

VIRGINIA:

At a recessed meeting of the Board of Supervisors of the County of Northampton, Virginia, held at the Board Room of the County Administration Building, 16404 Courthouse Road, Eastville, Virginia, on the 30th day of March, 2015, at 5:00 p.m.

Present:

Richard L. Hubbard, Chairman

Oliver H. Bennett, Vice Chairman

Larry LeMond

Laurence J. Trala

Granville F. Hogg, Jr.

The meeting was called to order by the Chairman.

County Administrator's Report:

- (1) Consider staff report relative to comments received during the two recent Public Information Meetings relative to the 2014 zoning ordinance amendments.

The following staff report was provided for the Board's consideration:

**Board Review of 2015 YTD Public Comments on Proposed Zoning Code**

The following provides staff background on summarized issues brought forward by members of the public during the past few months since the Board completed its last review and update of language in the draft zoning code, named the 2/15 Consensus Draft. Items requiring the Board's direct response are indented and italicized. The Board is provided an attached copy of comments received. Comments came from a variety of mediums including the two public information meetings held in March at local elementary schools. The summary of topics is presented in no particular order other than attempting to group related topics together. The comment topic is in bold below followed by staff report.

**ITEM #1: "Waste Related" use**

The 2/15 Consensus Draft proposes to combine uses related to waste management into the use "waste related" and only permit this use by the granting of a special use permit in either the Agricultural, Commercial and Industrial zoning districts. Objections from the public were heard on this topic. Because waste is generated in Northampton County, the zoning code should provide for a way in which our waste is managed. Staff suggest the Board consider changing the name and definition of the use now labeled "waste related" in the 2/15 draft.

*Remove waste related as a use and definition.*

~~*Waste related. Matters dealing with domestic, commercial and industrial waste.*~~

*Then, establish the use and definition for “waste management” and permit this use only by the granting of a special use permit in the Agricultural, Commercial and Industrial districts.*

*Waste management. The collection, source separation, storage, transportation, transfer, processing, treatment and disposal of waste or resource recovery.*

Should the Board wish to further restrict the management of waste, it could do so in the definition. As information, the current 2009 Zoning Code lists the following uses: sanitary landfill, sewage treatment facilities, waste collection center and multiple types of recycling which are only permitted by the granting of a special use permit in various zoning districts which include agricultural, commercial, and industrial and, for some of these uses, residential zoning districts.

**It was the consensus of the Board to approve staff’s recommendations as shown above.**

**ITEM #2: The Planning Commission is not required to review and recommend Special Use Permit applications to the Board.**

Virginia Code does not require review by the Planning Commission prior to Board consideration of a special use permit. In addition, only the Board of Supervisors has the authority to make a final decision on special use permit applications. The initial Board direction in revising the current code was to make the code easier to use and less difficult for people attempting to develop. A Planning Commission review adds time and expense to applications.

**It was the consensus of the Board that review of Special Use Permits shall be made by the Northampton County Planning Commission.**

**ITEM #3: The number of special use permits required for uses has been reduced, thus limiting the ability of adjacent property owners to know about and file comment on a proposed project.**

Opponents of the zoning code have freely used the term “protect property rights” in reference to the draft proposal and in part this topic is in mind. The idea they hold is that property rights are protected by having the opportunity to block any adjacent use that may be offensive to neighbors. The common use of the term “property rights” is in the context of protecting the property owner’s rights to enjoy the use and benefit of his investment in such property. Both views should be held in balance. In formulating the current code the design test as to where a special use permit should be required was: Could the use likely have a unique and anticipated detrimental impact on adjacent uses or the health of the neighborhood where such detrimental impact would not otherwise be limited by either performance standards within the zoning code or by other code sections (VA or Northampton County)?

The staff consensus was that the direction from the Board and intent of the document is very much “pro property rights” in its traditional meaning, the ability to use property owned or leased. Further there is demonstrable proof that new business projects have been lost due to the existence of special use permit requirements. One such example is a plastics recycling firm looking to add 25 jobs in Cheriton in 2014 and declined to proceed because of a special use permit requirement in an existing industrial zone. This would have added jobs, income and tax base to Northampton County.

