

Planning Commission

Regular Session Agenda

August 2, 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 – New Intent Statement
 - b. Aircraft Ordinance – Review and Comment
6. New Business
7. Announcements
8. Adjourn



DRAFT
PLANNING COMMISSION
Regular Meeting
Town Hall
July 12, 2011

At 6:00 p.m. in the Town Hall, Vice Chairman Dennis McCoy, 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. Chairman Bruce Brinkley and Commissioner Malcolm Hayward were 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 Joan Natali, seconded by Mike Strub to accept the agenda format as presented. The motion was approved by unanimous consent.

The Commissioners reviewed the minutes for the June 7, 2011 Regular Meeting.

Joan Natali noted several typographical errors under Reports on the first and the second pages.

Motion made by Joan Natali, seconded by Roger Munz, to approve the minutes from the June 7, 2011 Regular Meeting as amended. The motion was approved by unanimous consent.

REPORTS

Tom Bonadeo reported the following: i) Ben Lewis had moved outside of the town limits of Cape Charles. In order to serve on the Planning Commission, individuals must live in Town. A notice had been placed on the Town's website and included in the *Gazette*. Joan Natali suggested including something in the *Cape Charles Happenings* and asked Tom Bonadeo to send her the language. Dennis McCoy added that a notice could be posted on the pole outside the Post Office and possibly in the businesses in Town; ii) Council received a request to extend the Conditional Use Permit (CUP) for the Cape Harbor project for another year. The CUP was in effect for one year and then extended by Council for one additional year. No progress was made on the project during the last year so Council denied the extension request; iii) The New Roots Youth Garden had been working on the site at Fig Street and Randolph Avenue and we should be seeing a new shed and fencing placed around the property. The group was also planning a fund raiser. A grand opening party had been scheduled for July 30th. Joan Natali asked whether plans were available for viewing. Tom Bonadeo stated that he had some drawings, which were not done to scale, but that they were available if anyone wanted to look at them; iv) The initial paving of Mason Avenue was completed before the 4th of July holiday weekend. The contractor worked until 11:00 PM on Friday night to get the work completed; and v) The last items at the park were being completed. The fountain was turned off over the 4th of July holiday due to trash being thrown into it which clogged the pump. It should be repaired and put back into operation soon. Roger Munz asked about the leveling of the fountain. Tom Bonadeo explained that he and Jeb Brady were working to correcting the problem.

Joan Natali asked about the construction of the new cell tower. Tom Bonadeo explained that plans for the new tower were reviewed last week and he expected construction to begin within the next 60 days. Sinclair Communications was building the tower and Verizon and AT&T were the first two companies to sign on for space.

OLD BUSINESS

Sign Ordinance Review – Letter to Council

Tom Bonadeo summarized that the Planning Commission reviewed the ordinance at their last meeting with special review of the Statement of Intent section and agreed that the section used fairly strong language regarding restricting the display of signage. Staff prepared a letter to Council for direction in the review and possible modification of the sign ordinance. The Commissioners reviewed the letter and agreed that the "Purpose" from the City of Portsmouth's ordinance could be adopted in its entirety. There was some discussion regarding the Portsmouth ordinance and how it outlined the regulations in a more positive manner and that Cape Charles must have had some problems with signage in the past to have adopted the strict regulations currently in the ordinance. Tom Bonadeo asked the Commissioners to review the Portsmouth ordinance and for the next meeting, he would change the "Statement of Intent" to "Purpose" using the Portsmouth ordinance as a guideline and work on the "Definitions" for review by the Commissioners at that time.

Home Occupations – Revised Ordinance with Zoning Clearance

Tom Bonadeo stated that with the proposed changes to the Zoning Ordinance, it would also be practical to move "Home Occupation" from Section 3.2.C. – Conditional Uses to 3.2.B. – Permitted Uses. The Commissioners reviewed Section 4.0 of the Zoning Ordinance which was revised based on the questionnaire that was reviewed at the June meeting.

Joan Natali noted that the proposed language did not state that the home-based business should occupy less than 50% of the dwelling. Tom Bonadeo explained that item #1 stated that the home-based occupation business was "clearly incidental and subordinate to the residential use of the dwelling" but that "less than 50%" could be added to that item in parentheses. Joan Natali suggested that this be added to the definitions as well.

