

Minutes

Northampton County Planning Commission

July 17, 2012

This was a regular meeting of the Northampton County Planning Commission held on Tuesday, July 17, 2012, in the Board chambers located at 16404 Courthouse Road in Eastville, Va.

Those present were Chair Martina Coker, Vice-Chair Michael Ward, Dixon Leatherbury, Roberta Kellam, Mary Miller and John Wescoat, Jr. The member absent was Severn Carpenter.

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

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

The agenda was reviewed and accepted unanimously 6 to 0 upon motion by Commissioner Miller and second by Commissioner Leatherbury.

Public Hearings: none.

Matters from the Public: none.

Consideration of Minutes

The minutes of the June 5, 2012 meeting were approved with the following corrections: (1) page 1, last paragraph, second sentence, change "She" to "Ms. Kellam"; (2) page 7, sixth paragraph, delete the word "However" and change "Mr." to "Ms."; (3) page 8, fifth paragraph add "properly submitted" before "AFDs"; and (4) on page 11, at the end of the last paragraph add "which micro-business owners sometimes use on an as-needed basis." Motion to approve the minutes as amended was made by Commissioner Wescoat and seconded by Commissioner Ward. The motion carried unanimously 6 to 0.

The commission approved the June 18, 2012 minutes with the following corrections: (1) page 2, ninth paragraph, at the beginning of the second sentence, delete "Their" and add "The applicants"; (2) page 2, tenth paragraph, second sentence insert "to" after "installed"; and (3) on page 4, second paragraph, insert "residential" after "much" in the second line. Motion to approve as corrected was made by Commissioner Miller and was seconded by Commissioner Kellam. The motion carried 6 to 0.

New Business

Accessory dwelling unit regulations were discussed in relation to a bed & breakfast/homestay proposal and other zoning provisions. Background information was presented by staff. Ms. Benson noted that applicant, Pam Barefoot, had met with staff about a proposal to provide guest lodging in an existing accessory structure located on Ms. Barefoot's property zoned A/RB Agriculture/Rural Business District. Ms. Benson added that there are different ways to define various types of guest lodging on one's own property. However, density requirements of the A/RB District prohibit such lodging being located on Ms. Barefoot's property due to its limited acreage.

Mr. Stith added that he and Melissa Kellam, Zoning Administrator, had researched the matter and found that this type of lodging may be allowed simply by changing county definitions for such structures. This approach would be a better option than changing density requirements. Information on this matter has been submitted to the county attorney's office for legal review, but no response has been received to date.

Pam Barefoot noted that Albemarle County has recently adopted regulations allowing for one and two-bedroom homestay units which are not considered a primary residence. Other localities allow small bed and breakfast inns that provide one-bedroom accommodations.

Related written comments made by Commissioner Miller were distributed. She suggested that since the county allows up to 9 sleeping rooms in a bed and breakfast would it really matter where those rooms are located when zoning setbacks and height requirements are adhered to and health department approval is obtained? It was her opinion that the same should apply for farm cottages that are allowed in the Use Chart. She was leery of creating additional dwelling units that might need to be monitored for compliance with zoning regulations.

Ms. Benson noted that accessory structures providing sleeping accommodations would need to be reviewed and approved by the Building Official to ensure that building code standards are enforced for safety reasons. The same code requirements would apply to farm cottages as well in her opinion.

Commissioner Miller asked what standards were currently being used for farm cottages. Ms. Benson replied that building code compliance would apply to ensure that such structures were safe for human habitation. Ms. Benson added that the density requirement is being studied in relation to farm cottage criteria as well since clarification is needed in the ordinance. She added if there are any transient farm cottages or tourist cottages being operated, the county is unaware of them.

Commissioner Miller expressed her opinion that it was not the intent of the commission to adhere to or involve density requirements when proposing tourist and farm cottages in the Use Chart because these uses are not intended as permanent dwelling units. She added that these accommodations are strictly for transient occupancy. If such a structure is occupied by the same person for over 30 days it no longer qualifies as transient occupancy and no longer supports tourism.

Ms. Benson also mentioned the “Zoning Practice” publication related to accessory living units included in the agenda packet that may be useful in future discussions. Commissioner Kellam agreed but noted the article is more focused on an urban concept and setting in her opinion.

Commissioner Kellam asked what would happen when a transient type cottage was converted to full-time occupancy for perhaps a family member. Ms. Benson stated that it would trigger a density issue. Commissioner Kellam was concerned about a double-density issue that could occur if every developed lot could accommodate another separate accessory living unit. She suggested that such use be prohibited in subdivisions to prevent double density issues. Ms. Benson stated that the Use Chart would determine where these units would be allowed. However, Commissioner Kellam was concerned about subdivisions zoned agriculture as well.

