



# PLANNING COMMISSION

## Regular Meeting

### Town Hall

### November 5, 2013

At 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 addition to Chairman McCoy, present were Commissioners Andy Buchholz, Dan Burke, Joan Natali, Sandra Salopek, Bill Stramm and Mike Strub. Also present were Town Planner Rob Testerman and Town Clerk Libby Hume. There were two members of the public in attendance.

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

#### PUBLIC COMMENTS

*Donna Olney Kohler, 711 Tazewell Avenue*  
Please see attached for Ms. Kohler's comments.

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

#### CONSENT AGENDA

Dennis McCoy suggested two items be added as follows: i) Under Old Business – Sign Ordinance Legal Review Feedback; and ii) Under New Business – Election of Chairman and Vice Chairman as required under Section 3-2 of the Planning Commission By-Laws.

**Motion made by Mike Strub, seconded by Sandra Salopek, to accept the agenda format as amended. The motion was unanimously approved.**

The Commissioners reviewed the minutes for the October 1, 2013 Regular Meeting.

A typographical correction on page 2 was noted by Bill Stramm.

**Motion made by Joan Natali, seconded by Mike Strub, to approve the minutes from the October 1, 2013 Regular Meeting as modified. The motion was approved by unanimous consent.**

#### REPORTS

Rob Testerman reported the following: i) The Historic District Review Board (HDRB) met on October 15<sup>th</sup> and approved applications for 219 Jefferson Avenue to add a dormer on the rear of the house, and 309 Mason Avenue for a 400 square foot addition to the rear of the building. Four new applications were received today for the November meeting; and ii) HDRB member Ted Warner tendered his resignation. This was an agenda item for this meeting and would be discussed later.

Dan Burke commented on item 3 of the Planning Report regarding backyard chickens and added that he had been reading about this issue which was becoming very popular. Most localities that allowed backyard chickens did not allow roosters. Rob Testerman stated that some localities limited the number of chickens permitted based on the lot size and added that he was reviewing various ordinances. This issue would be presented to the Town Council and if Council decided to

move forward with research regarding permitting chickens, the request would be submitted to the Planning Commission for further review and drafting of a proposed ordinance.

## **OLD BUSINESS**

### **A. *Historic Town Entrance Corridor Overlay District***

Rob Testerman stated that a cleaned up version of the draft Historic Town Entrance Corridor Overlay District language was included in the agenda packet and he had also included suggested revisions that could be a starting point for the Commission's future work since the goals of the overlay had changed since 2010. Also provided was some information from the draft Northampton County ordinance which included a list of by-right uses. Rob Testerman recommended the Commissioners review the listing to possibly request some of the uses be changed to conditional use.

Dan Burke thanked Ms. Kohler for her comments adding that he had thought that the bed and breakfasts were filled to capacity through the year. Dan Burke went on to state that the current Northampton County Comprehensive Plan stated that Cape Charles was a business hub for the County and future businesses should be driven into the Towns but added that he felt that Route 13 would be developed in the future. Andy Buchholz stated his opinion that currently there weren't enough people or incentive to bring businesses to Route 13, but it would happen sometime in the future and the Town could not stop it.

There was some discussion whether this language would be included in the County's Comprehensive Plan. Rob Testerman stated that this topic would be in the County's Zoning Ordinance, if adopted by the County. The Planning Commission would discuss and draft proposed language which would be referred to the Town Council for their review before being forwarded to the County Planning Commission and ultimately to the County Board of Supervisors for a final decision.

Bill Stramm stated that there was still some protection for the Town in the Annexation Agreement. Rob Testerman informed the Commissioners that he and Heather Arcos had met with Charles McSwain and reviewed the Annexation Agreement with him.

The Commissioners reviewed the permitted uses in the County's Commercial Zone from the County's draft ordinance. There was much discussion regarding the listed types of businesses and it was noted that the County classified bed & breakfasts under commercial as well as vacation rental homes; and single family dwellings (SFD) and multi-family dwellings (MFD) were also included. Joan Natali suggested the possibility of gas stations along Route 184 being a conditional use. Rob Testerman stated that the majority of Route 184 was currently zoned as agricultural and he would check with County staff to find out whether gas stations were permitted by-right in the agricultural zone. Joan Natali added that zone designations could be changed.

Joan Natali noted that wind turbines were on the list of permitted uses and added that she would prefer not to have any wind turbines along the Route 184 corridor. Dennis McCoy stated that in thinking about the farmers in the agricultural zone, if they felt that they needed to have wind turbines in order to perform their business and make money, he did not think the Town would want to stop them from making a living.

There was also some discussion regarding the Bicycle Trail in the County possibly coming into Town. Rob Testerman stated that he attended the Transportation Advisory Committee Meetings and the Bike Trail had been discussed. The Accomack-Northampton Planning District Commission (ANPDC) had moved the third leg of the trail off the railroad and there had been difficulty in getting the rights-of-way since the trail was moved off the railroad easement. Ms.

Susan Rice was currently trying to get the ANPDC to put the path back on the railroad property so the project could continue.

