

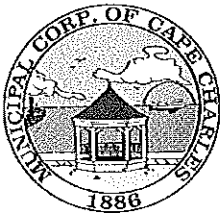
Planning Commission

Regular Session Agenda

February 5, 2013

6:00 P.M.

1. Call to Order – Planning Commission Regular Session
 - a. Roll Call – Establish a quorum
2. Invocation and Pledge of Allegiance
3. Public Comments
4. Consent Agenda
 - a. Approval of Agenda Format
 - b. Approval of Minutes
 - c. Reports
5. Old Business
 - a. Density – Town Council Letter
6. New Business
 - a. Section VIII – Historic District Ordinance and Guidelines
7. Announcements
8. Adjourn



DRAFT
PLANNING COMMISSION
Regular Meeting
Town Hall
January 9, 2013

At approximately 6:00 p.m. in the Town Hall, Chairman Dennis McCoy, having established a quorum, called to order the Regular Meeting of the Planning Commission. In attendance were Vice-Chair Mike Strub and Commissioners Andy Buchholz, Dan Burke, Joan Natali, Sandra Salopek and Bill Stramm. Also present were Town Planner Tom Bonadeo and Town Clerk Libby Hume. There were 4 members of the public in attendance.

A moment of silence was observed followed by the Pledge of Allegiance.

PUBLIC COMMENTS

Don Riley, 538 Monroe Avenue

Mr. Riley stated that he lived about half a block from Central Park where the bathrooms would be located and that he had entered an appeal on the Historic District Review Board's approval of the plans and location of the bathrooms. Mr. Riley added that he had a petition signed by the citizens of the Town opposing the bathroom project. The citizens of Town did not think that bathroom facilities were needed in the park and the proposed building was too large and historically incorrect and that using the design from the pump station was insane. Mr. Riley stated that he had spoken to Mayor Sullivan and Bob Panek, President of the Citizens for Central Park (CCP), to no avail adding that he spoke to Karen Gay of the CCP and she was not aware of any meetings to discuss the proposed building.

Joan Natali noted that Ms. Gay had resigned from the CCP.

Mr. Riley continued to state that Mollie Pickron, one of the property owners directly across from the proposed location, called him and was very upset regarding the design being taken from the pump house which was built in the 1980s. Mr. Riley stated that it seemed that the people serving the Town and on the CCP Board were the same ones who built the sewage treatment plant by the Bay Creek development. Mr. Riley reiterated that he had heard numerous complaints regarding the proposed bathroom facilities and concluded by stating that he would continue to fight the project.

There were no other comments from the public nor any written comments submitted prior to the meeting.

CONSENT AGENDA

Motion made by Joan Natali, seconded by Mike Strub, to accept the agenda format as presented. The motion was approved by unanimous consent.

The Commissioners reviewed the minutes for the December 4, 2012 Public Hearing & Regular Meeting.

Under Old Business "A - Conditional Use Permit-South Port Investors LLC-Parcels 12 and 17," at the top of page 3, Mike Strub commented on the language at the end of the paragraph stating that it would be better to read "piped through the forcemain..."

There was some discussion regarding language in the opening paragraph under "B - Density-Harbor District-Mason Avenue Corridor" but no changes were made.

Motion made by Joan Natali, seconded by Sandra Salopek, to approve the minutes from the December 4, 2012 Public Hearing & Regular Meeting as modified. The motion was approved by unanimous consent.