Mr. Stith stated that he and the Zoning Administrator suggest that farm cottage and guest ranch cottage be classified as transient uses and that density requirements be waived for those exclusively if deemed appropriate by the county attorney.

The Chair stated her opinion that farm cottages and guest ranch cottages that have cooking facilities differ with a bed and breakfast or home-stay structure. Commissioner Miller stated that all of these uses were considered commercial uses on a working farm of five acres or more. It was not the intent of the commission that density would prevent the use of farm and guest ranch cottages since such uses could be allowed on a working farm as small as five acres.

Ms. Benson stated that these uses are not exhaustive and reiterated that the density issue pertains to a commercial use like a farm cottage and the private bed and breakfast/home-stay use. There are other types of structures where density consideration is the same.

Commissioner Miller stated that in her mind the two are very different, one being commercial and one not, and questioned if there is a way to separate the two. The proposed use by Ms. Barefoot would be a commercial use in her opinion.

Ms. Benson stated that if the county attorney has no issue with density there may be a way to address Ms. Barefoot’s situation. She suggested that the Zoning Administrator and a subcommittee discuss this matter along with staff.

Commissioner Miller used the former Tower Hill area hotel application as an example of not considering density for commercial transient occupancy. However, Mr. Stith noted that the location of the hotel was zoned TE-CG Town Edge-Commercial General District which has no density requirement as opposed to the A/RB District.

When asked by Ms. Benson, Mr. Stith clarified that the county attorney had been contacted to ascertain if density can be disregarded when establishing a transient occupancy structure on private property.

Ms. Benson noted that if a definition was worded to clarify that only one dwelling unit is allowed on a property it may take care of the density issue.

Commissioner Ward commented that any transient occupancy of 30 days or less would be exempt from a density requirement.

Commissioner Miller stated her appreciation of the applicant allowing the commission to discuss and see the application before the scheduling of the required public hearing.

Ms. Benson explained that if this matter is to be scheduled for public hearing the public notice must be submitted to the newspaper on Monday; therefore, language would need to be developed for that purpose.

The commission agreed to amend the existing bed and breakfast definition to accommodate the suggestion made by Commissioner Ward. After discussion, the draft as accepted was, "A single dwelling unit, other than a motel, hotel, rooming or boarding house, or inn, occupied by the owner of the unit or a resident manager where up to nine (9) separate sleeping rooms are provided in the primary dwelling or in accessory structures on the property, for compensation, to overnight transients and a morning meal is usually offered as part of the lodging charge. Any transient occupation of less than thirty (30) days shall not be considered in calculating development density for the parcel." Ms. Benson added that zoning setback requirements, health department and building code approvals would also be required. Motion to schedule a hearing in August was made by Commissioner Miller and was seconded by Commissioner Leatherbury. The motion carried unanimously 6 to 0.

Commissioner Ward asked about sprinkler system requirements. However, Commissioner Kellam expressed her opinion that such a requirement is not germane when discussing land use merits.

The commission then considered Variance 2012-01 as filed by James and Cynthia Henderson for a proposed addition to an existing single-family residence. When asked by Commissioner Leatherbury, Ms. Benson explained that the Code of Virginia requires that variances be reviewed by local planning commissions. The commission is not required to make a

recommendation but may forward its findings to the Board of Zoning Appeals and may appear as a party at the public hearing.

Noting that the applicants own the adjoining lot, motion was made by Commissioner Miller to recommend that the BZA consider vacating the property line separating the two lots making the side yard variance unnecessary. Second was made by Mr. Leatherbury and the motion carried 4 to 2 with Commissioners Wescoat and Ward opposed.

Unfinished Business

Procedural matters were then discussed related to the ordering of public hearing matters and pre-hearing briefings as suggested by Commissioner Kellam.

Ms. Benson explained that staff generally schedules public hearing matters in chronological order as received. Therefore, someone will always have to wait during public hearings no matter what the order. She added that there is no way to discern how long hearings will take.

Commissioner Ward suggested that zoning text amendment applications be scheduled last on the agenda because those take more time in his opinion.

Commissioner Kellam stated that pre-application meetings will help alleviate labored discussion related to public hearing applications. She noted how convoluted the broadband hearing was due to lack of preparation on all levels including no input or information from the Broadband Authority. That experience has highlighted many issues that need to be addressed about this process. She stressed that pre-hearing discussions are imperative in her opinion.

Referencing the broadband hearing, Ms. Benson thought that it was a relatively straight forward issue especially given the public support expressed at the many comp plan meetings with the public. However, it was not viewed that way by the commission majority.

Commissioner Wescoat agreed with Ms. Benson's comments.

Commissioner Ward agreed with Commissioner Kellam noting that the broadband issue was more complicated because of the subject matter.

