

Planning Commission

Regular Session Agenda

December 6, 2011

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. Sign Ordinance Review – Draft Ordinance
 - b. Demolition of structures – Section 8.22
 - c. Review of Density in Residential over Commercial CUPs
6. New Business
 - a. Subdivision Ordinance – addition of boundary adjustment language
 - b. Annual Election of Chair and Vice-Chair
7. Announcements
8. Adjourn



DRAFT
PLANNING COMMISSION
Regular Meeting
Town Hall
November 1, 2011

At 6:00 p.m. in the Town Hall, Chairman Bruce Brinkley, having established a quorum, called to order the Regular Meeting of the Planning Commission. In attendance were Commissioners Roger Munz, Joan Natali and Mike Strub. Commissioner Dennis McCoy arrived at 6:05 p.m. Commissioner Malcolm Hayward was not in attendance. Also present were Town Planner Tom Bonadeo and 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 Mike Strub, seconded by Joan Natali and unanimously approved to accept the agenda format as amended.

The Commissioners reviewed the minutes for the October 4, 2011 Regular Meeting.

Joan Natali pointed out a grammatical error on the bottom of page 1.

Motion made by Joan Natali, seconded by Dennis McCoy, to approve the minutes from the October 4, 2011 Regular Meeting as corrected. The motion was unanimously approved.

REPORTS

Tom Bonadeo reported the following: i) The Sinclair FM Tower had finally been permitted and work should be starting within the next 30 days; ii) The paving work on Mason Avenue was finally done. Lines for the parking spaces have been marked off and should be painted soon; and iii) Gamesa was 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 proposed location had moved slightly north of the original location about midway between the Old Plantation Light and Buoy 36A. Technical issues had been worked out for getting a wire to shore and connected to the grid. Roger Munz asked why the location was changed and Tom Bonadeo responded that the location change was due to the issue with the wiring coming ashore.

OLD BUSINESS

Sign Ordinance Review - Draft Ordinance

Tom Bonadeo stated the Sign Ordinance from the 2012 International Zoning Ordinance had been reformatted and the first half, which included the definition section, would be reviewed this evening. The Commissioners reviewed Sections 4.1.A. through 4.1.G. with Tom Bonadeo pointing out the areas that were different from the Town's current ordinance which would require some discussion.

Purpose (Sub-Section A): Tom Bonadeo stated that he would replace this language with the language taken from the City of Portsmouth which was approved by the Commissioners several months ago.

Definitions (Sub-Section B):

- **Animated Sign - Electrically activated:** Tom Bonadeo stated that the Town currently did not allow these types of signs but it was agreed to include the definition so residents would know what they were. Bruce Brinkley suggested deleting the last sentence in subparagraph 1 which went into detail regarding the amount of time between phrases stating that the language was not necessary since the Town did not permit flashing signs. Dennis McCoy stated his agreement.
- **Billboard:** There was some discussion regarding the language in the International Ordinance which refers readers to another definition. The Commissioners agreed that the Town's current definition was preferred and it could then refer readers to other sign definitions for "Off-premise sign" and "Outdoor advertising sign."
- **Frontage (Building) and Frontage (Property):** Tom Bonadeo stated that the current Town ordinance included size but did not include any reference to the side of the building which was covered by this language.
- **Ground Sign:** Tom Bonadeo stated that he had never had anyone ask about this type of signage and whether this should be included in the Town's ordinance. Joan Natali stated that she preferred to keep this definition in the ordinance and that it was better to have too much information than not enough.
- **Menu Board:** Tom Bonadeo explained that this sign was specific for menus for drive-through restaurants and not to be confused with a "Sandwich Board" which was used by several retailers in Town to advertise specials. Joan Natali pointed out that Rayfield's Pharmacy had a drive-through window and it also had a restaurant inside.

Tom Bonadeo added that the International Ordinance did not have a definition for "Sandwich Board" but a separate definition would be added. Joan Natali stated that she thought of a "Sandwich Board" when she read the definition for "V Sign." Tom Bonadeo explained that a "V Sign" was more in line with the Cape Charles Welcome Sign at Route 13. The definition stated that "the distance between the sign faces not exceeding 5 feet at their closest point" would not be appropriate for a "Sandwich Board" since they were typically hinged at the top.

- **Outdoor Advertising Sign:** Tom Bonadeo stated that this could include a billboard and asked the Commissioners what size would constitute a billboard. Bruce Brinkley stated that he had a friend who worked for Adam Signs and he would give them a call.
- **Projecting Sign:** The Town did not refer to this type of sign specifically, but it would be good to have especially since there was an example included in Section C.
- **Window Sign:** There was some discussion regarding this type of signage and Tom Bonadeo stated that a window sign was permitted if it related to something within the establishment. A business owner would not be permitted to hand a sign in their window advertising another business. Mike Strub asked if a sign were placed in a retail store in Town advertising an event at the Palace Theater would be included in this type of signage. Joan Natali stated that it would be considered more of a temporary sign since it was advertising an event.

The Commissioners went on to review the pictures (Sub-Section C) depicting the various sign types and agreed that all the examples should be kept because they depicted the defined signs whether they were permitted in Town or not. It would be good for the residents to see what they could or could not do in regards to signage.

General Provisions (Sub-Section D):

- Signs in rights-of-way: Tom Bonadeo stated that the current ordinance permits signage up to the right-of-way and the Commissioners agreed to delete the language "within 2 feet" from this paragraph.
- Projections over public ways: Tom Bonadeo recommended language stating that the Town Manager could permit this type of signage as a temporary sign. The Commissioners were in agreement.

Exempt Signs (Sub-Section E): The Commissioners discussed Item 7 in regards to the reference to the sign not exceeding 6 square feet in area and agreed that this size was too large.

Tom Bonadeo stated that the last two sections (Sub-Sections F & G) would be reviewed again later with the second half of the ordinance.

Prohibited Signs (Sub-Section F): Dennis McCoy stated that Item 2 did not account for the pole at the post office.

Permits Required (Sub-Section G): Dennis McCoy added that Items 1 and 3 did not account for the pole at the post office.

Tom Bonadeo asked the Commissioners to think about sizes for various signs for further discussion next month.

Demolition of Structures - Section 8.22

Tom Bonadeo explained that a house that was a contributing structure in the Historic District recently sold and the new owner was scheduling the house for demolition. The house was not on the Code Enforcement list but the owner was able to obtain an engineer's report deeming the structure unsafe. Tom Bonadeo referred to Section 8.21 which requires an application to the Historic District Review Board (HDRB) to demolish a contributing structure adding that the process seemed to be fairly straight forward but in reality was difficult. It was very difficult to determine whether a structure was of "such architectural or historic interest that its removal would be to the detriment of the public interest." Tom Bonadeo related information regarding his former home which he restored and added that it was the home of the first elected mayor of Cape Charles. This information was not recorded anywhere and the house might have been purchased by someone and demolished. The fact that the house was owned by the first elected mayor of Cape Charles should qualify as such historic interest that removal would be to the detriment of the public interest. Tom Bonadeo noted the history of other houses in Town. Tom Bonadeo went on to state that there was a big difference between the protection of the public safety and an eyesore.

