

Northampton County Planning Commission

Regular Meeting

October 7, 2014

The members present: Dixon Leatherbury, Jacqueline Chatmon, Michael Ward, Mark Freeze

Absent: Kay Downing and Sylvia Stanley

Also present: Peter Stith, Long Range Planner and Nyoka Hall, Recording Secretary

The meeting was called to order and a quorum was established. The agenda was reviewed and accepted as presented with item E&D being reversed in order

Peter Stith Read the Public Notice into the record. The following three public hearings were held concurrently.

A. Zoning Map Petition 2014-02: Kiptopeke Villas, LLC has applied to rezone property containing 35,501 square feet of land from Hamlet, (H) to Commercial, (C-1) for the purpose of building and operating 12 efficiency type motel units to be used as a principal multi-family attached dwelling unit – apartments for workforce housing in the off season. The property is described as Tax Map 112, double circle A, parcel 69, located in Kiptopeke.

B. Special Use Permit 2014-09: Kiptopeke Villas, LLC has applied to construct and operate a principal multi-family attached dwelling Unit – apartments. The property containing 1.52 acres of land, is described as Tax Map 112, double circle A, parcel 69, is zoned H, Hamlet, and located in Kiptopeke.

C. Special Use Permit 2014-08: Kiptopeke Villas, LLC has applied to construct a mass drainfield to serve the proposed principal multi-family attached dwelling unit - apartments to be located on parcel 69 of tax map 112, double circle 6. The drainfield will use two parcels containing 1.5 acres of land and is identified as Tax Map 112, double circle 6, parcel 4 and Tax Map 112, double circle 6, parcel 3 and are zoned H, Hamlet, and located in Kiptopeke.

Bill Parr, Agent for Kiptopeke Villas referenced a number of 454, 479, which is the number of visitors that came and went to Kiptopeke State Park. This figure came from an Eastern Shore News article dated January 29, 2011. Mr. Parr noted the purpose of the application is to construct a 12 unit motel. Adequate screening will be used to ensure the property is properly landscaped and shielded from view. The apartment aspect is seeking to fill vacancies in the off season and possibly provide temporary housing for those working professionals in the community that may be in need of housing. The structure will be high quality and does not seek to primarily rent apartments or create section eight housing. Historically the parcel was zoned as commercial and is surrounded by roads. His presentation referenced the activities conducted in Kiptopeke State Park as being commercial use, which has established the character of the surrounding area long before the neighborhood was established. Kiptopeke State Park is under the control of the State of Virginia and does not have to adhere to the regulations of the County. The Park has recently published its 2014 master plan which involves the construction of more lodging to meet the increasing demands of those seeking to stay at the park. The Park presently has an 11 million dollar impact on the local community, which clearly denotes a commercial operation. He asked that the Planning Commission and staff be permitted to do their jobs as they will ensure that no one is given anything that they should not be granted.

In Favor:

Deborah Hill – Has 3 properties near Kiptopeke with one being rather close to where the proposed hotel will be constructed. There isn't a problem if it will be nice. Don't want thugs hanging out. She's been a resident for 13 years and there does need to be something here.

Commissioner Ward asked why the applicant chose twelve units versus ten. Mr. Parr answered the cost of the project and land was a driving force in that decision. Commissioner Ward also noted that the applicant would have greater setbacks to contend with if the zoning changes from Hamlet to Commercial. The applicant noted that the project would possibly have to be reconfigured if that became an issue.

Against:

Terry Ramsey – Read the following letter into the record.

**Northampton County Planning Commission Hearing Tuesday, October 7, 2014
Opposition to Zoning Applications 2014-2, 08, 09 by Kiptopeke Villas, LLC**

We the undersigned oppose Zoning Map Petitions 2014-2 and Special Use Permits 2014-08 and 2014-09 by Kiptopeke Villas, LLC (applicant) which are scheduled to be heard at the meeting of the Northampton County Planning Commission on Tuesday, October 7, 2014. Our reasons are listed below.

