

Minutes
Regular Meeting
Northampton County
Planning Commission
December 1, 2009

This was a regular meeting of the Northampton County Planning Commission held on Wednesday, December 1, 2009, in the former circuit courtroom located at 16404 Courthouse Road in Eastville, Va.

Those present were Chair David Fauber, Robert Meyers, Michael Ward, James Lackie, Mary Miller, Roberta Kellam, Thom Shockley, Marshall Cox and Martina Coker.

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

The meeting was called to order at 7:05 p.m. by the Chair and a quorum established.

The agenda was then reviewed and accepted upon motion by Commissioner Meyers and second by Commissioner Coker.

The first public hearing was then called to order.

Public Hearings:

A. Special Use Permit 09-07: Peter and Marcia Zanetich, applicants, have applied to operate a horse barn/private training facility on 3.7 acres of land owned by Synergy Development Investments, LLC, in Selma Farms Estates located on Tax Map 58, double circle 2, parcel 1. The property, zoned ES/CD-RR Existing Subdivision/Community Development-Rural Residential, is located just north of Eastville on the east side of Courthouse Road.

Ms. Theresa Olivetto, real estate agent for the applicants, and Mr. Steve Hall, the subdivision co-developer, were present to answer any questions.

Ms. Olivetto stated that the applicants are animal rescuers and have two horses that they wish to stable and pasture on the property.

Mr. Hall acknowledged that the subdivision covenants do allow horses. For the record, Ms. Benson clarified that the county does not enforce such covenants or deed restrictions.

The Chairman called for any other comments from the public. There being none the hearing was closed.

Commissioner Miller stated that she lives adjacent to this subdivision; however, she did not believe that would pose a conflict and the Chair agreed.

The Chairman called for disclosure of any ex parte communications concerning this special use permit application. None was acknowledged by the commission and a show of hands revealed that all commissioners had conducted individual site visits to the property.

Commissioner Kellam inquired if there were any standards of care and a plan to prevent odor. Ms. Olivetto stated that the horse stalls would be cleaned daily but could not identify where manure storage would be located.

Mr. Hall stated that only this parcel in the subdivision could possibly support a horse barn facility due to its size of 3.7 acres since the county requires one acre per horse. When asked he acknowledged that no common area or riding paths exist within the subdivision although he has granted permission in the past for individuals to ride through since the subdivision is sparsely developed at this time.

Ms. Olivetto added that the applicants propose to designate 2.09 acres of land as pasture to meet the county's requirement of supplying one acre per horse.

Commissioner Miller noted that the lot width of 380 feet cannot accommodate the 200-foot setback requirement for outdoor manure storage. However, she noted that an enclosed manure storage area is an option since open outdoor storage is unavailable.

Referring to staff comments, Commissioner Coker noted that the Town of Eastville allows the stabling of horses within its corporate limits which has worked well for years and it was her opinion that this is a similar situation.

Action:

Commissioner Coker then moved to recommend conditional approval of Special Use Permit 09-07 requiring enclosed manure storage that meets county guidelines. Commissioner Meyers suggested that provisions to provide a 10-foot fence setback from property lines and a small two-stall stable within the pasture area also be added to the motion as stated by the applicants in their letter of justification. Also, Ms. Benson suggested that a maximum of two horses only be part of the conditional approval. Commissioner Coker agreed to amend her motion to recommend approval to the Board with the following conditions: (1) manure storage shall be enclosed; (2) a 10-foot fencing setback be maintained; (3) a two-stall stable shall be located within the designated two-acre pasture area; and (4) a maximum of only two horses be allowed. Second was made by Commissioner Lackie and the motion carried unanimously.

The second public hearing was called to order.

B. Zoning Text Amendment 09-05: Lincoln Renewable Energy has filed an application for a proposed zoning text amendment to amend the Northampton County Zoning Ordinance to include a new Section 154.113 entitled "Standards for Solar Energy Facilities," and to amend Appendix A, Use Regulations, Category 4 Community Service Uses, to add "Solar Energy Facility, Small System" and "Solar Energy Facility, Large Scale."

