

Planning Commission
Public Hearing
and
Regular Session Agenda
January 3, 2012
6:00 P.M.

1. Call to Order – Planning Commission Public Hearing and Regular Session
 - a. Roll Call – Establish a quorum
 - b. Hear Public Comment on Modification to Subdivision Ordinance Language.
 - c. Close Public Hearing
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. Sign Ordinance Review – Draft Ordinance
 - b. Subdivision Ordinance – addition of boundary adjustment language
 - c. Section 8.22 Demolition of Structures
6. New Business
 - a. Annual Election of Chair and Vice-Chair
 - b. Adaptive Reuse
7. Announcements
8. Adjourn



DRAFT
PLANNING COMMISSION
Regular Meeting
Town Hall
December 6, 2011

In the absence of Chairman Bruce Brinkley and Vice Chairman Dennis McCoy, Town Planner Tom Bonadeo officiated the meeting. At 6:04 p.m. in the Town Hall, having established a quorum, the Regular Meeting of the Planning Commission was called to order. In attendance were Commissioners Malcolm Hayward, Roger Munz, Joan Natali and Mike Strub. Also present was Town Clerk Libby Hume. There were no members of the public in attendance.

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

REGULAR MEETING PUBLIC COMMENTS

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

CONSENT AGENDA

Motion made by Joan Natali, seconded by Roger Munz and unanimously approved to accept the agenda format as amended.

The Commissioners reviewed the minutes for the November 1, 2011 Regular Meeting.

Tom Bonadeo stated that Bruce Brinkley had stopped in prior to the meeting and pointed out several changes as follows: i) In the last bulleted paragraph of page 2, second sentence, should show "hang" vs. "hand;" ii) The last sentence of page 2 should show "regard" vs. "regards;" and iii) In the last sentence of page 3, the Code of Virginia required a "registered design professional" vs. "a licensed professional."

There were no additional changes.

Motion made by Mike Strub, seconded by Roger Munz, to approve the minutes from the November 1, 2011 Regular Meeting as corrected. The motion was unanimously approved.

REPORTS

Tom Bonadeo reported the following: i) Town Council awarded the Harbor Bath House contract to Boytos & Boytos which was the only proposal that had a good technical score and was within budget. Several changes to the proposal were submitted and staff was awaiting the final cost figures prior to finalization of the contract. Work should start before the new year; ii) Town Council voted to allow the Mayor to approve the lease for the restaurant at the Harbor once all requirements had been met. The proposer was working on plans and financial requirements at this time; iii) Clean water testing was still underway at the new wastewater treatment plant; iv) The new force main on Mason Avenue was operational and pumping to the sewer plant; v) Three projects were approved by the Historic District Review Board last month. The first project was for replacement of the front doors for the former police station building which was now rented by a golf cart company. The other two projects were additions to historic houses in the 400 block of Tazewell Avenue which were recently purchased by new owners. Additional renovation projects have begun on Mason Avenue in the Northampton Hotel, the "Delisherries" building, the very small empty storefront in the 300 block and a house in the 600 block. At least two new business would be opening when these renovations have been completed. Malcolm Hayward asked about the "Delisherries" building and Tom Bonadeo stated that the owners

were working on a new set of plans for the renovation of the building; vi) The Sinclair Tower had finally been permitted and a 44' deep foundation had been poured using 120 yards of concrete. The erection of the tower was expected to start before Christmas; vii) Gamesa was still working on the environmental portion of the wind turbine application to place a turbine in the bay just off Cape Charles. The Commonwealth of Virginia had a new legislation called Permitting By Rule (PBR) for wind turbines of this size and this project was the first of its kind to use the PBR process. The land connection to the power grid was now in the permit process. It was expected that the permit would be approved before Christmas. This turbine would be a 5MW turbine; viii) The broadband network equipment was expected to be delivered soon and circuits were being designed. Ann Rutledge, Librarian, was developing a plan for the management of the computer lab facility once the network goes live. Bay Creek Communications was using the network to supply service to their customers in Town; ix) A wireless network testing proposal had been received and was on the Town Council agenda for their review later this week; and x) FEMA representatives visited the Town and have submitted a request for \$30K to the Town for beach replenishment. They were also working on a remediation plan for recurring problems which could improve/enhance the existing breakwaters at the north end of the beach.

OLD BUSINESS

Sign Ordinance Review - Draft Ordinance

Tom Bonadeo stated the second half of the reformatted Sign Ordinance from the 2012 International Zoning Ordinance would be reviewed this evening. Several items from the International Zoning Ordinance were not applicable to the Town and have been deleted as shown in the handout. The Commissioners reviewed "Sections 4.1.G. - Permits Required" and "4.1.H. - Specific Sign Requirements" with the following discussion: i) The term "code official" would be replaced with "zoning administrator" throughout the ordinance; ii) Malcolm Hayward commented on the size of signage permitted under "Nonresidential in a residential zone" in Table H.1.a(1) adding that 4 SQFT was small for a business sign and typically signs for funeral homes and churches in the area were larger than 4 SQFT. Tom Bonadeo stated that the zoning ordinance permitted signs up to 20 SQFT for churches, schools, etc. Malcolm Hayward stated that businesses in this area should also be permitted to have larger signs pointing out that a bakery and chocolate business were operational in this zone. Joan Natali stated that, as a neighbor, she would not want larger signs permitted for businesses in a residential zone. Roger Munz added that home-based businesses were not tailored for the public so signage should not be an issue. Joan Natali stated that the bakery and the chocolate business were not permitted to sell directly to the public. Tom Bonadeo concurred and added that home-based businesses were not supposed to be identifiable; iii) Tom Bonadeo stated that some of the language from Table H.1.b on page 14 was applicable and would be used. An updated ordinance would be provided for the next meeting; and iv) There was much discussion regarding Temporary Signs on page 18 including real estate signs (including Open House signs), auction signs, Going Out of Business signs, etc. Real estate signage was currently limited to 4 SQFT and this limitation would remain. Auction signs should be included as Temporary Signs which should be permitted for 30 days with a size not exceeding 48 SQFT. Tom Bonadeo stated that he would streamline this section, filling in the permitted sizes, for review at the next meeting. The Commissioners also discussed the issue of signs being routinely placed in the VDOT right-of-way which was not permitted and brainstormed about a designated location for placement of various temporary signs such as Open House signs, Event signs, etc. There was concern that too many signs would be placed in this designated area that a motorist would not be able to read them. It was agreed that more thought needed to be put into this issue.