The general consensus was to recommend bed and breakfasts, inns, vacation rental homes as by conditional use. Joan Natali suggested that the Town's recommendation needed to state that it would apply to both existing and new development. Rob Testerman stated that he would put something together and check on by-right uses in the agricultural zone and discussion would continue at the December meeting.

Dan Burke stated that the Planning Commission worked on the Floor Area Ratio (FAR) and the Town Council changed it. Dan Burke continued to state that it was demeaning the way Council handled it in that it wasn't brought back to the Planning Commission. Andy Buchholz stated that Council only increased the FAR numbers by .25. Libby Hume added that, at the October meeting, Rob Testerman informed the Planning Commission of the Council's concern about the FAR numbers being too restrictive. The issue was discussed by the Planning Commission meeting and was reflected in the minutes from the October 1, 2013 meeting.

B. *Comprehensive Plan Review – Identify key items in Sections 1 and 2 that need to be updated*

Dennis McCoy stated that he was reading the Comprehensive Plan and it was very well done and still right on target. Dennis McCoy commended Joan Natali and the former Planning Commission on a great job.

Bill Stramm agreed and added that the Comprehensive Plan needed only minor updates with current information. Bill Stramm added that the Transportation piece needed to be sent to VDOT for their approval.

Dan Burke stated that a number of Comprehensive Plans were reviewed in the Planning Commissioner class and Cape Charles' was done very professionally. Sandra Salopek commented that the Cape Charles Comprehensive Plan was reviewed twice during the class and added that she agreed it was written beautifully.

The Commissioners reviewed Sections 1 and 2 and noted areas that needed to be updated.

In Section 1.2, the following were noted: i) References to Bay Creek Marina should be changed to Kings Creek Marina. This would apply to all references to the marina throughout the Comprehensive Plan as well; ii) On page 7, update the improvements made to the town's infrastructure; and iii) Add the Walkability Report to the Appendix.

In Section 2, the following were noted: i) In § 2.1, the language needed to be revised and punctuation corrected; ii) In § 2.2, reference needed to be made to the 2000 and 2010 censuses; iii) In § 2.3, the language needed to be updated; iv) Footnote 1 still showed 2008 Cape Charles Comprehensive Plan Draft...; v) § 2.4 needed to be updated for Kings Creek Marina. The language also needed to be updated; vi) The language in § 2.6 needed to be updated; vii) § 2.7 needed to be updated regarding the Library and boat slips. Joan Natali suggested language being added regarding the loss of the hospital and the need for emergency services; viii) Language regarding the Harbor Access Road needed to be added in § 2.8; and ix) A new section needed to be added for Coastal Resource Management which was now a requirement under the Code of Virginia. Also under the Code of Virginia, the Virginia Institute of Marine Science would provide assistance with the language.

For the December meeting, the Commissioners would review Sections 3.1 through 3.4.4 (pages 14 – 19).

Joan Natali suggested that the Town consider updating the National Historic Register and the Historic District Overlay as well.

C. *Sign Ordinance – Review feedback from legal review*

The Commissioners reviewed the suggestions received from legal counsel and were in agreement with the recommended changes.

**Motion made by Dan Burke, seconded by Bill Stramm, to schedule a joint public hearing with the Town Council for the December Planning Commission meeting. The motion was unanimously approved.**

**NEW BUSINESS**

A. *Election of Chairman and Vice Chairman*

Section 3-2 of the Planning Commission By-Laws stated that the Chairman and Vice Chairman be elected at the first regular meeting after November 1 each year.

**Motion made by Bill Stramm, seconded by Dan Burke, to nominate Dennis McCoy to continue serving as the Chairman of the Planning Commission. The motion was approved and Dennis McCoy was elected as the Planning Commission Chairman by unanimous vote.**

**Motion made by Joan Natali, seconded by Andy Buchholz, to nominate Mike Strub to continue serving as the Vice Chairman of the Planning Commission. The motion was approved and Mike Strub was elected as the Planning Commission Vice Chairman by unanimous vote.**

B. *Historic District Review Board Vacancy*

Rob Testerman stated that Ted Warner had resigned from the HDRB. The Historic District Overlay Ordinance, § 8.9 and Article 2-2 of the HDRB By-Laws stated that “Members of the Board shall have demonstrated interest and knowledge in the historical and architectural development of the Town and when possible be a licensed architect or engineer, Planning Commission member, or licensed building contractor.” Currently, there were no Planning Commission members on the HDRB. Rob Testerman suggested that the Commissioners considered having a representative on the HDRB and asked whether there were any volunteers.

Sandra Salopek volunteered to serve on the HDRB as the Planning Commission representative.

**Motion made by Andy Buchholz, seconded by Mike Strub, to nominate Sandra Salopek for consideration by the Town Council as the Planning Commission representative to the HDRB. The motion was unanimously approved.**

**ANNOUNCEMENTS**

There were no announcements.

