

Minutes
Regular Meeting
Northampton County
Planning Commission
January 5, 2010

This was a regular meeting of the Northampton County Planning Commission held on Tuesday, January 5, 2010 in the former circuit courtroom located at 16404 Courthouse Road in Eastville, Va.

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

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 7:04 p.m. by the Chair and a quorum established. The Chair then introduced and welcomed the newest appointee, David Kabler.

It was noted that communications received from James Lackie who recently resigned from the commission be included in the February agenda for the commission's information.

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. Zoning Map Amendment 10-01: The Northampton County Board of Supervisors proposes to amend the zoning on Tax Map 10, double circle A, parcel 53 from the TE-1 Town Edge – One District to the EI Existing Industrial District. The property, owned by Charles & Jean Ames, is located at 11420 Oakland Drive near Exmore.

The Chair called for public comments. No comments were received from the applicant or the public. The hearing was closed.

Ms. Benson stated that the application resulted from a prior recommendation made to the Board from the planning commission.

Commissioner Meyers noted that the commission had already discussed this property and the need to rezone for consistency with the newly adopted zoning map.

Action:

Motion was made by Commissioner Meyers that the commission recommend approval of Zoning Map Amendment 10-01 to the Board of Supervisors who advanced the matter to public hearing. Second was made by Commissioner Coker and carried unanimously.

The second hearing was called to order.

B. Zoning Map Amendment 10-02: The Northampton County Board of Supervisors proposes to expand the area known as Bridgetown Hamlet to include Tax Map 29, double circle A, parcels 24, 28, 29, 30, 31, 36A, and 40A and that portion of parcel 37 with road frontage on the west side of Bayside Road south of parcel 29-A-39 and to a depth of 180 feet west side of Bayside Road and all of that portion of parcel 37 with road frontage on the east side of Bayside Road; Tax Map 29A1, double circle 1, parcels 3, 4, D3, E1 and E2; the road frontage only of Tax Map 29, double circle A, parcel 20 to a depth of 200 feet east of Bayside Road; and that portion of Tax Map 29, double circle 2, parcel A that abuts parcel 29-A-28 on three sides to the northwest, west-southwest, and southeast, constituting approximately 0.5 acre, with the distance from Bayside Road to the northwest corner of the proposed Hamlet boundary being 480 feet and from Bayside Road to the northeast corner of the proposed Hamlet being 570 feet. Zoning on all parcels shall be changed from the A/RB Agriculture/Rural Business District to the H Hamlet District. The parcels are located along the east and west sides of SR 622, Bayside Road.

The Chair called for public comments.

Rev. Debbie Bryant, Pastor of Shorters Chapel and President of the Bridgetown Association, stated her support of the rezoning application but wanted assurance that all parcels are included.

The Chair noted that if approved the Bridgetown Hamlet would be increased.

Mr. David Head, owner of parcels 3, E1 and E2 as listed in the application, stated his opposition to the rezoning of his parcels. It was his opinion that the area is more rural in character and not a residential neighborhood. He also noted that staff had informed him that hamlet zoning would allow greater residential density. He stated that they purchased the property in order to raise their children in a rural environment where they could have horses and other farm animals. He added that if this rezoning is approved it would prevent them from having farm animals and horses by-right. Mr. Head also explained that he and his wife had refused to sign the Bridgetown Hamlet petition originally circulated by Rev. Bryant. Noting that agricultural uses are the primary source of revenue for the county, he asked that his acreage be eliminated from any rezoning action that would remove it from the A Agriculture District.

Mrs. Julie Head also stated her adamant opposition to the rezoning petition that, if approved, would prevent them from using their 12 acres for farm purposes.

Discussion followed and Commissioner Kellam noted that the Bridgetown Hamlet is to preserve a historic settlement area and asked if a historic map exists of the area. She also questioned why the hamlet did not appear on the comprehensive plan future land use map.

The Chair and Ms. Benson explained that the Bridgetown Hamlet was recognized at the end of the comp plan process, but this hamlet area was not as large as now proposed.