REPORTS

Tom Bonadeo introduced new Commissioner Dan Burke and welcomed him to the Planning Commission. Tom Bonadeo went on to report the following: i) The Bay Creek Marina, Aqua and marina properties had been foreclosed upon and recently sold at auction. Town staff met with the new owners who stated their plan to continue the marina operations and reopen the restaurant after making some minor repairs so as not to disrupt planned weddings and events; ii) Town staff met with the structural engineers regarding the status of the fishing pier. The engineers would be developing plans to repair the pier to reopen it on a temporary basis for the upcoming season. The Town was working with FEMA for replacement of the pier; iii) The Town was a member of the Community Rating System (CRS) for flood zones and the residents of the Town currently received a 5% discount on their flood insurance premiums. An email was received from the Town's CRS representative regarding the Biggert-Waters Act which was signed in July 2012. The Federal government was trying to eliminate the Federal insurance subsidies for flood policies. If claimants did not raise their houses to mitigate further flood damage, they would no longer be eligible for the Federal subsidy. The flood insurance policies for these houses could increase to approximately \$20K - \$30K per year making the houses undesirable to sell and unfeasible to rent. The Town was looking into Community Development Block Grants (CDBG) for community outreach. Dennis McCoy noted that the purpose of the Act could be to preclude people from rebuilding on the coast. Tom Bonadeo stated that the Town would need to get more aggressive regarding the zoning ordinance language. The Town was fortunate to be on the Chesapeake Bay vs. the Atlantic Ocean. Public meetings would be scheduled to get the information out to the citizens without scaring them. In the meantime, the Town would stay abreast of the activities in the aftermath of Hurricane Sandy in New Jersey; iv) The Town was still working with MDOT on their sidewalk repair project and the Public Works Department was reviewing the progress. Once the work on the current street was completed, the contractor would move to Mason Avenue to ensure its completion prior to the spring season; v) The owners of Sea Breeze Apartments reviewed scenarios for future protection of their land and buildings against storm surges. A Joint Permit Application should be coming in the next month; vi) The work on the new Library building was moving along. The computer lab had already been moved to the new building.

OLD BUSINESS

A. *Density - Harbor District - Mason Avenue Corridor*

Tom Bonadeo stated that the Commissioners had been reviewing the density issue over the last several months. The Harbor Area Conceptual Master Plan divided the zone into areas relative to their relationship with other zones such as the north side of Mason Avenue and the existing Historic District. The Harbor District Zone was the least developed area of Town. Two large projects were submitted and approved under the current zoning ordinance and some of the potential weaknesses of the ordinance were discovered during the approval process. No specific number of residential units (density) was outlined in the Harbor District Zone. During public input sessions, people felt that the south side of the Harbor could have taller buildings. There were no density issues in the zoning ordinance except in single-family residential. It took the Planning Commission and Town Council over a year to approve the plans for the Tavi property and the majority of the discussion was regarding the density. Tom Bonadeo explained the concept of Floor Area Ratio (FAR) for the benefit of the new Commissioners and continued to relate some facts about the Harbor District as follows: i) 25% open space was required; ii) Parking was not part of open space; iii) The current height regulation was 40' with a conditional use permit up to 55'; iv) The Mason Avenue corridor was between the National Historic District and the Harbor and the Master Plan recommended that this area be treated more like Mason Avenue than the Harbor; v) The Harbor District Zone allowed residential units over commercial

space and 50% of the first floor to be used as residential space. All residential space must have its own entrance at the street level; and vi) There was currently no limitation to the number of residential units on a property. The Commissioners previously reviewed the math ratios and had reached a consensus that a FAR of about 1.25 provided the density, open space and height most resembling the north side of Mason Avenue. Several modifications to the zoning ordinance were required to implement the FAR concept in the Harbor District as follows: i) The existing Harbor District zoning language did not make any differentiation between any of the areas around the Harbor. The areas around the Harbor should be delineated in the ordinance so that FAR could be applied to each area differently; ii) These areas should also have the elevation requirements applied differently. The areas along Mason Avenue should be lower in height while the areas on the south side of the Harbor should have higher allowances. The height averaging formula and the requirement for "broken" elevations should be eliminated; iii) A FAR table should be created with smaller ratios (1.25) along Mason Avenue and larger ratios (1.5 to 1.75) on the south side of the Harbor; and v) Existing lots bordering Mason Avenue and the Harbor needed to be defined. The next step would be to submit a letter to the Town Council recommending the modifications to the Harbor District to incorporate FAR into the zoning ordinance. There was some discussion regarding the broken elevation vs. one roofline with a façade to mimic differing heights. Tom Bonadeo stated that he would prepare a letter with the revised language for review by the Commissioners at the next meeting.

