



OFFICE OF THE
TOWN MANAGER

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TO: Town Council

FROM: Marc Verniel, Town Manager *Maver*

DATE: May 2, 2007

RE: Planning Commission Legal Advertisement for May 1, 2007 Public Hearings

As you know, a Planning Commission public hearing for Ordinance 1450 (regulating large format retail uses) was scheduled for May 1, 2006. Immediately prior to the meeting, a staff member discovered the legal notice advertising the public hearing was not consistent with the requirements of the State Code.

The Planning Commission public hearing notice requirements are stated in Section 15.2-2204 of the Code of Virginia. This section requires two notices to be published "*once a week for two successive weeks.*" In doing so, the ad must be published with not less than six days between the first ad and the second one. Staff delivered the request for the legal advertisements to the Roanoke Times on April 17, 2007. The notice appeared in *The Roanoke Times* on April 18 and on April 24, allowing only five, rather than the six required days between advertisements.

Upon identifying the problem at approximately 7:00 p.m. on May 1, staff contacted the Town Attorney for direction on how to proceed with Ordinance 1450. It was decided the best course of action was to immediately make the Planning Commission aware of the mistake and reschedule the Public Hearing for a future date to ensure the proper public notices are provided. If the public hearing had been held, any action on Ordinance 1450 would have been void due to the lack of proper notice. Virginia law requires strict adherence to procedural requirements, such as advertising, for land use actions.

Agendas, notices and advertisements for Planning Commission meeting are handled by and are the responsibility of the Planning and Engineering Department. Planning staff are familiar with the legal requirements for public hearing advertisements, and have handled publishing these ads for years. I have met with staff, and determined that this was an unintentional, honest mistake. We are currently examining our internal procedures for Planning Commission advertisements and will take measures to prevent this from happening in the future. I will update you in the near future about the specific measures we will take.

To enable the Planning Commission and Town Council to consider action on this ordinance at the earliest possible date, staff is working on scheduling a special meeting for Tuesday, May 29, 2006 at 7:30 pm in the Roger E. Hedgepeth Chambers. This special meeting will be a joint session of the Town Council and Planning Commission. A joint public hearing on Ordinance 1450 will be advertised appropriately and conducted on May 29, 2007, after which the Planning Commission and Town Council may consider action.

I have received questions from Town Council regarding the status of site development plans for the proposed South Main Street commercial development project. A traffic study and South Main Street intersection improvement plans were submitted to the Town for review on April 27, 2007 for transportation improvements related to the South Main Street project. No other final site development plans related to the South Main Street project have been submitted to the Town as of today, May 2, 2007. Under the Town Zoning Ordinance, the Town has 60 days to review and approve or deny site development plans.

On behalf of the Town staff, I sincerely apologize for this mistake. Feel free to contact me if you need any additional information regarding this issue.