Bruce Brinkley suggested that the 12-month timeframe to sell the property as outlined in the alternate procedure be reviewed since 12 months to sell a property in this economy was not very long.

The Commissioners reviewed Section 8.22 which allows demolition of any structure without consideration of the HDRB if the building was in such an unsafe condition that it would endanger life or property. This procedure required written approval of the "Town Administrator" which Cape Charles did not have. We have a Town Manager and a Zoning Administrator and the terminology should be updated to reflect one of these two positions. It was suggested that the ordinance should state "Town Manager or his/her designee." Tom Bonadeo reviewed additional information which was required by staff to assure that abuse of this section did not allow the demolition of a structure that was not a hazard to life and property and suggested that these requirements be added to the ordinance. Bruce Brinkley questioned the requirement that the letter rendering the structure a hazard be from a structural engineer adding that the State Code required "a licensed professional" and since the State Code was what gave the Town authority to enforce these issues, we needed to stay consistent with the language in the Code.

Tom Bonadeo stated that he would draft language incorporating what was discussed this evening to be review by the Commissioners at the next meeting.

NEW BUSINESS

Review of Harbor District Zone

Tom Bonadeo stated that the current economic situation created new building challenges for real estate developers and the Harbor District Zone was the least developed area in Town. Two large projects were approved under this zoning ordinance which had positive growth potential while showing some of the potential weaknesses of the ordinance. Density was not defined in any zone except the basic residential zones but should probably be reviewed and added to the Harbor District and other commercial zones where residential use was allowed by Conditional Use Permit. Tom Bonadeo went on to state that the Commissioners should concentrate on the area along Mason Avenue which was designated as "Main Street Mixed Use." This portion of the Harbor District had the most effect on the Historic District.

Tom Bonadeo explained that the Wilson Building had a gross density of 72 per acre and the building would not meet the current parking requirements. The ordinance stated that if rebuilding in the Historic District, the owner did not have to meet the parking requirements, but staff tried to work with the owners to allow for parking on the property. This was able to be done on the Delisheries building but would not have worked on the Wilson building.

The Commissioners reviewed several tables and examples from the planning book "*Planning the Built Environment*" regarding density. Joan Natali noted that all the examples were for residential but "Main Street Mixed Use" was both commercial and residential. Tom Bonadeo stated that even though the zone was mixed use, it would be mostly residential since the Town permitted 50% of the first floor to be residential.

Joan Natali expressed her concern that if we did this, it would preclude hotels from being built. Tom Bonadeo stated that hotels were by-right in this zone and would not be included in density because it was not residential but hotels would still need to meet the parking and open-space requirements. Town Council's concern was the conditional use items which would include density for residential.

After some further discussion, the Commissioners agreed to move forward with their review.

OTHER

Bruce Brinkley encouraged everyone to go to the City of Chesapeake's website to look at the huge Jordan Bridge project. This bridge was 165' tall and was privately owned and funded. Bayshore Concrete was participating in the building of the new bridge.

ANNOUNCEMENTS

There were no announcements.

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

Chairman Bruce Brinkley

Town Clerk

Planning Commission Staff Report

From: Tom Bonadeo
Date: December 6, 2011
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 Harbor Redevelopment Plan – Each proposer submitted a technical proposal and a cost proposal. After the technical proposals were scored and interviews were held the Committee recommended that the award go to Boytos & Boytos. This was the only proposal that had a good technical score and was within budget. Final contract arrangements are being made at this time and work should start before the New Year.
3. The RFP for a land lease at the Harbor has been advertised and a response has been received. The Council voted to allow the Mayor to approve the lease once all the requirements are met. The proposer is working on plans and financial requirements at this time.
4. The WWTP is still in testing. The plant is very technical and training/testing is still underway.
5. The new force main on Mason Avenue is into the final phase and it is expected to begin pumping again the week of November 28. This means the final equipment will be removed by the first full week of December. While this station was being upgraded, temporary pumps have been doing the work.
6. The Historic Review Board met last month and reviewed three projects. The first project was replacement front doors for the old police station building now rented by the golf cart company. The second and third projects were additions to houses in the 400 Block of Tazewell Avenue. These historic homes were recently purchase by new owners. Additional renovation projects have begun on Mason Avenue. The Northampton Hotel, the "Delisheries" building, the very small empty storefront in the 300 block and the house in the 600 block, all are in some state of renovation. At least two new businesses will be opening when these are completed.
7. The Sinclair FM Tower has finally been permitted and concrete is being poured for the foundation.
8. 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.

9. The Broadband Network equipment is being delivered and circuits are being designed. Ann at the library is developing a plan for the management of the lab facility once the network goes live this month.

Planning Commission Staff Report

From: Tom Bonadeo
Date: December 6, 2011
Item: 5A – Sign Ordinance
Attachments: Sign Ordinance Section G thru I

Background

The sign ordinance was reviewed last month thru section H. Staff (Libby) has provided the last sections of the ordinance. Libby has reformatted this first section of the Ordinance for the Commission to review.

Item Specifics

Please take time to read through this updated ordinance prior to the meeting and staff will go through the sample with mark- ups at the meeting. We should expect to spend 45 minutes to an hour on general review for additions and removal of information.

This is mostly the temporary and size section. There were some suggestions for additional definitions such as seasonal signs. Please bring your suggestions with you.

Recommendations

Review and compare the new code to how signs should work in Cape Charles.

4. Portable signs except as allowed for temporary signs.
5. Any *sign* attached to, or placed on, a vehicle or trailer parked on public or private property, except for signs meeting the following conditions:
 - 5.1. The primary purpose of such a vehicle or trailer is not the display of signs.
 - 5.2. The signs are magnetic, decals or painted upon an integral part of the vehicle or equipment as originally designed by the manufacturer, and do not break the silhouette of the vehicle.
 - 5.3. The vehicle or trailer is in operating condition, currently registered and licensed to operate on public streets when applicable, and actively used or available for use in the daily function of the business to which such signs relate.
6. Vehicles and trailers are not used primarily as static displays, advertising a product or service, nor utilized as storage, shelter or distribution points for commercial products or services for the general public.
7. Balloons, streamers or pinwheels except those temporarily displayed as part of a special sale, promotion or community event. For the purposes of this subsection, "temporarily" means no more than 20 days in any calendar year.

G. Permits Required

1. Unless specifically exempted, a permit must be obtained from the code official for the erection and maintenance of all signs erected or maintained within this jurisdiction and in accordance with other ordinances of this jurisdiction. Exemptions from the necessity of securing a permit, however, shall not be construed to relieve the owner of the sign involved from responsibility for its erection and maintenance in a safe manner and in a manner in accordance with all the other provisions of this ordinance.
2. Construction documents
Before any permit is granted for the erection of a sign or sign structure requiring such permit, construction documents shall be filed with the code official showing the dimensions, materials and required details of construction, including loads, stresses, anchorage and any other pertinent data. The permit application shall be accompanied by the written consent of the owner or lessee of the premises upon which the sign is to be erected and by engineering calculations signed and sealed by a registered design professional where required by the *International Building Code*.
3. Changes to signs
No sign shall be structurally altered, enlarged or relocated except in conformity to the provisions herein, nor until a proper permit, if required, has been secured. The changing or maintenance of movable parts or components of an approved sign that is designed for such changes, or the changing of copy, business names, lettering, sign faces, colors, display and/or graphic matter, or the content of any sign shall not be deemed a structural alteration.
4. Permit fees
Permit fees to erect, alter or relocate a sign shall be in accordance with the fee schedule adopted within this jurisdiction.