B. *Sign Ordinance - Review*

Tom Bonadeo stated that the sign ordinance had been updated with revisions made by the Commissioners in previous meetings. The ordinance defined the types of signs, specifying the sizes and describing where each type of sign was allowed or not allowed. The Town could regulate the type, size and location of the signs but not the content. Most localities regulated signage and larger localities picked up illegal signs and stored them for 30 days so the owners could reclaim them. Cape Charles did not have enough employees to monitor the signs around Town. Currently, the Town sent a letter to the sign owner requesting removal of the sign but a better process was needed. The Commissioners reviewed the modifications made to date and discussed the following: i) During the review of Section G – Permits Required, Andy Buchholz suggested that the Town issue permit numbers which could be printed on the back of the signs; ii) Under Section H.1.b., sizes needed to be added for commercial and industrial; iii) Dennis McCoy suggested adding language regarding removal of signs which could become projectiles during hurricanes and other storms. Tom Bonadeo stated that most localities have language stating that the employees could pick up signs in these instances and store until after the storm; iv) Joan Natali suggested language be added regarding lumens of signs referring to the sign on Route 13 at Wachapreague which was blinding at night. Tom Bonadeo stated that he would work on this language; and v) Andy Buchholz asked if any consideration was made for symbols such as barber poles. Tom Bonadeo stated that he would re-check the ordinance to make sure language was included.

NEW BUSINESS

A. *Park Restrooms*

Tom Bonadeo stated that the Citizens for Central Park (CCP), a private, non-profit organization, had proposed building a permanent bathroom facility in Central Park and initially approached the Town Council with their idea in October 2011. The park had port-a-potty facilities and citizens had complained about the quality of the service and reports had been received about people spending the night in them occasionally. The CCP was successful in securing a grant for the project and the Town Council agreed to fund the matching funds. The CCP proposed a building designed to be compatible with the pump house, matching the brick to the pump house, a house across the street, the former school, the base of the gazebo and the accessory building along South Park Row. The proposed site was at the East Node opposite the pump house and was situated symmetrically with the pump house building also to maximize the view shed down the park for neighboring houses. The other Nodes of the park were reviewed, as

well as interior locations, but the East Node was the nearest gathering point for park activities and was close to electric, water and sewer. The South Node was the location for food vendors and little level ground was available. The West Node was covered by the fountain and would require a street cut for utilities. The North Node and interior locations had little access to utilities and there was not enough unplanted or level land available. No locations inside the sidewalk were considered. Tom Bonadeo went on to state that there was some confusion regarding the plans for the Cape Charles Multi-Use Trail and added that the renovations made to Central Park were funded by a transportation enhancement grant for Phase 1 of a multi-modal trail. Tom Bonadeo explained that the grant was a rolling grant and the application, award process and construction were not necessarily sequential. The Commissioners reviewed the staff report and application for Historic District Review along with plans for the design and photographs of the pump station and proposed location. Tom Bonadeo went on to explain that there were no plans for a bathroom on the Phase 1 design plans because it was a design for the trail, not Central Park. The Comprehensive Plan stated that facilities were planned for the park, but nothing specific was outlined. Tom Bonadeo proceeded to explain the various phases of the trail project and added that all other amenities in Central Park were funded by the CCP.

Bob Panek, President of the CCP, stated that Central Park was a vibrant place and numerous events had been held over the last several years. Attendees were dissatisfied with the bathroom facilities so CCP took on the project to build permanent facilities. The CCP realized this was a tough issue but believed there was a need for these facilities in the park.

Tom Bonadeo stated the building must be above the flood level which would create about a 2' drop to the walkway. Sean Ingram proposed an aesthetically pleasing design for a walkway to the building. Bob Panek added that the CCP was very pleased with the design.

There was some discussion regarding the maintenance and operations of the building, lighting, the on-demand hot water system, etc.

Tom Bonadeo informed the Commissioners that the Historic District Review Board approval had been appealed to the Town Council and a hearing would be held during the January 10, 2013 Town Council Regular Meeting.

