

Minutes  
Northampton County Planning Commission  
March 2, 2010

This was a regular meeting of the Northampton County Planning Commission held on Tuesday, March 2, 2010 in the former circuit courtroom located at 16404 Courthouse Road in Eastville, Virginia for the purpose of conducting public hearings and regular business.

Those present were Chair David Fauber, Vice-Chair Martina Coker, Mary Miller, Roberta Kellam, Robert Meyers, Mike Ward, John Wescoat, Jr., and David Kabler. The member absent was Marshall Cox.

Also attending were members of the Eastville Town Council, Sandra Benson, Director of Planning & Zoning; Peter Stith, Long Range Planner; and Kay Downing, Administrative Assistant.

The meeting was called to order at 7:01 p.m. and a quorum established.

The agenda was considered and accepted as presented upon motion by Commissioner Coker and second by Commissioner Meyers.

The first public hearing was called to order.

**Public Hearings:**

- A. Subdivision Text Amendment 10-01 EAST, Joint Public Hearing with the Town Council of Eastville: The Town Council of Eastville proposes to adopt an ordinance to be known as the "Subdivision Ordinance of the Town of Eastville," pursuant to the requirements of VA Code §15.2-2240, to regulate subdivision and development of land.

The Eastville Town Council was called to order in joint session with the Commission. Those in attendance were Mayor Jim Sturgis, Council members, John Crockett, Eleanor Gordon Sturgis, Todd Simpson and Shannon Wescoat.

No ex parte communications were noted. However, Commissioner Miller advised that she had provided limited assistance to the town in drafting the proposed ordinance which would not prevent her unbiased decision making in this case.

The Chair called for comments.

Mayor Sturgis noted that several minor revisions are being considered by Council that copies of all subdivision applications are to be provided to the town by the designated subdivision ordinance agent and to include an updated fee schedule. Ms. Benson explained that a fee

schedule can be adopted by the Town Council under a separate application since fees are not set in the subdivision ordinance.

Commissioner Ward questioned various sections of the ordinance including Section 1-L(F) that refers to the administrative officer or staff of Northampton County. He also noted that there appeared to be errors in the numbering system.

Ms. Benson explained that the contract agreement between the Town of Eastville and the county gives authority for the county's Building Official and Zoning Administrator to act as designated agents for the town.

Action:

Motion was made by Commissioner Kabler to recommend approval of Subdivision Text Amendment 10-01 with those revisions as discussed. Ms. Benson noted that revisions to provide copies of plats would apply to Sections 3CF, 3EC, 3ED, 3IB, 3IC, 3MC5 and typographical errors are to be corrected. Second was made by Commissioner Miller and carried unanimously.

At 7:12 p.m. the Eastville Town Council meeting was recessed. Mayor Sturgis noted that action on this matter will be taken at a later time.

The next public hearing was called to order

B. Special Use Permit 10-03: Franktown United Methodist Church has applied to expand the existing Montessori School by offering primary education through age 9 and to construct a new school building on property owned by the church located at 7551 Bayside Road in Franktown. The property, zoned H-Hamlet District, is described as being Tax Map 20-A-65.

No ex parte communication was reported.

Commissioner Kellam stated that due to her relationship with Polk Kellam, agent for Franktown United Methodist Church, she would remove herself from the table during discussion and the vote on this matter.

Polk Kellam, agent for the church, gave a brief description of the site plan and noted that an additional 5.48 acres of land had been purchased which would be the location of all improvements. He then gave a brief over-view of the Montessori School concept noting that one large room is used for large groups of children progressive in age where they are guided in a stimulating environment. The school now accommodates ages 2.5 to 6 years in the primary level and the goal is to provide for the lower level elementary age group through age 9 so more square footage is needed for expansion. He explained that generally 35 to 40 square feet is required per child. The current facility does not lend itself to more than one school room for this type of education curriculum. Mr. Kellam stated that the school currently enrolls 29

students. Based on the 2007 Special Use Permit approval was granted to operate at the primary level only. Due to the success of the school it has outgrown its facility and parents are requesting that their children be able to continue and there may be demand for another future primary section. He also noted that the new facility would be utilized for church activities as well. During construction the elementary school may need to start operating in the existing church facility; however, that determination will be based on the success of fund raising efforts. Mr. Kellam noted that other supporters were present as well to answer any questions.