Mrs. Head stated that residences within the area are very spread out. Ms. Benson stated that one of the primary considerations in developing this hamlet was the historic settlement significance and that an

organized group asked for its recognition. She added that the commission had held numerous discussions on whether the area qualified as a hamlet. The Chair added that it was a split discussion and the historic point was recognized as a basis to include the area as a hamlet. Commissioner Meyers stated that he was unaware of any historical evidence being presented specifically for the east side of Bayside Road.

When asked Ms. Benson stated that no other property owners have responded to the notices sent about the proposed rezoning. Commissioner Miller noted that several people along Church Neck Road were opposed to having their land included when this hamlet was first proposed and the commission recommended removal of those parcels.

Ms. Benson stated that parcel 40A was erroneously omitted when the Board's adopting motion was presented at the October 6, 2009 meeting.

Commissioner Kellam noted that all properties to the south were not under consideration in October and that the Board asked the commission to review this matter again. She stated her concern that the definition of a hamlet has not been established for Bridgetown and questioned if any acreage, especially farmland south of Tax Map 29, double circle A, parcels 24 and 36A, should be rezoned for inclusion.

Rev. Bryant spoke once again noting that she had personally checked local court records which confirmed that Bridgetown area was the oldest village in the county plus she had confirmed this with the "elders" of the area. She added that her research revealed that the area from Church Neck Road to Harmantown Road was known as original Bridgetown.

Commissioner Kabler then noted that stabling of horses/ livestock husbandry/packing shed all required a minor special use permit in the Hamlet District. When referring to the 12 acres owned by the Head family he noted that their acreage drains into Hungars Creek and he was concerned about potential pollution from animal waste. He also stated that there were new homes in the general vicinity as well adding to the density.

Rev. Bryant stated that the residents of the area were opposed to heavy-type agricultural uses but not what the Head family would like to do for their own private use.

Commissioner Ward suggested that the Head family should consider combining their three separate lots into one.

During discussion Commissioner Miller suggested that 200 feet of road frontage belonging to the Head family be included in the Hamlet only. However, Mr. Head stated emphatically that they did not wish to have any of their land designated as part of the hamlet. He added that the soils on their property are the well drained Bojac type and not the poorly drained Munden type that exists in the surrounding areas.

Commissioner Kabler suggested that since the minor special use permit process allows the commission to "fine tune" applications related to horses and other livestock uses, and since animal waste is a concern, parcels belonging to the Head family should be included in the Hamlet District.

Mrs. Head spoke once again about her opposition that their residence and acreage should be included in the Bridgetown Hamlet.

Commissioner Miller stated that when first delineating villages and hamlets, it was discovered that a pattern of linear development had occurred along both sides of the road. She then suggested that the commission consider including a linear hamlet of 200 feet along the road frontage on the east side of Bayside Road and capturing smaller lots to the south which has been done in several other places. However, Mrs. Head stated that including 200 feet of their acreage would take in land beyond their new residence.

Commissioner Meyers suggested that the matter be postponed until more information is available and that other landowners in the area should be considered.

Rev. Bryant stated that a petition was submitted to the county asking for Hamlet status for those who have houses in the area.

Commissioner Kellam stated that more research is warranted about the historical core of Bridgetown and that compliance with the comprehensive plan is necessary. Motion was then made by Commissioner Kellam to table the matter. Commissioner Miller asked if the motion should be to table the matter or to amend the motion to postpone until the next meeting. Commissioner Kellam amended her motion so that more information be obtained about the historic background of Bridgetown and that a copy of the petition be provided as well. Second was made by Commissioner Cox and carried unanimously.

Commissioner Meyers agreed that the signed petition should be provided again and that the commission should know where the petitioners own land in Bridgetown.

Mrs. Downing noted that all property owners listed as part of the Zoning Map Amendment were sent a certified letter by mail informing them of the public hearing and their status as one of the property owners to be included in the proposed hamlet area.

The third hearing was called to order.

C. Zoning Text Amendment 10-01: The Northampton County Board of Supervisors proposes to amend Chapter 154: Zoning Code of the Northampton County Code of Ordinances, specifically §154.003 Definitions and Appendix A. The proposed revisions would amend the definition of **DESIGN/PRODUCTION FACILITY** to increase the maximum number of employees from five (5) to twelve (12) and increase the allowable square footage for this use as set forth in Appendix A, Use Regulations, Category 3, Commercial Uses, from 3,000 square feet to 5,000 square feet.

