutes of the last meeting he was at and listened to the audio of the August 3rd meeting, and if anyone thought he was campaigning he apologized for that. He noted that he was talking to Ron Cash and trying to make him understand that there are other places for [Council members] to go to instead of coming to this venue and sitting and talking about things and not doing any work on it. When we bring something to Council, it is to work on it. He urged that he was not campaigning and never said anything about running for City Council, but if that was an offense that he made, he is sorry for that. He was only trying to help [Ron Cash] because he was talking about things that he didn't know about and that was his only intention. If he offended anyone, he is sorry and that was not his intention when he was talking to Ron Cash.

Vice-Mayor Hickman reported that she had received several complaints about parking at houses. She stated that she rode by and looked at one house that she received a complaint about and there were seven cars parked at this one house; four of which had out of state tags. She feels that this is becoming more and more of an issue. She wants Council to look at something that can limit this. She is unsure if these are students, but we have to have some way for residents to park at their own homes. She noted that she did some research on this and looked at Radford as they have a similar situation with student housing around the area. They have parking stickers that state they are allowed to park there and no one else can come there and park, even parents. She mentioned that she has brought this up several times and we cannot continue to ignore this. Mayor Fitzgerald stated that we could look at multiple college areas and do an internal study to figure out the best solution. Vice-Mayor Hickman also noted that there shouldn't be seven vehicles or seven different people

living in a one family dwelling on a fifty-foot lot anyway as that is against our code. She further noted that that is what Radford was doing, was enforcing their code. She also mentioned that a lot of college students don't have the frame of mind to think about where they are parking, so we have to have something in place so that they do know. Mr. Tyree furthered that we would also have to have the enforcement behind it. Vice-Mayor Hickman furthered that Radford will have vehicles towed and the owner has to pay to get them out; we don't want that to happen, and if they know that, they won't do it. We don't want them to get tickets and don't want to monopolize the Police Department either, but we do want citizens to be able to park in front of their house. Councilman Henson noted that this is something that has been discussed in the Planning Commission as well as Public Works & Public Safety Committee. He further noted that the bad thing about it is that this is a residential community with a sudden influx of college students. How do you handle it?

Councilman Henson reported that the Public Works and Public Safety meeting is on Tuesday at 1:00 p.m. at the Glen Maury shelter and the Parks and Rec committee meets on Wednesday at 6:00 p.m. also at the Glen Maury shelter. The Fire Department responded to 56 calls in July with only four failures to respond; a lot of those calls were EMS calls, but some were trees down across the road. There are several trees in the City that we are looking at right now that need to come down. He recalled a situation where a tree fell down on a car and killed the driver and stated that we don't want that to happen again. He reported that he attended the ribbon cutting at the Mountain Gateway Community College Workforce Center. He noted that about 60 people showed up, not only BV, but also from the county and Lexington. It was a good turnout, a good response, and a good program. Classes start there on Monday. They will begin work on the Ford building around the first of September; good news to get that cleaned up. This weekend Glen Maury Park is hosting the Chris Wheeler softball tournament. They have 26 teams involved so far. This means we will have lots of people in town eating, buying gas, shopping, and camping at the park.

Councilman Webb reported that the Community Service Program for the Sheriff's Department removed the holly bushes in front of City Hall this past weekend. They will continue to remove some more bushes that are outdated and overgrown. These holly trees had gotten around 15-20 feet tall, and the stumps are so large that the building inspector said they were getting into the foundation of the building. Mayor Fitzgerald noted that they were so big, they were leaning up against the building and starting to decay where the brick-and-mortar join. He also stated that he understands that some people don't like to see trees cut down, but when they get out of control like these it is best to remove them so we can plant something else. Councilman Webb also reported that the Community Service workers have been working on cleaning the white fence at the cemetery. They will be trying to complete that next week. He noted that there are a few places in the fence that are broken, so they will have to fix those. He also noted that the workers have spent about 60 – 70 hours hand washing these fences. Now we need to make sure that people realize that when they mow the grass, not to blow it back up on the fence and to be a little more careful.

ADG #7: CONSIDER APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES

None.

OLD BUSINESS

None.