Special use permits are not friendly to investment in the community because they add time, cost and uncertainty to the investor’s process.

No direction was required by the Board.

**ITEM #4: Planned Unit Developments and Mixed Use Development Zoning District (PUDs)**

The comment is that no design criteria are stated in the draft zoning code for applicants to follow related to PUDs. The idea is that such guidelines should be in place to guide the applicant in terms of providing full information for review by the Board. Virginia Code 15.2-2286 does not require design criteria be included in a zoning ordinance. It is expected that if such a project plan were to be submitted, then staff and its outside resources will be used to determine the appropriate design review elements for the project. Such projects may vary greatly, as intended, from commercial to residential types of uses and the development of specific criteria may be more a hindrance than help in the process.

While reviewing the 2/15 draft with legal it was noted that the intent statement (below) should be corrected to fully reflect the title of the district. This change is recommended for approval by the Board. The underlined text is an addition.

*§154.1-219 PLANNED UNIT DEVELOPMENT AND MIXED USE DEVELOPMENT ZONING DISTRICTS (PUD).*

*(A) The primary intent of the planned unit development and/or mixed use development zoning district is to provide for flexibility in the design of single use or mixed use developments for both residential and non-residential uses, to encourage comprehensive planning of developments and to insure compatibility of developments with surrounding areas.*

It was the consensus of the Board to approve the revised definition.

**ITEM #5: Town Edge Zoning District is proposed to be removed**

The intent of the Town Edge district from current code is: “(H) Town Edge District (TE). The intent of this primary district is to provide potential development areas adjacent to incorporated towns which may, in the future, be served by extensions of public water and sewer services from the towns. Growth and increased development are intended to occur simultaneously with the provision of public infrastructure, including, but not limited to, public sewer and water, to support such growth and development. Four secondary districts are provided”.

To develop a project in town edge the project must go through rezoning to one of these four districts. Thus, no meaningful change can occur without a rezoning to one of four arbitrary districts. Staff believes that it is preferable that property in that district be zoned in accordance with its current or appropriate use.

It is important to realize that since the adoption of the current code there has been no use of town edge for any new development. In addition, it has been expressed by Towns that their ability to extend water and sewer is limited and in the case of Exmore there was concern of “having” to extend water and sewer. In the case of the current or the proposed code, no provision requires the Towns to extend utilities without their permission and cooperation. In no case can the Northampton County Board supersede the power of the towns over their assets.

The land area is question with regard to town edge is solely within the County’s jurisdiction. Any development that proceeds may do so without the cooperation of the towns, but towns can aide development through extension of utilities if desired. Under current or proposed text the result will depend on the cooperation level of the County and Towns, not the zoning code, in that regard.

The purpose of the change was to simplify the process of using the land area around towns. It does not change the ability of the parties to work collaboratively. The comprehensive plan encourages such cooperation.

It was the consensus of the Board to leave the Town Edge zoning in place as long as it does not interfere with the County’s planned commercial areas, and to meet with all six incorporated towns within the County for their input.

**ITEM #6: Concern over development on US 13 causing damage to the aquifer and water supply**

Interest in clean water supply is universally shared. However, regulation over development, especially any development over one acre, by multiple agencies has enforced a preservation of stormwater for recharge of the aquifer for any new development. Further, there is also an oft voiced view that Northampton County should attempt to profit from the traffic flow on US 13 by providing opportunities to traffic to stop and patronize establishments in the County and its towns that sell products and services. Such economic activity and development need not threaten the environment since any development must comply with the extensive environmental regulations in place.

No action is needed by the Board.