Demolition of Structures - Section 8.22

The Commissioners continued their review of Section 8.22 - Hazardous Buildings or Structures and agreed that the additional requirements as currently required by staff should be added to the zoning ordinance. In regards to the alternate procedure for demolition, Roger Munz expressed his

concern that the current ordinance stated that the structure was to be offered for sale for 12 months at a fair market value and if no bona-fide offer was received, then the structure could be demolished. Roger Munz suggested that this language be changed to state that the structure was to be offered for sale for 12 months at a price not to exceed an appraised fair market value. The Commissioners were agreeable to this change. Tom Bonadeo stated that last month, the Commissioners discussed the difference between "a structural engineer," which was required in the Town's current process, vs. "a registered design professional," which was required in the Code of Virginia and added that he had discussed this issue with Code Official Jeb Brady and they preferred to keep the Town's requirement of "structural engineer" which they felt strengthened the process. Tom Bonadeo added that he would make the changes as discussed for further review next month since not everyone was in attendance at this meeting.

Review of Density in Residential over Commercial CUPs

As discussed at the last meeting, it was agreed that "Density" should be reviewed and possibly added to the Harbor District and other commercial zones where residential use was permitted by a Conditional Use Permit (CUP). The current ordinance allowed residential over commercial space and up to 50% of the first floor. The ordinance also stated that residential space must have its own entrance at street level but there was no limitation to the number of units on a property. The Commissioners reviewed various tables and the guidelines included in the planning book "*Planning the Built Environment*." Tom Bonadeo explained the different categories for residential densities shown in Table 14.1 as follows: "Net Residential Density" did not include streets, sidewalks, etc.; "Gross Residential Density" included streets, sidewalks, etc.; and "Neighborhood Residential Density" included streets, sidewalks, parks, stores, etc. As an example, Tom Bonadeo pointed out that the Cape Harbor plans did not include schools, etc. so the "Gross Residential Density" numbers would be used in this case. Joan Natali stated that she thought, from previous discussions, that the Town intended for the south side of the Harbor area/Mason Avenue to be denser and the north side of Mason Avenue would be more like the Historic District. Tom Bonadeo agreed but added that this intent was not carried over into the zoning ordinance. The purpose of this current review of the ordinance was to add density numbers for the various districts.

The Commissioners also discussed below-grade parking which was proposed in the Cape Harbor Project. Tom Bonadeo stated that with the soil in this area, flooding issues, etc., the Commissioners may opt to restrict parking, etc. below the flood level and added that he would research information for the Community Rating System (CRS) regarding this issue and report back at the next meeting. Tom Bonadeo asked the Commissioners to review existing densities, square footages and elevations to create a density recommendation for the Harbor District and other commercial zones and added that he would draft a similar table for review next month.

NEW BUSINESS

Subdivision Ordinance - Addition of Boundary Adjustment Language

Tom Bonadeo stated that the current Zoning Ordinance did not provide for a basic function of land development called a Boundary Adjustment including the vacating of lot lines to create larger parcels and/or the movement of a line between two existing parcels where no additional lots were created. The subdivision ordinance had been used in the past for this process but most of the requirements were oriented to create more parcels and could not be applied to a boundary adjustment. Northampton County used to have this feature included in their ordinance but it was removed during the last zoning modification. The County was also working to restore this feature in their ordinance.

Tom Bonadeo explained that the Town owned four contiguous lots on Madison Avenue where the skateboard park was located but could not build one building across the four lots because the current ordinance required side yard setbacks on each lot. The Town could vacate the lot lines to create one large lot but the ordinance required that the subdivision of property ordinance be followed even though we were not making smaller lots from larger ones. The Town recently had to

follow this procedure to vacate the lot lines for the lots where the new Public Works maintenance building was being erected.

The Commissioners reviewed language from old Northampton County Zoning Ordinance regarding this issue and agreed that similar language should be incorporated into the Cape Charles Zoning Ordinance. A Public Hearing would have to be held prior to adoption of the language by the Town Council and Tom Bonadeo recommended that a joint public hearing be held with the Town Council to streamline the process and save the added expense of advertising for two public hearings.

Motion made by Mike Strub, seconded by Joan Natali and unanimously approved to incorporate the language from the Northampton County Zoning Ordinance into the Cape Charles Zoning Ordinance and schedule a joint public hearing with the Town Council for January 3, 2012 preceding the Planning Commission Regular Meeting.

Annual Election of Chair and Vice-Chair

Due to the absence of Chairman Bruce Brinkley and Vice-Chairman Dennis McCoy, Tom Bonadeo suggested postponing the elections of the 2012 Chair and Vice-Chair until the January meeting. The Commissioners agreed.

ANNOUNCEMENTS

There were no announcements.

Motion made by Joan Natali, seconded by Mike Strub, and unanimously approved to adjourn the Regular Meeting of the Planning Commission.

