

Minutes
Recessed Meeting
Northampton County
Planning Commission
February 17, 2010

This was a recessed meeting of the Northampton County Planning Commission held on Wednesday, February 17, 2010 in the former circuit courtroom located at 16404 Courthouse Road in Eastville, Va.

Those present were Chair David Fauber, Robert Meyers, Mary Miller, Marshall Cox, Martina Coker and John Wescoat, Jr. Those absent were David Kabler, Michael Ward and Roberta Kellam.

Also present was Sandra Benson, Director of Planning and Zoning; and Peter Stith, Long Range Planner.

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

The agenda was accepted as presented upon motion by Commissioner Miller and second by Commissioner Cox.

The Chair stated that the purpose of tonight's meeting was continuation of the February 2, 2010 regular meeting agenda.

New Business.

The commission then discussed Town Edge planning. Ms. Benson reported that she has not heard from Artie Miles for the Town of Exmore, but would contact him before the next meeting. It was noted that she and Peter Stith had attended a meeting with the Exmore Planning Commission last March at their invitation, but those town commissioners present at the February meeting did not appear to remember the discussion held at that joint meeting last March. Commissioner Miller suggested that a Town Edge Subcommittee be formed to meet with the town planning commissions. Commissioner Meyers stated that a clear record should be kept of the commission's efforts to get this issue accomplished. Commissioner Miller also noted that the towns need to understand the purpose of the process and the concept first. By consensus, the commission formed a Town Edge Subcommittee and appointed Commissioners Miller and Fauber along with Commissioners Meyers and Cox as alternates. The Subcommittee will attend meetings with each town's planning commission along with staff and report back to the whole commission. The commission agreed that the first meeting of the subcommittee should be with the Town of Exmore.

The commission then considered potential zoning ordinance amendments that would require a public hearing if the commission deems it necessary to recommend revisions.

Specifically, the definition of accessory living unit was reviewed. Ms. Benson explained that the special use permit previously filed by Pam Barefoot had been interpreted as an accessory living unit when the building permit was filed. During that process, the Zoning Administrator

determined that the proposed artist studio/pool house would qualify as an accessory living unit since it would have a bathroom facility and separate drainfields. After conferring with Ms. Barefoot, Ms. Benson determined that the proposed structure would not be another living unit and Ms. Barefoot provided a written statement to that effect for the record. However, Ms. Benson stated that the Zoning Administrator had made the correct determination based on the current definition. Ms. Benson stated that this matter is basically complaint driven violations of use of accessory structures as living units. The Chair noted that building inspections may differ for accessory structures versus living units, but it can be considered a "gray area." Commissioner Miller came up with a list of accessory structures such as musician studio, home theater, etc., which may have sanitary facilities and electricity but are not dwelling units. Commissioner Cox asked for a definition of "living area." Commissioner Miller stated that the Building Official had explained living area as the area that is not a kitchen or bathroom. The Chair elaborated that a living area is part of a dwelling and not separate.

The commission voted unanimously to delete the last sentence, "When in a detached structure, the presence of a living area and a bathroom with sink, toilet, and tub or shower shall be considered to constitute an accessory apartment." Motion to revise the definition was made by Commissioner Cox and seconded by Commissioner Meyers.

The definition of "dwelling unit" was reviewed next. After discussion, motion was made by Commissioner Meyers to delete the sentence, "The presence of electrical power shall constitute the ability to provide permanent cooking facilities," from the current definition. Second was made by Commissioner Wescoat and the motion carried unanimously.

The commission then discussed the need to exempt non-conforming mobile homes in Section 154.249 Provisions for Special Uses, (D) (2) of the zoning ordinance. Ms. Benson explained that an application has been filed to replace a nonconforming mobile home with another that is smaller than the original, but based on current regulations the new home must have an approved special use permit as it would be considered an alteration or a modification. Therefore, staff recommends exempting mobile and manufactured homes from Section 154.249 by reference to Section 154.264 (D) (2). However, Ms. Benson suggested that it should be clarified that the degree of nonconformity may not be increased for mobile or manufactured homes.

Motion was made by Commissioner Wescoat to include additional language as follows in Section 154.249 as follows, "Single-section or multi-section manufactured homes that meet the current HUD manufactured housing code are exempt from the requirements of this Section in accordance with Section 154.246 (D) (2) provided that the degree of nonconformity is not increased."