The Chair called for public comments.

Drury Stith, a member of Franktown Church and a member of the school's Board of Directors, asked for a favorable recommendation.

There being no other comments the hearing was closed.

Commissioner Meyers stated his support of the project and noted that his field visit revealed that the site was optimum and should be able to absorb storm water before it flows to adjacent creeks.

Commissioner Miller asked for clarification concerning the number of structures or phases proposed. Mr. Kellam stated that only one new building is proposed at this time.

Action:

Motion to recommend approval was made by Commissioner Kabler noting that the project was very well planned and suitably buffered from residential areas. Second was made by Commissioner Meyers and carried with one abstention from Commissioner Kellam. Commissioner Miller made a supportive comment noting that this type of use in the Hamlet District setting is ideal as envisioned by the 2008 zoning amendments.

Commission Coker pointed out that the proposal is supported by the education goal set forth in the comprehensive plan to ensure the provision of and access to comprehensive and innovative state-of-the-art educational facilities, opportunities, and programs.

**Matters from the Public** – none.

**Consideration of Minutes.**

Commissioner Kabler took issue with the way the minutes are structured generally and stated his opinion that too much innuendo and hear-say is portrayed within the minutes. He stated that in the future, the minutes should be greatly condensed by eliminating so much detail as it was his opinion that ninety percent of the content was unnecessary and irrelevant. However, Commissioner Miller noted that the minutes are structured for a specific purpose.

The Chair suggested that this topic be discussed at a later time when procedural matters are reviewed.

The minutes of February 2, 2010 were approved with the following correction: page 1, fifth paragraph, seventh line the word Commissioner should be plural and in the sixth paragraph the typographical error should be corrected to "...Commissioner Miller's concern...."; page 3, the last sentence should end at the word "diligence" with the remainder of the sentence deleted; page 5, the first paragraph should end after "purposes" with the remainder of the sentence deleted and in the second line the words "Yorktown-Eastover" should be added before the word "aquifer"; also page 5, under "Action" item 4, the words, "in the Columbia aquifer" should be added after the word "well"; and on page 7, fourth paragraph, first line, change the word "if" to "is". Motion to accept the minutes as corrected was made by Commissioner Coker and seconded by Commissioner Wescoat. The motion carried unanimously.

The minutes of February 17, 2010 were approved with the following corrections: page 1, eighth paragraph, the word "the" should be corrected to "then" and in the second line delete the word "revise" and insert the words "recommend revisions"; page 2, first line, add the word "an" before "accessory"; line six, at the end of the sentence, add "violations of use of accessory structures as living units"; line nine, after "etc." add "which may have sanitary facilities and electricity but are not dwelling units"; last paragraph, second sentence, add "a single" before "artist's studio" and in the third line change Commissioner Meyers to Miller and replace the word "hired" with "used"; page 3, fourth paragraph, last sentence, change the word "for" to "over"; fifth paragraph, change the words "this committee" to "these committees"; page 4, third paragraph, third sentence, add "DCR" before the word "staff" and delete the word "people" in the next line. Motion to approve as corrected was made by Commissioner Miller and seconded by Commissioner Wescoat. The motion carried unanimously.

### **Unfinished Business.**

Commissioner Kellam made a brief report on behalf of the Wind Energy Subcommittee stating that the Eastern Shore Community College (ESCC) will be sponsoring a Green Energy Symposium April 30 through May 1 intended for community leaders and decision-makers. She and Commissioner Coker have participated in discussion of the symposium agenda which will be provided to the commission when finalized. She added that this grant-funded symposium will discuss economics of green energy projects.

Commissioner Kellam then presented a power point report related to utility-scale wind energy projects. Information provided included the following points: wind energy importance, types of turbines and performance standards, dimensional issues, grid connection facts, safety considerations, potential environmental impacts, potential social conflicts including but not limited to visual and human health impacts, financial considerations, location issues, the need for code of conduct requirements, typical lease agreement language, state jurisdiction regulations, and options for local government regulation.