Town Planner Tom Bonadeo

Town Clerk

Planning Commission Staff Report

From: Tom Bonadeo
Date: January 3, 2012
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. A staff meeting with County Planning Staff has been planned to resume discussion on the corridor overlay.
2. The Northampton County Planning Commission will be holding meetings on their Comprehensive Plan Update during January and February. The schedule is attached and the January 25th meeting is scheduled for Cape Charles. No location is available at this time.
3. The Harbor Redevelopment Plan –Boyto & Boyto should have the contract signed by the time of this meeting. The final modifications and pricing have been agreed upon. We are also working on the E&S (erosion and sedimentation) plan for the site. This is required in a Chesapeake Bay Preservation Area and will help keep runoff from entering the Bay.
4. The Restaurant Building for the Harbor has been approved by the Harbor Area Review Board and will be reviewed by Town Council. Plans are in review now by the Code Official.
5. The WWTP has finished the 14 day fresh water testing. Modifications are being made to correct shortcomings found during the test. Final grading and planting is nearing completion.
6. The new force main on Mason Avenue is pumping again! The temporary pumps are gone and one hole needs to be filled. Grass has been planted and the final touch ups are under way.
7. The Historic Review Board did not meet last month. Since Bank of America will be closing in March a new credit union is interested in locating in town. They have been looking at buildings that will allow them to be open prior to Bank of America closing.
8. The Sinclair FM Tower foundation has been poured and concrete testing is in the final phase. The last test is 28 days after the pour. We expect to see the tower go up just after the first of the year.
9. Gamesa is still working on the environmental portion of the wind turbine application for a turbine to be placed in the Bay just off Cape Charles. The process is now in the advanced permitting stage. The Commonwealth of Virginia has new legislation called Permitting By Rule (PBR) for wind turbines of this size. This project is the first of its kind

to use the PBR process so the progress is slow. The land connection to the power grid is now in the permit process.

10. The Broadband Network equipment is installed and circuits have been ordered. The Town Office and the Computer Lab will be the first to go online with larger bandwidth. The Town is working with service providers and the Eastern Shore Public Library on a plan for more bandwidth also.

Agenda
Northampton County Planning Commission
Tuesday, January 3, 2012
16404 Courthouse Road, Eastville, VA
7:00 p.m., Board Chambers

1. Call to order
2. Establishment of a quorum
3. Review and acceptance of the agenda
4. Public hearings:
 - A. **Special Use Permit 2011-10:** Timothy & Jeanine Wivell have applied for a minor special use permit to operate a small-scale oyster shucking and grading business with on-premise sales in an existing 400 square-foot structure located at 19444 Nu Lane. The property, zoned H Hamlet District, contains 6.37 acres of land located in the Cobb Station area and is described as being Tax Map 76, double circle 7, parcel L. (*ex parte* communications)
 - B. **Zoning Text Amendment 2012-01:** The Northampton County Board of Supervisors intends to amend the Northampton County Code, Chapter 154 Zoning Code, by revising the following sections: **§154.003 Definitions**, revisions to the definitions of *Coastal Primary Sand Dune* and *Construction Footprint*; **§154.040 Zoning Clearance**, to delete (B) (1) *Zoning clearance required*; **§154.043 Amendments**, to delete (2) (c) providing for a quarterly application schedule; **§154.126 General Regulations for Residential Districts**, revision to correct conflict with height restrictions in Appendix B; **§154.141 General Modifications to Yard Regulations**, addition of structures and installations for which setbacks may be modified; **§154.142 Front Setback/Yard Regulations**, addition of language to clarify an abbreviation; **§154.145 Height and Bulk Regulations**, revision to correct conflict with height restrictions in Appendix B and to eliminate the maximum area for a widow's walk; **§154.146 Accessory Buildings and Fences**, clarification of fence placement; **§154.164 Chesapeake/Atlantic Preservation District (CAP)**, addition of language in *General performance standards for development and redevelopment* to allow for yard area; **§154.191 District Sign Regulations**, to allow business signage in the Agriculture/Rural Business District; **§154.207 Cooperative Parking**, to allow administrative approval of reduction of spaces for combined usage; **§154.209 Parking Area Design**, to refer to controlling sections of illumination and landscaping requirements; **§154.246 Nonconforming Uses, Lots or Buildings**, to reformat; **Appendix A-Use Regulations**, to eliminate references to the county Wetlands Ordinance and to eliminate in Category 4, Community Service Uses, as a county-regulated use item 13 *Mass/community subsurface drainfield, on site*; and by deleting **§154.067 Minimum Separation Distances: Subsurface Absorption Systems and Wells**. (*ex parte* communications)
 - C. **Zoning Text Amendment 2012-02:** The Northampton County Planning Commission intends to amend the Northampton County Code, Chapter 154 Zoning Code, by adding to **§154.190 Signs, in Section (C) (2)** a new item to be known as **(q) Off-site Business Way Finding Signs** and by adding to **§154.191 (A)** a new item **(11)** and to **§154.191 (B)** a new item **(13)**, both to be known as **Off-site Town Business Directory Sign**. (*ex parte* communications)
5. Matters from the public

6. Consideration of minutes

A. Dec. 6, 2011

7. New business

A. Annual Report to Board of Supervisors

8. Unfinished business

A. Procedural matters

B. Town of Eastville draft comprehensive plan

C. Low Impact Commercial Uses (micro-business) draft language – Zoning Subcommittee (Commissioners Kellam & Ward)

D. Zoning Code §154.111, agricultural ponds draft language – Zoning Subcommittee

F. Update - Town of Cape Charles Historic Town Entrance Overlay District

9. Communications

A. Town Planning Commission/Town Council Agendas

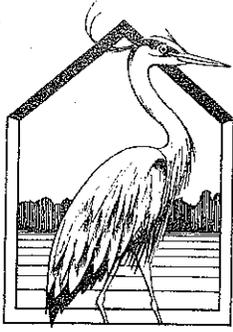
10. Committee reports/presentations

A. Town of Eastville Subcommittee (Commissioners Miller & Ward)

B. Report from the Wind Subcommittee (Commissioners Kellam & Coker)

11. Director's report

12. Adjourn/Recess



CITIZENS FOR A BETTER EASTERN SHORE

SHORELINE

A Journal of Natural Resources, Public Affairs and Culture on the Eastern Shore of Virginia

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Number 1

Community meetings

(See page 1)

**Checks and balances for
Planning and Zoning**

(See page 2)

**The importance of a good
education**

(See page 4)

Global climate change

(See page 5)

Noise ordinances go silent

(See page 6)

CBES planning for the future

(See page 6)

**Source of modern engineering
design principles**

(See page 6)

Community Calendar

(See page 8)

In Northampton

Community meetings help plan for the Future

Staff Report

"At least once every five years the comprehensive plan shall be reviewed by the local planning commission to determine whether it is advisable to amend the plan" (VA Code § 15.2-2230). "In the preparation of a comprehensive plan, the commission shall make careful and comprehensive surveys and studies of the existing conditions and trends of growth, and of the probable future requirements of its territory and inhabitants" (VA Code § 15.2-2223).

