

Minutes

Northampton County Planning Commission

August 5, 2014

Regular Meeting

Those present were Chairman Dixon Leatherbury, Jaqueline Chatmon, Mike Ward, Sylvia Stanley, and Kay Downing. Also in attendance was Charles McSwain, Director of Development and Peter Stith, Long Range Planner.

A quorum was established and the Chairman called the meeting to order at 7:05 PM.

The agenda was reviewed and amended to move item 3 to follow item 7. A motion to approve the amended agenda came from Commissioner Downing, a second from Commissioner Stanley and all members unanimously approved the motion.

A public hearing was opened by the Chairman for Special Use Permit 2014-08. Wood Lee Terrace Development Co., MCM Cape Charles, LLC, applies to expand an existing 965 gallon per day drainfield to a 2165 gallon per day mass drainfield to accommodate the addition of a 2,580 square foot Veterinary Clinic at 22491 Lankford Highway in the Food Lion Shopping Center. Deborah Guerrero, agent for the owner, and proposed tenant, Nathan Higgins, DVM, both spoke in favor of the proposal. No one spoke in opposition. Commissioner Ward moved to approve the proposal and recommend approval to the Northampton County Board of Supervisors. Commissioner Chatmon seconded the motion. The motion passed unanimously.

The Chairman closed the public hearing portion of the meeting.

Matters from the public -- Ken Dufty, a resident of Northampton County, informed the Commission of his experience in New York State in dealing with administrative hearings. He cautioned that when expert testimony was brought to such hearings they were usually paid and their testimony was usually designed to support the argument of the fee payer. "I could hire experts to say anything," said Mr. Dufty. He urged that the Commission undertake due diligence in its research of facts related to matters before it.

New Business was considered under item 7 of the agenda with the recognition of Mr. Eyre Baldwin for a presentation on ESLAND, his development efforts for Northampton County. Mr. Baldwin read prepared remarks, attached herewith and made a part of these minutes, and occasionally interjected. He urged greater communication among the leadership of the community to talk about the options.

August 5, 2014

Northampton County Planning Commission

Department of Planning and Zoning

P. O. Box 538

Eastville, VA 23347

Dear Planning Commission Members,

I would like to address the Commission members in an effort to clear the air and exchange accurate information regarding: 1). Future uses of the "Harvey" property in Oyster, 2). The "By Right" services that can be offered in a waterfront village according to our current zoning and 3). Future water and sewage issues facing Northampton County. There has been a great deal of misinformation regarding these issues and I feel it would be in the best interest of all concerned parties to take the time to clear up any misconceptions surrounding each of these subjects. I would also like to speak briefly about our small towns and the reason we feel so strongly about investing in them.

For six years now, the speculation concerning the Oyster properties has run the gambit from the simple thought of saving the original structure from demolition by moving it across the street and preserving it for future use, to the extreme rumors that the Baldwin family wants to turn the old building into a hotel or condominiums. Let's talk about the facts. We were fortunate enough to have the opportunity to save this old Oyster dwelling which was scheduled to be torn down by its owners, The Nature Conservancy. The structure was carefully moved across the road, beautifully renovated and it is now a real asset to the village of Oyster, even though to date it sits empty. If nothing else ever happens to turn this wonderful building, (which we call "Harvey"), into a great business location, at least we have saved an unsightly old structure and turned it into a beautiful addition to the Oyster harbor area. The story should not end there.

At this point in our Oyster project, it seems to make the most sense to turn the old, but beautifully restored building into a multi-use business that would serve the needs of the harbor area, attract tourist dollars and provide local jobs. Currently, part of the "Harvey" site is occupied by the Cherrystone Aqua Farm which operates a clam nursery facility. The clam operation has thrived at this location and all expectations for production have been exceeded. After a very successful 2013 growing season, Cherrystone expanded the number of clam tanks at the Oyster location in 2014. This successful pairing has already experienced growth in just one year. The Cherrystone Aqua Farm business on the waterfront of Oyster is a perfect addition to the harbor community.