Commissioner Wescoat asked about soil compaction related to land improvements, roadways, concrete installation, and construction activity.

Commissioner Miller added that U. S. wind energy maps rate upland and shoreline areas as “fair” while “good” areas are delineated off-shore.

Commissioner Kellam then distributed an edited model ordinance and stated that a legal opinion should be obtained from the county attorney once the document is completed. The commission generally agreed that a floating district would be the best way to manage wind turbine projects.

Commissioner Kabler advocated for a public workshop first before an ordinance is drafted.

Commissioner Kellam put forward consideration of potential decrease of real estate values on properties near wind farms.

By consensus the commission agreed that more information is warranted and various topics for future discussion include but are not limited to: (1) aviation limitations; (2) the scope of federal policies that encourage alternative energy; and (3) off-shore authority regulations.

Commissioner Coker encouraged all commissioners to educate themselves and be prepared for the symposium. She also noted that aspects of residential wind turbines should also be addressed.

The commission briefly addressed lot coverage considerations for solar energy installations and Commissioner Kellam pointed out that an overlay district would be a better option to regulate such installations instead of the special use permit process.

Commissioner Kabler once again advocated for a public workshop providing an opportunity for bird watchers, scenic viewers, etc, to have input before an ordinance is drafted. However, Commissioner Kellam suggested that it would be better to have a draft version ready to discuss and present first and emphasized that the ESCC symposium would provide such an opportunity to the public.

Commissioner Miller asked if an adopted Overlay District would be mapped. Ms. Benson replied yes.

Commissioner Wescoat stated that aviation information needs to be available concerning altitude issues with the Navy and the Department of Defense. Commissioner Meyers noted that Navy planes fly 500 feet from any structure in rural areas and that Federal Aviation Administration is involved as well.

Commissioners Meyers and Kabler indicated they were aware of prospects of wind-farm leasing in the county.

Commissioner Miller then related various aspects of the federal stimulus package as it pertains to alternative energy projects and noted her concern about “safe harbor” provisions involved.

At 8:40 p.m. the Chair called for a ten minute recess.

Floating Solar Energy District language as previously drafted by Commissioner Meyers was distributed by Ms. Benson. She then asked the commissioners if they wished to discuss lot coverage provisions for large-scale solar energy facilities as related in her February 24<sup>th</sup> memo. Commissioner Meyers noted that his memo did not address lot coverage issues because this would not be an issue with a floating zone.

Commissioner Miller stated her opinion the floating zone concept is to provide more flexibility and is a chance for the Board to consider such as an economic development opportunity.

Discussion followed on what was perceived as the pros and cons of alternative energy projects. Commissioner Meyers noted that federal and state regulations may preclude such projects from increasing the local tax base thereby benefiting only a few private leaseholders. However, Commissioner Kabler stressed that such projects may result in a smaller carbon footprint and provides a way to produce cheaper energy to citizens. Commissioner Miller noted the following areas of concern: federal grant guidelines and policy excludes solar energy projects from environmental impact study requirements; exemptions from the Davis-Bacon Act related to wage determinations issued by the U.S. Department of Labor; federal policy may not actually mandate completion requirements; exemptions from the sole source aquifer designation; and the economic pressure that stimulus money brings.

The Chair reminded the commission that a decision should be made on how to address impervious area requirements for solar energy projects.

Motion to table lot coverage discussion was made by Commissioner Miller and seconded by Commissioner Meyers. The motion carried unanimously.

Motion was made by Commissioner Miller that the commission moves forward with the creation of a floating zone solar energy district. Second was made by Commissioner Meyers.

Commissioner Kabler asked that the commission hold a public information meeting prior to the development of a draft ordinance. He then made a motion to amend the motion to conduct a public information workshop prior to drafting an ordinance. However, there was no second to his motion.

The original motion carried by a majority vote with Commissioner Kabler voting no since a public information meeting requirement was not incorporated into the motion.