**ITEM #7: Lot Coverage Ration removed from proposed code**

The current 2009 Zoning Code provides for maximum lot coverages (impervious area) through use of a ratio. During the initial drafting of the 2014 Public Hearing Draft during 2013, the Virginia Department of Environmental Quality was developing stormwater management regulations that would have required land disturbance activities exceeding 2,500 square feet for individual single-family residences within the Northampton County’s Chesapeake / Atlantic Preservation Overlay District to submit and obtain approval of a stormwater management plan

prepared by an engineer, thus achieving a similar goal in protecting runoff from polluting creeks and encouraging aquifer recharge. Staff was asked to streamline the current zoning code by removing County regulations which duplicate the effect of regulations of State or Federal agencies. By definition lot coverage in the current code is based on the amount of impervious surfaces located on a site. Based on how the draft VA Stormwater Management Act regulates the amount of impervious surfaces, zoning code lot coverage maximums were redundant and not included in the 2014 draft. However, in June of 2014 the VA Stormwater Management Act was adopted with the following amendment prompted by legislation in 2014:

§ 62.1-44.15:34. Regulated activities; submission and approval of a permit application; security for performance; exemptions.

C. Notwithstanding any other provisions of this article, the following activities are **exempt**, unless otherwise required by federal law:

3. **Single-family residences** separately built and disturbing less than one acre and not part of a larger common plan of development or sale, including additions or modifications to existing single-family detached residential structures. However, localities subject to the provisions of the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.) **may** regulate these single-family residences where land disturbance exceeds 2,500 square feet;

Individual single-family residences are now exempt from the VA Stormwater Management Act. The maximum lot coverage regulations in the 2009 Zoning Code are applied to projects on individual single-family residences and, as Northampton County Zoning office policy, staff asks the owner or agent of the property to sign an agreement in lieu of a stormwater management plan. By signing this agreement the owner agrees to implement specific stormwater practices. If the owner fails to implement these practices, a stormwater management plan would be required and enforced.

As a result the current coverage ratio is being addressed by other means. In addition, this topic is better addressed when the Board considers adoption of Chapter 158 related to the Chesapeake Bay Act implementation rather than inserted into this zoning document since the documents work in tandem.

**Staff was instructed to provide recommendations relative to lot coverage ratios to be utilized within the Chesapeake Bay Preservation Area regulations.**

#### **ITEM #8: Uses Similar to Permit Uses and authority of Zoning Administrator**

The 2/15 Board Consensus draft uses general use categories versus the listing of many specific uses as in the 2009 Zoning Code. The 2/15 Board Consensus Draft provides guidelines on how “uses similar to permitted uses” are to be considered. In §154.1-203 Regulation Guidelines for Established Zoning District (A) states, “*If a use is not listed for a specific zoning district in §§154.1-204 – 219 that use shall not be permitted in that specific zoning district. Provided that, it is not the intention of this Chapter nor shall this Chapter be interpreted to restrict uses that are customarily associated with or incidental to the principal permitted uses of any property*”. Every district has listed as a use, “use similar to permitted uses”. To further provide guidance, a definition for “uses similar to permitted uses” was incorporated into the 2015 Board Consensus

Draft which states: “Uses similar to. A use that has the same characteristics as the specifically cited uses in terms of the following: trip generation and type of traffic, parking and circulation, utility demands, environmental impacts, physical space needs, and clientele”. The 2/15 Board Consensus Draft was constructed in this manner to allow a property owner to conduct a reasonably similar use without the need for a zoning text amendment. To consider “uses similar to permitted uses” as a permitted uses the standards in the above definition must be met. Thus, the “uses similar” is specific in terms of impacts & its use is properly limited. The Board may consider adding additional parameters to the definition to ensure that “uses similar to permitted uses” are reasonable.

It was the consensus of the Board to approve the recommended definition text.

**ITEM #9: “Prison” use**

Public comments objected to the use defined as “prison” even though it is only allowed with a special use permit. A suggested change is offered for Board consideration.