Joan Natali stated that she thought a home-based business was to be conducted wholly in the residential building or dwelling and not in an accessory building. Tom Bonadeo stated that the zoning ordinance currently allowed a home-based business in an accessory dwelling as shown in item #4.

A public hearing must be held before modifications could be made to the zoning ordinance. Tom Bonadeo stated that the Town would like to hold joint public hearings with the Town Council if at all possible due to the length of the processes and the cost for advertisements. Tom Bonadeo went on to state that the next agenda item also required a public hearing which could be scheduled for the same time.

Motion made by Roger Munz, seconded by Mike Strub, to schedule a joint public hearing with the Town Council to hear comments regarding the proposed modifications to Article IV of the Zoning Ordinance regarding Home Occupations. The motion was approved by unanimous consent.

Text Change – Definitions – Agriculture

The Commissioners reviewed the proposed new definition of "Agriculture" as discussed at the June meeting.

Motion made by Roger Munz, seconded by Joan Natali, to schedule a joint public hearing with the Town Council to hear comment regarding the proposed modification to the

definition of Agriculture in the Zoning Ordinance. The motion was approved by unanimous consent.

NEW BUSINESS

Aircraft Ordinance - Review and Comment

Tom Bonadeo stated that the Code of Virginia made some changes in relation to heliports for both private and commercial use which prompted the creation of a model ordinance for helicopter landing areas which was introduced at the June meeting. Tom Bonadeo stated that he had also forwarded copies to Gordon Campbell, who operated Campbell Field, and Patrick Hand, who previously owned a helicopter and had a landing field on his property, to get their ideas as well. Tom Bonadeo added that he had talked to Oral Lambert, of Bay Creek Resort & Club, who informed him that due to insurance concerns, Bay Creek did not suggest landing areas to visitors by helicopters. The Commissioners briefly reviewed Sections 1-1 - Definitions and 1-2 - Off-airport/Heliport Helicopter Takeoffs/Landings. There was some discussion regarding the issue and possible landing sites. Joan Natali suggested the Keck property as the only feasible location within the Town. Roger Munz cautioned that by designating an area, the Town would create a flight path over private property which could create other issues. Tom Bonadeo stated that the Town was not in a position or prepared to act on this issue at this time and suggested that he try to get Gordon Campbell and Patrick Hand to attend the August meeting to get their thoughts.

Joan Natali provided Tom Bonadeo with a copy of the FAA definitions for a reference in drafting the Town's ordinance.

OTHER BUSINESS

Mike Strub brought in this past Sunday's Washington Post which contained an article about Wallops Island and the recent rocket launches. There was some discussion regarding the future impact on the Eastern Shore but Tom Bonadeo explained that the Planning Commission's focus was regarding the land, not necessarily tourism and business related issues. Joan Natali stated that she would like to continue this discussion after adjournment of the meeting.

ANNOUNCEMENTS

There were no announcements.

Motion made by Mike Strub, seconded by Roger Munz, to adjourn the Regular Meeting of the Planning Commission. The motion was approved by unanimous consent.

Vice Chairman Dennis McCoy

Town Clerk

Planning Commission Staff Report

From: Tom Bonadeo

Date: August 2, 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.
2. The Harbor Redevelopment Plan – Bathhouse project is moving forward and the Requests for Qualifications have been advertised and received. There are 9 responses. During the first week of August these RFQs will be scored by the committee. The next step will be to qualify at least two and initiate a Request for Proposal. This RFP will be to design and build the bath house.
3. The WWTP is moving along well. Our employees are being trained and some testing of equipment has begun.
4. The new force main on Mason Avenue is into the final phase of construction. Mason Avenue is being opened between Harbor and Bay to install a larger (16") gravity drain and will be closed by the end of the week for the Saturday Parade with the Shriners. The contractor has installed a "pump around" system that is working fine.
5. The Historic Review Board met this month and considered 2 applications. Several properties have sold in the last month and we should see more remodeling activity soon.
6. New Roots Youth Garden has been working on the site at Fig and Randolph. The shed is up and the fund raiser was held last weekend.
7. We received the stamped drawings for the cell tower to be placed under the existing radio tower (within 50'). This is a public utility facility. We are still waiting on the final drawings and no permits have been issued.
8. The County Planners have approved a wind ordinance and sent it to the Supervisors. Gamesa continues work on the offshore turbine and bird studies will resume in early fall.
9. Bayshore Concrete is still working with the Town on ways to build the new tunnel section here at this plant. The economic impact for Virginia would be over 2 billion dollars.