RES = #0
COMM = #50

H. Specific Sign Requirements

1. Identification signs.
Identification signs shall be in accordance with Sections H.1.a through H.1.c.

- a. Wall signs
 Every single-family residence, multiple-family residential complex, commercial or *industrial* building, and every separate nonresidential building in a residential zone may display wall signs per street frontage subject to the limiting standards set forth in Table 1008.1.1(1). For shopping centers, planned *industrial* parks or other multiple occupancy nonresidential buildings, the building face or wall shall be calculated separately for each separate occupancy, but in no event will the allowed area for any separate occupancy be less than [JURISDICTION TO INSERT NUMBER] square feet.

TABLE H.1.a(1) IDENTIFICATION SIGN STANDARDS—WALL SIGNS

LAND USE	AGGREGATE AREA (square feet)
Single-family residential	[JURISDICTION TO INSERT NUMBER]
Multiple-family residential	[JURISDICTION TO INSERT NUMBER]
Nonresidential in a residential zone	[JURISDICTION TO INSERT NUMBER]
Commercial and industrial	See Table 1008.1.1(2)

4 #

4 #

4 #

2 # / FRONT FOOT
 50 # MAX.

For SI: 1 square foot = 0.0929 m².

TABLE H.1.a(2) SIGN AREA

DISTANCE OF SIGN FROM ROAD OR ADJACENT COMMERCIAL OR INDUSTRIAL ZONE	PERCENTAGE OF BUILDING ELEVATION PERMITTED FOR SIGN AREA
0 to 100 feet	[JURISDICTION TO INSERT NUMBER]
101 to 300 feet	[JURISDICTION TO INSERT NUMBER]
Over 301 feet	[JURISDICTION TO INSERT NUMBER]

For SI: 1 foot = 304.8 mm.

b. Free-standing signs

In addition to any allowable wall signs, every single-family residential subdivision, multiple-family residential complex, commercial or *industrial* building, and every separate nonresidential building in a residential zone shall be permitted to display free-standing or combination signs per street frontage subject to the limiting standards set forth in Table H.1.b.

TABLE H.1.b IDENTIFICATION SIGN STANDARDS—
FREE-STANDING SIGNS^{a,b,c}

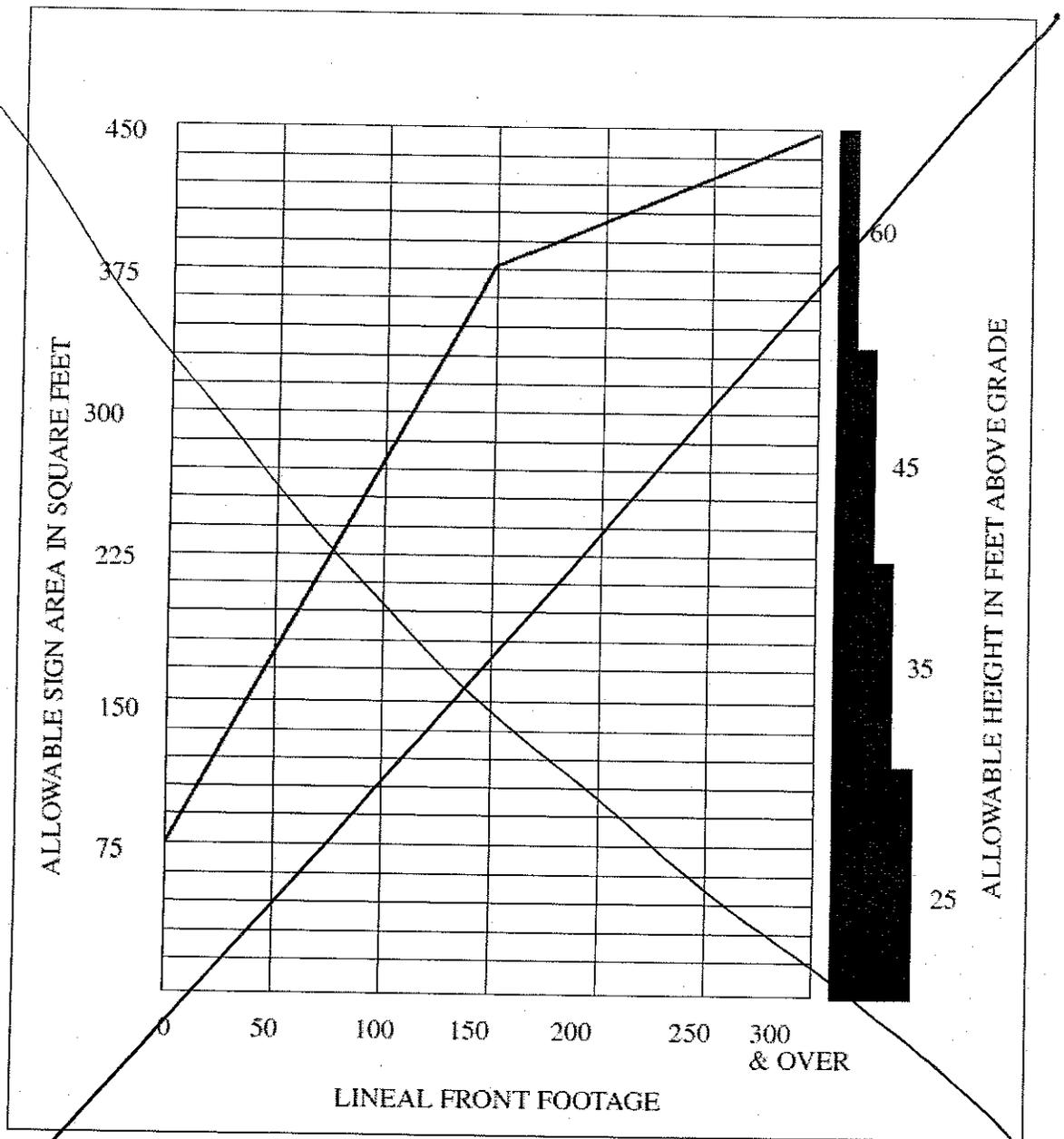
LAND USE	NUMBER OF SIGNS	HEIGHT (feet)	AREA (square feet)	SPACING
Single-family residential	[JURISDICTION TO INSERT NUMBER]	[JURISDICTION TO INSERT NUMBER]	[JURISDICTION TO INSERT NUMBER]	1 per subdivision entrance ^a
Multiple-family residential	[JURISDICTION TO INSERT NUMBER]	[JURISDICTION TO INSERT NUMBER]	[JURISDICTION TO INSERT NUMBER]	1 per driveway ^a
Nonresidential in a residential zone	[JURISDICTION TO INSERT NUMBER]	[JURISDICTION TO INSERT NUMBER]	[JURISDICTION TO INSERT NUMBER]	300 ^a
Commercial and industrial	[JURISDICTION TO INSERT NUMBER]	See Figures 1008.1.2 (1), (2) and (3)	See Figures 1008.1.2 (1), (2) and (3)	150 ^b