Other ideas that seem to make sense for the "Harvey" site include a waterfront "Mom and Pop" general store where locals, boaters and traveling tourists can stop in to purchase gasoline, ice, drinks and snacks for their boat ride out on the seaside. With the county owned Oyster Boat Ramp located directly across the harbor, it seems a natural fit for this business to cater to the needs of the hundreds of boaters per month using the boat ramp daily during at least three seasons of the year. With that thought in mind, it would also make sense to sell products related to a day out on the water. These items would include not only gasoline, ice, drinks and snacks, but items such as life jackets, fishing poles, lures, sunglasses, sunscreen and a host of other boating related necessities. The store may also sell marine supplies such as portable gas tanks, boat plugs and small trailer parts. We would like to be able to rent out kayaks to folks who want to come to the area and explore our harbor, marshes and waterways. We have been asked to stock items made by local artists and food products made by local small businesses. These items may include paintings, photography or handmade jewelry by local artists as well as locally produced baked goods, preserved foods and wines. This great old building was originally built to be used as a general store.

It is extraordinary to think that gasoline cannot be purchased in the village of Oyster.

Along with the "Mom and Pop" general store concept, we would like to offer a raw bar or small snack bar for locals and travelers who are looking for a place on the waterfront to sit and eat seafood or a

sandwich with family and friends. On our menu, we would like to be able to offer products grown and harvested on the Eastern Shore and prepared or produced by local talents. In addition to the prepared foods, we would like to sell local oysters and clams as well as fruits and vegetables by the dozen or by the bushel basket to our customers. This type of down home, waterfront business could be a wonderful addition to Oyster and Northampton County. It would benefit local growers and harvesters, increase local employment and again help boost the local economy.

Another idea for the "Harvey" building is the thought that we may be allowed to make a nightly rental unit over the downstairs business area. It would be a space for travelers to spend a few nights at this unique location. This would not be a long term rental space or a condo unit, but just a simple space where travelers can come and stay for a few days, spend their money in our county and leave. This would be a natural adjunct to the harbor.

We are very fortunate that the Nature Conservancy has protected the land that they have protected around this federal harbor. It does not mean that commerce has to end. Currently there is aquaculture, a research community and a recreational community functioning in Oyster, and there is nothing wrong with selling those folks gasoline, a bag of ice, a soda or boat paint from a harbor front business. Think about ecotourism and the simple restrictions that are put on this potentially wonderful project. Clean businesses like ecotourism would be a great fit for the "Harvey" building, but currently I am not allowed to rent out a kayak according to the current county zoning.

This brings me to the second topic mentioned above: The "By Right" services that can be offered in a waterfront village business according to our current zoning. The only problem with this beautiful building, at this wonderful location is the restrictions placed on it by county government. These restrictions do not allow us to realize the full potential of this great opportunity. These current restrictions make it cost prohibitive for us to continue to move forward. The current Northampton County zoning does not even allow us to rent out a kayak or rent a short-stay room from the harbor location.

I am asking the Northampton County governing bodies to work with us to make the "Harvey" building in Oyster a great example of what can happen when private money and local government work together to look towards the future. This is a prime example of how a little forward thinking by our governing bodies could help restore these small, once thriving communities. I am asking this Planning Commission to please work with us come up with a plan for "Harvey" that works for all parties. We are open to ideas, but we are also urging the Planning Commission to help ease the current restrictions that are preventing us from moving forward with a potentially great waterfront village business. I am here today to openly discuss the possibilities. I urge you to think to the future with regard to a project such as this one, which is funded with private money that will benefit not only the owner, but the village and the county. Projects like "Harvey" could be a model for restoring our small towns in Northampton County. We need to work together, move forward and make this business an asset to the village of Oyster, the County of Northampton and the entire Eastern Shore.

The third topic I would like to revisit with Northampton County is the subject of a regional water and wastewater system. We need to take a serious look into the future with regard to the water and sewage issues of Northampton County. How long can a peninsula such as ours, with a limited amount of natural resources, continue to support all of the wells and septic tanks currently in use, as well as future systems, before there are failures of massive proportions? We are all aware that there are water and sewage

issues throughout the county. I would like the opportunity to talk openly with Northampton government officials about the possibility of a regional water and wastewater facility at the Webster site in Cheriton.