Planning Commission Staff Report

From: Tom Bonadeo
Date: August 2, 2011
Item: 5A – Sign Ordinance
Attachments: Letter and Portsmouth Ordinance

Background

The sign ordinance has been around for several years and bears review. There are some administrative problems such as permits and permit numbers as well as zoning clearances. The sign definition list fairly long but not all signs in the definitions are listed in the ordinance.

The statement of intent is fairly direct in its purpose to restrict the display of signage. The Statement of Intent uses fairly strong language about limiting signs (Section 4.1 A.1, 2, 3). The Town Council has read and reviewed the Intent statement and is in support of the Planning Commission improving the Intent of the ordinance and working to improve the overall effectiveness of the ordinance.

Item Specifics

The Planning Commission reviewed the ordinance with special review of the Intent section. Attached is an updated Intent statement based on the Portsmouth model. Discussion and wordsmithing will be helpful.

The Portsmouth Ordinance is attached for your review. The current Cape Charles ordinance is poorly organized and a matrix would be helpful for uses of the ordinance to understand. The ordinance could also be readily translated into a brochure for the general public.

A review of the definitions is a good place to start. The definitions are attached for Cape Charles and the Portsmouth document is also attached.

Recommendations

Work on the Intent Statement and review definitions.

Cape Charles Sign Ordinance

Intent

The intent of this sign ordinance is to encourage the effective use of signs as a means to communication in the Town, to maintain and enhance the aesthetic environment and the Town's ability to attract sources of economic development and growth; to improve the pedestrian and traffic safety, to minimize the possible adverse effect of signs on nearby public and private property, and to enable the fair and consistent enforcement of these sign restrictions.

Section 4.1 Sign Regulations

A. Statement of Intent

1. The purpose of this section is to regulate all exterior signs, thus ensuring the protection of property values, character of the various neighborhoods, safety and welfare of pedestrians and traffic, and to encourage sound development of land throughout the town. This section allows adequate communication through signage while encouraging aesthetic quality in the design, location, size, and purpose of all signs. The standards of this section are to discourage offensive and unnecessary uses of signage.
2. A sign placed on a building or on a parcel of land for the purpose of identification, protection, or advertising a use conducted therein shall be deemed to be an integral part of the land or building. Therefore, the intent of this section is to establish limitations on signs in order to ensure the appropriateness to the land or building with which they are appurtenant and are adequate, but not excessive, for their intended purposes. Business sign regulations have been devised after considering, among other matters, shopping habits, extent of trade area, means of access, and the avoidance of competition among sign displays in their demand for public attention.
3. Any permanent widespread display of outdoor advertising is considered inappropriate to the character and sound development of the town, and it is intended by this section that the streets and highways in the town shall not be made available for such displays.

B. Definitions

SIGN means any display of letters, figures, designs, devices, pictures, logos, emblems, insignia, numbers, lines, or colors or any combination thereof visible to the public for the purpose of making anything known or attracting attention. The flag, emblem, insignia, poster, or other display of a nation, political unit, educational, charitable, religious, or similar group, campaign, non-charitable or religious or similar group, campaign, nonprofit drive or event or the architectural features or characteristics of a building which do not have an advertising message on or as an integral part thereof, shall not be included within the meaning of this definition.

SIGN, AREA is the area of a sign determined from its outside measurements including any framing, trim, or molding but excluding the height and width of supports and supporting structure. For the purpose of computing area, a sign consisting of two or more sides where the interior angle between any of the sides exceeds sixty degrees, each side shall be counted when computing sign area.

SIGN, BILLBOARD means any sign including supporting structure used as an outdoor display for the purpose of making anything known; the product, business, or service so advertised or displayed being on or remote from the site of the sign.

SIGN, CONSTRUCTION means a temporary sign erected on the premises on which construction is taking place, during the period of such construction, indicating the names of the architects, engineers, landscape architects, contractors, or similar artisans, and the owners, financial supporters, sponsors, and similar individuals or firms having a role or interest with respect to the structure or project.