The Chair called for public comments. No comments were received and the hearing was closed.

Commissioner Kellam questioned the need to limit the number of employees. Commissioner Miller stated her opinion that limiting employees would prevent traffic, parking and impervious surface concerns. Commissioner Kellam questioned how an employee is defined and if sales people are included who may not always be at the place of business as well as people who work on commission or by contract. It was her opinion that impact issues would be handled by limiting the building size and parking requirements. Ms. Benson stated that additional language could be added such as employees "on site".

Motion was made by Commissioner Kabler to recommend approval of Zoning Text Amendment 10-01 as written. Commissioner Kellam stated she was not convinced about limiting the number of employees. Second was made by Commissioner Miller. The motion failed by a three to five vote.

Action:

Motion was made by Commissioner Kellam to recommend approval of Zoning Text Amendment 10-01 by eliminating the limitation on the number of employees. Second was made by Commissioner Meyers.

Commissioner Miller asked if the special use permit process will allow the commission to know how many employees and parking areas are proposed. Ms. Benson replied yes.

The commission then reviewed where the proposed use is allowed by special use permit as listed in the county zoning ordinance.

The motion to recommend approval of Zoning Text Amendment 10-01 as modified carried unanimously.

The Chair called for a short recess at 8:30 p.m.

Matters from the Public: none received.

Consideration of Minutes.

The minutes of the November 5, 2009 recessed meeting were approved with the following corrections: page 1, eighth paragraph, first sentence, the word "sue" should actually be "use"; page 3, second full paragraph, first line, insert "a" after "on" and before "site"; page 4, tenth paragraph, replace the word "held" with the words, "will hold" and last paragraph, second line, insert "be" after "will" and before "discussed." Motion to approve as corrected was made by Commissioner Miller and seconded by Commissioner Coker.

The minutes of the regular meeting held on December 1, 2009 were approved with the following corrections: page 2, last line, change to "landowner's options"; page 4, seventh paragraph, change Mr. to Ms.; page 6, first paragraph, the last sentence should read, "As the current ordinance limits the size of a production studio the commission discussed the need to amend the current ordinance;" page 6, seventh paragraph, fifth line, delete the word "there"; top of page 7, the Commissioner's name should be changed from Coker to Kellam and to include the following sentence, " She also informed the commission that the town secretary had been instructed not to release the town council minutes." Motion to approve as corrected was made by Commissioner Miller and seconded by Commissioner Cox.

The minutes of the December 7, 2009 recessed meeting were approved with the following corrections: page 4, third paragraph from the bottom, the word "conversation" should be "conversion" and last paragraph, first line strike the word "that". Motion to approve as corrected was made by Commissioner Cox and seconded by Commissioner Ward.

The Chair commended staff for work on the minutes.

Unfinished Business: none.

New Business.

A preliminary briefing with representatives of the proposed Hampton Inn project was conducted. Ms. Benson gave a brief background summary noting that the applicants had received special use permit approval for the proposed sewage treatment system last year. However, even though draft site plans had been received they were not approved prior to the adoption of the draft zoning ordinance and zoning map amendments. The subject parcel did not qualify for EB Existing Business District and is now part of the TE Town Edge District. Therefore, the applicants are now seeking to rezone the property to TE-CG Town Edge-Commercial General to allow the hotel. Ms. Benson then distributed topographical maps for information purposes and noted that the subject location is near the headwaters of Kings Creek. It was noted that Commissioner Meyers had noticed that on the previous site plan berms to contain stormwater on-site were shown but do not appear on the new plan. Commissioner Kellam asked if there was a stormwater management plan available. She suggested that it and an approved site plan be available before the public hearing is held. Commissioner Miller agreed. Commissioner Kellam noted that a water quality impact assessment and storm water management plan will help eliminate discharge from construction site run-off and from the parking lot. She also noted her concerns about visual impacts, screening from residential areas, and bird habitat.