This topic was first introduced a few years ago, because of the issues with the Cape Charles water and sewage systems, surrounding areas with substandard water & sewage systems and the need for water & sewage systems for current businesses and future business growth. The problems with the Cape Charles water system have existed for many years. I would like to reference the water study presented by Elaine Meil of the Accomack-Northampton Planning District Commission of June 30, 2014, in which she notes that the water quality issues of Cape Charles are just as bad as they have ever been and getting worse. The wells in Cheriton, at the Webster site, are not affected by the water issues that plague Cape Charles. Studies have shown that the Webster site is sitting on top of the deepest part of the aquifer that runs under this county.

Another reason to explore the possibilities of a regional water and wastewater system is the future of the small towns in Northampton County. Our small towns are currently struggling to stay alive. These towns represent perfectly good subdivisions, so why do we want to go out and destroy a good crop producing field or forest to put in the infrastructure for growth? Why continue to ruin our fields and make land unproductive when we have towns that already have infrastructure in place and we are abandoning them.

Thinking ahead to the future of Northampton water and sewage needs, I urge the Planning Commission take a serious look at the possibility of a regional water and wastewater system at the Webster site in Cheriton. Here is an answer that solves the issues of Cape Charles and other towns in this county. For instance, in what the county calls the Southern Node, from Eastville to Cape Charles, the towns & hamlets could be serviced without promoting highway development. We are not opposed to any person, township, organization or Northampton County, helping us develop a regional and practical system that works for all individuals, towns, hamlets and businesses in Northampton County. We are open to ideas. I urge the decision makers of this county to revisit the installation of a regional water and waste water facility. The Webster site in Cheriton is the perfect place for such a facility as was pointed out in studies eight years ago. All of the information regarding this topic that was given to the county at that time, still holds true today.

Finally, I think it is very important to talk about the small towns in Northampton County. Our small towns need all of the help they can get just to survive. I think we would all like to see our towns not only survive but thrive. We must come up with new ideas to help our small towns to repair, renew and grow, so that they will continue to exist for future generations. These small towns are part of the fabric of who we are. We all need to concentrate on renewing and strengthening our main streets and responsibly managing business growth on Route 13 with the emphasis on saving these one to two hundred year old subdivisions.

In closing, I would like to thank you for your time. I look forward to working with you in order to realize some of these goals. How do we move forward together and arrive at a time when I can rent a kayak in a seaside waterfront village in Northampton County? Will you help me realize the full potential of this property in a timely and cost effective way? I want to invite you to come to "Harvey" in Oyster. Don't listen to the speculation, come see the facts and look at the effort for yourself.

Sincerely,



Eyre Baldwin

Commission Ward asked Mr. Baldwin to review the proposed zoning code and determine if it provided him the ability to open the businesses that he proposes. Mr. Baldwin said, "Yes, we will get that to you."

A second item, 7.B., of new business regarding language to add to the proposed zoning code related to protection of ground water resources in conjunction with design of stormwater management facilities (BMPs) was discussed. Commissioner Ward indicated that the use of the word "and" before the last phrase was troublesome. He proposed changing the word to "or." With that amendment the recommended addition to §154.1-614 was moved for adoption by Commissioner Chatmon and seconded by Commissioner Ward. The motion passed unanimously.

The minutes of the April 1st meeting were reviewed and Chairman Leatherbury noted a change to his reported comment. With such amendment the minutes were moved for approval by Commissioner Ward and seconded by Commissioner Stanley. The motion passed unanimously.

The minutes of April 16th and 23rd were tabled by the Chairman for clarification of motions and votes by use of the meeting tapes whereupon they will be resubmitted to the Commission at its next meeting.

Unfinished business was pursued with consideration of information related to land use controls that can benefit coastal water quality. Commissioner Ward summarized a report developed by he and Commissioner Chatmon, attached herewith. They researched the existing practices of counties and states with regard to land use and water protection. Commissioner Ward noted that there was a variety of land use regulation in place and most appeared to focus on property protection from water damage during storms rather than protection of coastal water quality. He also observed that the types of regulations were dependent upon the priorities of the area. If tourism was most important then there would be a focus on recreational water quality for example. If an industrial harbor provided the mainstay to the economy then the ability to create wharfs becomes most important. In short he said, "The regulations are political." He also observed that wide lot widths on the waterfront can have the effect of pushing development closer to the edge of the shore given any particular size of parcel.