SIGN, DIRECTIONAL means any sign limited to directional messages, principally for pedestrian or vehicular traffic, such as "one way," "entrance," or "exit."

SIGN, FIXED is a sign attached, erected, or painted on the outside wall of a building and/or supported by any part of a building such as a wall, roof, window, canopy, awning, or marquee.

SIGN FLASHING or **CONTINUOUS READER BOARD** is any sign displaying flashing or intermittent lights or other lights of changing degree of intensity, brightness, or color or electronically moving copy. This definition shall not apply to signs which display public service information such as time, date, temperature, weather, or similar information provided the message does not change more frequently than once every ten seconds

SIGN, FREESTANDING means a non-movable sign supported by a fence, retaining wall, or by upright structural members or braces on or in the ground and not attached to a building

SIGN, HEIGHT means the maximum vertical distance from the uppermost extremity of a sign support to the average ground level at the base of the sign.

SIGN, HOME OCCUPATION means a sign containing only the name of the business of a permitted home occupation.

SIGN, ILLUMINATION is a sign illuminated by artificial means either internally or externally and directed towards the sign.

SIGN, INTEGRAL means the names of buildings, dates of erection, monumental citations, commemorative tablets and the like carved into stone, concrete, or similar material or made of bronze, aluminum, or other permanent type construction and made an integral part of the structure.

SIGN, POLITICAL means a temporary sign announcing or supporting political candidates or issues in connection with any national, state, or local election.

SIGN, PORTABLE is any sign not permanently affixed to the ground nor to a building which is designed or constructed in such a manner that it can be moved or relocated without involving any structural or support changes including any sign attached to or displayed on a vehicle that is used for the express purpose of advertising a business establishment, product, or service when the vehicle is parked so as to attract attention of the motoring or pedestrian traffic.

SIGN, PYLON is a freestanding sign that is supported by one or more poles or posts or other uprights and where the sign is not encased within a structure.

SIGN, TEMPORARY means a sign or advertising display constructed of cloth, canvas, fabric, plywood, or other light material and designed or intended to be displayed for a period of time as specified in the zoning ordinance.

C. Sign Permit Required. A sign permit is required for the display and erection of any sign, with the exceptions listed in Item 5 below:

1. Issuance. A sign permit shall be issued by the Zoning Administrator.
2. Fee. A fee, as established by ordinance by the Town Council, shall be paid prior to the issuance of a sign permit. Under no circumstances are permit fees refundable.

40.1-5.11 SIGNAGE

(A) Purpose

The purpose of these sign standards is to encourage the effective use of signs as a means of communication in the city, to maintain and enhance the aesthetic environment and the city's ability to attract sources of economic development and growth; to improve pedestrian and traffic safety, to minimize the possible adverse effect of signs on nearby public and private property, and to enable the fair and consistent enforcement of these sign restrictions.

(B) Applicability

Signs shall be permitted on private property in the city in accordance with this section. Signs in the public right of way are prohibited unless approved by the City Engineer. Signs located in the D1 and D2 district shall be permitted with a zoning compliance permit and shall be subject to the provisions of this Article, and either the Downtown Design Guidelines or the D2 Form Based Code, as applicable. The more restrictive regulations shall apply in cases of conflict.

(C) Prohibited Signs

The following signs are expressly prohibited:

- (1) Roof signs;
- (2) Signs which are of a size, location, movement, content, coloring or manner of illumination which may be construed as traffic-control devices or signs or which hide from view any traffic or street sign or signal or which obstruct the view at a street or road intersection;
- (3) Pennants;
- (4) Balloons with a commercial message greater than two feet in diameter with a tether more than two feet long extending from the roof or structure by means of a rope, string, or other device shall be prohibited;
- (5) Portable or nonstructural signs with no permanently mounted, self-supporting structure, including signs mounted on wheels and otherwise constructed to be used as a temporary sign display;
- (6) Obsolete signs containing sign copy, print, or graphics which advertise an activity, business, product, or service no longer produced or conducted. An exception to the immediate removal of obsolete sign copy, print or graphics will occur where the owner or lessor of the premises on which the sign is located is seeking a new tenant, then the sign copy, print or graphics shall be removed by the owner or lessor no more than 90 days from the date of vacancy of the premises on which the obsolete sign is located; and

- (7) Animation of signs, except revolving signs and changeable copy signs, where permitted.