For SI: 1 foot = 304.8 mm, 1 square foot = 0.0929 m², 1 acre = 4047 m².

a. For subdivision or apartment identification signs placed on a decorative entry wall approved by the code official, two identification signs shall be permitted to be placed at each entrance to the subdivision or apartment complex, one on each side of the *driveway* or entry drive.

b. For shopping centers or planned *industrial* parks, two monument-style free-standing signs not exceeding 50 percent each of the permitted height and area, and spaced not closer than 100 feet to any other free-standing identification sign, shall be permitted to be allowed in lieu of any free-standing sign otherwise permitted in Table H.1.b.

c. For any commercial or *industrial* development complex exceeding 1,000,000 square feet of gross leasable area, or 40 acres in size, such as regional shopping centers, auto malls or planned *industrial* parks, one free-standing sign per street front shall be permitted to be increased in sign area by up to 50 percent.



For SI: 1 foot = 304.8 mm, 1 square foot = 0.0929 m², 1 mile per hour = 1.609 km/h

FIGURE H.1.b(3) ON-PREMISE FREE-STANDING SIGNS/COMMERCIAL AND INDUSTRIAL ZONES VEHICULAR SPEED SUBJECT TO POSTED LIMITS ABOVE 55 MILES PER HOUR

c. Directional signs

No more than two directional signs shall be permitted per street entrance to any lot. There shall be no limit to the number of directional signs providing directional information interior to a lot. In residential zones, the maximum area for directional signs shall be [JURISDICTION TO INSERT NUMBER] square feet. For all other zones, the maximum area for any directional sign visible from adjacent property or rights-of-way shall be [JURISDICTION TO INSERT NUMBER] square feet. Not more than 25 percent of the area of any directional sign shall be permitted to be devoted to business identification or logo, which area shall not be assessed as identification sign area.

2. Temporary signs

Temporary signs shall be in accordance with Sections H.2.a through H.2.f.

a. Real estate signs

Real estate signs shall be permitted in all zoning districts, subject to the following limitations:

- (1) Real estate signs located on a single residential lot shall be limited to one sign, not greater than [JURISDICTION TO INSERT NUMBER] feet in height and [JURISDICTION TO INSERT NUMBER] square feet in area.
- (2) Real estate signs advertising the sale of lots located within a subdivision shall be limited to one sign per entrance to the subdivision, and each *sign* shall be no greater than [JURISDICTION TO INSERT NUMBER] square feet in area nor [JURISDICTION TO INSERT NUMBER] feet in height. All signs permitted under this section shall be removed within 10 days after sale of the last original lot.
- (3) Real estate signs advertising the sale or lease of space within commercial or *industrial* buildings shall be no greater than [JURISDICTION TO INSERT NUMBER] square feet in area nor [JURISDICTION TO INSERT NUMBER] feet in height, and shall be limited to one sign per street front.
- (4) Real estate signs advertising the sale or lease of vacant commercial or *industrial* land shall be limited to one sign per street front, and each sign shall be no greater than [JURISDICTION TO INSERT NUMBER] feet in height, and [JURISDICTION TO INSERT NUMBER] square feet for property of 10 acres (40 470 m²) or less, or 100 square feet (9.3 m²) for property exceeding 10 acres (40 470 m²).
- (5) Real estate signs shall be removed not later than 10 days after execution of a lease agreement in the event of a lease, or the closing of the sale in the event of a purchase.

b. Development and construction signs

Signs temporarily erected during construction to inform the public of the developer, contractors, architects, engineers, the nature of the project or anticipated completion dates, shall be permitted in all zoning districts, subject to the following limitations:

- (1) Such signs on a single residential lot shall be limited to one sign, not greater than [JURISDICTION TO INSERT NUMBER] feet in height and [JURISDICTION TO INSERT NUMBER] square feet in area.
- (2) Such signs for a residential subdivision or multiple residential lots shall be limited to one sign, at each entrance to the subdivision or on one of the lots to be built upon, and shall be no greater than [JURISDICTION TO INSERT NUMBER] feet in height and [JURISDICTION TO INSERT NUMBER] square feet in area.
- (3) Such signs for nonresidential uses in residential districts shall be limited to one sign, and shall be no greater than [JURISDICTION

TO INSERT NUMBER] feet in height and [JURISDICTION TO INSERT NUMBER] square feet in area.

- (4) Such signs for commercial or *industrial* projects shall be limited to one sign per street front, not to exceed [JURISDICTION TO INSERT NUMBER] feet in height and [JURISDICTION TO INSERT NUMBER] square feet for projects on parcels 5 acres (20 235 m²) or less in size, and not to exceed [JURISDICTION TO INSERT NUMBER] feet in height and [JURISDICTION TO INSERT NUMBER] square feet for projects on parcels larger than 5 acres (20 235 m²).
- (5) Development and construction signs may not be displayed until after the issuance of construction permits by the building official, and must be removed not later than 24 hours following issuance of an occupancy permit for any or all portions of the project.

c. Special promotion, event and grand opening signs

Signs temporarily displayed to advertise special promotions, events and grand openings shall be permitted for nonresidential uses in a residential district, and for all commercial and *industrial* districts subject to the following limitations:

- (1) Such signs shall be limited to one sign per street front.
- (2) Such signs may be displayed for not more than 30 consecutive days in any 3-month period, and not more than 60 days in any calendar year. The signs shall be erected no more than 5 days prior to the event or grand opening, and shall be removed not more than 1 day after the event or grand opening.
- (3) The total area of all such signs shall not exceed [JURISDICTION TO INSERT NUMBER] square feet in any single-family residential district, [JURISDICTION TO INSERT NUMBER] square feet in any multiple-family residential district and [JURISDICTION TO INSERT NUMBER] square feet in any commercial or *industrial* district.

d. Special event signs in public ways

Signs advertising a special community event shall not be prohibited in or over public rights-of-way, subject to approval by the code official as to the size, location and method of erection. The code official may not approve any special event signage that would impair the safety and convenience of use of public rights-of-way, or obstruct traffic visibility.

e. Portable signs

Portable signs shall be permitted only in the C, CR and FI districts, as designated in this code, subject to the following limitations:

- (1) No more than one such sign may be displayed on any property, and shall not exceed a height of [JURISDICTION TO INSERT NUMBER] feet nor an area of [JURISDICTION TO INSERT NUMBER] square feet.
- (2) Such signs shall be displayed not more than 20 days in any calendar year.
- (3) Any electrical portable signs shall comply with NFPA 70, as adopted in this jurisdiction.

- (4) No portable sign shall be displayed prior to obtaining a sign permit.

f. Political signs

Political signs shall be permitted in all zoning districts, subject to the following limitations:

- (1) Such signs shall not exceed a height of [JURISDICTION TO INSERT NUMBER] feet nor an area of [JURISDICTION TO INSERT NUMBER] square feet.
- (2) Such signs for election candidates or ballot propositions shall be displayed only for a period of 60 days preceding the election and shall be removed within 10 days after the election, provided that signs promoting successful candidates or ballot propositions in a primary election may remain displayed until not more than 10 days after the general election.
- (3) Such signs shall not be placed in any public right-of-way or obstruct traffic visibility.