NEW BUSINESS

NB #1: FIRST READING OF A ZONING TEXT AMENDMENT FOR THE INSTITUTIONAL ZONE TO UPDATE PERMITTED AND CONDITIONAL USES, DIMENSIONAL REGULATIONS, AND OUTDOOR LIGHTING

Councilman Cooper read the following:

Zoning Text Amendment Ordinance Text Section 302 and Section 617 – Institutional District

AN ORDINANCE to amend Sections 302 and Section 617 of the Land Development Regulations of the Code of the City of Buena Vista, as amended, for the purpose of updating the Institutional Zone regulations.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BUENA VISTA, VIRGINIA, that after a duly called public hearing, in accordance with the general welfare of the citizens of Buena Vista and in accordance with good zoning practices, Section 302 is amended in part to add the following definitions below:

302.03-XX Campground. A facility wherein two or more recreational vehicles, recreational park trailer, tent, or other camping unit sites are offered for use by the public or members of an organization for overnight stays.

302.09-1 Institution. A public or private establishment or facility whose primary purpose and audience is charitable, civic, educational, healthcare, or religious. Institutions need not be non-profit but generally do not have a commercial orientation.

BE IT FURTHER ORDAINED BY THE COUNCIL OF THE CITY OF BUENA VISTA, VIRGINIA, that after a duly called public hearing, in accordance with the general welfare of the citizens of Buena Vista and in accordance with good zoning practices, Section 617 is amended in full as shown in the attached "Exhibit A".

This ordinance shall be effective 30 days following adoption by City Council.

NB #2: DISCUSSION OF CITY CODE SECTION 30-15: AN OBSTRUCTION WITHIN FIVE FEET OF RIGHT-OF-WAY PROHIBITED

Mr. Tyree stated that he and staff members met to discuss this following Mrs. Nita Ramsey coming to a previous meeting because she received a ticket for RV parking on the street. This is something that we have gotten a lot of complaints about; parking and some of the RVs are very large and block sight distance as you turn down roads. He noted that City Council asked him to have staff look into this, so they met about it and looked at a couple of localities and what they have done as far as their language, further noting that our language is very confusing, and it really isn't in the appropriate section of the code either. One of the things that we would like to do is move it from Section 30 to Section 32, which talks more about parking, and we think that that is a better fit for that section. We would also like to reword the section because right now there is no leniency for loading and unloading, which we think there should be. If you own a camper, and we want to promote camping, we should allow you a little bit of leeway to load and unload your camper. Before we spent resources, staff time, and the City Attorney's time in getting

this done, we want the go-ahead from Council to begin working on this. He also noted that of course, before any changes are made, it will come to Council to discuss for feedback and eventual approval. He then noted that alternatively, if they like the way it is currently written, and want to see it enforced as written, then we will continue to do that to the best of our ability, but we want some direction from Council before doing that. Mayor Fitzgerald opined that we have a lot of codes that are outdated, and he thinks it will be good for the new Chief, Mr. Tyree, Mr. Roberts and whoever else needs to, to take a good look at everything and update it. Councilman Henson stated that he agrees with the loading and unloading time and proposed a 48-hour window for that. He then asked if this section currently says anything about trees or bushes in a right-of-way that create sight distance problems. Mr. Tyree said this particular code does not. He then read the current code as follows: "It shall be unlawful for any person to place or permit to remain on the streets or avenues or at any point within the public right-of-way of such streets and avenues which is closer than five feet from the edge of the paved portion of such street or avenue or the curbing adjoining such street or avenue, any temporary or permanent obstruction including, but not limited to, any nonmotor vehicle recreational equipment, basketball goals or similar personal property." Mr. Tyree then stated that this code is more along the lines of personal property, this one does not classify any tree or shrubs or anything like that. He also noted that Lexington recently updated their code regarding this similar issue. Vice-Mayor Hickman asked if this includes trailers, lawn mowers, or anything like that. Mr. Tyree responded that it does not specify any of those, and that is one of the things that we want to make crystal clear, because it isn't even clear to him, so how is a citizen going to understand. Vice-Mayor Hickman agreed that we need that clarity. Mr. Tyree mentioned that they looked at the City of Lynchburg's code which is very clear; it states specifically what is allowed and anything outside of that list is not allowed. That makes a lot more sense and makes it easier for citizens to understand and easier for staff to enforce as well. And our code is currently "clear as mud". Councilman Henson noted that a lot of this stuff has been on the books for years. The biggest problem is who is going to enforce it once it gets changed. He recalled a situation from several years where a police officer said he wasn't going to tell someone that their kid couldn't have a basketball court outside. Mr. Tyree stated that we do want to promote kids getting outside and playing and having that recreation opportunity, but we want them to do it in a safe manner. Councilman Coffey noted that basketball courts can be rolled off the street when they are done. Councilman Webb mentioned that there is a state code that says you can't play in the street so if you have to fall back on that for the city code you can.

ADJOURNMENT

There being no further business, the meeting was adjourned.

Sarah M. Burch, Clerk of Council

William H. Fitzgerald, Mayor