(D) Exempted Signs

The following signs are exempted from the requirements of this section:

- (1) Signs less than two square feet in size, containing only property numbers, names of occupants or buildings or hours of operation;
- (2) Memorial signs, names of buildings or commemorative plaques when cut into masonry or made of a noncombustible material;
- (3) Signs erected by public agencies; however a sign permit application shall be completed and submitted for review and approval;
- (4) Signs denoting the entrance to residential areas, if not in excess of 18 square feet in area nor taller than six feet in height;
- (5) Real estate signs less than four square feet in area in residential zoning districts, less than eight square feet in mixed-use zoning districts, and less than 16 square feet in industrial zoning districts, one per street frontage; provided that such signs shall be permitted for on premises sale, lease or rentals only and provided that the sign is removed within seven days of consummating the sale, lease or rental. No signs advertising off-premises sale, lease or rentals are permitted; Only one sign per street frontage is permitted.
- (6) One construction sign per street frontage indicating the name of the developer, builder, contractor, architect, engineer or lending institution; provided that the advertising display area does not exceed 32 square feet per zone lot in commercial or industrial zoning districts and 24 square feet per zone lot in any other zoning district. Such signs shall be removed no later than 14 days after the city has issued a certificate of occupancy for the final building in the development;
- (7) Signs erected in connection with elections or political campaigns; provided that such signs are erected no more than 90 calendar days before and removed within 15 days after the election date. After expiration of said time, such remaining signs may be removed by the city and the cost of such removal shall be charged to the candidate; and
- (8) Works of art containing no commercial message.

(E) Signs Permitted by Zoning District

Signs shall be permitted in the various zoning districts as set forth in this section.

(1) Signs Permitted in all Residential (R) Zoning Districts

In addition to the general requirements applicable to all signs set forth in this section, the following signs shall be permitted in all residential (R) zoning districts:

(a) Signs Permitted Without City Approval

- (i) Name plate sign;
- (ii) Residential freestanding signs;

(b) Signs Permitted With a Zoning Compliance Permit

- (i) Historic and memorial marker;
- (ii) Institutional canopy sign;
- (iii) Institutional freestanding sign; and
- (iv) Noncommercial sign.

(2) Signs Permitted in all Residential UR and UR-H zoning districts

In addition to the general requirements applicable to all signs set forth in this section, the following signs shall be permitted in all UR and UR-H zoning districts:

(a) Signs Permitted Without City Approval

- (i) Incidental sign;
- (ii) Name plate sign;
- (iii) Residential freestanding sign;

(b) Signs Permitted With a Zoning Compliance Permit

- (i) Canopy sign;
- (ii) Freestanding sign up to eight feet in height;
- (iii) Historic and memorial marker;
- (iv) Institutional canopy sign;
- (iv) Institutional freestanding sign;
- (v) Noncommercial sign;
- (vi) Projecting sign;
- (vii) Temporary sign, including temporary banner signs
- (ix) Wall sign; and
- (x) Window sign.

(3) Signs Permitted in the NMU and GMU Districts

In addition to the general requirements applicable to all signs set forth in this section, the following signs shall be permitted in the Neighborhood Mixed Use (NMU) and General Mixed Use (GMU) zoning districts:

(a) Signs Permitted Without City Approval

- (i) Incidental sign;
- (ii) Name plate sign;
- (iii) Residential freestanding sign;
- (iv) Window sign;

(b) Signs Permitted With a Zoning Compliance Permit

- (i) Banner sign, permanently mounted;
- (ii) Canopy sign;
- (iii) Changeable copy sign;
- (iv) Freestanding sign, up to 8 feet in the NMU district and up to 26 feet in height in the GMU district;
- (iv) Historic and memorial marker;
- (v) Institutional canopy sign;
- (vi) Institutional freestanding sign;
- (vii) Marquee sign in the GMU district only;
- (ix) Noncommercial sign;
- (x) Projecting sign;

- (xi) One Temporary sign, including temporary banner signs; and
- (xii) Wall sign.

(4) Signs Permitted in the MU-H and AC Districts

Signs located in the MU-H district and any of the AC districts shall be permitted with a zoning compliance permit and shall be subject to the provisions of this Article and the adopted design standards applicable to the district. The more restrictive regulations shall apply in cases of conflict. Should no adopted design standards exist as it pertains to signs, then signs in the MU-H district and any of the AC districts shall be permitted in accordance with subsection (3), above.