**Motion made by Joan Natali, seconded by Andy Buchholz, to adjourn the Planning Commission meeting. The motion was unanimously approved.**

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Chairman Dennis McCoy

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Town Clerk

Planning Commission  
November 5, 2013  
Comments provided in writing:

*Donna Olney Kohler, 711 Tazewell Avenue*

My name is Donna Olney Kohler and I live at 711 Tazewell Avenue. My home is also operated as a bed and breakfast called Fig Street Inn that has been in business since May 2011.

I am not here to say whether or not more hotels should be built on Route 13. The fact is that there is already land zoned for a hotel. And the fact is that I do not have much say in what will be built on Route 13.

But as you continue your discussions about whether or not another hotel on Route 13 is a good or bad idea, and whether or not it would hurt lodging in the Town of Cape Charles, I would like to give some perspective about bed and breakfasts in our community. I understand that statement may have been made regarding bed and breakfast rates, occupancies and guests and I would like to provide information on our reality.

Bed and breakfasts in Cape Charles do not have rates over \$200 per night. There are 5 licensed properties in the Town that represent a total of 18 rooms. Out of those units, there are only 2 rooms that have a seasonal rate of \$200. The reality is that the average daily rate of bed and breakfasts in Cape Charles was approximately \$155 in 2012. This figure is far below the misconception that our bed and breakfasts attract a guest willing to pay \$200 per night.

In regards to occupancy and how full the bed and breakfasts are, the 2012 occupancy rate among the properties was 48.2%, significantly below being able to say that the bed and breakfasts are full and there aren't places for people to stay. The occupancy rate for this past August was 53% - this means that the rooms are here, but aren't getting filled.

There is the idea that we need more rooms because we are becoming a wedding destination and we need places for these guests to stay. Speaking for my bed and breakfast only, wedding guests aren't staying at my inn. Last weekend there were 3 weddings in the area, and my 4 rooms were filled, but only one of those was a wedding guest. The weekend before, there were also 3 weddings in the area and I only had 2 rooms filled for wedding guests.

Wedding guests aren't filling the rooms that already exist. Wedding guests make up under 10% of my business. What is perceived as a lack of inventory isn't preventing people from choosing Cape Charles for their wedding because we know there are multiple weddings on any given weekend. We know that their guests are coming, but we also know that they are choosing not to stay in Town. Is it appropriate for the Town to be concerned about a market that is basically a "pass thru?" They are here for one reason only - a wedding - and are literally in and out in less than 24 hours. They aren't shopping in our stores or eating at our restaurants.

With a 28.2% occupancy rate, the bed and breakfasts are clearly not full all the time. There are times that are busier than others, when each of us, including the two hotels in Town, have to turn guests away. But an occupancy rate of 28.2% in 2012, 31.2% in 2011, and 32.4% in 2010 demonstrate that there is not enough demand for the inventory that already exists. If there were, I would think that Hotel Cape Charles would be open year-round. The fact that they operate seasonally is a huge statement about how much demand there is for overnight accommodations in our market.

You might want to say we are a summer destination and we need more places for people to stay in summer months. This is not necessarily true. For August 2013, Fig Street Inn had an occupancy

rate of 46%, far below what would be expected of peak season. In 2012, we had a 47% occupancy and in 2011 we had a 41% occupancy (much lower because of Hurricane Irene). So it isn't that 2013 was a bad year. The demand isn't there and saying the bed and breakfasts are full is not the case.

There are already 150 rooms available in greater Cape Charles among 7 motel and bed and breakfasts properties along Route 13. Once Kiptopeke Inn is reopened, that will add additional rooms. I am not sure of numbers, but I expect they have at least 100 units which would bring the inventory to 250 plus.

The rooms already exist on Route 13 and one key fact that I do not know whether or not it has been considered is that any property opened outside the Town does not generate any transient occupancy tax to the Town of Cape Charles. Lodging facilities in the Town currently are required to collect and pay 3% transient occupancy tax. If the commission is committed to encouraging additional lodging facilities, I would suggest that our efforts be focused on supporting the hotel projects for Kings Creek Marina and Cape Charles Yacht Center. We should focus on generating business, income, jobs and the transient occupancy tax, within our Town, not outside.

Before you say whether or not another large lodging facility on Route 13 is something we want to encourage, I would ask where are these additional visitors going to park when they come to town, if they even choose to come to town? What impression will they get when they see that some businesses aren't open 7 days a week in peak season or that there isn't consistency in the off-season as to day of week businesses are open or closed.

Where will they eat? Go online and read comments from travelers already talking about long waits at our restaurants or not being able to get in because they didn't know they needed a reservation. What impression does this give visitors about our Town? If they can't or don't eat in Town, that means we are not getting meals tax from them.

If we think having a larger hotel on the highway will attract more visitors, what are we going to do as a Town to ensure we are ready for them and can meet their expectations of a tourist destination. What are we planning to do to let them know we are here and that we are open for business. We need to be more proactive than depending on one or two businesses to put billboards on the highway.

Fig Street Inn is already here and my husband and I work very hard to market our property to let people know we are here. But my numbers prove that just because I'm here, doesn't mean they are coming. There is a lot of work that needs to be done on my end as a business owner, and from the Town to make our destination more attractive and appealing so that visitors know Cape Charles is here and ready for business.