Mr. Brooks Johnson with Harmony Investments and Mr. Arthur Amorese were present to answer questions and to provide additional information. Mr. Johnson stated that a traffic impact analysis study had been completed as well as an environmental study. He also noted that a landscaping plan had been submitted and that they had gone through three site plan reviews with county staff. In October the new zoning ordinance amendments and zoning map were adopted and the approval process was stopped. He stated that they plan to use the sewage system as previously approved.

Commissioner Miller stated that elevations should be shown on the site plan and actual pictures of what is to be built should be included as well. She also stated that verification from the Virginia Department of Transportation (VDOT) for a 95 room hotel should be provided.

Commissioner Kellam asked if the commission could rezone only 7 acres of the parcel. Ms. Benson stated that the commission could make such a recommendation to the Board of Supervisors.

Commissioner Kabler voiced his concerns about environmental impacts and impacts to the U.S. 13 highway corridor. It was his opinion that the Town of Cape Charles would be a much better location for this hotel project.

Mr. Johnson stated that the entire hotel project could be accommodated on only two acres but they plan to use seven acres to make it an exceptional project.

Commissioner Cox stated his opinion that if approval has been issued by VDOT for this project then it is a moot point to ask the applicant to provide anything more related to traffic and road access.

Mr. Johnson answered various questions and stated that native vegetation would be used in the landscaping plan. He also noted that omission of the berms was an over-sight on the new plan. Construction time would take approximately one year and that they would use the Cape Charles sewage system if it was available.

At this time Commissioner Kellam noted for the record that Kellam Realty owns property across U. S. 13, but that would not affect her decisions on this matter.

Discussion followed on ownership of the property with Mr. Johnson stating that currently the bank manages the property. He intends to own the property but not until approval has been granted to build the project.

Noting that tourism is one of the county's economic engines, Commissioner Miller stated that hotels are needed in the county. Mr. Johnson noted that the conference meeting room has been enlarged and that the pool has been moved to a better location. They hope to attract visiting sportsmen, tourists, as well as providing a location to host wedding receptions and business meetings. Although there are no restaurant facilities on site, he noted that a limited service breakfast would be available and that privately catered functions would be accommodated.

Before concluding Commissioner Miller reiterated the items of interest as expressed by the commission including the use of berms, height issues, elevations and conceptual drawings of the facility.

Mr. Johnson stated that there is no Hampton Inn in existence such as the one proposed and Hilton Hotels Corporation will have to approve the design even though he and his partner have an approved franchise and are considered preferred developers.

Motion was made by Commissioner Miller to continue the meeting beyond 10:00 p.m. Second was made by Commissioner Coker and the motion carried.

Director's Report:

The Commission then discussed that portion of the Director's Report submitted by Ms. Benson concerning a proposed zoning text amendment to Section 154.145 Height and Bulk Regulations to add a new paragraph to allow modifications applicable to Town Edge Districts, Existing Business District, Waterfront Commercial District and Commercial District. Commissioner Miller suggested that the modification language be restricted to the TE-CG Town Edge-Commercial General District and that the word "side" be made plural in the suggested language. Commissioner Kabler suggested that the height modification be allowed in all TE Districts.

Motion was made by Commissioner Miller to schedule a public hearing to amend Section 154.145 Height and Bulk Regulations of the zoning ordinance to include a new paragraph to read, "(l) Modifications applicable to the Town Edge-Commercial General District, Existing Business District, Waterfront Commercial District, and Commercial District. The maximum height for any principal structure shall be 35 feet, except that additional building height may be permitted where the building is set back from each property line (front, rear and sides) two (2) additional feet horizontally for each one foot of additional height over 35 feet, up to a maximum of forty-five (45) feet." Second was made by Commissioner Kellam and carried with Commissioner Kabler opposed.

The Chair called for a short five-minute break at 9:58 p.m.

The commission then reviewed pending variances scheduled for public hearing before the Board of Zoning Appeals (BZA).

Variance 09-09 as filed by Granville Hogg for placement of an animal shelter was recommended for approval upon proper motion by Commissioner Kabler and second by Commissioner Cox. The commission determined that due to the limited dimensions, configuration of the property, and frontage on two roads that a hardship was evident and no setbacks could be met.