Revisions to the zoning ordinance as requested by Board of Supervisors were considered. When discussing a single artist's studio, Commissioner Miller noted that she could find no one in the county who actually hired full-time employees, but sub-contractors are used on a limited basis at various times. In response to the Board's request for clarity, motion was made by Commissioner Miller that Art Studio be changed to Artist's Studio in Appendix A – Use Regulations, that Design Studio be allowed by minor special use in the WV-NB Waterfront village-Neighborhood Business District, and that definitions be changed in accordance with the February 2, 2010 memo (see attachment) that also lists the intent and justification for such revisions. Second was made by Commissioner Meyers and carried unanimously. Commissioner Meyers also recommended that in Item a) listed under intent and justification in

the Feb. 2nd memo also include the words, "and to encourage small business". The commission agreed to include the additional language by consensus.

The Chair called for a ten minute break at 8:35 p.m.

The commission agreed by consensus that the next item for discussion listed as "procedural matters" be deferred until the next regular meeting as suggested by Commissioner Coker. It was also determined that the matter be a separate line item and not placed under Unfinished Business on the agenda.

Communications.

Ms. Benson noted that agenda packets included the Cape Charles Planning Commission meeting held on February 2, 2010 as well as the Cape Charles work session held with the Town of Cheriton. No other reports were submitted pertaining to town planning commissions or town council meetings.

Ms. Benson stated that the Accomack-Northampton Planning District Commission has requested that two planning commissioners be appointed to the Regional Hazard Mitigation Committee. It was noted that Mark Cline, Building Official, and Ms. Benson have been appointed to serve as well. The purpose of these committees is to plan mitigation over the next two years by updating the regional hazard mitigation plan, including, but not limited to flood hazards. Commissioners Cox and Meyers agreed to serve.

Commissioner Miller asked that staff's action memo include the willingness of commissioners to serve on this committee.

Board Action on Zoning Matters.

Ms. Benson noted that the Board had approved Zoning Map Amendment 10-01 for the Charles Ames property as well as Zoning Text Amendment 10-01 for Design Production Studio changes to the ordinance. She also noted that action was taken on Bridgetown Hamlet whereby the Board voted to include the one parcel previously omitted and to leave the Hamlet boundaries as previously adopted in October. For information purposes Ms. Benson noted that Rev. Bryant's organization may be appealing the Board's action.

Committee Reports/Presentations.

Commissioner Coker presented a power point presentation as developed by the Wind Energy Sub-Committee. She also distributed hand-outs to those present. She noted that Virginia has no renewable portfolio standards at this time. It was her hope that a public information meeting can be conducted in May. Commissioner Kellam will conclude the commercial/utility scale portion of the report at the next meeting. It was noted that approximately 10 kilowatts are required to serve an average household and that the American Wind Energy Association has found no justification for wind energy syndrome.

Director's Report.

Commissioner Cox complimented Ms. Benson on her professionalism and detailed presentation of the commission's actions to the Board of Supervisors during the February 9th meeting.

Ms. Benson mentioned again that the next Kings Creek/Cherrystone TMDL meeting scheduled with DCR staff will be held on February 25, 2010 at 7:00 p.m. in Eastville. Therefore, this date was eliminated from those listed for a joint work session with the Board.

Ms. Benson stated that two public hearing matters are scheduled for the March meeting and copies of the draft Town of Eastville Subdivision Ordinance were distributed to those present. She noted that the special use permit filed by Franktown United Methodist Church to expand the existing Montessori School will be considered in March.

Copies of the final Planning Commission 2009 Annual Report were distributed to those present. Ms. Benson reported that the Board had received this report and no date has been set by the Board for the joint work session as requested by the commission.

Ms. Benson reported that the issue of lot coverage related to solar energy installations is still being investigated. She then presented written information to the commission based on information received to date. She noted that the information was a compilation of various DCR staff comments concerning installation of solar facilities. Commissioner Wescoat noted that the elevation of solar panels would be an important factor in determining sun light penetration and ground maintenance issues.

Upon the completion of the Wind Energy Subcommittee report the commission agreed to discuss the next steps that may need to be taken concerning solar and wind energy regulations.

Adjourn.

At 9:38 p.m. Commissioner Cox moved to adjourn and was seconded by Commissioner Coker.

Chairman

Secretary