Under other business, Commissioner Kellam stated that no new information is available on Zoning Code §154.111, agricultural ponds draft language at this time.

At this time a brief recess was called by the Chair.

The commission then continued discussion on review of the comprehensive plan, specifically Data and Analysis, Part II, Sections 3 and 4 using Commissioner Miller's comments of June 5, 2012. Commissioner Miller explained that Weldon Cooper did a very good analysis of each county related to population trends.

Commissioner Ward expressed his opinion that no speculation be included in the data section. He noted that the most glaring statistic in his opinion is the loss of black population. Ms. Benson noted that such trend is nationwide and that most southern rural communities did lose black population.

Ms. Benson explained that Weldon Cooper Center at the University of Virginia is like a state repository for census data and they rely on the Virginia Employment Commission (VEC) to provide population projections which is not yet available. Commissioner Kellam stated that data taken from Weldon Cooper and other sources should be cited in the comp plan.

Noting that there is a difference between school age population and public school enrollment, it was decided that more research was needed on school age population since there are 4 private schools as well as home schooled student.

Commissioner Ward noted that some data is broken down in five year periods and others in ten year periods so there is no consistency. Commissioner Miller suggested adding in Section 3.7 several reasons why some statistics appear as they do. According to Commissioner Miller a statistician looked at the information and suggested that the 1990 population chart be compared to the 2010 chart after the population has aged 20 years in order to determine a more logical comparison or analysis.

Commissioner Miller expressed her opinion that statistics may appear to depict 40 percent poverty levels in some circumstances. Therefore, poverty statistics can be broken down according to circumstances as a starting point to use in the comp plan as a correction of this number or for mitigation. Then such a broad percentage number would not be depicted. Commissioner Kellam supported the concept that detailed poverty data be provided and suggested that additional poverty research be done also for possible inclusion in order to depict a broader picture of actual existing poverty. Commissioner Miller noted that the Community Housing Committee had concluded that poverty, education and early parenthood all have a connection.

Commissioner Ward also suggested that transient population be depicted in the data section such as summer campground residents, migrant workers, seasonal laborers, etc. Ms. Benson suggested that population renting property would be hard to track in her opinion unless transient occupancy taxes are being paid.

In Section 4 Economic Analysis, Commissioner Ward noted that the Commissioner of Revenue could only account for about 500 “non-employer establishments” and not the 1,006 in the county as depicted in the Section 4.2 comments. Commissioner Miller stated that the information came from the census. Discussion followed on how the statistic should be reflected in the data. The purpose of including this data is to note that the VEC does not count such employment. Commissioner Ward noted that VEC does not break down part-time employment from full-time employment which are actually two different figures and can skew the numbers.

Commissioner Kellam suggested that reciting data from VEC should note that this does not include people who are self-employed or independent contractors. However, the Chair noted that independent contractors are self-employed occupations. Commissioner Miller suggested that additional information be added about the number of available job opportunities.

Commissioner Ward stated that the average income in the county is less than \$52,208. Further research may be warranted concerning this statement. The Chair noted that correct per capita income and household income should be included in the data. Commissioner Miller added that there is a great deal of transfer income from the government including farm subsidies, food stamps, social security payments, Medicaid, etc. Only 55 percent of per capital income is attributable to wages. Commissioner Kellam added that dividends and rents are also means of income.

A correction was made in 4.4 Agriculture to change “farm owners” to “farmers”. It was noted that local AFD data is not included in the census data. It was also noted that the accurate number of acreage under cultivation could be obtained from the Farm Service Agency.

The commission discussed how closing the hospital would impact the county and if this can or should be reflected in the comp plan update. Commissioner Miller stated that all of the hospital employees will be able to commute to the new location in Onley.

Commissioner Ward expressed his opinion that other large employers in the county are beginning to show stress factors such as delinquent tax payments and lay-offs.

Commissioner Kellam suggested that there should be more details about work force data including education levels in Section 4.2.

Referring to Section 4.6 Tourism, Commissioner Ward suggested that the Tourism Commission could perhaps provide data on the number of beds available for visitors.

Commissioner Kellam suggested that references made to the ecosystem be relocated from Tourism to the environmental section. She also agreed that the new paragraph in 4.6 (d) be included.

A new section to be known as 4.7 Research was suggested in Commissioner Miller’s written comments.

Under Commercial and Industrial Development, discussion about banking data was held. Commissioner Wescoat noted bank deposit figures would not provide data on where money is going and Commissioner Leatherbury concurred.

Commissioner Kellam suggested that other types of data sets be researched such as building permits, business licenses, zoning issues, etc., to obtain business indicators or activity.