3. Requirements for specific sign types

Signs of specific type shall be in accordance with Sections H.3.a through H.3.g.

a. Canopy and marquee signs

- (1) The permanently-affixed copy area of *canopy* or marquee signs shall not exceed an area equal to 25 percent of the face area of the *canopy*, marquee or architectural projection upon which such sign is affixed or applied.
- (2) Graphic striping, patterns or color bands on the face of a building, *canopy*, marquee or architectural projection shall not be included in the computation of sign copy area.

b. Awning signs

- (1) The copy area of awning signs shall not exceed an area equal to 25 percent of the background area of the awning or awning surface to which such a sign is affixed or applied, or the permitted area for wall or fascia signs, whichever is less.
- (2) Neither the background color of an awning, nor any graphic treatment or embellishment thereto such as striping, patterns or valances, shall be included in the computation of sign copy area.

c. Projecting signs

- (1) Projecting signs shall be permitted in lieu of free-standing signage on any street frontage limited to one sign per occupancy along any street frontage with public entrance to such an occupancy, and shall be limited in height and area to [JURISDICTION TO INSERT NUMBER] square feet per each [JURISDICTION TO INSERT NUMBER] lineal feet of building frontage, except that no such sign shall exceed an area of [JURISDICTION TO INSERT NUMBER] square feet.

- (2) No such *sign* shall extend vertically above the highest point of the building facade upon which it is mounted by more than [JURISDICTION TO INSERT NUMBER] percent of the height of the building facade.
- (3) Such signs shall not extend over a public sidewalk in excess of [JURISDICTION TO INSERT NUMBER] percent of the width of the sidewalk.
- (4) Such signs shall maintain a clear vertical distance above any public sidewalk a minimum of [JURISDICTION TO INSERT NUMBER] feet.

d. Under *canopy* signs

- (1) Under *canopy* signs shall be limited to no more than one such sign per public entrance to any occupancy, and shall be limited to an area not to exceed [JURISDICTION TO INSERT NUMBER] square feet.
- (2) Such signs shall maintain a clear vertical distance above any sidewalk or pedestrian way a minimum of [JURISDICTION TO INSERT NUMBER] feet.

e. Roof signs

- (1) Roof signs shall be permitted in commercial and *industrial* districts only.
- (2) Such signs shall be limited to a height above the roofline of the elevation parallel to the sign face of no more than [JURISDICTION TO INSERT NUMBER] percent of the height of the roofline in commercial districts, and [JURISDICTION TO INSERT NUMBER] percent of the height of the roofline in *industrial* districts.
- (3) The sign area for roof signs shall be assessed against the aggregate permitted area for wall signs on the elevation of the building most closely parallel to the face of the sign.

f. Window signs.

Window signs shall be permitted for any nonresidential use in a residential district, and for all commercial and *industrial* districts, subject to the following limitations:

- (1) The aggregate area of all such signs shall not exceed 25 percent of the window area on which such signs are displayed. Window panels separated by muntins or mullions shall be considered as one continuous window area.
- (2) Window signs shall not be assessed against the sign area permitted for other sign types.

g. Menu boards

Menu board signs shall not be permitted to exceed 50 square feet (4.6 m²).

I. Signs for Development Complexes

1. Master sign plan required

All landlord or single-owner controlled multiple-occupancy development complexes on parcels exceeding 8 acres (32 376 m²) in size, such as shopping centers or planned *industrial* parks, shall submit to the code official a master sign plan prior to issuance of new sign permits. The master sign plan shall establish standards and criteria for all signs in the complex that require permits, and shall address, at a minimum, the following:

- a. Proposed sign locations.
- b. Materials.
- c. Type of illumination.
- d. Design of free-standing sign structures.
- e. Size.
- f. Quantity.
- g. Uniform standards for nonbusiness signage, including directional and informational signs.

2. Development complex sign

In addition to the free-standing business identification signs otherwise allowed by this ordinance, every multiple-occupancy development complex shall be entitled to one free-standing sign per street front, at the maximum size permitted for business identification free-standing signs, to identify the development complex. No business identification shall be permitted on a development complex sign. Any free-standing sign otherwise permitted under this ordinance may identify the name of the development complex.

3. Compliance with master sign plan

All applications for sign permits for signage within a multiple-occupancy development complex shall comply with the master sign plan.

4. Amendments

Any amendments to a master sign plan must be signed and approved by the owner(s) within the development complex before such amendment will become effective.

Planning Commission Staff Report

From: Tom Bonadeo
Date: December 6, 2011
Item: 5B – 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 is an "urban myth" that is always cheaper to tear a structure down and build new than it is to remodel or restore. This is simply not the case. It may well be easier to build new and some special skills are required for remodel or restoration.

Discussion

The process for demolition follows two tracks, one for contributing structures and one for non-contributing structures. Contributing Structures are regulated by the Historic District Review Board and the Building Code and Non-contributing Structures are regulated by the Building Code only.

The Historic District Overlay (Section VIII) regulates demolition of contributing structures in section 8.21 and 8.22.

Section 8.21 Demolition; Alternate Procedure: Offer to sell

This section requires an application to the Historic District Review Board to demolish a contributing structure. The Board, Zoning Administrator or the Town Council, as applicable, shall review the application following the four guidelines in the ordinance.

1. Whether or not the building or structure is of such architectural or historic interest that its removal would be to the detriment of the public interest.
2. Whether or not the building or structure is of such interest or significance that it would qualify as a National, State, or local historic landmark.
3. Whether or not the retention of the building or structure would help to preserve and protect a historic place or area of the historic interest in the Town.
4. Whether or not plans for future use of the site after demolition are appropriate at this location.

This process seems fairly straight forward but the process is difficult in reality. What qualifies as "such architectural or historic interest"? This is a very difficult question to answer. I restored two homes nearly identical in size and shape but one was the home of the first elected mayor of Cape Charles. This fact was not recorded anywhere and the house might have been torn down if it didn't get rebuilt. The fact that the house was owned by the first elected Mayor of Cape Charles should qualify as such historic interest that removal would be to the detriment of the public interest.

If the demolition is denied by the above authorities the owner still retains the right to demolish the structure if an alternate procedure is followed. The alternate procedure is to offer the structure for sale for 12 months at a fair market value if no bona-fide offer is received from anyone giving the assurance that they will restore the structure then the structure can be demolished.

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 Zoning Administrator reviews the plan to rebuild as required in the regular procedure for demolition.
4. 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.

Recommendation

Staff recommends sending a letter to Historic Review suggesting the inclusion of the four additional requirements in the ordinance.

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It may be of value to incorporate some of these procedures into the ordinance.

Recommendation

Staff recommends sending a letter to Historic Review suggesting the inclusion of the four additional requirements in the ordinance.

Planning Commission Staff Report

From: Tom Bonadeo

Date: December 6, 2011

Item: 5C – Review of Density in Residential over Commercial CUPs

Attachments: Table of densities

Item Specifics

At the last Commission meeting the density subject was reviewed and the Commissioners agreed to move ahead with the review and study of the issue.