Chatmon Ward Report:

At our last work session, Commissioner Chatmon and I agreed to do some research on the scientific basis for certain land use regulations relating to coastal development or water quality in other states and counties for the purpose of helping the Commission in formulating questions to be asked of selected scientists. Based upon the preliminary research of other comprehensive plans and zoning ordinance, we decided that because of the differences in objectives and approaches, it would be best for me to write a summary of what some other areas are doing before contacting other commissions, so that we could decide what our objectives were.

To help expedite our discussion, what follows is a summary of some of the rules and regulations in other states. Any law or ordinance, especially one setting standards, is going to be complex, often include multiple variables and exceptions, be lengthy, and so for the sake of brevity and

comprehensibility, I am describing standards in their most basic and simplistic form in order to illustrate the fundamental basis or objective of the various jurisdictions. I had begun to make a chart illustrating the differences, but there were just too many variables, not only between states, but within state, to make it comprehensible or comprehensive.

Summary. *States and counties use a variety of criteria to create their coastline policies, and the question of how the criteria in each jurisdiction was established and what science was used is relevant to us only if we are trying to achieve the same objectives and share the same priorities. Alternatively, it must be realized that states and counties are in competition with each other to accommodate, attract and/or retain industries and tourists, making it useful to know what is permitted or prohibited and on what terms in other areas.*

Including the Great Lakes, there are 33 states and territories with a coastline. The involvement of the state, as opposed to the county, varies significantly. In some states, standards or at least minimum standards for shoreline development are set by state agencies, while in others, the authority is delegated to local government units, and in other cases, it may be a combination, or the local standards must be approved by a state agency.

Twenty five states establish some kind of no-build area adjacent from the coastline. In some instances, these relate only to new development, but in others they may ban or limit redevelopment. The basis for the most common form for establishing the size of a no-build area is to use a multiple of the annual erosion rate, as measured from some set reference points, such as the mean high or low tide line, vegetation line, crest of a dune, bluff, beach, or other physical characteristic, or some elevation measurement or feature. One state (Alabama) uses something called plane coordinates, which was totally indecipherable to me.

In practice, this method works by selecting a feature, such as the crest of a dune or the high or low tide line, and then prohibiting any development within 10 times the annual erosion rate, which would be periodically calculated every few years to reestablish the base line. Maine is the only state that incorporates sea level rise as one of the criteria. Some states have established a higher ratio, normally for general zones of as high as 90 times the annual erosion rate. This results in a setbacks that range from 20 feet to, in one instance, I think I recall 300 feet, but right now I can't find that. Within an individual state, there may be different zones having their own unique standards, or counties establishing different standards. In Pennsylvania, along Lake Erie, the no build zone is a multiple of the average annual rate of bluff recession times the appropriate structure life span, with residences deemed to have a 50 year life span, commercial buildings having a 75 year life span, and industrial buildings have a 100 life span. One basis for the variability is the accuracy of the estimated rate of erosion over time. For example, predictions as to the extent of sea level rise by 2050 vary by only 1.6 feet, while those for 2100 vary by 5.9 feet. So using the shorter term predictions allow for somewhat more certainty, and by reassessing the reference point periodically, the baseline can be adjusted accordingly, while still allowing for development. Also, there are different regional characteristics, such a vertical

land movement and changes in dynamic regional ocean circulation that could affect a state's calculation in establishing the no-build areas.

Another methodology is to use a linear unit of measurement from a specific reference point. In New Hampshire, the no build zone is 50 feet landward of the Primary Building Line, which is the highest observable astronomical tide chart. Connecticut and Maryland also use a linear unit of measurement, both of 100 feet.