It's been five years since some sections of the county's Comprehensive Plan were adopted, so the Northampton County Planning Commission has begun its review. To accomplish this requirement, the county Planning Commission is scheduling a series of community meetings to gather input from residents. Seven meetings will be held in public locations, central to each community (sites will be announced shortly), and each meeting will be scheduled from 6:00 to 9:00 PM.

At the meetings, the county planning staff will describe the planning tools available, outline key issues and indicate some of the opportunities and challenges facing the community. The goal will be to accumulate information from the public and create visions for the county's future. Participants will be encouraged to provide verbal descriptions, markup maps and create or refine a community concept for the future. Meetings will take place on the following dates:

- Nassawadox Wednesday, January 18
- Exmore / Belle Haven Thursday, January 19
- Cheriton Monday, January 23
- Cape Charles Wednesday, January 25
- Eastville Monday, January 30
- Rural areas south Monday, February 6
- Rural areas north Thursday, February 9

A Comprehensive Plan, which is required of each locality, provides the framework for creating or amending a zoning ordinance, subdivision ordinance, Capital Improvement Plan, Agricultural-Forestal District maps and the zoning district map. Among other things, the Plan designates areas and implementation measures for land use and development, affordable housing, recycling centers, routes for electrical transmission lines, reasonable groundwater protection areas, historic areas, transportation improvements, community service facilities and flood plains and drainage.

Community meetings during this required five-year review provide an opportunity for landowners, residents, taxpayers, business owners and other interested parties to make comment on issues like significant changes to the community or new possibilities and challenges. There have been significant changes in Northampton and possible new

*Please remember to
renew your membership
for 2012!*

See "Community," Cont'd on page 3

Planning Commission Staff Report

From: Tom Bonadeo

Date: January 3, 2011

Item: 5A – Sign Ordinance

Attachments: Ordinance will be distributed at the meeting

Background

The sign ordinance was reviewed last month Section G thru the end. Staff (Libby) has provided the reformatting of this ordinance. Due to the sickness in the office and the Holidays we have not yet completed the compilation of the "new" ordinance. We expect to complete it by the meeting. Staff will distribute the ordinance and review all section at the meeting. No action is planned on the ordinance.

Item Specifics

Please take time to read through the last two section distributed in previous meeting.

Recommendations

Review the new code previously discussed.

Planning Commission Staff Report

From: Tom Bonadeo
Date: January 3, 2012
Item: 5B – Subdivision Ordinance Modification
Attachments: Revised Definitions for Appendix A

Item Specifics

The current Zoning Ordinance does not provide for a basic function of land development called a Boundary Adjustment. This function includes the vacating of lot lines to create larger parcels and/or the movement of a line between two existing parcels where the line where no additional lots are created.

The subdivision ordinance has been used in the past for this process but most of the requirements are oriented to creating more parcels from fewer parcels and cannot be applied to a boundary adjustment.

Discussion

The County used to have this feature included in their definition but removed it in the last zoning modification. They too have had to restore this feature to the ordinance. This happens regularly in Cape Charles due to the modifications that have taken place over the last 125 years and the attempts to restore lots to meet the current ordinance.

This change would not allow additional lots to be created from larger ones but would allow the movement of lot line within the area of legal size lots and would allow the subdivision for eminent domain and also allow the division of land for conservancy purposes.

As an example, the Town owns four lots next to each other on Madison Avenue where the skate park is located. We cannot build one building across four lots because the ordinance requires side yard setbacks on each lot. We could vacate the lot lines to create one large lot but our ordinance would require we follow the subdivision of property ordinance even when we are not making smaller lots from larger ones. Another example would be dividing a parcel near the beach to create more open space as part of the beach would be exempt.

The attachment is the modification for the definition of **Subdivide**. The definition does not change only exceptions are added to allow "boundary adjustments" for specific purposes.

Recommendation

Review public comment and recommend adoption of the text change to Town Council.

Modification to Appendix A – Subdivision Ordinance

Section 2 – Definitions

SUBDIVIDE meansThe term includes re-subdivision and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided; except that the following division of the land shall not be deemed a subdivision:

1. The sale and exchange of parcels between adjoining landowners where such separation does not create addition building sites and where all new sites are compliant with the ordinance.
2. The release of a portion of the security of any mortgage or deed of trust which would otherwise constitute a subdivision of land shall be subject to the provisions of this ordinance.
3. The division of any parcel occasioned by an exercise of eminent domain by a public agency.
4. The division of land made solely for bona fide natural resource conservation purposes.

Planning Commission Staff Report

From: Tom Bonadeo
Date: December 6, 2011
Item: 5c – Section 8.22 Demolition of Structures
Attachments: None

Item Specifics

The zoning ordinance allows the demolition of buildings and structures based on their contribution to the Historic District and their effect on public safety. The ordinance protects contributing structures to the National Historic District with a set of requirements designed to keep the buildings in the historic inventory.

There is a large gap between the protection of the public safety and an eyesore. There are some additional requirements that staff imposes on demolition for public safety that should be added to the ordinance.

Discussion

The process for demolition follows two main tracks, one for contributing structures and one for non-contributing structures. A third track is for Hazardous Buildings or Structures.