Commissioner Ward was informed by an outside source that larger regional banks will probably leave small communities that will have only small community-type banks left. Therefore, he was interested in knowing if regional banks are taking local money and investing it somewhere else. However, Commissioner Leatherbury noted that it is almost impossible to obtain a local community bank charter any longer.

Other data sets discussed for inclusion were sales tax, delinquent taxes, building permits, property sales, foreclosures, business licenses, etc. Ms. Benson stated that the majority of building permits being issued are for small projects such as additions and accessory structures. However, the data may be helpful. Under agriculture, Commissioner Miller suggested that the decline in the tomato sector be included. Commissioner Leatherbury stated that losing one large corporate tomato farmer will impact smaller businesses in the area such as local retail stores, but both he and Commissioner Wescoat agreed that such details were probably not essential to the comp plan update. Commissioner Kellam concurred and suggested that including the larger framework of what has transpired in the agriculture community would suffice. Commissioner Ward also agreed and noted that a decline will be felt in the health care community and employment opportunities when the local hospital is closed. Commissioner Kellam suggested that agriculture as an industry deserves a much broader discussion and understanding in what it does or does not bring to the county. Economic comparisons should be measured with national trends as well. Ms. Benson suggested that staff review and update the current economic section for the commission's review.

The Chair noted that there appears to be an erroneous perception that the commission may not be listening to the public concerning this comp plan update. Ms. Benson explained that the structure of Section 1.3 and how the process flows may be problematic. It should be clarified that input themes are not goals. In the initial section that is yet to be written, themes and results should be discussed. Input themes can be summarized but should not appear as goals. It would be a better approach to do the process, then summarize the input, complete the vision, and then each plan section will have its own goals and strategies, timeframes, etc.

Commissioner Kellam voiced concern about an article printed in June 15th edition of *The Eastern Shore Post* reflected a lack of public trust where the comp plan process was involved. It was very disconcerting to her that one member of the Board appears to have no faith in the commission. She suggested that the Board of Supervisors address this issue by clarifying the Board's position regarding the commission's work. The Chair added that during the May 30th meeting, information submitted at the May 9th public meeting was discussed and that particular detail was omitted in this news article. The Chair said that overall there was support for

information in the visions statement, although concern had been expressed about the lack of definition of clean water and about the use of the express, “where appropriate”, concerning provision of services. Commissioner Ward concurred and noted that he attended the May 30th meeting and that two different groups felt that their submitted comments were basically ignored. One of those groups was the CPAC. Commissioner Kellam was offended that the CPAC did not specifically answer the question whatsoever in its reply submitted back to the commission. Commissioner Ward noted that in some circles there is some concern about where and if information submitted by the CPAC will be applied in the vision and comp plan.

At this time Commissioner Kellam moved that the meeting be continued beyond 10:00 p.m. Second was made by Commissioner Wescoat and carried unanimously 6 to 0.

Ms. Benson then asked commissioners if they wished to entertain a potential subdivision ordinance amendment regarding legislation pertaining to property held in trust for a family member. Based on prior discussion and the lack of clarity in the state code language, Commissioner Wescoat suggested that the commission not proceed with this matter. The commission agreed by consensus.

Communications

It is noted that the commission did receive electronic town agendas that had been previously submitted to staff. No verbal reports were given.

Committee Reports/Presentations: none.

Director’s Report

Ms. Benson submitted the following written report:

- 1. Cape Charles cooperative planning update: I have responded to an inquiry from the Town Manager concerning this matter, but otherwise there is nothing new to report at this time.*
- 2. Town Edge Planning: There is nothing new to report regarding this matter at this time.*
- 3. Board/Town Action on Zoning Matters: Zoning Text Amendment 2012-06 pertaining to Low-Impact Commercial Uses is still pending; staff expects to receive additional guidance from the Board of Supervisors concerning this matter. On July 10, 2012, the Board approved Zoning Text Amendment 2012-07 as recommended by the Planning Commission but also incorporating some comments/recommendations received from the applicant on that date.*

By letter dated July 16, 2012, the Board of Supervisors has withdrawn Zoning Text Amendment 2012-08 as filed by the Northampton BOS on June 4, 2012, pursuant to a negative response to the petition from the Eastville Town Council.

4. Comprehensive Plan Review: *Since the Commission's June 18, 2012, work session intended to be devoted to the comp plan review was dedicated to other business, the Commission needs to schedule another work session date to continue this work. Staff has been assisting staff of the Accomack-Northampton Planning District Commission with updating data and maps for the transportation element.*

Prior to adjourning the commission scheduled the next comprehensive plan work session on August 15.

Adjournment

Motion to adjourn until August 7, 2012 at 7:00 p.m. was made at 10:08 p.m. by Commissioner Kellam and second by Commissioner Wescoat. The motion carried unanimously 6 to 0.

Chair

Secretary