

## Minutes

### Northampton County Planning Commission

November 1, 2011

This was a regular meeting of the Northampton County Planning Commission held on Tuesday, November 1, 2011, in the Board chambers located at 16404 Courthouse Road in Eastville, Virginia.

Those present were Chair David Fauber, Vice-Chair Martina Coker, David Kabler, Roberta Kellam, John Wescoat, Jr., Michael Ward and Mary Miller. Severn Carpenter was absent.

Also attending were Sandra G. Benson, Director of Planning & Zoning; Peter Stith, Long Range Planner; and Kay Downing, Administrative Assistant.

The Chair called the meeting to order at 7:00 p. m. and established a quorum present.

The agenda was reviewed and revised by inserting an additional item to be known as G. "Comprehensive Plan Review Process – staff outline dated 10/4/11" under Unfinished Business; and to add a new item under New Business for discussion of directional signage regulations. Motion to accept the agenda as amended was made by Commissioner Coker and seconded by Commissioner Wescoat. The motion carried 7 to 0.

#### **Public Hearings:**

- A. Zoning Text Amendment 2011-11:** Michael and Nan Arpino have filed to amend sign regulations in the Northampton County Code, Chapter 154 Zoning Code, **Section 154.190 et seq.**, in order to allow existing sign structures in the Existing Business (EB) District to be used as off-premise advertising signs.

The applicants were present and Mr. Arpino stated that their property zoned EB Existing Business District is currently occupied. However, the building will be vacant again in the near future and there is existing signage that could be utilized to advertise businesses located off U. S. 13 with approval of this amendment.

The Chair called for public comments. There being none, the public comment portion of the hearing was closed.

In order to focus discussion Commissioner Kabler moved to recommend approval of Zoning Text Amendment 2011-11 in accordance with staff comments. Second was made by Commissioner Ward.

Commissioner Kellam noted that the amendment is consistent with the comprehensive plan and would be of economic benefit to local businesses. However, she had some concerns about which code section would be most appropriate to place the proposed language.

Commissioner Miller stated that the amendment would fulfill several goals of the comprehensive plan if it was applicable to locally owned and operated businesses only.

However, Commissioners Kabler and Ward questioned if such a restriction would be legal. Ms. Benson added that she did not know if such a stipulation would be legal without researching the matter.

Commissioner Miller then suggested that such signage be managed under minor special use criteria but Commissioner Kabler stated that he would not support such an amendment.

Commissioner Kellam noted that local business owners with such signs would simply operate as any other sign rental business.

Commissioners Ward and Fauber questioned if the proposed amendment could be used as leverage to impose property maintenance criteria where derelict buildings are located on property where such signs still exist. However, Ms. Benson pointed out that the condition of the premises is not relative to the language as proposed by the applicants. Commissioner Coker questioned who would determine the level of dilapidation if such a condition was imposed.

The Chair then noted that Code Section 154.190 (F) already addresses maintenance and removal criteria for signs and noted that Section (F) (4) allows for the removal of any abandoned sign. He added that this section could be used to remove non-compliant signs that could perhaps be replaced with legal ones. However, Ms. Benson noted that since this amendment, as submitted, pertains to properties zoned EB adding such language may be in conflict with its spirit and intent.

Commissioner Kabler questioned the interpretation of the word “vacant” as it appears in the first sentence of Section (F) (4) since a property may still be used by the business owner but not necessarily open to the public.

Commissioner Kellam stated that business owners should not be penalized for unrented business space, but language could be inserted to make it compatible with Section (F) (4). Ms. Benson stated that if any EB District property is deemed abandoned then Section (F) (4) would apply regardless. However, she added that there is room for interpretation.

During discussion it was noted that every sign location must have an existing commercial building on the premises as stipulated in the draft in order for such sign to qualify as temporary off-premise advertising.

Action:

Commissioner Kabler amended his motion to recommend approval of the petition in accordance with the staff comment as discussed and as amended below. The motion carried unanimously 7 to 0. The Commission noted that the proposed text amendment is consistent with various provisions in the Northampton County Comprehensive Plan, with Commissioner Miller referencing Part 1, Section 3.5.5 – Business Goals and Strategies. Commissioner Kellam expressed the opinion that such use would potentially be an economic benefit to small businesses and therefore to the county.