Tom Bonadeo stated that the Commission's recommendation regarding the location of the proposed bathroom facilities would be presented to the Town Council at their January 10th meeting.

Motion made by Bill Stramm, seconded by Sandra Salopek, to recommend Town Council to approve the location of the bathroom facilities as proposed. The motion was unanimously approved.

ANNOUNCEMENTS

There were no announcements.

Motion made by Joan Natali, seconded by Sandra Salopek, to adjourn the Planning Commission meeting. The motion was approved by unanimous consent.

Chairman Dennis McCoy

Town Clerk

Planning Commission Staff Report

From: Tom Bonadeo
Date: February 5, 2013
Item: 4C – Reports
Attachments:

Item Specifics

1. The Northampton County website is www.co.northampton.va.us and contains the updated information from county meetings. The Northampton Planning Commission also meets on this night and a copy of their agenda is attached when available prior to printing. Northampton County has hired a Director of Economic Development, Charles McSwain. He will also head the Planning Department since Sandra Benson retired.
2. The Southport Project slowed due to weather but has resumed speed. The Wetlands mitigation is in progress and the spoils area has been made ready. Some preliminary work started on parcel 12 for the removal of the old fender piles. This work is part of the Corps of Engineers' permit. I am working with South Port on a Harbor Area Review application at the present time. Town Council will be working on lease amendments at their February meeting...
3. The Historic Review Board did not meet in January but the Town Council did affirm the Board's decision on the Park Bathrooms.
4. The storm damage is being reported to FEMA. Beach nourishment will be placed above mean high water early this spring. The Town will make temporary repairs to the Fun Pier in accordance with the engineers plan. Replacement planning will begin immediately. The President sign a \$50 billion+ for relief funds related to the storm.
5. Working with VDOT on a sidewalk repair project. The contractor is moving to the lower portion of Monroe and will then skip over to Mason Avenue so that work will be done before summer.
6. The New Library Building is being readied for occupancy. The bathroom is now ADA compliant. The lead paint has been abated, the computer lab installed, emergency exit lights have been completed and carpet has been ordered. The Friends of the Library are having a fund raising Gala Event on February 23. Look for tickets.
7. The planner has worked with many banks and legal staff on foreclosures. This continues to happen as evidenced by the newspaper ads. New construction planning is picking up and we expect to issue several permits next month.
8. The Planner was out sick for nearly 6 days this month due to colds.

Planning Commission Staff Report

From: Tom Bonadeo

Date: February 5, 2013

Item: 5A – Density in Harbor District Zone – Mason Avenue Corridor

Attachments: Letter to Town Council

Item Specifics

The Commission reviewed the Density issue at the January meeting and agreed that FAR is a viable method for calculating density in the Harbor District. The Harbor Area Conceptual Master Plan divides the zone into areas relative to their relationship with other zones such as the north side of Mason Avenue and the existing Historic District.

Discussion

Statement of Intent for Harbor District, Section 3.9 of the Zoning Ordinance states, "The south side of Mason Avenue shall provide a visually inviting connection to the harbor via continuous environments for multi-modal means of transportation and connect to the other existing and future links to Cape Charles and environs. This zoning district is also intended to implement the Cape Charles Harbor Area Conceptual Master Plan (Plan)."

The implementation of the Plan can be accomplished in a variety of ways including amendments to the existing zoning districts to reflect the guidelines and recommendation of this document.

The Commission reviewed ways to measure density, by Units per Acre and Floor Area Ratio (FAR). FAR is the generally preferred method for measuring density, especially in commercial districts. FAR also takes into account open space and height. Some facts about Harbor District are:

1. 25% open space is required.
2. Parking is not part of open space.
3. Current height regulation is 40' with a CUP for some higher to 55'.
4. The Mason Avenue corridor is between the National Historic District and the Harbor. The Master Plan recommends that this area be treated more like Mason Avenue than like the Harbor.
5. The Harbor District Zone allows residential units over commercial space. It also allows partial use (50%) of the first floor as residential space. All residential space must have its own entrance at street level.
6. There is currently no limitation of the number of units (residential) on a property.