The current economic situation has created new building challenges for real estate developers. The Harbor District Zone is the least developed area of Town. Two large projects were submitted and approved under this zoning ordinance. Both projects had positive growth potential while showing some of the potential weaknesses of the ordinance.

Discussion

A review of the “control” items that are in the ordinance and some that are missing is in order. Control items are those parts of the ordinance that can be measured such:

1. Setbacks measured in feet.
2. Elevation is measured in feet and stories.
3. Density can be measured in units per acre.
4. Open space is measured in a percent of gross square feet.

This list is only an example of some of the items that might benefit from review. Density is not defined in any zone except the basic residential zones. This should be reviewed and potentially added to Harbor District and other commercial zones where residential use is allowed by Conditional Use Permit (CUP).

The current ordinance allows residential 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. There is no limitation of the number of units on a property.

The planning book “Planning the Built Environment” has numerous tables and guidelines that are generally used for this type of definition. We will review these tables and review the existing density of other areas of Cape Charles. There are other areas that play into the density of dwelling units such as the square footage of the unit.

Staff will provide an exercise to review existing densities, square footages and elevations.

Recommendation

Review and discuss the exercises and create a density recommendation for public review.

Figure 14.1. Examples of Building Coverage

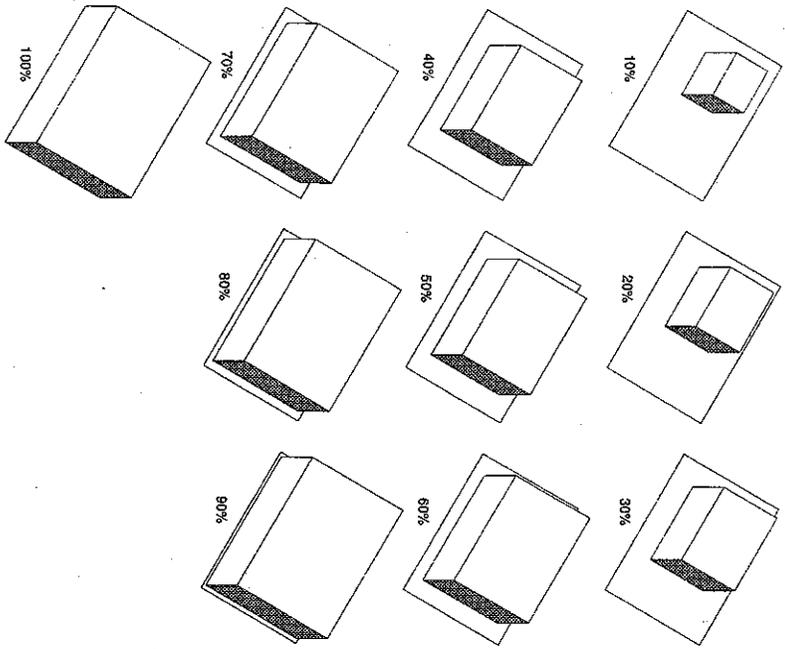


Figure 14.2. Sites Developed With a Floor Area Ratio of 1.0

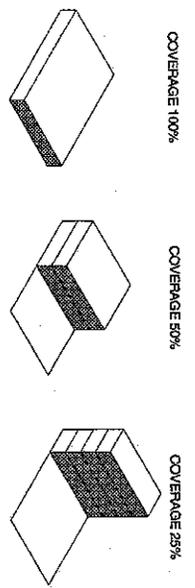


Figure 14.3. Sites Developed With a Floor Area Ratio of 0.5

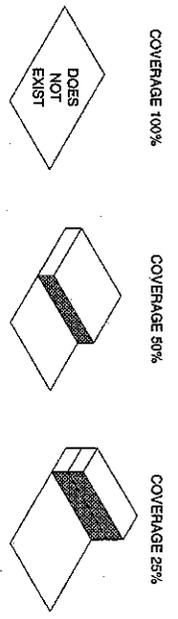
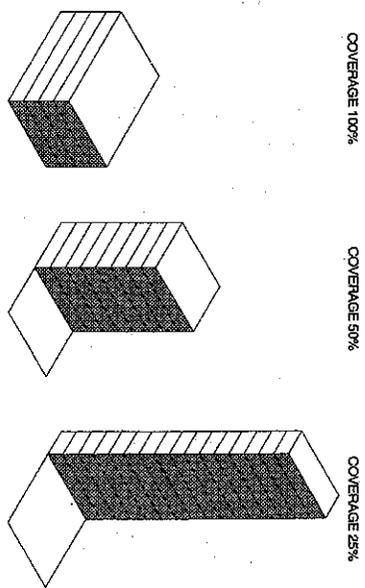


Figure 14.4. Sites Developed With a Floor Area Ratio of 4.0



streets, and facilities serving the local population (such as local schools, local parks, and local shopping facilities). The area specifically excludes land uses serving populations outside of the area being analyzed (such as state universities, regional shopping centers, and regional airports). The land area may or may not include vacant land.

Jurisdiction-wide residential density—The number of dwelling units per unit area (such as square miles or square kilometers) of land within the political boundaries of a jurisdiction. (The area usually includes residential, commercial, industrial, recreational, and institutional land uses, as well as vacant land, military bases, airports, and bodies of water.)

Residential density is most often expressed in terms of dwelling units (DU) per acre (ac). Sometimes, however, the inverse of this term, lot area per dwelling unit, is used.

USING RESIDENTIAL DENSITY AS A DESIGN TOOL

Residential density, expressed in *dwelling units per acre (DU/ac)* is used as an overview planning tool.

Residential density, expressed in *lot area per dwelling unit*, is used as a regulatory tool (e.g., in specific zoning regulations).

- When calculating the yield for single building sites, density figures (expressed in terms of square feet of lot area per DU) are used.
- For a site that is to be subdivided (with streets to be subtracted from the gross area) the number of gross acres in each land use is multiplied by the gross residential density of that land use which results in an approximate yield in number of dwelling units.
- For a site that is to be subdivided (with streets, parks, shopping centers, and schools), the gross area of the tract in

acres is multiplied by the neighborhood density figure which is closest to the typical type of dwelling that will be built on the property; this will produce an approximation of the number of dwelling units that the area will produce.

It must be noted that the above calculations will give approximations only. For more precise figures, one must specify how many units of each building type will be built, the average lot area per dwelling unit for each building type, the percent of the area that will be used for streets, and the percent of the area that will be used for community facilities. This detailed analysis can usually be made only after a fairly detailed site plan has been developed.

Table 14.1 reports typical residential densities. Note that these are generalized approximations only, and that the values reported in the table are not standards that apply everywhere.

COVER AGE AND FLOOR AREA RATIO

Some additional terms are used when describing or calculating residential density:

Coverage—The area of a building lot that is covered by a structure, expressed in square feet; the proportion of a building lot that is covered by a structure, expressed in percent or in decimal parts.

Floor area ratio (FAR)—The ratio between the total gross floor area on all stories of a structure to the gross area of the building lot on which the structure is located.

