



PLANNING COMMISSION
Regular Meeting
Cape Charles Civic Center
May 5, 2015
6:00 p.m.

At 6:00 p.m. 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 Joan Natali and Bill Stramm. Commissioner Andy Buchholz arrived at 6:20 p.m. Commissioners Dan Burke, Sandra Salopek and Michael Strub were not in attendance. Also in attendance were Town Planner Larry DiRe, Town Manager Brent Manuel and Town Clerk Libby Hume. There were two members of the public in attendance.

PUBLIC COMMENTS:

There were no public comments to be heard nor any written comments submitted prior to the meeting.

CONSENT AGENDA

Motion made by Joan Natali, seconded by Bill Stramm, to accept the agenda format as presented. The motion was unanimously approved.

The Commissioners reviewed the minutes for the April 7, 2015 Special Joint Meeting with the Town Council and the April 7, 2015 Regular Meeting.

Motion made by Joan Natali, seconded by Bill Stramm, to approve the minutes from the April 7, 2015 Special Joint Meeting with the Town Council and the April 7, 2015 Regular Meeting as presented. The motion was unanimously approved.

REPORTS

Larry DiRe reported the following: i) The Historic District Review Board (HDRB) met on April 21st and reviewed and approved three applications. Two of the applications were for modifications to previously issued Certificates of Appropriateness (COA) and one was for a front porch removal and reconstruction. The HDRB also reviewed the painting section of the Historic District Guidelines and directed staff to gather information from other historic districts relative to the placement of satellite dishes. Staff was working on a grant application from the Department of Historic Resources to provide training workshops open to Historic District Boards of any Certified Local Government. The application deadline was May 15th and required no local funding match; ii) The Harbor Area Review Board (HARB) met on April 20th and reviewed two applications. One application was for new construction of a mixed-use commercial/residential development at 300 Mason Avenue. The second application was for renovations to the old Northampton Hotel building at 1 Mason Avenue. The HARB recommended both applications be approved for Harbor Development Certificates; iii) The Town Council reviewed the 2014 Planning Commission Annual Report at their April 16th meeting. There were no questions but they requested inclusion of five previous years of similar data for comparative purposes; iv) VDOT approved the reverse angle parking plan for Mason Avenue and issued the Town a land use permit on April 16th. The striping should be done some time next week. An okay was received to move forward with a reverse angle parking survey of Bay Avenue. Upon completion of the survey, an application would be submitted to VDOT for approval. There was much discussion regarding notification to the citizens and businesses. Several articles had been published in the Gazette and notices were included in the last utility billing. Staff attended the Cape Charles Business Association (CCBA) meeting on April 15th and

informed the business owners of the reverse angle parking; v) Staff was reviewing the Zoning Ordinance and over the next few months, several items would be brought to the Commission for consideration. A number of items were on the agenda this month; vi) Staff contacted local realtors regarding the Town's sign regulations. He noticed improper signage on a property earlier this evening and would be addressing the issue tomorrow; vii) Three zoning clearances were issued in April; and viii) An application was received for a zoning variance for a non-conforming lot and a Board of Zoning Appeals meeting was tentatively scheduled for May 21st.

OLD BUSINESS

A. *Tourism Zone*

The Commissioners reviewed the revised language in the draft Tourism Zone Ordinance and there was discussion as follows: i) There was some concern regarding providing direct credits toward bills vs. reimbursements. The Town would not have any leverage for compliance if direct credits were given. The Commissioners suggested involving the treasurer to get her input; ii) Michael Strub's emailed comments were reviewed regarding the number of full time jobs required. The draft ordinance shows "two or three" full time positions and the Commissioners agreed that it should be one or the other and there would be further discussion regarding this issue at the next meeting; iii) There was some discussion regarding the number of hours constituting a full time job. Staff explained that the IRS tax code stated that 30 hours constituted a full time position. It was believed that this was based on the recent changes made under the Affordable Care Act; and iv) There was discussion regarding the \$25K required capital investment. CCBA President Andrew Follmer provided feedback stating that he felt \$25K was too high and suggested that \$10K - \$15K would be better for businesses to meet. The Commissioners suggested a review of the permit applications from the past several years to get an idea of the average capital investment for new businesses in order to determine an appropriate value. This topic would be reviewed again at the next meeting. There was also some discussion regarding an effective date and the possibility of making the date retroactive to January 1, 2015 to allow the new businesses in 2015 the option to take advantage of the program.

NEW BUSINESS

A. *Satellite Dish Ordinance review*

Larry DiRe stated that the HDRB directed staff to gather information, guidelines and regulations from other historic districts for comparison. Staff also reviewed the Federal Communications Commission (FCC) standard for Over the Air Reception Devices (OTARD) and suggested that the federal standard could be used as a comparison to Section 4.9's treatment of "large" and "mini" dishes.

Motion made by Joan Natali, seconded by Andy Buchholz, to adopt the FCC definitions of the different sizes of dishes and modify the zoning ordinance accordingly. The motion was approved by unanimous vote.