Section 8.22 Hazardous Buildings or Structures

This section allows demolition of any building or structure without the consideration of Historic Review Board if the building is in such an unsafe condition that it would endanger life or property provided the building code is followed. It required written approval of the "Town Administrator".

This is the section that could allow destruction of contributing structures and the Council would like to have reviewed. The very first issue is the name in quotes "Town Administrator". We have a Town Manager and a Zoning Administrator and the name should be changed.

Staff has added some additional requirements to assure that abuse does not allow the demolition of structure that are really not a hazard to life and property. Staff requires the following additional items:

1. If the request comes from the owner, the Code Official and Zoning Administrator require a letter from a structural engineer, licensed in Virginia, stating the structural problems that render the building a hazard and not practicably rebuildable.
2. The Zoning Administrator and the Code Official review the documentation and the survey of the property to be sure that the demolition creates a better situation after the demo than prior to the demo.
3. The Historic District Review Board and Town Council shall be notified.
4. The Zoning Administrator reviews the plan to rebuild as required in the regular procedure for demolition.
5. There are times when no engineering report is required by staff. In the case of eminent danger to life and property the Code Official and Zoning Administrator may require the demolition of a structure for the protection of the citizens.

It may be of value to incorporate some of these procedures into the ordinance. The Historic District Review Board did not meet last month and has not reviewed the recommendations.

Recommendation

Staff recommends setting a public hearing to add items to the ordinance per the attachment pending review by the Historic District Review Board.

Text Change to Section 8.22 Hazardous Buildings or Structures

Nothing in this article shall prevent..... However, such razing or demolition shall not be commenced without the following:

1. Written approval of the Town Manager
2. Letter stamped by a Structural Engineer, licensed in Virginia stating the structural problems that render the building a hazard and not practicably rebuild able.
3. Written concurrence by the Zoning Administrator and Code Official with the engineers report.
4. Notification of the Historic District Review Board and Town Council.
5. Reconstruction plans for the property shall meet the requirements of the ordinance.

Planning Commission Staff Report

From: Tom Bonadeo
Date: January 3, 2012
Item: 6A – Annual Election of Chair and Vice-Chair
Attachments: None

Item Specifics

The Bylaws of the Planning Commission require the election of officers at the first meeting after November 1 each year. The elected officers of Chair and Vice-Chair serve for one year.

Discussion

Due to sickness only a minimal quorum was made at the December 6th meeting (first meeting after November 1). The quorum agreed to suspend election of officers until January so that more of the Commissioners could participate.

Recommendation

Elect a Chair and Vice-Chair for the coming year.

Planning Commission Staff Report

From: Tom Bonadeo
Date: January 3, 2011
Item: 6B – Adaptive Reuse
Attachments: Adaptive Reuse background information

Background

The Town Council wishes to amend the zoning ordinance to allow for the adaptive reuse of some buildings in the Historic District of Cape Charles. Buildings like the old Presbyterian Church, Cape Charles High School, the Cape Charles Memorial Library, along with other church buildings that are currently in the Residential (R-1) Zone, are contributing structures to the Historic District but are not candidates for single family homes.

The purpose is to save these historic structures from destruction while preserving the residential character of the neighborhood. The Cape Charles Christian School reused the church as a school which is a permitted use in the R-1 zone. When a building changes use, the new use must meet the zoning ordinance requirements such as parking, etc. The Christian School was required to provide off street parking to avoid the impact of additional cars every day as opposed to Sunday cars for a few hours if used as a church.

The Town desires to repurpose the high school and at some future time, possibly the Library building. Using the conditional use permit process with public hearings and Council approval these buildings could be salvaged as residential use, public meeting use, or live/work use compatible with the R-1 zone but potentially denser.

Item Specifics

Please review the attached reuse policy and additional language will be provided for review. Without this type of policy many of these buildings will sit empty and self-destruct as is already being seen. The Town and its taxpayers or individuals as single family homeowners cannot afford to repair these structures or reuse them as single family homes. They need to be preserved and there are numerous programs to help.

Recommendations

Review the attached code sample.

Adaptive Reuse Ordinance

Effective 12/20/01

The following excerpts of the Planning and Zoning Code are related to the Adaptive Reuse Projects in the Los Angeles downtown areas. The Planning and Zoning Code is available on the internet : http://www.cityofla.org/pln/zone_code/2000zc/zonecode.htm

Subdivision 26 of Subsection A of Section 12.22 of the Los Angeles Municipal Code:

26. Downtown Adaptive Reuse Projects.

(a) Purpose. The purpose of this Subdivision is to revitalize the Greater Downtown Los Angeles Area and implement the General Plan by facilitating the conversion of older, economically distressed, or historically significant buildings to apartments, live/work units or visitor-serving facilities. This will help to reduce vacant space as well as preserve Downtown's architectural and cultural past and encourage the development of a live/work and residential community Downtown, thus creating a more balanced ratio between housing and jobs in the region's primary employment center. This revitalization will also facilitate the development of a "24-hour city" and encourage mixed commercial and residential uses in order to improve air quality and reduce vehicle trips and vehicle miles traveled by locating residents, jobs, hotels and transit services near each other.

(b) Application. If the provisions of Subparagraph (2) of Paragraph (h) and of Subparagraphs (1), (2) or (3) of Paragraph (j) of this subdivision conflict with those of any specific plan, supplemental use district, "Q" condition, "D" limitation, or citywide regulation, any of which were adopted or imposed by City action prior to the effective date of this ordinance, then this Subdivision shall prevail.

(c) Definition of Adaptive Reuse Project. Notwithstanding any other provisions of this chapter to the contrary, for the purposes of this subdivision, an Adaptive Reuse Project is any change of use to dwelling units, guest rooms, or joint living and work quarters in all or any portion of any eligible building.