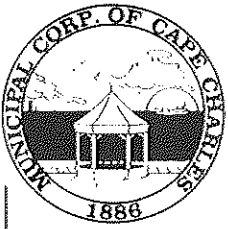
The Commissioners have reviewed the math ratios relative to the floor area ratio and have reached consensus that a FAR of about 1.25 provides the density, open space and height that most resembles the north side of Mason Avenue.

There are several modifications to the ordinance required to implement the FAR concept in Harbor District.

1. The existing Harbor District zoning language does not make any differentiation between any of the areas around the harbor as described on page 18 of the Plan. The areas around the harbor should be delineated in the ordinance so that FAR can be applied to each area differently.
2. These areas should also have the elevation requirements applied differently. The areas along Mason Avenue should be lower heights while the areas on the south side of the harbor should be higher allowances. Eliminate the height averaging formula and require "broken" elevations along Mason Avenue.
3. Parking at levels other than ground level count as floor space.
4. Create a FAR table with smaller ratios (1.25) along Mason Avenue and larger ratios (1.5 to 1.75) on the south side of the harbor.
5. Define lots existing as of today bordering Mason Avenue and bordering the harbor (water) on the south and north sides.

Recommendation

Review the letter to be forwarded to Council recommending modification to the Harbor District to incorporate FAR into the Ordinance.



Municipal Corp. of Cape Charles

February 5, 2013

Mayor and Town Council
2 Plum Street
Cape Charles, VA 23310

Dear Mayor and Council,

The Planning Commission has reviewed the Harbor District zoning ordinance, particularly its relation to density. The current ordinance does not have any measurement or restriction of density for residential use in this commercial zone. The Commission reviewed Floor Area Ratio (FAR) and Dwellings per Acre as measurements of density.

FAR is the better method as it controls the ratio of total development to the available land. The Commission recognizes that several modifications to the Ordinance to implement FAR. The value of using FAR to determine density is that a development's size and mass would be determined during the conditional use process at the Planning Commission and the quantity of developed space would be determined prior to recommendations to Town Council.

The FAR measurement would be placed differently on areas along Mason Avenue and the south side of the harbor. The implementation would take into consideration the density of Mason Avenue as well as the mass of the buildings and the height.

The Commission would like the concurrence of the Town Council prior to fully developing changes to the existing ordinance. The attached staff work from the Planning Commission shows the elements involved in the change.

Sincerely,

Dennis McCoy,
Chairperson, Planning Commission

Planning Commission Staff Report

From: Tom Bonadeo

Date: February 5, 2013

Item: 6A – Density in Harbor District Zone – Mason Avenue Corridor

Attachments: Copy of flow chart from Historic Guidelines

Item Specifics

The Historic District Overlay is Section VIII of the Zoning Ordinance. In addition to the Ordinance there is a set of Historic District Guidelines and the two do not match in some specific areas of administration. The Flow Chart that is attached show the process for the flow of an application. These guidelines have been approved by Council and the Board has been working under these guidelines for its existence.

Discussion

The Flow chart diagram in the guidelines shows an appeal process. The appeal process is only if the applicant is denied by the Board.

The ordinance language talks about an aggrieved party and make no mention of appealing only denied applications. I was the intent of the Board that the flow chart is the way the process would work.

The Ordinance need to be modified to reflect the working of the Board and be written in such a manner that it work legally. Staff is working with legal department to rework the Ordinance to make the two work together.

Please bring your Zoning Ordinance books and Historic District Guidelines. Staff will have copies of the Historic District Guidelines available if you don't have them.

Recommendation

Review Section VIII of the Zoning Ordinance and the Flow Chart in the Guidelines.

Going Before the Review Board

3. Minor additions or alterations are handled by the administrator. Some major actions that do not affect a contributing building can also be decided by the administrator after informal consultation with the review board.
4. Major additions or changes are referred to the review board.
5. Demolition, moving, or new construction requires approval of the review board or, in the case of contributing buildings, the Town Council.
6. Appeals of review board decisions are made to the Town Council.