There was much discussion regarding the number of properties in the Town with satellite dishes not in compliance with the ordinance and how the Town could effectively notify and get the property owners to comply. The Commissioners acknowledged that it would be a difficult undertaking. It was also noted that many properties had a number of non-functioning satellite dishes mounted on roofs, porches, etc. Discussion continued as follows: i) Why have an ordinance that was not enforced? ii) Staff reviewed the ordinance from Leesburg, VA but had not yet had an opportunity to talk with their preservation planner; iii) The Virginia Property Owners Association Act stated that associations could not deny the right of a property owner to have a satellite dish and the Town needed to take that into consideration; iv) Blanket relief could be provided for properties that had limited placement options in order to obtain an adequate signal; v) Any dormant or non-functioning dishes needed to be removed; vi) Notification of the town's guidelines via certified mail could be sent to the satellite service providers; vii) There was much discussion regarding mounting of

the dishes on roofs which could result in leaks; and viii) Written documentation regarding satellite dishes could be provided to new property owners and residents when they came into the office to set up their utility accounts.

Joan Natali stated that it was not the Commission's responsibility to review the various possible locations for installation of a satellite dish. The Commission needed to determine a standard and a caveat for extreme situations and give the zoning administration the authority to grant exceptions. The ordinance needed to be reviewed and dealt with first.

Dennis McCoy stated that language would be added regarding the removal of non-functioning dishes and possible grandfathering of existing dishes to be reviewed at the next meeting along with information gathered by staff for the HDRB.

B. Zoning Ordinance Review

The Commissioners reviewed a number of sections of the Zoning Ordinance which were outdated or conflicted with other Town documents as follows:

- i) Article II, Section 2.9, page 21 – the definition of “Seasonal dwelling” was inconsistent with the Comprehensive Plan. The Commissioners agreed that the terminology should be consistent in the documents.

Motion made by Bill Stramm, seconded by Joan Natali, to change the terminology in the draft Comprehensive Plan to “Cape Charles Seasonal” and “County Seasonal” and delete “Recreation and/or Occasional Uses/Units.” The motion was approved by unanimous vote.

- ii) Article II, Section 2.9, page 26 – defined “Municipal Community Center” as the former Cape Charles High School building which was being developed as the Cape Charles Lofts. The section also included a definition for “Neighborhood Community Center.”

Motion made by Joan Natali, seconded by Bill Stramm, to replace the current definition for “Municipal Community Center” to show “See Neighborhood Community Center.” The motion was approved by unanimous vote.

- iii) Article II, Section 2.9, page 30; Article IV, Section 4.1.B, page 5; and Article IV, Section 4.1.H.2.e, page 18 – All addressed “political” signs within the context of elections but not all political or campaign signs were related to elections. Larry Dire asked for direction on the clarity of the current verbiage compared to the term “election” or “campaign” signs.

There was much discussion regarding the different types of political signs and freedom of speech. Joan Natali stated that the Commissioners needed to take the time to think through this issue and suggested continuing the discussion next month. The Commissioners were in agreement.

- iv) Article IV, Section 4.2.I, page 25 – Utility Lines Underground. The section stated that “All new utility lines such as electric, telephone, CATV, or other similar lines shall be installed underground.” Building Official Jeb Brady recognized some ambiguity with this language and suggested amending the definition to include lines replacing existing service as well as lines installed for new service.

There was much discussion regarding this issue and the possibility of creating an unfair burden to property/business owners by including the requirement for replacement of existing service be installed underground. The majority of areas in the Town had the power supply on one side of the street and owners of property and/or businesses on the opposite side of the street would have to burrow beneath the streets for underground

installation. Some property/business owners would have to go through neighboring yards to reach their properties. The Commissioners recommended that more information be obtained from Jeb Brady before moving forward in order to fairly accommodate all property owners.

- v) Article IV, Section 4.5.B, page 29 – Identified Section 4.8 as “Table of Parking Standards” where in fact the Table of Parking Standards was Section 4.5.1.

Motion made by Bill Stramm, seconded by Joan Natali, to amend the language to show the correct section number. The motion was approved by unanimous vote.

C. Accessory Dwelling Unit – Resident Request and Informational Report

Larry DiRe stated that the Comprehensive Plan stated “Promote accessory dwelling units to add diversity of housing types, while maintaining the neighborhood character and providing affordable housing options.” Article II, Section 2.9, page 18, of the Zoning Ordinance defined accessory buildings as “a subordinate and separate building located upon the same lot occupied by the main structure or where a main structure was previously located. Accessory buildings shall not be used as dwelling units.” Several years ago, the Planning Commission studied this issue and made the recommendation to allow accessory dwelling units as a conditional use. Following discussion at several meetings and a public hearing, the Town Council voted to not allow such usage and retained the prohibition on dwellings in accessory buildings. Recently, a resident contacted staff inquiring about a non-market living unit for a family member above a garage.

There was much discussion regarding the current conflict between the Comprehensive Plan and Zoning Ordinance regarding accessory dwelling units. Bill Stramm stated that if a property owner had space for a garage with a loft or other living area, he did not see why it would not be permissible for a grown son/daughter or other family member to live there. The Commissioners in attendance agreed. Joan Natali explained the issue from several years ago and added that during the Walkability and Livability Workshops, it was noted that Cape Charles would be ideal for accessory dwelling units as affordable housing. Joan Natali went on to state that the Town had a need for affordable housing. The Council had changed since the last decision and the issue should be revisited. It was also noted that the accessory dwelling unit would require a separate utility hookup but units with less than two bedrooms were charged 50% of the connection fees.

Dennis McCoy asked that the previous work done by the Commission be included for review next month.

ANNOUNCEMENTS

- May 16, 2015 – Crabby Blues Festival

Motion made by Bill Stramm, seconded by Joan Natali, to adjourn the Planning Commission meeting. The motion was unanimously approved.

Chairman Dennis McCoy

Town Clerk