Floor area ratios are often used in regulating the density of development of commercial and industrial properties; they are rarely used in regulating residential properties. This is because experience has shown that when a FAR is the primary regulation in apartment zoning, property owners tend to crowd their properties with many small apartment units

Table 14.1. Typical Residential Densities

Residential Use	Lot Area (sq. ft./DU)	Net Residential Density (DU/acre)	Gross Residential Density (DU/ae)	Neighborhood Residential Density (DU/ac)
Rural estates	20 acres	.05	.05	.05
Rural residential	5 acres	.20	.16	.15
Low-density, single family	20,000	2.2	1.7	1.5
Medium-density, single family	8,000	5.5	4.0	3.5
High-density, single family	5,000	8.7	6.5	5.2
Duplexes	4,000	11	8	6
Low-density row house	3,500	12	8	6
High-density row house	2,500	17	12	10
Low-density townhouse	5,400	8	6	5
High-density townhouse	2,700	16	12	10
1-story apartments	2,400	18	13	10
3-story apartments	1,200	36	25	20
6-story apartments	600	72	50	35
12-story apartments	300	145	100	60

• DU/ac = dwelling units per acre
 • sq. ft./DU = area in the building site in square feet per dwelling unit

rather than fewer moderate-sized units. (In some instances, this may be a desired effect; in others, it may be considered an adverse impact.)

Figure 14.1 illustrates a variety of building coverages. It may be noted that very low coverage figures are usually found only in low-density suburban and rural areas, and that very high coverage figures are usually found only in dense urban areas. A coverage of 100 percent is extreme and is almost never found.

Figure 14.2 illustrates three sites, each of which is developed to a FAR of 1.0 (that is, each site has a structure on it which is equal in floor area to the land area of the site). The figure on the left shows development when the building coverage is 100 percent; the figure in the middle shows development with a

coverage of 50 percent; the one on the right has a coverage of 25 percent.

Figure 14.3 illustrates the same three sites, but this time each of them is developed to a FAR of 0.5. Since it is impossible to develop a site at 100 percent coverage while having a FAR of 0.5, no structure is shown in the left-hand diagram.

Figure 14.4 again illustrates the three sites, but this time each one is developed to a FAR of 4.0.

RELATIONSHIPS AMONG BUILDING TYPE, RESIDENTIAL DENSITY, AND FLOOR AREA RATIO

Table 14.2 presents a number of examples of residential buildings that might be built under a variety of assumed conditions.

Table 14.2. Relationships Among Building Type, Residential Density, and Floor Area Ratio

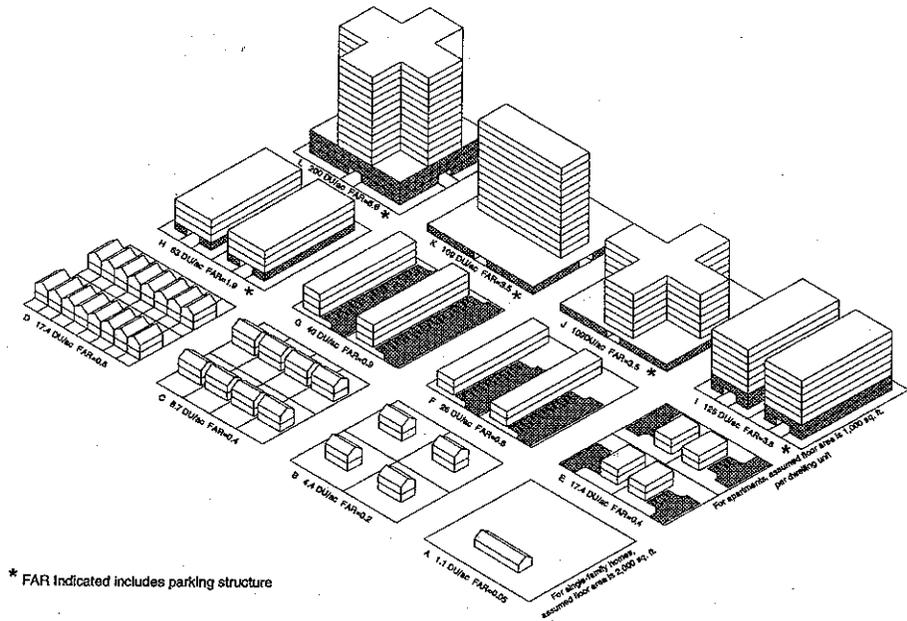
Figure	Type of Structure	ASSUMED SPECIFICATIONS				RESULTING PATTERN			
		Lot Size (sq. ft.)	Floor Area per DU (sq. ft.)	Parking Spaces per DU	Number of Stories	Residential Density (DUs per DU (sq. ft.))	DUs per Net Acre	Floor Area Ratio (FAR)	Floor Area Coverage (percent)
A	Detached single-family house	40,000	2,000	not shown	1	40,000	1.1	0.05	5
B	Detached, single-family house	10,000	2,000	not shown	2	10,000	4.4	0.2	10
C	Detached, single-family house	5,000	2,000	not shown	2	5,000	8.7	0.4	20
D	Row house	2,500	2,000	not shown	2	2,500	17.4	0.8	40
E	Fourplex	10,000	1,000	1.0	2	2,500	17.4	0.4	20
F	2-story garden apartment	20,000	1,000	1.0	2	1,850	26	0.6	30
G	3-story garden apartment	20,000	1,000	1.0	3	1,100	40	0.9	30
H	3-story apartment over parking	20,000	1,000	1.0	3 res 1 pkg	690	63	1.4	48
I	6-story apartment over 2-story parking	20,000	1,000	1.0	6 res 2 pkg	350	125	2.9 3.8*	48
J	8-story apartment over 1-story parking	40,000	1,000	1.0	6 res 1 pkg	400	109	2.5 3.5*	42 res 100 pkg
K	12-story apartment over 1-story parking	40,000	1,000	1.0	12 res 1 pkg	400	109	2.5 3.5*	21 res 100 pkg
L	12-story apartment over 3-story parking	40,000	1,000	1.0	12 res 3 pkg	214	200	4.7 6.8*	39 res 64 pkg

* DU = dwelling unit
 * The FAR counts floor area in the structure devoted to both residential and parking uses. Other FARs, not marked by an asterisk, are calculated on the basis of residential floor area only.

Figure 14.5 illustrates what the buildings in our calculations that each dwelling unit has a floor area of 2,000 square feet. The space for parking cars has not been shown in these illustrations because off-street parking presents no serious problems at these residential densities.

The left-hand row in Figure 14.5 contains only single-family homes, ranging in density from a low-density suburban home with a density of 1.1 DU/ac to urban row houses at a density of 17.4 DU/ac. It has been assumed low-rise apartment houses, ranging in den-

Figure 14.5. Relationships Among Building Type, Residential Density, and Floor Area Ratio



Planning Commission Staff Report

From: Tom Bonadeo
Date: December 6, 2011
Item: 6A – Subdivision Ordinance Modification
Attachments: County Definitions

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.

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.

The attachment, page 14, contains a definition of Subdivision that includes an exemption for boundary movement where additional lots are not created. Sections a, c, and d pertain to the Town and should be incorporated into our ordinance.