1. Zoning to C-1 should not be granted because the County has only created one Commercial C-1 district, the areas south of Cheriton. The County's Comprehensive Plan shows no other C-1 districts planned. Granting C-1 to this single parcel which is in the middle of a residential, agricultural, and conservation/area would in effect be spot zoning for the benefit of the applicant rather than for the overall benefit of the County's citizens, taxpayers, and nearby property owners.
2. Granting the requests would establish a risky precedent both for the Kiptopeke Drive area and the County as a whole. For example, there are other vacant lots on Kiptopeke Drive and nearby zoned Hamlet. Granting the applicant's requests set a precedent to allow inappropriate commercialization either by zoning or special use permit both along Kiptopeke Drive and elsewhere.
3. If C-1 zoning were granted, the applicant could use the property for any other allowed C-1 purpose without further zoning action. Many of the C-1 uses are not appropriate for the subject properties.
4. The proposed requests appear inconsistent with the description in the zoning code for Hamlet which is to recognize a small rural settlement of historic or cultural significance. We have such a small settlement along Kiptopeke Drive and the only problem is that temporarily there are vacant lots due to the current economy. Our "Hamlet" is the neighborhood that serves as the gateway to leading to the beautiful Kiptopeke State Park. Lots were purchased and homes built to live in such a neighborhood, not to be spoiled by commercial encroachment.
5. The current view driving down Kiptopeke Drive to the State Park presents a pleasant visual experience of nice residential homes, large lots available for building, farm land, and conservation land. The State Park maintains the right of ways along Kiptopeke Drive and it appears as an extension of the park. The proposed changes would both encourage and allow signage that would detract from the visual experience approaching the State Park.
6. Considering that the Kiptopeke Inn recently closed apparently due to lack of business and other nearby motel/hotels on Route 13 have many empty rooms during the prime seasons (practically vacant in off season), it does not appear that the motel/hotel use is economically viable. Also, if the expectation is for people visiting the State Park, this would likely include fishermen with boat trailers. The applicant makes no provision for parking boat trailers. Public parking is currently permitted on Kiptopeke Drive. However this is not a safe alternative as would create a hazard for the current bike/walking path along Kiptopeke Drive. Boat trailer parking would not be appropriate on the sewage lots. Therefore it appears that the multi-family apartment unit proposal is the more economically viable, however such small units and intensive use is inconsistent with the surrounding properties, current zoning, and the County's Comprehensive Plan.

**Northampton County Planning Commission Hearing Tuesday, October 7, 2014
Opposition to Zoning Applications 2014-2, 08, 09 by Kiptopeke Villas, LLC**

7. Economically the proposed changes could adversely affect county tax revenue. Granted, the proposed building may generate some immediate tax revenue, but at the expense of surrounding residential lots. In time, valuable homes will be built on the vacant lots. The proposed zoning would detract from the values of the current and future homes. With the empty motel/hotel rooms on Route 13 there is risk that the proposal is not economically viable and the County will end up with an empty "eyesore" and potential foreclosure. With a little patience and zoning protection, valuable homes will be built on the empty lots when the economy recovers and the County offers ready access to high-speed internet.
8. Applicant makes arguments based upon inconsistent comparisons. For example it is inconsistent to compare the expansive 562 acre Kiptopeke State Park to a 1.5 acre lot which must encroach into an established subdivision to turn residential lots into sewer lots. Similarly the example the applicant provides of a motel from 1960's which has long closed is not relevant to current rezoning or a Comprehensive Plan 50 years later.
9. The proposed sewer lot use for Tax Map 112-6-3 and 112-6-4 is inconsistent with deeded restrictions for the Cedar Grove Landing Subdivision that no lot be used except for residential purposes. Even though the zoning laws do not recognize subdivision restrictions, fairness should be provided to property owners who purchased the properties with restrictions and the additional assurances from the County's Comprehensive Plan and zoning that the surrounding properties would retain the residential character and not be converted by either zoning or special use to commercial.
10. We take issue with the following statements in the Joint Staff report.
 - a. The statement on page 3, item 3, following heading of Statement of Justification is incomplete as only mentions parts of VA Code 15.2-2283 and -2284 that are favorable to the applicant's requests. It fails to mention the code sections which are not favorable. For example, section 15.2-2283(iii) "to facilitate the creation of a convenient, attractive and harmonious community." The Kiptopeke Drive community as the gateway to the State park is such a community that should be protected. The lead into section 15.2-2284 states "Zoning ordinances and districts shall be drawn and applied with reasonable consideration for the existing use and character of property, the comprehensive plan, . . ." The applicant's request is inconsistent with both of these.
 - b. On page 3, item 3, following heading of Statement of Justification is incomplete as it fails to mention safety to the current walking/bike path and insufficient parking for boat trailers. Please note page 6, the first page with a picture, there is the following note: "The additional motel/hotel use would promote tourism by providing additional lodging at the entrance to the park as well as close proximity to the bike trail." The Staff report did not recognize the associated safety issues.