There are provisions for allowing variances or exceptions, ranging from such common standards as allowing infill if there is an existing row of structures, to unique characteristics of a lot, and in some instances, allowing re-nourishment of a beach in order to move a proposed structure forward. Another variable is the size of the structure. For example, in North Carolina, the no-build zone for a structure of less than 5,000 square feet is 60 feet or 30 x the erosion rate, whichever is greater, from the first line of stable vegetation, 120 feet or 60 x the erosion rate for structures between 5,000 and 9,999 feet, and incrementally increasing to 180 feet or 90 x the erosion rate for structures greater than 100,000 square feet. In Hawaii, which has a general no-build zone of no less than 20 nor more than 40 feet, the requirements for structures in the Conservation zone vary with the depth of the lot, with structures on lots with a depth of more than 200, the landward no-build area is 40 feet from the reference point plus 70 times the annual erosion rate, while lots with less than a depth of less than 200 feet have a no build of between 40 and 90 feet. One important consideration affecting the size of a no-build area is a Supreme Court decision that in effect states that if a zoning requirement deprives the owner of the all use of the property that is a "taking", requiring compensation from the state.

There are also significant variations among the states or counties as to what can be built behind the no-build zone. Generally, the lot size requirement is small. For single family residences, many minimum lot sizes are from 6,000 to 10,000 square feet, and some have larger lot requirements for multi-family and commercial structures. One obvious variable is whether the general area has central water and sewers. It's quite common, however, for the various jurisdictions to allow accessory buildings to be built in a no-build area.

The basis for standards based on an erosion based ratio is the result of a 1990 National Academy of Science report, which contained recommendations for areas subject to erosion. The report recommended that no new development be allowed landward of 10 times the annual erosion rate. I have not read this report because it's not available online, but anyone wishing to understand the science behind this recommendation can purchased it online for \$60.

For the Commission's purposes, the question arises as to how does all this relate to water quality. It doesn't. That is because the primary purpose of many land use regulations along the coastlines has little to do with preserving or improving water quality. The main purpose is often addressing erosion and protecting property.

In most states, coastal land use regulations are based on the requirements of the Coastal Zone Management Act of 1972. This act was adopted to encourage states to "manage coastal

development to minimize the loss of life and property caused by improper development in flood-prone, storm surge, geological hazard, and erosion-prone areas and in areas likely to be affected by or vulnerable to sea level rise land subsidence, and saltwater intrusion, and by the destruction of natural protective features such as beaches, dunes, wetlands and barrier islands.” The act is administered by the National Oceanic and Atmospheric Administration’s Office of Ocean and Coastal Resources, with the purpose of providing leadership, direction and guidance to the states. States which had developed coastal management plans administered by the state or local government, depending upon the state law, which has been approved by NOAA become eligible to receive various types of federal assistance to implement their plans. The Clean Water Act is administered by the Environmental Protection Agency and has a different objective, and many states treat water quality apart and distinct from zoning and land use.

While these two acts are seeming non-conflicting, how an individual state or county creates or implements the Coastal Zone Management Act can have a significant impact on water quality along the coast. In reading many of the comprehensive plans and zoning ordinances in these multiple states and counties, it seems to be, and this may be the result of my being skeptical of legislative intent or cynical, that the Coastal Zone Management Act, in achieving its primary objective of trying to minimize property loss and erosion, often has a secondary objective of promoting and protecting the major economic interest in that area. For example, areas where there are large harbors and especially ports, are interested in preserving navigation, and so their regulations may have a subtext of preventing any activity in the water along a coastline that may interfere with navigation. This may be also true in areas where recreational fishing, as opposed to commercial fishing and aquaculture, is predominant, creating conflicts over public access to nearby coastal waters and docking facilities, as well as to the cost of the use of those facilities. Areas where tourism is a major economic driver may want to preserve water quality for recreational uses, but not commercial uses, such as aquaculture. It may also affect the size of the no-build area near beaches and minimum lot sizes or what accessory structures may be built in the no-build area. Other areas may allow agricultural activities to occur in the no-build area. States where timber is a major industry tend to have much stronger requirements for vegetative buffers than tourist areas. One state has a setback of 50 feet for streams, but 100 feet if it has been designated by the state as a trout stream. In other instances, some states had different standards for oceanfront setbacks and wetland setbacks, and even different standards for various types of wetlands. Nashua, New Hampshire has 3 categories of wetlands, with “primary wetlands” having a no-disturb zone of 75 feet, critical wetlands having a 40 foot zone and other wetlands over an acre having a 20 foot no-disturb zone.