Agents for the applicant were Joseph Jordan, Jessica Brunton and Danielle Cutlip. Mr. Jordan noted that by allowing solar energy projects the county will increase tax revenue while still preserving its rural character. He also noted that any rezoning should be conditional if possible so as to not limit the landowner's options.

The Chair called for comments from the public.

Alice Coles of the Bayview community inquired about taxation, land prices, and impacts to local people if located within an established community. She stated that she had visited a solar energy facility in North Carolina that was located in a very rural area away from residential development. She stated her support of solar energy but cautioned that potential impacts should be researched first.

Janet Sturgis of Franktown asked that the commission delay action on this matter until both solar and wind energy is addressed in a comprehensive manner. She stated that the county is moving too fast without adequate information in her opinion. She also noted that such projects may not be cost effective 5 years or 25 years from now. She also voiced concerns about eminent domain being imposed with the need for more energy such as happened with the water situation at Lake Gaston. She also voiced concern about potential condemnation of property resulting from such projects.

Rob Savage with the Northampton County Chamber of Commerce stated his support of the zoning text amendment to allow such projects in a limited capacity of 600 to 1,000 acres. It was his opinion that land values would not be dramatically impacted by allowing such facilities. He asked that the commission not confuse solar energy with wind energy since they are very different in scope. It was his opinion that a solar energy field would be less intrusive resulting in less stormwater run-off than plastic culture fields. He asked that the commission lead the way in being pro-active and not limit economic opportunity such as this.

Commissioner Kellam stated that researching both residential and commercial solar energy has proved to be overwhelming and noted her concern about the time-table and stakeholder involvement.

Ms. Benson stated that the staff report includes language related to home solar installation as well as commercial plus deletions of what the applicant presented.

Commissioner Meyers stated that he would like to have input from the local power supplier, Accomack-Northampton Electric Cooperative (ANEC), as well as from other localities who allow this type of use.

During discussion the commission was of the consensus that language should be developed to separate residential from commercial solar energy.

The commission discussed how to define a small system versus a large scale system; should wattage language be used as a descriptor versus the size of a unit/panel; where to allow residential installations; stormwater management policy; noise abatement related to bird management; prevention or limitation of hazardous materials used to clean panels on site; screening options; how to determine impervious area; and how the industry is regulated. The Chair stated his opinion that the subject is a land use matter and should be considered in those terms. He added that how the industry is regulated in the State code is not really germane. Ms. Benson referred to those comments written by Bruce Jones, county attorney, whereby he advised, "Before the Planning Commission gives it serious consideration, I urge you to have your staff educate itself to some degree in this field and consider it from an explicitly zoning (as opposed to electrical generating) perspective."

During the discussion Mr. Jordan noted that panels would be cleaned with water only. He also stated that certain standards apply to residential installations only and Ms. Brunton acknowledged that some proposed standards may not be applicable.

At this time the commission took time to examine revisions to the language as submitted by Commissioner Kellam who later read her suggestions asking that some sort of uniformity be established for such applications. Her suggestions, covering both large and small scale systems, are attached as part of the official record.

Commissioner Miller suggested that the word “directly” be inserted in Section 154.113, (B) Definitions, Solar Module: A device that converts energy directly from the sun’s rays into electric current. Also, she suggested that the word “necessary” replace “and all” in the definition of Solar Energy Facility.

Ms. Brunton suggested that residential solar applications be tabled at this point and asked that the commission continue discussion on the commercial portion of the language in order to move forward.

Mr. Jordan stated his opinion that large scale solar farms should be regulated under the special use process, but not small residential users. He added that the special use permit process allows a high level of specificity on a case-by-case basis for each individual application.

While discussing stormwater management Ms. Benson clarified that county regulations already require that a stormwater management plan be submitted as part of a development plan and that it would be redundant for the commission to address this issue as a separate item for solar energy.