**Northampton County Planning Commission Hearing Tuesday, October 7, 2014
Opposition to Zoning Applications 2014-2, 08, 09 by Kiptopeke Villas, LLC**

- c. On page 4, item (c) concerning consistency with the County's Comprehensive Plan does not appear balanced because does not mention negatives to the proposal provided in 2.2.3.1 Hamlet Land Uses: "a. The most appropriate land use in Hamlets is residential infill in a traditional small-lot pattern, consistent with existing residential development, . . ." and "c. Rezoning to allow higher density or intensity uses at the edge of Hamlets is not recommended unless all of the following criteria are met: (i) any new development will be designed, built, and sited to be compatible with the existing character of the area, including but not limited to the style of the buildings in the Hamlet." The applicant's request is inconsistent with these.
- d. On page 4, item (d) states "The applicant has indicated the proposed building will be consistent with structures located in the state park." However it fails to mention that once rezoned there would be no restrictions that the proposed building must be consistent with the State Park.

please hear our voice in strong opposition to the proposed change in zoning

Page 1 of 1

From: norman and sandy <nbunting@mchsi.com>
To: Terry Ramsey <riverramsey@AOL.com>
Subject: please hear our voice in strong opposition to the proposed change in zoning
Date: Sat, Oct 4, 2014 5:14 pm

Norman and Sandra Bunting owning property # 29357 on Arlington Rd. near its intersection with Kiptopeke Rd. wish to have our strongest objections to the request for zoning change being made by Parr Properties recorded along with other thoughtful "SINGLE FAMILY HOMEOWNERS". I have read and agree to the arguments presented by Mr. Terry Ramsey in total. Unfortunately am unable to attend the meeting with county officials Tuesday evening, but plead with North Hampton County Officials to deny any and all rezoning requests that would forever alter our neighborhood of single family homes.

Justin Wheeler 29369 Stuarts Way – the applicant has another hotel that is less than 5 miles away from Kiptopeke that failed and was foreclosed on. The Kiptopeke area does not receive nearly as much traffic as route 13. You do not construct commercial businesses in a residential area. The project will degrade the area. It's unreasonable to alter the zoning to suit the request of one person. Which is it? A motel or apartment and what type of leases will be offered? Work force housing, -- teacher, policeman, nurses. Teachers look for housing long term for the year. The traffic will pose a hazard to the residents, birdwatchers and bikers that use the park. This will introduce a host of visitors that will have no regard for the community. He asked that the application not be approved.

Thomas Carlisle – Lot 7 at the corner of Kiptopeke and Arlington Drive. Has been coming to the Shore for 35 years. He enjoys the park and fishing. This project would be an eye sore and would simply degrade the entry of the state park. He will sell his property if this application is approved. He plans to build a retirement home in the next two years and it will be right next door to his property. If this application is approved, he will not build on his property.

Frank Benthall – 29298 Stuarts Way. He had concerns as there used to be a gas station and a garage. Has an environmental study been done on the site? Angelo Manuel spoke saying “Everything has been removed from the site. He can't see why a 12 unit apartment will offset a 750k investment. It's going take more than \$250 per night to pay off that kind of a loan. The applicant states that it will protect the aquifer, but what will be done to protect the groundwater from the sewage that will be located in one area. Also this proposal will not provide much employment. There will only be about two to three people employed. As for the 454, 479 trips, one hundred of those trips were him as he's a resident of the area. He asked the Commission to not approve the application.

Christine Snook – Read a letter into the record and it's attached to the minutes.

Kim Butler – 29391 Arlington Road, directly across from the 2 locations in question. Rezoning to allow higher uses of hamlets is not recommended. It should be compatible with existing style of buildings and the overall character of the area. The motel/hotel renderings do not look like any building in the area. Doubtful that workforce with families will not live in a one- room efficiency type hotel. There are no other hotels or motels that are in full occupancy as economic times are slow. In closing this motel/hotel is not a good fit for the residential community and will only devalue the area. Full disclosure of the project and all involved should be provided to point out a pattern of developers that come in and leave us holding the bag.

Pat Eubank – Owns three properties in Northampton in the Kiptopeke district. She said Ditto to those who spoke in opposition of the project. It's a beautiful park. Would hate for the county to rezone and then have this project fail. No idea why police, nurses, or teacher would be labeled as transient as they are part of the community and need a single family style set up. This rezoning to commercial opens the area to be used for many other uses beyond what is being proposed. Why are they not satisfied with the number of units permitted in the Hamlet zone? She asked that the application be denied.

Mark Freeze asked the audience when most of them purchased their property. Most of them responded 2008, 2011.

Larry Holsinger – Owned property at Cedar Grove Landing now for 10 years. Bought for retirement and planned to move to the shore. Has signed the petition objecting to the project. Has a huge investment in the property and would have to reconsider what he may do if the application is approved. Find it very appalling that the same person who sold the lots is now submitting a petition that violates the covenants that were put in place.