Another variable is a setback beyond the edge of the no-build zone. Maine, for example, regulated all land within 250 feet of the edge of all wetlands larger than 10 acres, and requires that a “natural vegetated state” be established for the first 50 feet.

I have also looked at some research that may have been cited in other jurisdiction’s Comprehensive Plan, which was rare, and when it was, most of the studies concerned wetlands

rather than coasts, and were primarily concerned with wildlife. All however stressed the importance of considering such variable features as objective of the buffer, amount and frequency of human disturbance, soil type, slope, vegetation, pollutant type and dose, flow patter, size of buffer, precipitation patterns, wildlife and the type of wildlife, turbidity, temperature, surrounding use, amount of impervious surface, wetlands type and often size and enforcement.

There were a couple of interesting and relevant charts, which I have included.

Table 7. A summary of pollutant removal effectiveness and wildlife habitat value of vegetated buffers according to buffer width. The stepwise increments are adapted from Table 5 and Table 6, and reflect changes in pollutant removal effectiveness and wildlife habitat value according to width of the vegetated buffer. [1 meter = 3.28 feet]

Buffer Width (m)	Pollutant Removal Effectiveness	Wildlife Habitat Value
5	Approximately 50% or greater sediment and pollutant removal	Poor habitat value; useful for temporary activities of wildlife
10	Approximately 60% or greater sediment and pollutant removal	Minimally protects stream habitat; poor habitat value; useful for temporary activities of wildlife
15	Greater than 60% sediment and pollutant removal	Minimal general wildlife and avian habitat value
20	Approximately 70% or greater sediment and pollutant removal	Minimal wildlife habitat value; some value as avian habitat
30	Approximately 70% or greater sediment and pollutant removal	May have use as a wildlife travel corridor as well as general avian habitat
50	Approximately 75% or greater sediment and pollutant removal	Minimal general wildlife habitat value
75	Approximately 80% sediment and pollutant removal	Fair-to-good general wildlife and avian habitat value
100	Approximately 80% sediment and pollutant removal	Good general wildlife habitat value; may protect significant wildlife habitat
200	Approximately 90% sediment and pollutant removal	Excellent general wildlife value; likely to support a diverse community
600	Approximately 99% sediment and pollutant removal	Excellent general wildlife value; supports a diverse community; protection of significant species

Figure 8. Relationship of percent removal to buffer width for the treatment of phosphorus contained in surface water runoff. An approximate increase in vegetated buffer width by a factor of 2.5 is required to achieve a 10 percent improvement in removal of phosphorus. The most efficient vegetated buffers, based upon width-to-removal ratios, will be about 75 meters in width, after which large additions of buffer width are required to achieve only small increases in phosphorus removal efficiency. The modeled line is: % removal = [(10.3 * ln(width in meters)) + 34.1]. Data are taken from Table 4. [1 meter = 3.28 feet]

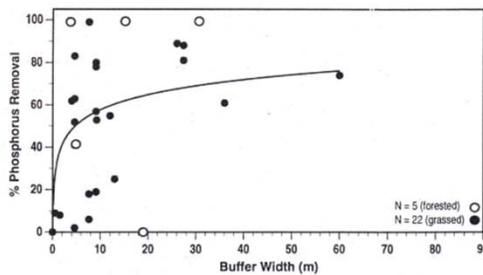


Figure 7. Relationship of percent removal to buffer width for the treatment of nitrate contained in surface water runoff. Unlike the other modeled pollutant removal-to-buffer width relationships, that for nitrate is suggested to be inappropriate. Nitrate is typically removed by biological processes rather than through physical and chemical means, and the variables that control denitrification may better determine the removal of nitrate in vegetated buffers than does buffer width. Data are taken from Table 4. [1 meter = 3.28 feet]