(d) Eligible Buildings. The provisions of this subdivision shall apply to Adaptive Reuse Projects in all or any portion of the following buildings in the CR, C1, C1.5, C2, C4, C5, CM, or R5 Zones in the Downtown Project Area:

(1) Buildings constructed in accordance with building and zoning codes in effect prior to July 1, 1974. A Certificate of Occupancy, building permit, or other suitable documentation may be submitted as evidence to verify the date of construction.

(2) Buildings constructed in accordance with building and zoning codes in effect on or after July 1, 1974, if:

(i) Five years have elapsed since the date of issuance of final Certificates of Occupancy; and

(ii) A Zoning Administrator finds that the building is no longer economically viable as an exclusively commercial or industrial building, pursuant to Section 12.24 X 1(b).

(3) Buildings designated on the National Register of Historic Places, the California Register of Historical Resources, or the City of Los Angeles List of Historic-Cultural Monuments. Contributing Buildings in National Register Historic Districts or Contributing Structures in Historic Preservation Overlay Zones (HPOZ) established pursuant to Section 12.20.3 of this Code are also eligible buildings.

(e) M Zones. The Zoning Administrator may, upon application, permit Adaptive Reuse Projects in all or any portion of buildings in the MR1, MR2, M1, M2 and M3 Zones in the Downtown Project Area, pursuant to Section 12.24 X 1(a).

(f) Unified Adaptive Reuse Projects. The Zoning Administrator may, upon application, permit floor area averaging in unified Adaptive Reuse Projects, pursuant to Section 12.24 X 1(c).

(g) Downtown Project Area. The Downtown Project Area includes the following areas:

(1) The Central City Community Plan Area as shown on the General Plan of the City of Los Angeles; and

(2) All that real property in the City of Los Angeles, described by the following boundary lines: Bounded northerly by the centerline of Freeway Number 10 (commonly called the Santa Monica Freeway); bounded southerly by the centerline of Vernon Avenue; bounded easterly and southeasterly by the following centerline courses: beginning at the intersection of the Santa Monica Freeway and Grand Avenue, then southerly along Grand Avenue to the most easterly line of Freeway Number 110 (commonly called the Harbor Freeway), then southerly along that right of way to the centerline of Martin Luther King, Jr. Boulevard, then easterly along Martin Luther King, Jr. Boulevard to the centerline of Grand Avenue, then southerly along Grand Avenue to the centerline of Vernon Avenue. Bounded westerly and northwesterly by the following centerline courses: beginning at the intersection of Vermont Avenue and Vernon Avenue, then northerly along Vermont Avenue to Jefferson Boulevard, then easterly along Jefferson Boulevard to University Avenue, then northerly along University Avenue to 28th Street, then westerly along 28th Street to Severance Street, then northerly along Severance Street to Adams Boulevard, then westerly along Adams Boulevard to Scarff Street, then northerly along Scarff Street to 23rd Street, then southerly along 23rd Street to Bonsallo Avenue, then northerly along Bonsallo Avenue to Washington Boulevard, then westerly along Washington Boulevard to Oak Street, then northerly along Oak Street and its northerly prolongation to the Santa Monica Freeway.

