

Minutes

Northampton County Planning Commission

February 7, 2012

This was a regular meeting of the Northampton County Planning Commission held on Tuesday, February 7, 2012, in the Board chambers located at 16404 Courthouse Road in Eastville, Va.

Those present were, Vice-Chair Michael Ward, Roberta Kellam, Severn Carpenter, Mary Miller, John Wescoat, Jr., and Dave Fauber. Absent from the meeting was Chair Martina Coker.

Also attending were Sandra G. Benson, Director of Planning & Zoning; and Kay Downing, Administrative Assistant.

Due to the absence of Commissioner Coker, Commissioner Ward assumed the Chair, called the meeting to order at 7:05 p. m. and established a quorum.

The agenda was unanimously approved 6 to 0 after revising Item 7 New Business to include inventory of commercial/industrial properties and discussion of the Plan Review Stakeholders Group (PRSG). Motion to approve as amended was made by Commissioner Wescoat and seconded by Commissioner Carpenter.

The first public hearing was called to order.

Public hearings:

- A. Zoning Text Amendment 2012-03:** Savage Neck VA, LLC has applied to amend the Northampton County Code, Chapter 154 Zoning Code, by adding to **§154.145 Height and Bulk Regulations**, in **Section (G)** a new item to be known as **(2) additional building height may be permitted where the building is set back from a side or rear property line two additional feet horizontally for each one foot of additional height over 35 feet, up to a maximum of 60 feet.**

Mr. Bill Parr, agent for the applicant, stated that the suggested language was taken from a former county ordinance. If adopted, large acre parcels could accommodate larger homes if desired due to the increased setbacks and would add to the county's tax base. This amendment would also preserve more open space by allowing structures to be taller versus more impervious surface created by sprawling or larger foundations. He referenced a variety of homes taller than forty feet including that of Commissioner Coker located on a 2.2 acre lot. Mr. Parr also stated that his client was seeking to build a home 44.5 feet in height. He then addressed two communications of opposition, one being from Estelle Murphy related to fire safety and the other from Price Clarke and noted Ms. Clarke is not a county resident since she resides in Virginia Beach. Mr. Parr offered to let the commission view the blueprint of the proposed

home to be constructed on his client's land. However, Commissioner Miller noted that a blueprint was not actually germane to the proposed zoning text amendment.

The Vice-Chair asked why the amendment did not include increased setback requirements from both the rear and side property lines. Mr. Parr stated again that the language was taken directly from a former county ordinance.

Reading directly from the Code the Vice-chair asked Mr. Parr to explain the justification for the amendment whether it was, "...public necessity, convenience, general welfare, or good zoning practice...." Mr. Parr replied that the general good would be served as well as expanding the county tax base. He then stated that the applicant would be satisfied if the height was even increased to allow 50 feet and that the wording of the application was based on the assumption that the prior law was acceptable and had not created problems.

Public comments

Mr. Robert C. Richardson of Seaview and Springfield, Va., stated his opposition to the amendment noting that taxes generated by a home of this height is irrelevant to zoning, 35 feet is a reasonable height for residential structures, and that the amendment could create problems for other property owners.

Ms. Elizabeth Brown of the Eastville area stated her opinion that allowing 60 foot tall buildings would undermine the rural character of the county and that perhaps a variance would be a better option for the applicant.

Mr. Robert Meyers of the Jamesville area stated his opinion that the applicant should go to the Board of Zoning Appeals as well since the amendment would have no benefit for the entire county. He noted that during the recent public comp plan meetings citizens have expressed a desire to see the rural and historic character of the county maintained. Also, after talking to an insurance carrier it was his understanding that buildings of such heights pose wind buffeting issues to adjacent structures of lesser height during strong wind events.

Mr. Art Schwartzchild, a resident of Willis Wharf, stated his opinion that 60 foot tall buildings may be warranted in some limited areas but not in most areas of the county. He noted that while updating the Visions Plans of Willis Wharf and Oyster, it was an expressed desire not to see building heights changed.

Mr. Peter Kafagian of Willis Wharf stated that a two-story home with an attic is only 25 feet tall at the most. This proposed amendment is not in keeping with the rural character of the county and that such a height is more in line with commercial development. He, too, expressed his opinion that a variance would be a better process for the applicant instead of trying to change the building height for the entire county.

Mr. Jeff Walker of Birdsnest expressed concern that there is no money to purchase new firefighting equipment that would be needed if this amendment is approved. He also concurred with other comments in opposition to the amendment.