Recommendation

Review and discuss the example and set a public hearing for the next meeting.

county.

PLAT, PRELIMINARY. A plat upon which the plan for a subdivision is presented for approval as a preliminary plat pursuant to this chapter, and which may not be recorded with the land records of the county.

PUBLIC SEWERAGE SYSTEM. A central sewerage system owned or operated by a public authority or municipality.

PUBLIC WATER SYSTEM. A central water system intended to be owned or operated by a public authority or a municipality for the purpose of furnishing potable water.

RIGHT-OF-WAY. A strip of land dedicated or reserved for a road, crosswalk, railroad, sanitary or storm sewer, water main, drainage facility, public utility, or other special use. The term **RIGHT-OF-WAY** for land platting purposes under this chapter shall mean that every right-of-way hereafter established and shown on a plat is to be separate and distinct from lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels.

ROAD. A public or private way set aside as a permanent right-of-way for motor vehicle travel and affording access to abutting properties. For the purpose of this chapter, the word **ROAD** shall include the words **STREET, HIGHWAY, LANE, AVENUE, and BOULEVARD.**

ROAD, PRIVATE. Any road that is not maintained by the Virginia Department of Transportation, regardless of ownership, and not intended for acceptance into the state highway system.

ROAD, PUBLIC. A road maintained by the Virginia Department of Transportation or one intended for acceptance into the state highway system as meeting its specifications.

SUBDIVISION AGENT. The Zoning Administrator of Northampton County or his or her designated agent.

SUBDIVIDE. The process of dividing land or otherwise adjusting boundary lines to establish a subdivision.

SUBDIVIDER. One or more persons who own property to be subdivided, or to be divided by family division.

SUBDIVISION. The division, including re-subdivision or family subdivision, of a parent tract or the establishment of any condominium regime, resulting in two or more lots. It shall also include the vacation of plats and the adjustment of boundary lines.

VIRGINIA DEPARTMENT OF TRANSPORTATION OR VDOT STANDARDS. One or more applicable standards or requirements of the Virginia Department of Transportation pertaining to the design or construction of any public road and any improvement related thereto. Virginia Department of Transportation standards include, but are not limited to, those standards and requirements set forth in its road design manual, road and bridge standards manual, and subdivision street requirements manual.

ZONING ORDINANCE. The Zoning Ordinance of Northampton County, Virginia.

(Ord. passed 11-15-2006)

73 Read Right-of-Way Width The total width of the strip of land dedicated or reserved for travel including roadway, curb, gutters, drainage ditches, sidewalks, medians and planting strips

74 School Board The School Board of Northampton County, Virginia.

75 Sediment Basins, Sediment Trap A temporary or permanent dam or barrier downstream from a development area or within a development which serves to regulate run-off and trap sediment

76 Sedimentation The action or process of depositing material or soil particles caused by water or wind

77 Setback Lines: Lines which describe the front, rear and side yard, shoreline building, and Resource Protection buffer setbacks required for the subject land by the Northampton County Zoning Ordinance.

78 Subdivide: The process of dividing land to establish a subdivision.

79 Subdivider: An individual, corporation, proprietor, trust, trustee, joint venture, partnership, or other unincorporated association, owning any tract, lot, or parcel of land to be subdivided, who have given their power of attorney to one of their group or to another individual or entity to act on their behalf in planning, negotiating for, in representing or executing the legal requirements of the subdivision.

80 Subdivision: The division of a lot or parent tract of land into two (2) or more lots or parcels for the purpose of transfer of ownership or building development, or, if a new street is involved in such division, any division of a parcel of land. The term includes resubdivision and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided and for the purpose of recordation of any division of land into two or more lots or parcels, a plat of such division shall be submitted for approval in accordance with the Code of Virginia, Title 15.2 Chapter 22 Article 6; except that the following division of land shall not be deemed a subdivision:

- a. The sale and exchange of parcels between adjoining landowners where such separation does not create additional building sites.
- b. The release of a portion of the security of any mortgage or deed of trust, provided that any sale of property presented to any mortgage or deed of trust which would otherwise constitute a subdivision of land shall be subject to the provisions of this ordinance.
- c. The division of any parcel occasioned by an exercise of eminent domain by an public agency.

d The division of land made solely for bona fide agricultural or natural resource conservation purposes

e A single bona fide division of a lot or parcel of land is permitted for the purpose of sale or gift to a member of the immediate family of the property owner, subject to the requirement that each lot of less than five acres shall have a reasonable right-of-way of twenty feet in width providing ingress and egress to and from each such lots and to and from a dedicated secondary public street or thoroughfare. For the purpose of this subsection, a member of the immediate family is defined as any person who is a natural or legally defined offspring, spouse, sibling, grandchild, grandparent, or parent of the owner. This section shall be used in good faith and only by a property owner for a single division per immediate family member and not as a device for the purpose of evading compliance with the subdivision requirements

81. Surveyor Land: A person who is recognized by the State and who is registered with the Virginia Department of Professional and Occupational Registration as a "registered land surveyor".

82. Tidal Shoreline: The line where open tidal waters, and/or vegetated wetlands, beach area or primary dunes, where they exist, abut uplands.

83. Tributary Stream: Any perennial stream that is so depicted on the most recent U.S. Geological Survey 7-1/2 minute topographic quadrangle map (scale 1:24,000).

84. Vegetated Wetlands: Means all that land lying between and contiguous to mean low water and an elevation above mean low water equal to the factor 1.5 times the mean tide range at the site of the proposed project in this County; and upon which is growing on the effective date of this act or grown thereon subsequent thereto, any one or more of the following: saltmarsh cordgrass (*Spartina alterniflora*), saltmeadow hay (*Spartina patens*), saltgrass (*Distichlis spicata*), black needlerush (*Juncus roemerianus*) saltwort (*Salicornia sp.*), sea lavender (*Limonium sp.*), marsh elder (*Iva frutescens*), groundsel bush (*Baccharis halimifolia*), wax myrtle, (*Myrica sp.*), sea oxeye (*Borrichia frutescens*) arrow arum (*Peltandra virginica*), pickerelweed (*Pontederia cordata*), big cordgrass (*Spartina cynosuroides*), rice cutgrass (*Leersia oryzoides*), wildrice (*Zizania aquatica*), bulrush (*Scirpus validus*), spikerush (*Eleocharis sp.*), sea rocket (*Cakile edentula*), southern wildrice (*Zizaniopsis miliacea*), cattails (*Typha spp.*), three-squares (*Scirpus validus*), buttonbush (*Cephalanthus occidentalis*), bald cypress (*Taxodium distichum*), black gum (*Nyssa sulvatica*), tupelo (*Nyssa aquatica*), dock (*Rumex sp.*), yellow pond lily (*Nuphar sp.*), marsh fleabane (*Pluchea purpurascens*), royalfern (*Osmunda regalis*), marsh hibiscus (*Hibiscus moscheutos*), beggars tick (*Bidens sp.*), smartweed (*Polygonus sp.*), arrowhead (*Sagittaria spp.*), sweet flag (*Acorus calamus*), water hemp (*Amaranthus cannabinus*), reed grass (*Phragmites communis*), and switch grass (*Panicum virgatum*).