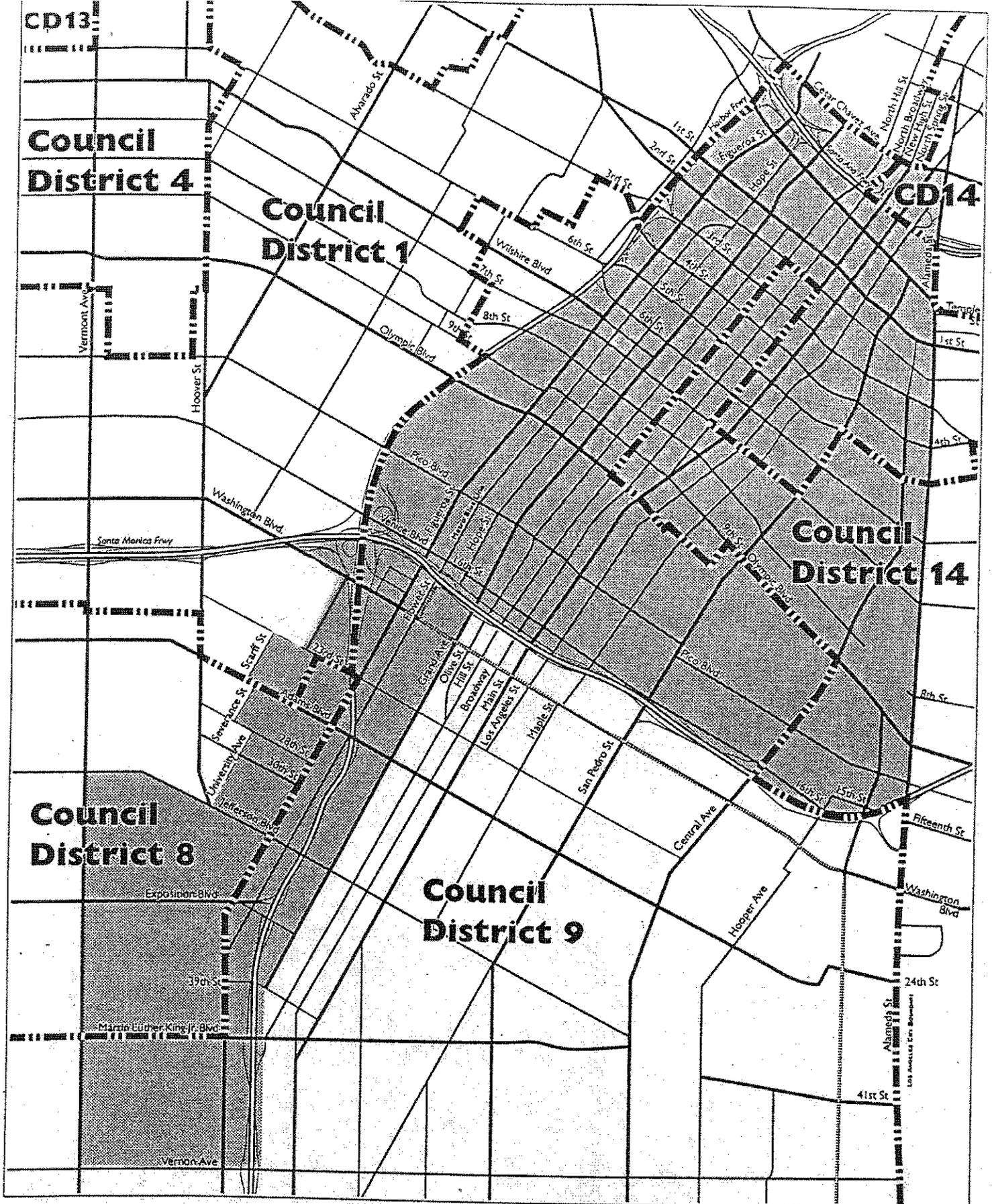


Exhibit 1
Project Area
 Downtown Adaptive Reuse, Live/Work Ordinance



(h) Incentives. Notwithstanding any other provisions of this chapter to the contrary, Adaptive Reuse Projects shall be entitled to the incentives set forth below. Except for the provision concerning mezzanines set forth in Subparagraph (1) below, these incentives shall not apply to any new floor area that is added to an Adaptive Reuse Project.

(1) Mezzanines. Loft spaces in joint living and work quarters, dwelling units and guest rooms which do not exceed more than 33 percent of the floor area of the space below shall not be considered new floor area. Mezzanines may be included in the calculation of floor area for the purpose of determining compliance with the standards set forth in Paragraph (i) of this subdivision.

(2) Density. Dwelling units, joint living and work quarters and guest rooms shall not be subject to the lot area requirements of the zone or height district.

(3) Off-Street Automobile Parking. The required number of parking spaces shall be the same as the number of spaces that existed on the site on June 3, 1999, and shall be maintained and not reduced. Adaptive Reuse Projects shall otherwise be exempt from the provisions of Section 12.21 A 4 (m) of this Code.

(4) Mini-Shopping Center and Commercial Corner Development Regulations. Adaptive Reuse Projects shall be exempt from the mini-shopping center and commercial corner development regulations set forth in Section 12.22 A 23.

(5) Site Plan Review. Adaptive Reuse Projects shall be exempt from the requirements for Site Plan Review set forth in Section 16.05.

(6) Loading Space. Where an existing loading space is provided, the provisions of Section 12.21 C 6(h) shall apply. If no loading spaces exist, then a loading space shall not be required in conjunction with the development of an Adaptive Reuse Project.

(i) Standards. Adaptive Reuse Projects permitted pursuant to this subdivision shall be developed in compliance with the following standards:

(1) Dwelling Units and Joint Living and Work Quarters. The minimum floor area for new dwelling units and joint living and work quarters shall be 450 square feet. Floor area shall not include hallways or other common areas, or rooftops, balconies, terraces, fire escapes, or other projections or surfaces exterior to the walls of the building. The floor area of both the living space and the work space shall be combined to determine the size of joint living and work quarters. The average floor area, as defined above, of all the dwelling units and joint living and work quarters in the building, including those that existed prior to the effective date of this ordinance, shall be at least 750 square feet. That minimum average size shall be

maintained and not reduced.

(2) Guest Rooms. Guest rooms shall include a toilet and bathing facilities.

(j) Exceptions. Notwithstanding the nonconforming provisions of Section 12.23, the following exceptions shall apply to the buildings in which Adaptive Reuse Projects are located. These exceptions shall also apply to any building in which new floor area or height was added or observed yards changed on or after July 1, 1974, as evidenced by a valid Certificate of Occupancy.

(1) Floor Area. Existing floor area which exceeds that permitted by the zone, height district, specific plan, supplemental use district, or any other land use regulation shall be permitted.

(2) Height. Existing height which exceeds that permitted by the zone, height district, specific plan, supplemental use district, or any other land use regulation shall be permitted.

(3) Yards. Existing observed yards which do not meet the yards required by the zone, height district, specific plan, supplemental use district, or any other land use regulation shall be permitted.

(k) Uses. Notwithstanding the nonconforming provisions of Section 12.23, dwelling units, guest rooms, and joint living and work quarters shall be permitted in Adaptive Reuse Projects, so long as the use is permitted by the underlying zone.
(Amended by Ord. No. 174,315, Eff. 12/20/01.)

Subdivision 1 of Subsection X of section 12.24 of the Los Angeles Municipal Code:

1. Adaptive Reuse Projects in the Downtown Project Area.

Pursuant to Section 12.22 A 26, a Zoning Administrator may, upon application, permit Adaptive Reuse Projects in the M Zones, and in the R5 and C Zones in all or any portion of a building constructed on or after July 1, 1974. The Zoning Administrator may also permit floor area averaging in unified Adaptive Reuse Projects.

(a) M Zones. A Zoning Administrator may, upon application, permit Adaptive Reuse Projects in all or any portion of a building in the MR1, MR2, M1, M2 and M3 Zones in the Downtown Project Area, subject to the following:

(1) Eligible Buildings. A Zoning Administrator shall only permit Adaptive Reuse Projects in the following buildings:

(i) Buildings constructed in accordance with building and zoning codes in effect prior to July 1, 1974. A Certificate of Occupancy, building permit, or other suitable documentation may be submitted as evidence to verify the

date of construction; or

(ii) Buildings constructed in accordance with building and zoning codes in effect on or after July 1, 1974, if: five years have elapsed since the date of issuance of final Certificates of Occupancy; and the Zoning Administrator finds that the building is no longer economically viable as an exclusively commercial or industrial building.