Mrs. Price Clarke also referred to her letter of opposition and noted that she is a part time county resident and acknowledged that she owns property near Mr. Parr's client. It was her opinion that just because a home is 60 feet in height does not guarantee a smaller building footprint and reduced impervious area. She also asked if the proposed height increase was in addition to any flood zone elevation requirements. Ms. Benson stated yes, that any flood zone elevation required would be in addition to the actual proposed height of a structure.

Emailed comments received from Ms. Clarke, Mrs. Murphy and Mr. Tom Bonadeo were read and are attached as part of the official record.

There being no other comments the public portion of the meeting was closed.

Commissioner Kellam expressed concern that the zoning text amendment may not be appropriate in her opinion since the request is being made specifically for a single parcel of land. She suggested that the matter be tabled until better clarification was received from Bruce Jones, county attorney. She and Commissioner Fauber suggested that a variance or appeal would be a better process for this type of issue.

Ms. Benson reminded the commission that additional building heights are currently allowed in the zoning ordinance for commercial zoning districts only and does not apply to the A/RB or residential districts.

Commissioner Kellam expressed her opinion and concern that the commission is not required by State law to accept this type of application.

Commissioner Miller noted that even though the application refers to a specific parcel number she could not locate property on the county website. It was her opinion that there is no justification in compliance with the comprehensive plan and that this application was filed for the convenience of only one property owner. Approving such an amendment would allow this type of structure to be built on several hundred similar narrow lots throughout the county.

Commissioner Kellam stated that the community has made it evident during the recent comp plan workshop meetings that compatible development should be maintained in the future. She suggested that the towns also want compatible development to surround their boundaries as well.

Commissioner Miller had provided the following information: (1) comparable height allowances (ranging from 45 feet to 24 feet) in other coastal residential areas located in Georgia, New York, California and Massachusetts; (2) 4 pages of comp plan information that would not support such an amendment; (3) zoning ordinance requirements in conflict with the proposed amendment; and (4) her own scaled versions of 60 foot structures superimposed on existing county residential neighborhoods. It was her opinion that this type of development could create a negative impact on adjacent property values.

Action

Motion was made by Commissioner Fauber to recommend denial to the Board of Supervisors. Second was made by Commissioner Kellam and carried unanimously 6 to 0.

The Vice-Chair added that the building height was reduced to 35 feet in 2009 although there appears to be no justification for the change. However, during the current review process of the comp plan it may be determined in the future that the existing 35 foot height limit may need to be changed.

The second hearing was called to order.

- B. Continuance of Zoning Text Amendment 2012-01:** The Northampton County Board of Supervisors intends to amend the Northampton County Code, Chapter 154 Zoning Code, by revising the following sections: **Appendix A-Use Regulations**, to eliminate references to the county Wetlands Ordinance and to eliminate in Category 4, Community Service Uses, as a county-regulated use item 13 *Mass/community subsurface drainfield, on site*; and by deleting **§154.067 Minimum Separation Distances: Subsurface Absorption Systems and Wells**.

There were no further comments from the County Administrator representing the applicant or from the public.

Action:

After review and discussion of the supplemental staff report, the Commission voted unanimously to recommend denial of the proposed deletion of §154.067 from the Zoning Code at this time and to convey that they wished to revisit this matter following the 2012 General Assembly session. Motion was made by Commissioner Miller and seconded by Commissioner Fauber.

Commissioner Miller also made a motion to take this matter up from the table retroactively in order to address former action taken by the commission at the regular January meeting. Second was made by Commissioner Fauber and the retroactive motion was approved 6 to 0.

Commissioner Miller was opposed to eliminating from Category 4, Community Service Uses as listed in Item 13. She cited as justification for her position the current lack of a local stormwater management plan and responses from the Virginia Health Department (VDH) to questions she had posed which indicate the absence of VDH provisions related to mass drainfields that would protect surface water.

Upon motion by Commissioner Kellam with second from Commissioner Miller, the Commission voted unanimously 6 to 0 to recommend denial of the proposed elimination from Category 4,

Community Service Uses, as a county-regulated use item 13 *Mass/community subsurface drainfield, on site*.

It was the consensus of the commission that the regulatory burden should be eased upon applicants who require multiple special use permits for their projects, and to expeditiously pursue such a zoning text amendment. Commissioner Kellam suggested a self-imposed 60 day deadline.

Upon motion by Commissioner Kellam with second from Commissioner Miller, the Commission voted unanimously to recommend approval of the proposed elimination of references to the county Wetlands Ordinance from Appendix A – Use Regulations.

Matters from the public

Mr. Robert Custis Richardson of Seaview encouraged the county to take steps to halt the loss of local businesses and the decline of gainful employment. He then submitted to the commission his own written suggestions to halt this trend.