Katherine Orst – 29315 Arlington Road and purchased a lot in 2007 and moved in the home in 2008 and the economy was a bit better then. Her home has been devalued due to the economy and feels that this project will

devalue it more. She doesn't want the proposed project there and hopes that the application is denied. She hopes that the Commission takes the communities comments in consideration and not just one person.

Robert Pfund – *Resides in Kiptopeke Condos. There are nineteen units and five of them are rented on an annual basis and two are rented weekly of which the owner occupies on a part time basis. The income from the rental units has not been full time during the summer. Teachers lease for a year and then move on and these are three bedroom units. There has been no need for anyone to rent in the off season, whether it be hunters, vacationers, etc. The vast majority of owners are not in favor of the proposed project due to further devaluing the property. It would be a struggle to find occupants for the proposed project at this time.*

Commissioner Ward asked Mr. Pfund how many people lived there full time and Mr. Pfund responded fourteen.

Gary Gordon – 29496 Lucille's Lane. We have been coming down here for 30 years fishing and loved it. Bought a home and can walk up and down the streets without a lot of traffic. Feels this proposed project would cause traffic and crime when it becomes commercialized.

Deloris Lindsey – *4211 Kiptopeke Drive. The proposed hotel should be located along rt. 13. There are hotels nearby now that aren't at full capacity.*

Mr. Parr stated that the Kiptopeke Condos were created by a declaration and subdivision plat recording in February 4th, 2003. The Condos were zoned Community Development Commercial General (CD-CG) and had nineteen units. The Kiptopeke Landing subdivision was recorded on September 28, 2004 with 7 lots in phase 1 and the rest came later in 2005. During these recordings the triangle piece of property was in existence and zoned commercial and everyone knew it. Cedar Grove Landing was recorded in October 13, 2004 and created eight lots of which two are owned by the applicant. The fact that their properties were developed around a commercial piece of property should be meaningful to the Commission. Most of the concerns or issues brought forth tonight are incorrect or irrelevant to what is proposed. The character of the community has been established by the commercial corridor of which half a million transients travel through the area to gain access to the Park, which contains 141 campsites, a yurt, a bunkhouse that sleeps fourteen, 5 lodges that have 6 bedrooms, that can sleep sixteen for a total 80 people and they are intending to expand. In fairness to the applicant and the process the character of the area has already been established. If the extended stay apartments and hotel were done it would be no different than what the State Park is presently doing.

Mr. Stith noted there were additional letters on hand to be added to the record, four against the petitions and three in favor.

The public hearing was closed.

The Commission considered Zoning Map Amendment 2014-02. Chairman Leatherbury informed the public that the Commission cannot consider the covenants, above ground system, or the economic viability or feasibility of the project. Commissioner Ward stated it would be a lot easier if the proposed project were ten units rather than twelve. Mr. Freeze agreed that a 10 room proposal would be much easier as it would only require a special use permit. Chairman Leatherbury requested a motion. Commissioner Ward motioned to recommend denial of the request for rezoning from hamlet to c-1. The motion was seconded by Commissioner Chatmon. The motion carried with all in favor 4-0.

The Commission considered Special Use Permit 2014-09 – A motion was made by Commissioner Chatmon to recommend approval of SUP2014-09 and a second by Commissioner Freeze. Commissioner Chatmon felt that eliminating a change in zoning would change the project and thought the application should be tabled or a new application be submitted. The applicant was asked if they would like to withdraw and reconsider the number. Mr. Parr stated the units were the number that they wished to consider. If the Commission would approve the application for 12 apartments they would take that under consideration. A question was asked of the soils

scientist – Grant Cooley, would apartments need a mass drainfield, above ground system or regular system. A soils test would need to be done to make the determination. There are certification letters on file that say the property will perk. The motion passed 3 to 1 with Chatmon, Freeze, and Leatherbury voting yes and Ward voting no.

The Commission considered Special Use Permit 2014-08 with a motion to approve made by Commissioner Chatmon with a second by Commissioner Freeze. Commissioner Ward felt there was not sufficient information. He has looked at the covenants and they say no buildings. A drainfield is not a building. Chatmon added that covenants are not part of the Commissions purview. Commissioner Ward stated he would rather not approve it if they did not need it. Commissioner Chatmon said if you approve the SUP for the apartments, you would have to approve some sort of septic arrangement. The motion carried with 3 to 1. Commissioners Chatmon, Freeze and Leatherbury voted yes and Ward voted no.