Commissioner Coker suggested that more time is needed to investigate what other localities have experienced and how these projects are regulated. Referring to the staff report, Commissioner Miller noted that staff research, while not considered exhaustive to date, has found no example that might be used as a template to regulate the installation of large solar arrays.

Ms. Brundon stressed that the zoning text amendment is basically a conduit to apply for a special use permit and that the proposed amendment is not project specific.

Commissioner Lackie noted that this language is a proposed framework to allow solar energy projects. Ms. Benson then explained the special use permit process noting that each application, being both property and project specific, would be reviewed and considered on a case-by-case basis. She also explained that the commission could simply allow solar projects through the special use permit process and could also establish standards. She reminded the commission that action must be taken no later than February 13, 2010 on the zoning text amendment.

Commissioners Meyers and Kellam volunteered to compile all proposed language including recommendations submitted by Commissioner Kellam, the applicant, and staff into one document for further consideration and review by the commission.

Action:

Motion was made by Commissioner Miller to postpone discussion of Zoning Text Amendment 09-05 until December 7 at 6:00 p.m. Second was made by Commissioner Cox and carried unanimously.

Ms. Brundon asked that any other additional comments made by the commission or staff be forwarded to her so that a response can be made in time for the December 7 meeting.

Matters from the Public

Rev. Debbie Bryant , Pastor of Shorters Chapel AME Church and President of the Historic Bridgetown Association, asked that the Bridgetown Hamlet be recognized from Church Neck Road to Harmantown Road with frontage on Bayside Road, both sides. She stated that this village area is the oldest in Northampton County.

Consideration of Minutes

The Commission approved the minutes of November 4, 2009 with the following corrections: (1) page 6, paragraph 1, second line, the name Parks should be capitalized; and paragraph 7, the first sentence was incomplete and should read, "There was brief discussion of these small lots being included in the application." (2) Page 7, paragraph 9, the person making the motion should be noted as Commissioner Lackie; and paragraph 10, correct the spelling of the name Cridlin. (3) Page 11, paragraph 10, Commissioner Kellam's motion be clarified. (4) Page 13, paragraph 5, second line, insert the word "by" after the word "seconded." (5) Page 17, second paragraph from the bottom, action on this matter was omitted that should read, "Motion was made by Commissioner Meyers to recommend approval of all six additions proposed to The Hermitage AFD which was seconded by Commissioner Coker. The motion carried." Motion to approve the minutes as corrected was made by Commissioner Meyers and seconded by Commissioner Lackie.

Since the minutes of November 5th had been received this day the commission agreed to defer action until a later time.

Unfinished Business.

The commission then discussed and amended the adopted By-Laws to include language to manage inquiries on pending matters and to verify the code authorization concerning special meetings. Motion to amend was made by Commissioner Kellam and second by Commissioner Ward. In section 2-5, the third sentence, the word "matter" was deleted and replaced with "pending application."

Ms. Benson reminded the commission that elections should be held in January. A Nominations Committee was formed with Commissioners Miller and Lackie serving.

New Business.

The commission then discussed and adopted a work plan related to development of the TE Town Edge District as directed by the Board of Supervisors and as drafted by staff. Ms. Benson explained that the commission will need input from the towns, residents and landowners in the TE areas in order to comply with the county's comprehensive plan. She stressed that a minimum of 5 months is needed for the process. Motion to approve staff's plan and to commence the work plan with the Town of Exmore was made by Commissioner Kellam and seconded by Commissioner Miller. The motion carried unanimously.

Motion was then made by Commissioner Kellam to accept the staff's recommendation to develop standards for wind energy and duplex structures. The motion was seconded by Commissioner Meyers and carried unanimously.

Commissioners Miller and Cox volunteered to draft standards for duplex structures while Commissioners Kellam and Coker agreed to draft standards for wind energy.