*Remove prison as a use and definition.*

~~*Prison. A facility for the detention, confinement, treatment or rehabilitation of persons arrested or convicted for the violation of law.*~~

*Establish the use and definition for “jail” and permit this use only by the granting of a special use permit in the Agricultural zoning district.*

*Jail. A correctional facility operated by the Northampton County Sheriff’s Department or the Eastern Shore Regional Jail Board.*

This would eliminate prison as a use and allow the current Northampton County Jail which is located in an Agricultural zoning district to be maintained as a conforming use and if necessary apply for a special use permit for any modifications or additions.

It was the consensus of the Board to approve staff’s recommendations.

**ITEM #10: Agricultural Irrigation Ponds**

Comment was received from the public regarding the 2/15 Board Consensus Draft performance standards for agricultural irrigation ponds. Suggested text change follows:

§154.1-308 AGRICULTURAL IRRIGATION PONDS.

- (A) *Agricultural irrigation ponds shall comply with the standards below:*
  - (5) *The edge of an agricultural irrigation pond shall be set back 100 feet from any ~~non-agricultural~~ property line, except that the setback may be reduced in the following manner:*
    - (a) *If the safety shelf is increased to 75 feet between the pond and property line, the setback to property where the safety shelf is provided is reduced to 75 feet.*
    - (b) *If a wooded area of 35 feet is provided between the pond and*

property line with a minimum 15 feet safety shelf, the setback to the property line in that area is reduced to 50 feet. The wooded area shall be in compliance with §154.1-606 Perimeter Screening and designed to meet the density standards of a semi-opaque Type B screening.

(c) *If all stock piles of excavated soil shall be leveled and spread over the property in areas that are not resource protection area features or wetlands, or the excavated soil shall be properly removed in compliance with the Northampton County Erosion and Sediment Control Ordinance and state mining regulations from the property, the setback is reduced to 25 feet with a minimum 15 feet safety shelf.*

(6) *If the agricultural irrigation pond involves 2 or more properties in which the owners share use and/or ownership of the pond, the setback is reduced to 0 feet along the shared property line(s), provided that said shared use and/or ownership runs with the land and is reflected in a deed or deed of easement that is recorded in the Clerk's Office of the Circuit Court of Northampton County.*

It was the consensus of the Board to approve staff's recommendations.

#### **ITEM #11: Waste Storage Facilities**

Comments were received regarding definitions for waste storage facility and disposal practices and structures. To clarify that these items are associated with agricultural uses, structures and buildings the following revised definitions are provided for your consideration. The added text is shown in underline and deleted text is shown with a strikethrough.

Agricultural ~~D~~disposal practices and structures. *An area or structure to put dead poultry into a landfill or disposal pit; the treatment and complete destruction of dead poultry in an incinerator or treatment by rendering or composting; for the management of dead poultry by other methods approved by the State Veterinarian and in accordance with other state laws and regulations. When used in association with intensive farming specific setbacks must be met as defined in §154.1-307 of the NCC.*

Agricultural ~~W~~waste storage facility. *A waste holding shed, pond or tank used to store manure prior to land application, or a lagoon or treatment facility used to digest or reduce the solids or nutrients. When used in association with intensive farming specific setbacks must be met as defined in §154.1-307 of the NCC.*

It was the consensus of the Board to approve staff's recommendations.

#### **ITEM #12: Vested Rights and Flood Plain**

Comments received on vested rights and floodplain management regulations suggest further clarification of document relationships. The proposed revision provides a direct reference between Article IX Nonconforming Uses and Vested Rights and Chapter 159, Floodplain

Management. The additional text is underlined.

**§154.1-613 FLOODPLAIN MANAGEMENT.**

*Floodplain management standards shall be governed by NCC Chapter 159, Floodplain Management, which is hereby incorporated as a part of this Chapter by reference.*

**It was the consensus of the Board to approve staff’s recommendations.**

**ITEM #13: Process failed to notify adjacent property owners in towns by direct mail**

A comment received indicated that the process was flawed because adjacent property owners in towns were not notified by direct mail. Virginia Code § 15.2 2204 does not require this notice for proposed amendment of zoning ordinance which involve a change in zoning map classification of more than 25 parcels of land, which this proposal is.