The complete motion as recommended to the Board is as follows. *§ 154.191 (B) The following signs shall be permitted in Village Neighborhood Business, Waterfront Village-Neighborhood Business, Waterfront Village-Waterfront Commercial, Town Edge-Neighborhood Business, Town Edge-Commercial General, **Existing Business**, and Existing Industrial Districts and where such uses are allowed by special use permit in other zoning districts, subject to the general regulations found in § 154.190, unless otherwise modified by provisions of § 154.165 Highway Corridor District.*

Plus add at the end of §154.191, a new item to be known as (B) (12) as follows:

*(12) ~~Use of existing signs as off-premise advertising signs.~~ **Additional Signage Permitted in the Existing Business District***

- (a) An existing sign structure located on ~~vacant~~ **improved, unoccupied** property having no other current business signs in use may be converted to a billboard or off-premise advertising sign. Such sign shall require a zoning clearance pursuant to §154.040 herein, a building permit if required by the Building Code, and review and approval by the Virginia Department of Transportation. Such sign may not be enlarged or structurally altered in any way or relocated.*
- (b) If the premises on which the converted sign is located become occupied, the converted sign face(s) shall be removed within ninety (90) days of the property being occupied. Any new occupants shall be prohibited from constructing a new free-standing sign while the temporary sign is in use and may utilize the existing structure when the temporary sign face(s) are removed.*

**Matters from the Public:** none.

### **Consideration of Minutes**

The minutes of October 4, 2011 were approved with the following correction: page 5, in the last line of the first paragraph after Item 6, the month of November should be changed to October. Motion to approve as amended was made by Commissioner Coker and seconded by Commissioner Miller. The motion carried unanimously 7 to 0.

## **New Business**

Commissioner Coker recommended that a zoning text amendment be drafted using the directional signage project proposal as finalized on January 4, 2011 and recommended to the Board for consideration. She noted that she could provide the draft text amendment to Ms. Benson for distribution before the next regular meeting.

Ms. Benson stated that no Board directive has been issued on the signage document to date. She noted that as proposed this policy or program would require additional funding to implement. She also mentioned that the Board had requested that all signage regulations be thoroughly reviewed.

At this time Commissioner Miller suggested that Commissioner Coker replace her on the Signage Subcommittee so that Commissioners Coker and Kabler can begin drafting the proposed zoning text amendment.

Commissioner Ward suggested that the draft language propose signage larger than 4 square feet for discussion purposes.

Commissioner Ward requested that the list of possible zoning text amendments submitted to the Board by staff and the county administrator be provided to the commission.

## **Unfinished Business**

No procedural matters were discussed at this meeting.

Commissioner Miller informed the commission that the Eastville Town Council will be making appointments to the Town Subcommittee at their next regular meeting. She was unsure as to how the town's comp plan update process should be progressing. Ms. Benson stated her understanding that the Town Subcommittee was to proceed with the process. Commissioner Miller asked if the TE District should be part of the discussion. Ms. Benson suggested that it be part of the discussion but stressed that it be clearly distinguished as a separate matter. It was decided that Commissioners Miller and Ward would meet with town appointees and then schedule an Eastville public meeting after the first of the year.

Commissioner Kellam, reporting for the Zoning Subcommittee, noted that she and Ms. Benson had exchanged e-mails related to draft language for low-impact commercial uses (micro-business). She noted that the subcommittee wanted to first view all proposed zoning text amendments as provided to the Board and then meet with Ms. Benson.

There was discussion as to when and how this subcommittee would be involved in the zoning text amendment process. Ms. Benson suggested that the subcommittee be utilized after a proposed zoning text amendment is discussed by the commission. Commissioner Kellam

suggested that any draft zoning text amendment be reviewed by the subcommittee first prior to submitting to the commission.

Zoning Code §154.111 was discussed as it had been suggested by staff and the Board of Zoning Appeals that this code section should be clarified based on a recent variance case involving an agricultural irrigation pond. New amendment language as drafted by staff was reviewed. Ms. Benson noted that staff had met with representatives from the local Farm Bureau for their input. Various issues were discussed including deletion of depth measurement criteria, allowance for impoundment ponds to be shared with other properties; differences between a dug pond and other types of ponds; and implementing an exception clause instead of language requiring a variance.

Ms. Benson explained that a best management practice (BMP) pond requires a fully engineered site plan versus an irrigation pond which does not. She also noted that due to public safety issues, large setbacks for ponds should be retained. She also suggested that perhaps the title of the code section be revised as specific to agricultural ponds.

After further discussion, staff was instructed to submit an updated draft for further review at the next meeting.

Commissioner Coker reported that the draft checklist for the commission to use for public hearing matters was not yet complete.

Ms. Benson gave a brief status report on the Town of Cape Charles Historic Town Entrance Overlay District noting that she and Tom Bonadeo had not yet been able to schedule their next meeting.

The commission then discussed the comprehensive plan review process as outlined by staff and dated 10/4/11. When asked, Ms. Benson stated that the review work completed to date would be included in the new review. She also explained that the term, "preferred vision", would be determined from public input.