At this time Commissioner Miller stated that she had received a letter from a property owner inquiring about locating a design/production facility. Ms. Benson noted that the Board has also requested that definitions of "artist studio" and "artisan studio" be reviewed to increase the number of employees allowed. As the current ordinance limits the size of a production studio the commission discussed the need to amend the current ordinance.

During discussion motion was made by Commissioner Kellam and seconded by Commissioner Coker to continue the meeting beyond 10:00 p.m.

Commissioner Miller submitted the letter received and motion was made by Commissioner Meyers to amend the zoning ordinance to allow production studios up to 5,000 square feet with up to 12 employees (from 5 employees) and to revise the definition and Use Chart.

The commission agreed to change the listed agenda order to review map matters and proceeded to discuss the Bridgetown Hamlet. Mr. Stith explained that prior Board action had omitted one parcel known as parcel 29A that should be included. Also, a public hearing to amend the Bridgetown Hamlet area as discussed by the Board must be held. After reviewing the digital map of the area, motion was made by Commissioner Meyers that those lots shown as light pink as depicted on the draft Bridgetown Hamlet map including parcel 29A be recommended for inclusion in the Bridgetown Hamlet. Second was made by Commissioner Cox and carried unanimously.

Parcel 10-A-53 owned by Charles and Jean Ames and its surrounding area were reviewed by the commission. Mr. Stith explained that the boundary of this parcel had been mapped incorrectly and that the owners operate a cabinetry manufacturing business on the premises. He added that the L-shaped parcel also contains some woodland. Motion was made by Commissioner Miller to recommend that parcel 10-A-53 be changed to EI Existing Industrial. Second was made by Commissioner Shockley and carried with Commissioner Meyers opposed. Commissioner Meyers was of the opinion that the owners wished to have only that portion of the property rezoned to EI where the business was located and not the entire wooded area.

Parcels 91-A-2 and 91-A-3 owned by SHC Davis Trust #1 and the surrounding area were then reviewed. Motion was made by Commissioner Meyers and seconded by Commissioner Kellam to recommend that the parcels remain in the TE-1 District. The motion carried with the commission noting that the parcels could be rezoned in the future when there is a need.

Parcel 105-A-73 owned by Bill Parr and its surrounding area was reviewed. Even though a variance approval had been issued it was staff's opinion that the parcel does not meet the criteria for EB Existing Business District status. Reviewing the background concerning the review process of this particular parcel, Commissioner Ward stated his opinion that this matter involves a procedural problem. Ms. Benson stated that no approved site plan exists and that the granting of a variance as a significant government action does not qualify as the whole basis for changing the zoning from A Agriculture to EB Existing Business District.

Communications.

No new business was reported for the Town of Eastville from Commissioner Lackie.

Commissioner Ward reported that the Town Council of Cheriton has scheduled a meeting concerning a proposed boundary adjustment on January 2, 2010.

No new business was reported for the Town of Nassawadox from Commissioner Kellam. She also informed the commission that the town secretary had been instructed to not release the town council minutes.

Commissioner Meyers reported that the Town Council of Exmore, staff and the Board of Supervisors are meeting on preliminary planning matters.

Board Action on Zoning Matters.

Ms. Benson reported that the Board had approved many of the AFD applications except for those where zoning district issues are being reviewed further.

Committee Reports.

There were no committee reports submitted.

Director's Report.

Ms. Benson reported that Hampton Inn representatives will be available at the January 5, 2010 meeting to make a preliminary presentation as required. She added that since no site plan had been approved prior to the adoption of the recent zoning text amendments the parcel will need to be rezoned from the TE Town Edge District to the TE-CG Town Edge-Commercial General District in order for the hotel to be constructed as previously planned.

Ms. Benson encouraged uncertified commissioners to attend the upcoming certification course that will be offered locally. She added that there is funding available for five attendees. Commissioners Kellam and Coker stated their intentions to attend.

Adjourn.

At 11:00 p.m. motion was made by Commissioner Miller to recess which was seconded by Commissioner Kellam.

Chairman

Secretary