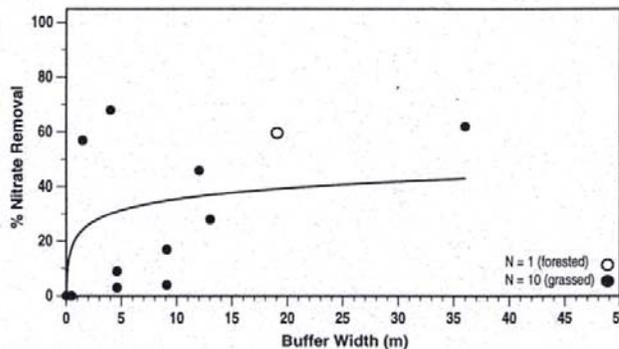
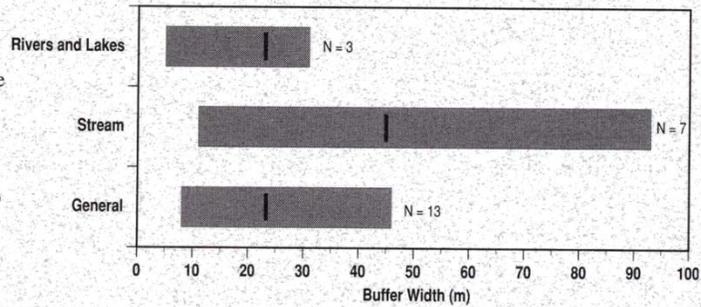


Figure 3. A range of vegetated buffer widths reported in the literature to be adequate for the protection of water quality in various water body types. The range represents buffer widths noted in the literature, as reported in Table 3. The General category contains buffer widths that were reported to protect water quality, but were not specific to a type of water body. The heavy line contained in the bar represents the mean of the data that make up the range. [1 meter = 3.28 feet]



Loss of all surrounding upland habitat will result in significant impacts to wetland wildlife

Science cannot answer the question: what size buffer?

Setbacks and buffer zones are political decisions that can be informed by science

Regulatory buffers are insufficient for protecting many wetland wildlife species

Again, while this presentation was focused on buffers as a means of protecting wildlife, the authors' conclusion wasn't that encouraging.

<End of Report by Chatmon and Ward>

Commissioner Coker provided a report, inserted hereafter, regarding her contact with Virginia Department of Environmental Quality staff.

August 5, 2014

Evaluation of Chesapeake Bay Preservation Act

At our last Planning Commission meeting, the Chesapeake Bay Preservation Act (CBPA) was discussed. Commissioners were charged with contacting various entities to elicit input regarding how they address seaside protections. The parties listed as contacts include other states, such as Maryland and North Carolina. Two Planning Commissioners plan to contact "some other Planning Commissions". It is not clear which municipalities would be contacted. Old Dominion University was mentioned as a University contact but my recommendation to include the Virginia Institute of Marine Science was discounted. No

comprehensive list of stakeholders was developed. No goals pertaining to the calls were established. I am concerned about this approach being unfocused.

In an attempt to obtain guidance about the best means to evaluate/revise an ordinance, I contacted DEQ. I spoke with Joan Salvati, of the Virginia Department of Environmental Quality (DEQ), on 7/30/2014.

The question I posed to Ms. Salvati was “What, in her experience, is the most effective means of evaluating an ordinance and/or developing an ordinance?”

Ms. Salvati stated that the most effective manner in which to address such an issue is to:

- 1. Gather information*
- 2. Convene Stakeholders*
- 3. Identify the objective*
- 4. Give the group a charge*
- 5. Develop a problem statement*
- 6. Have the group identify an objective*
- 7. Have the stakeholders identify strategies to achieve the objective. The group could consider questions such as*
 - a. “What works with the current application of the CPBA?”*
 - b. “What about the current application of the CPBA presents a problem for you?”*
- 8. Staff should develop a proposed ordinance to consider*
- 9. The output should then go through the public approval process*

The current phase perhaps could be considered “gathering information”. I think that having some expert input on information to elicit would be beneficial. Right now, it seems haphazard, at best.

I do hope that the Commission will plan a process that will guide progress on consideration of this very important issue.

Martina Coker

The Chairman asked the Commission for any other thoughts and there was none. He then announced a short break at 8:30 PM.

The Chairman called the meeting to order again at 8:43 PM.

Resuming the conversation on the protection of coastal water quality, Commissioner

Ward noted that in his readings he took particular interest in areas where oysters were predominant. He found that some Western U.S. states were dealing with the effects of Chinese coal plant discharges. South Louisiana oyster farms were impacted by offshore oil spills. Apalachicola Bay oysters suffered due to the lack of fresh water released through the Chattahoochee River due to the high consumption rate

in the Atlanta region. Often the problems of fisheries are due to either natural or exogenous impacts beyond local control and more specifically local land use control.