Variance 09-10 as filed by David Griffith was recommended for denial. Written comments from Commissioner Meyers were reviewed related to the proposed variance and use of the property. He listed his concerns about the decrepit conditions of the existing septic tank, unknown location of the drainfields, the possibility that the owner had granted Shore Bank a right-of-way that may have resulted in a self-imposed hardship, better placement of the proposed structure would be immediately west and adjacent to the short right-of-way stub, and verification that the Virginia Department of Transportation (VDOT) had been notified about the variance request in order to address safety standards. Commissioner Kellam agreed noting that a portion of the property is part of the right-of-way for Shore Bank that is now causing setback problems. Motion to recommend denial to the BZA was made by Commissioner Kellam that was seconded by Commissioner Miller. The motion carried unanimously.

The commission then discussed definitions for Artisan Studio and Artist Studio. Commissioner Miller stated her opinion that larger studios should not be located in residential neighborhoods. After brief discussion, it was decided that more analysis was in order and further discussion was postponed.

The commission then briefly reviewed the memo from Ms. Benson relating that the Board of Supervisors has directed the commission to develop a Highway Overlay District specifically for Stone Road (SR 184) up to the Cape Charles corporate limits and Old Cape Charles Road as well. The memo also stated that the Board has directed the commission and county staff to work with the Cape Charles Planner with regard to this matter. After brief discussion it was noted that more direction may be needed to determine if a singular ordinance for both the county and town is to be developed or not.

The commission then reviewed potential meeting dates with the Exmore Planning Commission to develop Town Edge plan language for Exmore.

Ms. Benson distributed a first draft of the 2009 Annual Planning Commission Report. Commissioners Miller and Fauber volunteered to work with staff concerning the final draft details.

The Chair appointed Commissioner Coker as Vice-Chair to replace Commissioner Lackie who had resigned.

Communications.

Commissioner Ward informed the commission that the Cheriton Town Council would be discussing a boundary adjustment at their January 27 meeting.

Commissioner Miller reported that the Eastville Town Council is working on development of a subdivision ordinance. She also stated that the town has been experiencing some stormwater management problems lately.

Commissioner Kellam reported nothing new for the Town of Nassawadox but was hopeful that the minutes of council meetings would be forthcoming in the future.

Board Action on Zoning Matters.

Ms. Benson reported that the Board had tabled a few AFD applications due to zoning district conflicts and that several property owners had withdrawn their applications before final action was taken by the Board.

Committee Reports.

Commissioners Kellam and Coker submitted their Wind Energy Subcommittee report. Commissioner Coker noted that the county should take a proactive approach as more public requests may be made for wind structures in the future. She added that some concerns that will need to be addressed include scenic impacts, air traffic, agriculture issues, maritime traffic, regulatory standards, avian life, marine life, location, and noise. The report also noted that most of the perimeter of the Eastern Shore is rated as good to excellent as a wind energy source location by the U.S. Department of Energy. The subcommittee suggested that a public information session be held during the February 2 meeting, that a proposed ordinance be presented to the commission by March 2 and vote held by April 6.

Commissioner Kabler encouraged all commissioners to visit a wind energy farm project if possible so that its visual impact could be seen firsthand.

It was decided that a public information meeting on wind energy be scheduled for Thursday, February 4.

Director’s Report.

Ms. Benson reported that the Department of Conservation and Recreation has scheduled a meeting on January 20 to discuss water quality plans for county streams if any commissioners are interested in attending. The main focus of the meeting will be water quality improvement planning for Cherrystone Inlet and Kings Creek.

Ms. Benson noted that commissioners should come prepared in February to discuss the draft Eastville Subdivision Ordinance.

Ms. Benson reminded the commission that the lot coverage issue for solar energy installations still needs to be resolved.

Due to the volume of future work, Ms. Benson suggested that an additional monthly meeting for work sessions be scheduled. It was determined that the third Wednesday of each month be scheduled as a regular recess work session as deemed necessary.

Adjourn.

Motion to adjourn at 11:40 p.m. was made by Commissioner Cox and seconded by Commissioner Kabler.

Chairman

Secretary