Mr. Robert Meyers expressed his opinion that county staff should be more diligent in its application review process.

At 8:38 p.m. the Vice-Chair called a short break.

Consideration of minutes

The minutes of the January 3, 2012 meeting were approved 6 to 0 as submitted upon proper motion by Commissioner Wescoat and second by Commissioner Carpenter.

New business

Commissioner Miller expressed the need for a county-wide inventory of abandoned or vacant buildings due to the many comments being received during the public comp plan workshops. Also needed is an inventory of existing commercial/industrial properties.

Discussion was held on the updated Plan Review Stakeholders Group (PRSG). It was suggested that affiliations and expertise should be noted among the group members. Commissioner Kellam stated her support of staff's suggestion that each group represented choose one specific member and perhaps an alternate. Commissioner Miller stated that the group is to review the comp plan and suggested that it use the consensus process instead of taking votes.

Commissioner Kellam suggested that a needs assessment has been done by the Accomack-Northampton Planning District Commission.

Commissioner Miller also noted that any studies or data used in this review process should be specific to Northampton County.

Unfinished business

Discussing procedural matters, Commissioner Kellam stated her opinion that no new information should be presented by an applicant during a public hearing since the public and commission would not have adequate time to review new information. However, Commissioner Fauber disagreed since the public hearing process is an opportunity to provide clarification.

Ms. Benson noted that when reviewing public hearing applications staff goes by the checklist in order to deem any application complete.

It was noted that the Eastville Town Council is ready to coordinate public meeting dates with county staff as part of the comprehensive plan review process and that Commissioners Ward and Miller and Ms. Benson will be meeting with the town council soon.

There was nothing new to report from the Zoning Subcommittee on the Low Impact Commercial Uses (micro-business) draft language or on Zoning Code §154.111, agricultural ponds draft language.

The commission reviewed the latest draft of the Annual Report to Board of Supervisors with several revisions noted and additions noted. Commissioner Miller suggested that the following be added: (1) a Tourism Overlay enabling legislation as a possible new goal; (2) an adequate Levels of Service policy; and (3) and reactivation of the Architectural Review Board or development of a potential Historic District. However, Commissioner Wescoat expressed his opinion that a more realistic approach should be taken given current timelines instead of a “wish list” submittal.

Communications

The commission received written agendas from the Cape Charles Planning Commission and Town Council.

There was nothing new to report from the towns of Cheriton, Nassawadox and Exmore.

Committee reports/presentations

A report from the Town of Eastville Subcommittee was given earlier by Commissioner Miller.

Director's report

Ms. Benson's written report submitted to the commission is as follows:

1. Cape Charles update: Cape Charles Town Planner Tom Bonadeo and I have not yet outlined 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: The Board of Supervisors approved Zoning Text Amendments 2012-01 and 2012-02 in accordance with the Planning Commission recommendations. There were no zoning matters on the public hearing agenda of the Town of Eastville in December 2011 or January 2012.
4. Comprehensive Plan Review: As you are aware, an organizational meeting of the Plan Review Stakeholder Group was held on January 11, 2012. Under separate cover you have received a revised list of the current membership of that group, and we have noted several omissions from the list. As indicated in my cover memo, it will be necessary for us to review the constitution of the group before it is convened again.

The Comprehensive Plan Advisory Committee met on February 2, 2012, and agreed to meet each Thursday at 9:00 a.m. for the foreseeable future. This was the first meeting of the committee since the Board of Supervisors revised their charge to the group on November 28, 2012. They are pursuing avenues to develop a community survey and to acquire services from an economic development consultant to assist them in their work.

As you are also aware, five of seven public input workshop have been conducted to date. The final two are scheduled for Monday, February 6, 2012, 5:30 – 8:30 p.m. at Kiptopeke Elementary School and for Thursday, February 9, 2012, 5:30 – 8:30 p.m. at Occohannock Elementary School.

5. Chesapeake Bay TMDL Implementation Plan: The Board of Supervisors voted on January 10, 2012, on a final submittal to the Virginia Department of Conservation & Recreation in accordance with the recommendations prepared by staff of the Accomack-Northampton Planning District Commission.
6. Eastern Shore Healthy Communities Coalition: I am currently chairing a Walking Trails Committee for the coalition. During the next two years we expect to develop marked walking trails in the towns of Chincoteague, Onancock, Cape Charles, and Nassawadox.

Adjourn/Recess

Motion to adjourn was made by Commissioner Wescoat and seconded by Commissioner Carpenter at 10:05 p.m.

Chair

Secretary