No action was needed by the Board.

**ITEM #14: Shoreline widths**

Comments were received related to shoreline setbacks and also questioning the manner in which shoreline widths were determined. The Board’s recent consensus to leave the Chesapeake Bay Act across the entire County ensures the 100 buffer requirement as a shoreline setback. Shoreline width analysis was provided to the Board for Hamlets and Villages as well as research from other localities within the Bay watershed. Accomack, Gloucester, York and Northumberland do not have a shoreline width requirement. Middlesex has a minimum water frontage of 150 feet and a minimum depth of 250 feet for all waterfront lots. Lancaster County has an overlay for parcels within 800 feet where the frontage shall average 200 feet but in no event be less than 180 feet. Matthews does not have a shoreline width requirement. Smaller shoreline widths will encourage cluster development in those areas while larger shoreline widths may preserve current view sheds, perpetuate sprawl and potentially reduce environmental impacts. Currently, all zoning districts have a 250 shoreline width minimum requirement with the exception of waterfront village-waterfront commercial (WV-WC) (60 feet) and no shoreline width requirement for all town edge districts (TE-1, TE-2, TE-CG, TE-NB), existing business (EB) or commercial-1 (C-1). Below is a table showing the differences between the proposed (March 11, 2014) and the consensus draft related to shoreline width minimums.

	CNS V	AG	H	V	VC	V- WB	WW	CTCM	C	I	R	R-1	R-3	R-5	RM
Proposed (March 11, 2014)	250	125	60	60	None	60	60	90	None	None	100	90	115	125	90
Consensus (2/15)	250	125	205	205	None	60	60	90	None	None	100	150	175	250	90

It was the consensus of the Board to approve shoreline widths as set out below:

	CNS V	AG	H	V	VC	V- WB	WW	CTCM	C	I	R	R-1	R-3	R-5	RM
Proposed (March 11, 2014)	250	125	60	60	None	60	60	90	None	None	100	90	115	125	90
Consensus (2/15)	250	125	205	205	None	60	60	90	None	None	100	150	175	250	90
Consensus (3/30/15)	250	205	205	205	None	60	60	90	None	None	205	205	205	205	205

**ITEM #15: Temporary emergency housing and Temporary family health care housing**

*Staff recommends adding Temporary emergency housing and Temporary family health care housing as permitted uses in the Conservation district. In the current draft these two uses are not allowed. Since single-family uses are allowed in the Conservation district, it would be consistent to also permit these two uses.*

It was the consensus of the Board to approve staff’s recommendation.

**ITEM #16: New use: Event Venue**

Staff offers for the Board’s consideration the addition of a use, standards and definition for an event venue use. The current 2009 Zoning Code provides for this use, but it is not provided for in the 2/15 Consensus Draft. Because Northampton County has had applications for this use and it is important to promote tourism, this use is recommended.

*Proposed Definition:*

*Event venue. The commercial use of land, structures and buildings established at a permanent location where people assembly to take part in entertainment, educational, cultural, organizational, ceremonial and / or celebratory events, open to the public or private parties for use, and usually operated in exchange for remuneration. This use is separate from the use “agritourism” which has separate standards establish by the VA Code.*

*This use would be permit by the granting of a special use permit in the Agricultural, Commercial, Industrial, R-3 and R-5 zoning districts. The following performance standards shall govern this use.*

§154.1-316 Event Venue

(A) All event venues shall comply with the minimum standards below:

(1) This use shall only be permitted by special use permit in specified zoning

- district on parcels having a minimum lot size of 5 acres;
- (2) The maximum number of guests, hours of operation and Type A, B, C and/or D screening may be required as part of the special use permit approval;
  - (3) No overnight accommodations shall be permitted as part of an event venue, but may be approved as a separate use on the property;
  - (4) All parking needs generated by this use must be accommodated on-site except as permitted in §154.1-604 Off-street Parking;
  - (5) Solid waste generated by the event venue shall be stored in a manner that prevents the propagation, harborage or attraction of insects and rodents or other nuisance conditions and shall be removed at least once every seven days by a licensed solid waste hauler;
  - (6) If Portable toilets are provided for temporary use, then they shall be approved by the Virginia Department of Health;
  - (7) Setbacks for parking shall be 100-feet from adjacent residential zoning districts and 200-feet from any dwelling except dwellings on the premises;
  - (8) Setbacks for any outdoor event activities shall be 300-feet from adjacent residential zoning districts and 400-feet from any dwelling;
  - (9) All permanent structures and building associated with the event venue shall be constructed in compliance with the Virginia Uniform Statewide Building Code requirements for such a use and obtain a certificate of occupancy for such a use;
  - (10) Temporary structures and buildings such as tents and stages are permitted and shall be constructed in compliance with the Virginia Uniform Statewide Building Code requirements for such a use;
  - (11) The number of required parking spaces and other parking performance standards established in §154.1-604 Off-street Parking shall be documented on a site plan;
  - (12) Traffic generated by the event venue shall not exceed conditions placed on the approval of the special use permit by the Northampton County Board of Supervisors and Virginia Department of Transportation;
  - (13) Noise generated by the event venue shall comply with the standards set forth in NCC Chapter 98, Noise Ordinance;
  - (14) Outdoor lighting shall comply with the standards set forth in NCC §154.1-607 Outdoor Lighting;
  - (15) Signs shall be placed in accordance with §§154.1-701 et seq. Signs;
  - (16) The event venue shall be served by a water supply and septic system approved by the Virginia Department of Health for this specific use; and
  - (17) Food service associated with the event venue shall be approved by the Virginia Department of Health.

The following parking standard shall be incorporated into §154.1-604 Off-street parking.

**§154.1-604 OFF-STREET PARKING.**

Off-street parking standards shall be required for any development, that is required to submit a site plan sketch or an engineered site plan pursuant to NCC §154.1-508 Site

Plan.

(D) Standards to determine the number of required spaces shall be as follows:

(22) Event venue. . One parking space for each three attendees based on the maximum number of attendees approved for the site.

It was the consensus of the Board that they needed additional time to review this item.

**ITEM #17: Accessory dwellings and additional single family dwellings.**

Comments received on technical points with respect to proposed 2/15 Draft Code language. Staff concurs and offers the following recommended changes which are underlined.

§154.1-309 ACCESSORY DWELLINGS FOR SINGLE FAMILY DWELLINGS AND ADDITIONAL SINGLE FAMILY DWELLINGS ON ONE LOT.

(A) An accessory dwelling may be used as a permanent or seasonal residence or for invited or paying guests. An accessory dwelling shall not be counted as a unit when calculating density, but shall be counted as a part of the single family dwelling unit to which it is subordinate as 1 total unit, contingent upon it being designed, located, constructed and maintained in compliance with the following standards:

- (1) The accessory dwelling shall be located on the same lot as single family dwelling to which it is accessory and the setbacks that apply to principal structures and buildings shall apply;
- (2) The accessory dwelling shall be limited to a maximum of two bedrooms;
- (3) Only one accessory dwelling shall be permitted for each single family dwelling and shall not be a permitted accessory use to multi-family dwellings;
- (4) The accessory dwelling shall be owned by the same owner as the single family dwelling to which it is accessory;
- (5) The accessory dwelling shall be served by a water supply and septic system approved by the Virginia Department of Health; and
- (6) The accessory dwelling shall be constructed in compliance with the Virginia Uniform Statewide Building Codes requirements for dwellings and shall be issued a certificate of occupancy as a dwelling.