E. Ten year review of the Glebe AFD – Glebe AFD is located along both sides of Glebe Road (SR 622) and extending along the north and south side of Church Neck Road (SR 619).

A motion to recommend renewal of the Glebe AFD was made by Commissioner Chatmon with a second by Commissioner Freeze, motion carried with all in favor 4 to 0.

D. Request to Withdraw from Glebe AFD – Mr. John Wescoat of Hungars Glebe, LLC has requested to withdraw property identified as tax map 18 double circle A, parcel 38 consisting of 561 acres from the Glebe AFD.

A motion to recommend approval of the request made by Ward, second by Chatmon, motion carried with all in favor.

F. Request to withdraw and subdivide parcel in Dalby's AFD – David Smith of Smith-Wessels Living Trust has requested to subdivide 2.58 acres from a 46 acre parcel of land. The property is identified as Tax Map 98 double circle A, parcel 32 and located at the intersection of Lankford Highway and Arlington Road, Capeville.

A Motion to recommend approval was made by Commissioner Ward and seconded by Commissioner Freeze. Commissioner Chatmon felt the request was not reasonable according to the code of VA guidelines. The motion carried 3 to 1. Commissioners Freeze, Ward, and Leatherbury voted yes and Commissioner Chatmon voted no.

G. Zoning Text Amendment 2014-01: The Northampton County Board of Supervisors has filed to amend the Northampton County Code, Chapter 154: Zoning Code, §154.003 Definitions as follows, **1. Add Group home.** A respite care service facility, retirement home or supervised living residential facility that houses more than eight individuals or otherwise is not a “residential facility” as defined herein. **Residential facility.** (1) A group home or other residential facility for which the Virginia Department of Behavioral Health and Developmental Services is the licensing authority in which no more than eight individuals with mental illness, intellectual disability, or developmental disabilities reside, with one or more resident or nonresident staff persons. “Mental illness” shall not include current illegal use of or addiction to a controlled substance as defined in Va. Code § 54.1-3401. or (2) any assisted living facility or residential facility for which the Department of Social Services is the licensing authority and in which no more than eight aged, infirm or disabled persons reside, with one or more resident counselors or other staff. **2. Add the following use to Appendix A, Category 8, SF Single-Family Residential Uses as follows:** a. Residential Facilities– allow by right in the Conservation, Agricultural, Hamlet, Waterfront Hamlet, Village – 1, Village – 2, Waterfront Village – 1, Waterfront Village – 2, Existing Cottage Community, Town Edge – 1, Town Edge – 2, Town Edge – Neighborhood Business districts; allow by minor special use permit in Village – Neighborhood Business and Waterfront Village – Neighborhood Business districts; and do not allow in Waterfront

Village – Commercial, Town Edge – Commercial General, Existing Business, Commercial – 1 and Existing Industrial districts. b. Chart line number for Residential Facilities as “11”.

A motion to recommend approval was made by Ward and seconded by Commissioner Chatmon. The motion carried with all in favor.

H. Zoning Text Amendment 2014-02: The Northampton County Board of Supervisors has filed to amend the Northampton County Code, Chapter 154: Zoning Code, §154.045 Site Plans as follows: Add the following new language: (E) Minimum standards and required improvements. (22) Best Management Practices (BMPs) shall be designed such that the lowest outfall invert elevations shall be at or near the seasonal high water table so as to minimize the non-beneficial withdrawal of ground water while still meeting all other applicable design specifications, e.g., water balance, and not adversely impacting upstream conveyance systems.

A motion to recommend approval was made by Commissioner Ward and seconded by Commissioner Chatmon. The motion carried with all in favor 4 to 0.

There were no matters from the public. The Commission reviewed the following sets of minutes:

The July 1, 2014 minutes were approved with amendments following a motion from Commissioner Ward and a second from Commissioner Freeze.

The July 16, 2014 minutes were approved as submitted following a motion from Commissioner Chatmon and a second from Commissioner Freeze.

The September 2, 2014 minutes were approved following a motion from Commissioner Ward and a second from Commissioner Chatmon.

The September 17, 2014 minutes were approved with amendments following a motion from Commissioner Ward and a second from Commissioner Chatmon.

The minutes from September 29, 2014 meeting were approved as submitted with a motion from Commissioner Ward and a second from Commissioner Chatmon.

The Commission all agreed to reserve discussion of the Agritourism language to the November meeting.

With no further business a motion was made by Commissioner Chatmon to recess until October 15, 2014. Commissioner Ward seconded the motion will in all in favor (4-0).

Chairman

Secretary