Those who volunteered to sit on the Solar Energy Subcommittee were Commissioner Meyers and Commissioner Miller who strongly recommended that a public information meeting be part of the ordinance development process.

The Wind Energy and Solar Energy Subcommittees (Commissioners Kellam, Coker, Meyers and Miller) scheduled a joint work session for March 30<sup>th</sup> at 10:00 a.m. in the former circuit courtroom. By consensus it was decided that these two “energy” subcommittees would propose a date for a public information meeting. Ms. Benson noted that any meeting notice would have to be an information announcement due to tight budget constraints.

### **New Business.**

The Cape Charles Historic Town Entrance Corridor Overlay District was considered with the Chair noting that the format and language should resemble the US 13 Overlay District with revisions as needed. Ms. Benson stated that the regional committee, under the guidance of Accomack-Northampton Planning District Commission, has offered to make comments as well.

The commissioners agreed to submit individual comments and questions concerning the corridor draft language to Ms. Benson no later than March 15<sup>th</sup> for compilation purposes. Ms. Benson noted that it should be assumed that the language covers those portions of SR 184 and SR 642 within the county’s jurisdiction.

### **Communications.**

There was no report for the Town of Nassawadox.

Commissioner Ward stated that the Cheriton Town Council has finalized its boundary adjustment area and is still in discussions with the Town of Cape Charles.

Commissioner Miller reported that the Town of Eastville has completed its subdivision ordinance and is planning to update its zoning ordinance.

Ms. Benson noted that she had talked with Artie Miles, Exmore Town Manager, who informed her that the next step in the Town Edge development process has not yet been determined.

The Cape Charles Town Council agenda of February 11<sup>th</sup> was distributed for information purposes.

### **Board Action on Zoning Matters.**

No additional information was reported by Ms. Benson.

### **Committee Reports/Presentations.**

Commissioner Meyers reported on the Total Maximum Daily Load (TMDL) webinar and stated that the Department of Conservation and Recreation (DCR) will be closely investigating non-point sources contributing to bay pollution.

Ms. Benson reported that work is being diligently pursued on county storm water regulations that will then be reviewed by the county attorney after which a storm water management plan will be developed

Commissioner Kellam suggested that the county's engineer and consultant could perhaps meet with the commission so that the more technical aspects of projects like the Hampton Inn could be explained in detail. Ms. Benson stated that she would try to schedule such a work session.

### **Director's Report.**

The following information was provided by Ms. Benson in her written report dated February 24th.

1. Public information meeting to discuss impaired waters: DCR staff has scheduled another public information meeting in our former circuit courtroom on Thursday, February 25, 2009, at 7:00 p.m. to discuss water quality improvement planning for portions of Cherrystone Inlet and Kings Creek. At 10:00 a.m. on February 25, 2010, the Environmental Protection Agency will host a webinar on the status of the Chesapeake Bay TMDL (Total Maximum Daily Load) clean-up effort. Information about the webinar has been forwarded via email, as received from Commissioner Meyers. Peter Stith will be participating in the webinar.
2. Exmore Town Edge Planning: Acting Town Manager Artie Miles phoned last week to advise that he had not yet had follow-up discussions with his town council and planning commission about the town edge planning effort. Once he has done that we will schedule our next step.
3. April public hearings: At this time we anticipate receipt of an application for a special use permit for an accessory living unit. The agenda will include the proposed zoning text amendments discussed by the commission on February 17, 2010, concerning the definitions of accessory living unit, dwelling unit, and artist and artisan studios; corrections to the use charts in Appendix A relative to "Art Studio;" and provisions concerning replacement of lawful nonconforming manufactured homes.

### **Discussion of Procedural Matters.**

By consensus the commission agreed to meet again on Thursday, March 25 at 7:00 p.m. for a work session to address procedural matters, the Cape Charles Historic Town Entrance Corridor Overlay District, and also the Solar Energy Overlay District including the referral of lot coverage provisions for solar installations made by the Board.

**Adjourn.**

Motion to recess until March 25<sup>th</sup> at 7:00 p.m. was made by Commissioner Meyers at 10:11 p.m. which was seconded by Commissioner Ward.

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Chairman

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Secretary