Chairman asked the Commission, "How should we proceed with this exercise regarding the Chesapeake Bay Protection Act being applied to the Seaside?" Commissioner Ward asked in response, "What are the priorities? What compromises should be made?" He noted from his team report that a buffer of 75-100 feet makes sense to control pollution discharge. Beyond 100' is found to be habitat beneficial, but do we want to encourage habitat that has historically contributed to fecal pollution of coastal waters?

Chairman then asked staff how much land was already under conservation land use and asked staff to research this. Commissioner Chatmon asked, "Outside of the Eastern Shore, what other municipalities have concerns for water quality on both bay and seaside?" Commissioner Ward responded that Worchester County has a 100 setback on the seaside. He noted that the North Carolina seaside use an erosion ratio setback.

There being no further discussion, the Chairman opened the next agenda item for review of the Comprehensive Plan update, Part I Section III, The Land Use Plan.

There was consensus from the Commission to remove language in Section 2.2.2.1 Rural/Agricultural Area Land Uses (e) "subject to special permit review and". Commissioner Chatmon moved to remove letter (f) in that same section and with a second from Commissioner Ward, the motion carried.

There was consensus to remove (b) from Section 2.2.2.3.

The Commission discussed the differences between Hamlets and Villages and whether they should be one district. It was agreed to compare both districts side by side in advance of their work session on August 20th.

The staff report below was presented to the Commission.

MEMORANDUM

TO: Northampton County Planning Commission

FROM: Peter Stith, AICP
Long-Range Planner

SUBJECT: August Staff Report

DATE: July 29, 2014

1. Board/Town Action on Zoning Matters: There were no matters before the Board related to zoning at their regular July meeting.
2. Proposed Zoning Code: The Board of Supervisors held a work session on July 28th to continue their review of the proposed zoning.
3. Comprehensive Plan Review: Continue to review and update sections accordingly. I have started reviewing and updating the Part II data sections with more recent data. It has been a year since the Part II sections were sent out to the PRSG and CPAC and staff would recommend including the

updated Part II sections along with the Part I sections, once they are ready to send out in advance of reconvening both groups.

A resignation letter from Commissioner Coker was read into the record.

August 5, 2014

Please read this letter at the August 5, 2014 meeting of the Planning Commission and enter it into the public record.

I am resigning my position as Planning Commissioner, effective immediately.

I can no longer serve in good conscious, given the flawed processes we are working under.

I continue to be dismayed at the manner in which the Zoning Ordinance was developed and proposed, without any public input or analysis of data which could support proposed changes. The changes that are proposed may have a significant detrimental effect on residential property values for the citizens of the County. The proposed ordinance strips property owners of their rights to maintain their property value by eliminating the Special Use Process for virtually all uses, many of which could decimate property values and adversely affect the quality of life of citizens of this County. I have written previously about the ways in which the proposed Zoning Ordinance does not meet the intent of State Code and is inconsistent with the Northampton County Comprehensive Plan. I will not reiterate that here, as it is part of the public record already.

The statements of a fellow Planning Commissioner, Mike Ward, are of particular concern to me. The Planning Commission is now working to finish an update of the Comprehensive Plan, which was put on hold so that we could make a desperate attempt to review the proposed Zoning Ordinance in a ridiculously short period of time. During our review of the Comprehensive Plan, Mr. Ward has stated that we should work to have the Comprehensive Plan fit into the proposed Zoning Ordinance. This is absolutely not the appropriate approach and I have grave concerns with the fact that a Planning Commissioner holds that view.

I appreciate the opportunity to have served my fellow citizens and I have done that to the best of my ability.

Martina Coker

Commissioner Ward stated for the record "I disagree with Commissioner Coker's statement. I think the Commission should consider all ideas."

The Chairman noted that Ms. Coker will be missed. "She always came prepared and had things to say."

There was discussion about filling the vice chair position left by Ms. Coker at the September regular meeting.

With a motion from Commissioner Downing and a second from Commissioner Chatmon, the meeting was recessed until August 20, 2014.