The Zoning Administrator may only make this finding after reviewing information submitted by the applicant concerning vacancy rates, profit and loss statements, or other relevant data as the Zoning Administrator may require. The Zoning Administrator may require the applicant to submit an independent audit or other independently verified documentation; or

(iii) Buildings designated on the National Register of Historic Places, the California Register of Historical Resources, or the City of Los Angeles List of Historic-Cultural Monuments. Contributing Buildings in National Register Historic Districts or Contributing Structures in Historic Preservation Overlay Zones (HPOZ) established pursuant to Section 12.20.3 of this Code are also eligible buildings.

(2) Provisions. The Zoning Administrator may apply some or all of the provisions set forth in Section 12.22 A 26 to Adaptive Reuse Projects.

(3) Signs. The Zoning Administrator shall require that one or more signs or symbols of a size and design approved by the Fire Department are placed by the applicant at designated locations on the exterior of each Adaptive Reuse Project to indicate the presence of residential uses.

(4) Findings. In addition to the findings otherwise required by this Section, the Zoning Administrator shall also find:

(i) That the uses of property surrounding the proposed location of the Adaptive Reuse Project will not be detrimental to the safety and welfare of prospective residents;

(ii) That the Adaptive Reuse Project will not displace viable industrial uses; and

(iii) That the Adaptive Reuse Project complies with the standards for dwelling units, joint living and work quarters and guest rooms set forth in Section 12.22 A 26 (i).

(b) Buildings constructed on or after July 1, 1974. The provisions of Section 12.22 A 26 shall apply to Adaptive Reuse Projects in all or any portion of a building constructed on or after July 1, 1974, in the CR, C1, C1.5, C2, C4, C5, CM, or R5 Zones in the Downtown

Project Area, if: five years have elapsed since the date of issuance of final Certificates of Occupancy; and a Zoning Administrator finds that the building is no longer economically viable as an exclusively commercial or industrial building.

The Zoning Administrator may only make this finding after reviewing information submitted by the applicant concerning vacancy rates, profit and loss statements, or other relevant data as the Zoning Administrator may require. The Zoning Administrator may require the applicant to submit an independent audit or other independently verified documentation.

(c) Unified Adaptive Reuse Projects. The Zoning Administrator may, upon application, permit floor area averaging in the MR1, MR2, M1, M2, M3, CR, C1, C1.5, C2, C4, C5, CM, or R5 Zones in the Downtown Project Area. The averaging of floor area in unified Adaptive Reuse Projects may be permitted for purposes of determining compliance with the 750 square foot minimum average unit size standard for dwelling units and joint living and work quarters, as set forth in Section 12.22 A 26 (i). For purposes of this subdivision, a unified Adaptive Reuse Project means an Adaptive Reuse Project composed of two or more buildings, so long as the Project has all of the following characteristics: (1) functional linkages, such as pedestrian or vehicular connections; (2) common architectural and landscape features, which constitute distinctive design elements of the project; and (3) a unified appearance when viewed from adjoining streets. Unified Adaptive Reuse Projects may include lots that abut or are separated only by an alley or are located across the street from any portion of each other.

Individual buildings may fall below the minimum average unit size standard, so long as the average size of all the dwelling units and joint living and work quarters in the Unified Adaptive Reuse Project is at least 750 squarefeet, and no dwelling unit or joint living and work quarters is less than 450 square feet in area. The Zoning Administrator shall determine whether a project meets the definition of a unified Adaptive Reuse Project as set forth above. All owners of the property requesting floor area averaging must sign the application. A current title search shall be submitted with the application to insure that all required persons have signed the application.

If the Zoning Administrator approves the floor area averaging, then all owners of the property requesting floor area averaging and all owners of each lot contained in the unified Adaptive Reuse Project shall execute and record an affidavit. A copy of each executed and recorded affidavit shall be filed with the Office of Zoning Administration. Each affidavit shall run with the land, be approved by the Zoning Administrator prior to the issuance of any building permits and shall guarantee the following: (1) the use of any floor area converted to dwelling units or joint living and work quarters shall be maintained and not changed; and (2) the number of these units or quarters approved by the Zoning Administrator shall not be increased.

(d) Procedures. An application for permission pursuant to this subdivision shall follow the procedures for adjustments set forth in Section 12.28 C 1, 2, and 3. However, the Zoning Administrator may waive the public hearing required in that section if the owners of all properties abutting, across the street or alley from, or having a common corner with the

building have expressed in writing no objections to the Adaptive Reuse Project.
(Amended by Ord. No. 174,315, Eff. 12/20/01.)

Paragraph (d) of Subdivision 13 of Subsection X of Section 12.24 of the Los Angeles Municipal Code:

(d) Procedures. An application for permission pursuant to this subdivision shall follow the procedures for adjustments set forth in Section 12.28 C 1, 2, and 3. However, the Zoning Administrator may waive the public hearing required in that section if the owners of all properties abutting, across the street or alley from, or having a common corner with the buildings have expressed in writing no objections to the quarters. *(Amended by Ord. No. 174,315, Eff. 12/20/01.)*

Subsection E of Section 19.01 of the Los Angeles Municipal Code:

| Type of Application | Flat Fee | For First Block Or Portion of A Block | For each Additional Block Or Portion Of A Block | Appeal |
|--|----------|---------------------------------------|---|--|
| Adaptive Reuse Projects in the M Zones; post-July, 1974 buildings in the C Zones; and Unified Adaptive Reuse Projects in the M, C, or R5 Zones; in the Downtown Project Area. (Section 12.24 X 1) | \$ 750 | None | None | \$50.00 for applicant or non-applicant |

The definition of "Greater Downtown Los Angeles Area" in Los Angeles Administrative Code Section 19.141:

"Greater Downtown Los Angeles Area" shall mean the area in downtown Los Angeles located within the boundaries of the Central City Community Plan Area as shown on the General Plan of the City of Los Angeles and the Figueroa Economic Strategy Area, as further depicted on the map attached to the Planning Department staff report, dated October 4, 2001, and identified as Exhibit 1 in Council File No. 97-0648.