Ms. Benson noted that the Comprehensive Plan Action Committee (CPAC) would be working with an economic stakeholders group comprised of local business owners.

Commissioner Miller suggested that the commission form a larger, more diverse stakeholders group representing all groups if possible to assist in their update process. Commissioner Kellam agreed.

After further discussion, the Chair suggested that a list of enterprises, persons and different civic groups for the commission to consider as a stakeholders group be submitted.

However, Commissioner Wescoat disagreed that a stakeholders group was even necessary as this was simply a review process to perhaps update the comp plan if necessary and not to

formulate an entirely new one. It was his opinion that the commission already has a clear path to follow in this update process.

By consensus, the commission agreed that a list of potential stakeholders plus meeting dates be submitted to Ms. Benson by e-mail. The best way to approach potential stakeholders would need to be determined as well as the type of questions that would actually elicit answers.

## **Communications**

There were no Cape Charles Planning Commission/Town Council agendas this month.

Commissioner Ward stated that the Cheriton Town Council would be working on a procurement policy this month and that the planning commission will meet on November 2.

No report was given for the Town of Nassawadox.

Commissioner Miller noted that the Town Council of Eastville had abolished its Business, Professional, and Occupational License (BPOL) due to the sluggish economy.

It is noted that an updated copy of Commission By-Laws was included in the commission's agenda packet.

## **Committee Reports/Presentations**

The Nominations Committee (Commissioners Carpenter & Wescoat) submitted a written memo related to 2012 nominees for review before election of officers in December.

## **Director's Report**

Ms. Benson reviewed her written report as follows.

- 1. Cape Charles update: I am attempting to schedule a meeting with Cape Charles Town Planner Tom Bonadeo to outline a process for the development of a potential Town Entrance Corridor Overlay.*
- 2. Town Edge Planning: There is nothing new to report regarding this matter at this time.*
- 3. Board/Town Action on Zoning Matters: There were no planning matters on the public hearing agendas of the Board or the Town of Eastville in October.*
- 4. Comprehensive Plan Review: Staff is continuing to meet with the Comprehensive Plan Advisory Committee and to work on data collection as time allows. I have submitted an application on behalf of the county to Smart Growth America for technical assistance with respect to economic and fiscal planning. Smart Growth America received a grant from the U.S. EPA Office of Sustainable Communities which provides for technical assistance on one of twelve*

*smart growth topics free of charge to the selected localities. Determinations will be made by November 12, 2011; I will keep you apprised as the commission will be involved if we are selected to participate.*

*5. Chesapeake Bay TMDL Implementation Plan: At this time Peter Stith is continuing efforts to verify data provided by the Virginia Department of Conservation & Recreation pertaining to the acreage totals in various land-use classifications and the presence of various types of BMPs. The Accomack-Northampton Planning District Commission will assist both Accomack and Northampton counties in developing local strategies to address the pollutant removal goals included in Virginia's Watershed Improvement Plan as submitted to the U. S. Environmental Protection Agency. The deadline for submission of strategies is February 1, 2012.*

*6. Staff activities: I attended the Rural Planning Caucus annual conference last week and will provide a report at a later date. Emergency management assignments are ongoing. At this time I expect to attend a meeting of DEQ's Renewable Energy Stakeholder Group on November 3, 2011, in Richmond. On November 16, 2011, I will attend a meeting at the Eastern Shore National Wildlife Refuge to discuss assessment of the local economic impacts of nature tourism and the county's public tourist destinations. Planning and zoning staff are reviewing with county legal counsel the enforcement mechanisms as set forth in the various ordinances we implement and enforce; ordinance amendments will be processed at the conclusion of the discussion. We will finalize a report at the Board's request for their November 7, 2011, meeting regarding staff's zoning ordinance amendment recommendations and will provide a copy to the commission for informational purposes when the document is finished.*

Ms. Benson also invited the commissioners to the county administrative office open house scheduled on Friday, November 4, from noon until 4:00 p.m. to tour the newly renovated building.

Commissioner Miller volunteered to provide a written report concerning the upcoming seminar on rural America entrepreneurship scheduled for November 10 at the Eastern Shore Community College.

Commissioner Kellam noted that the Northampton County Chamber of Commerce has scheduled a seminar on November 9 related to economic development and early childhood development at the former Northampton County Middle School.

Commissioner Kabler reported that OpSail opportunities are increasing with all five incorporated towns planning events in the upcoming year resulting in the possibility of having 14 days of community activities. He noted that there will be many volunteer opportunities for anyone wishing to get involved.

**Adjourn**

There being no other business, motion to adjourn was made by Commissioner Wescoat and seconded by Commissioner Ward at 9:45 p.m.

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Chair

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Secretary