(B) If the dwelling cannot be designed, located, constructed and maintained in compliance with the above standards, it shall not be considered an accessory dwelling, but may be considered an additional single family dwelling on one lot if it is designed, located, constructed and maintained in compliance with the following standards:

- (1) Additional single family dwellings on one lot shall comply with the density regulations for the zoning district in which it is to be located. Each single family dwelling unit on one lot shall be one unit used in the density calculation;
- (2) Additional single family dwellings on one lot shall be served by separate and independent infrastructure including, but not limited to, a water supply and septic system approved by the Virginia Department of Health; and

- (3) *An additional single family dwelling on one lot shall be located and separated from other single family dwellings with their accessory structures a distance equal to the minimum required setbacks as if property lines existed between the additional single family dwelling and other single family dwellings with their accessory structures and shall be laid out in such a manner as to permit subdivision into separate lots as provided for in Chapter: 156 Subdivision.*
- (4) *If a property containing additional single family dwellings seeks approval for one or more of the single family dwellings to be subdivided from the base parcel, the applicant shall first seek approval of a preliminary subdivision plat and phasing plan for the subdivision of all single family dwellings located on the base parcel. After the approval of a preliminary subdivision plat and phasing plan has been obtained, one or more of the single family dwellings located on the base parcel may be subdivided individually in compliance with the approved preliminary subdivision plan and phasing plan.*

To insure that accessory dwellings are truly accessory to the single family dwelling the Board may consider the addition of other performance standards such as the accessory dwelling shall be a maximum distance from the single family dwelling it is accessory too and the accessory dwelling is limited to a maximum square footage.

Staff was directed to provide additional research and recommendations relative to design standards accessory dwellings and additional single family dwellings encompassing square footage, distance from the primary dwelling and allowed uses of the accessory dwelling and additional single family dwellings.

#### **ITEM #18: Comments on Specific Parcel issues - Parcel 92-5-A**

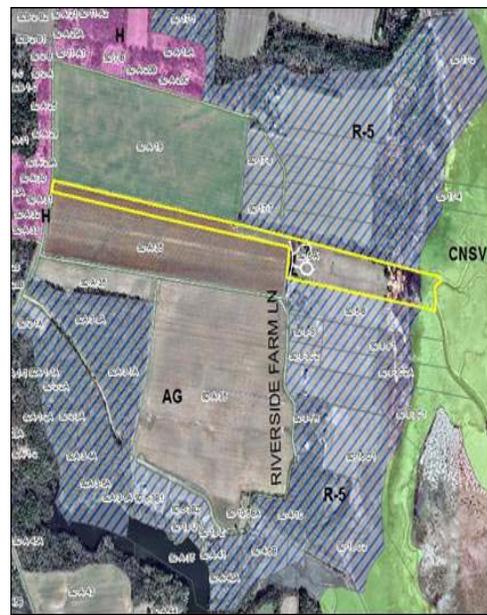
In the first draft zoning map published for public hearing in January 2014, this parcel had three zoning district designations. To the west over land that is partially farmed, it was districted as Agriculture; in the middle portion which includes a barn sometimes used for group functions and a residence it was designated as R-5 district; and along the shoreline of the seaside it was designated Conservation. The owner appealed the proposal to remove agriculture district designation (current) from the barn and residence parcel. The Board concurred in its review and designated the entire parcel Agriculture except for the seaside adjacent Conservation district which was retained.

Subsequently, letters of objection were submitted from the Mockhorn Bay Landing Homeowners Association and many of its property owners, stating that retaining Agriculture district on the part of 92-5-A occupied by the home and barn is spot zoning and inconsistent with the actual use of the parcel. They ask the Board to reinstate the original draft proposed land use district of R-5. In response the subject owner has pointed out that by Northampton Code his property outside the Conservation district designation is by definition a "Farm" and he plans to maintain it as such. The subject owner restates that "the Board did not make a spot zoning decision, it followed its own comprehensive plan as well as the definitions found in the Zoning ordinance which correctly defines my property as an agricultural farm."

Figure 1 Map from 2014 Public Hearing Draft



Figure 2 Map from 2/15 Draft with change requested by owner of 92-5-A



Regardless of which way the Board decides on this item, the oft reference use of the subject's barn for events has been polarizing in the neighborhood. That use may now be supported by recent legislation that allows Agritourism on farm operations. While the statute is broad in its intent, some communities have attempted to moderate its application. The Board has referred this issue to the Planning Commission for study. Thus, it is the recommendation of the planning staff not to mix the event use related to Agritourism with the subject of the question herein.

It was the consensus of the Board to approve the February 2014 Public Hearing Draft.

#### **ITEM #19: Comments on Specific Parcel Issues - Parcels near Prettyman Circle**

A letter was submitted concerning the proposed zoning of the highlighted parcels below which are proposed to be zoned Agriculture as they are today. The letter states these parcels should be zoned R-5 since they are surrounded by residential zones. Previously, letters were submitted by the owners of parcel 18-A-4A to request R-3 zoning and for parcels 18-A-4E and 12-A-14 to request R-1 zoning during the March 11, 2014 public hearing. The Board did not approve this



**ITEM #20: Comments on Specific Parcel Issues - Kiptopeke area petition for map change from Hamlet to R-1 or R-3**

Petitions were submitted by Kiptopeke area residents requesting the proposed zoning be changed from Hamlet to a residential zone, either R-1 or R-3. Prior to 2009, this area was zoned Rural Village Residential and in 2009 was changed to Hamlet. The highlighted parcels below represent those property owners that submitted petitions. The second image shows the surrounding area including Butler's Bluff to the north which is proposed to be zoned R-3 and Lucille's Lane to the south which is proposed to be zoned R-3. There are 85 parcels in this area zoned Hamlet ranging in size from 0.03 acres to 2.32 acres, with the average lot size of 0.67 acres.



Figure 4 Highlighted parcels who submitted petitions

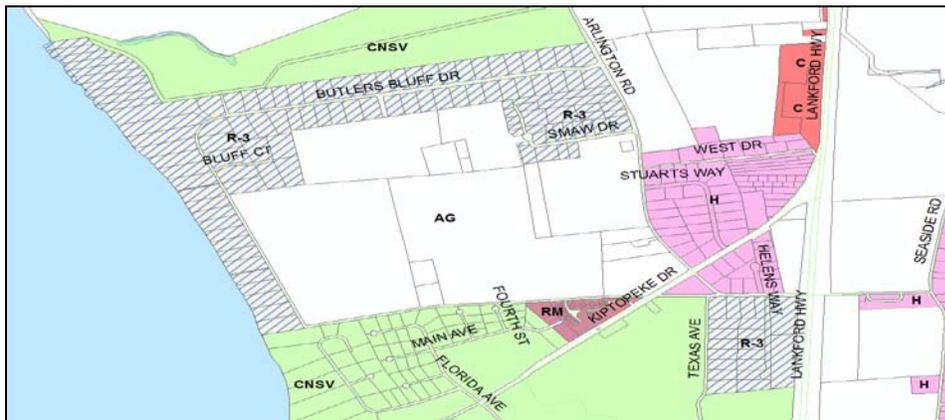


Figure 5 Proposed zoning around Kiptopeke Hamlet

Staff was requested to provide a recommendation relative to this request.

**ITEM #21: Comparison of uses allowed by district, current vs 2/15 consensus draft**

Comments were made about creating a comparison of uses by district. While we have an example attempt at this, the entire thought process in how the proposed use charts were developed based on a more general type of use description does not easily track or compare to the existing use charts which are extremely specific.

Staff would be happy to share their example if members of the Board would like to see it.

It was the consensus of the Board that this analysis was not needed.

\* \* \* \* \*

Several late-arriving requests will be placed on a future agenda for consideration. Mr. Hogg also noted that he would like to discuss commercial uses at a future meeting.

Recess

Motion was made by Mr. Bennett, seconded by Mr. LeMond, that the meeting be recessed until 7:00 p.m., Tuesday, March 31, 2015, in order to conduct the FY 2016 County Budget Public Hearing. All members were present and voted “yes.” The motion was unanimously passed.

The meeting was recessed.

\_\_\_\_\_CHAIRMAN

\_\_\_\_\_ COUNTY ADMINISTRATOR