(5) Signs Permitted in the D1 and D2 Districts

Signs located in the D1 and D2 district shall be permitted with a zoning compliance permit and shall be subject to the provisions of this Article, and either the Downtown Design Guidelines or the D2 Form Based Code, as applicable. The more restrictive regulations shall apply in cases of conflict.

(6) Signs Permitted in the IL and IN Zoning Districts

In addition to the general requirements applicable to all signs set forth in this section, the following signs shall be permitted in the Light Industrial (LI) and General Industrial (IN) zoning districts:

(a) Signs Permitted Without City Approval

- (i) Incidental sign;
- (ii) Name plate sign;
- (iii) Window sign;

(b) Signs Permitted With a Zoning Compliance Permit

- (i) Banner sign, permanently mounted;
- (ii) Canopy sign;
- (iii) Changeable copy sign;
- (iv) Freestanding sign, up to 26 feet in height;
- (iv) Historic and memorial marker;
- (v) Institutional canopy sign;
- (vi) Institutional freestanding sign;
- (vii) Noncommercial sign;
- (ix) Off-premises advertising sign;
- (x) Projecting sign;
- (xi) One Temporary sign, including temporary banner signs; and
- (xii) Wall sign.

- (c) In the IN zoning district, a permanently mounted banner sign, changeable copy sign, freestanding sign, off-premises advertising sign, projecting sign or wall sign may only be granted a zoning compliance permit after a use permit has been approved by the City Council.

(7) Signs Permitted in Historic (H) Zoning Districts

In addition to the general requirements applicable to all signs set forth in this section, the following signs shall be permitted in the Historic (H) zoning districts:

(a) Signs Permitted Without City Approval

- (i) Incidental sign;
- (ii) Residential freestanding sign;

(b) Signs permitted with a Zoning Compliance Permit

- (i) Canopy signs in the Historic Limited Office HLO and Historic Limited Business HLB zoning subdistricts only;
- (ii) Historic and memorial markers in all Historic zoning subdistricts;
- (iii) Noncommercial signs in all Historic zoning subdistricts;
- (iv) Projecting signs in the Historic Limited Office HLO and Historic Limited Business HLB zoning subdistricts only;
- (v) Temporary signs, including temporary banner signs in the Historic Residential HR and Historic Limited Business HLB zoning subdistricts only;
- (vi) Wall signs in the Historic Limited Office HLO and Historic Limited Business HLB zoning subdistricts only; and
- (vii) Window signs in the Historic Limited Office HLO and Historic Limited Business HLB zoning subdistricts only.

(8) Signs Permitted in the W-1 District

(a) Signs Permitted Without City Approval

- (i) Incidental sign;
- (ii) Residential freestanding sign;
- (iii) Name Plate sign; and
- (iv) Window sign.

(b) Signs permitted with a Zoning Compliance Permit

- (i) Banner sign, permanently mounted;
- (ii) Canopy sign;
- (iii) Freestanding sign; up to eight feet in height;
- (iv) Historic and Memorial Marker;
- (iv) Institutional canopy sign;
- (vi) Institutional freestanding sign;
- (viii) Noncommercial sign; and
- (viii) Projecting sign.

(F) Streets Having Special Sign Restrictions

In order to restrict the use of off-premises signs beyond the restrictions imposed by the zoning district, the City Council may, from time-to-time, designate certain streets as having special sign restrictions. Off-premises signs are prohibited from being erected along or oriented towards streets or portions thereof which have been designated by the City Council as streets having special sign restrictions.

- (1)** In making such designation, the City Council may consider any or all of the following factors:
 - (a)** The promotion of highway safety;
 - (b)** The convenience and enjoyment of public travel;
 - (c)** The protection of pedestrians;

- (d) The attraction of tourism; and
 - (e) Any general purpose of this Ordinance.
- (2) The following streets are hereby designated as streets having special sign restrictions:
- (a) London Boulevard between its intersection with Effingham Street and its intersection with High Street;
 - (b) West Norfolk Road;
 - (c) Western Freeway;
 - (d) Martin Luther King Expressway. Any nonconforming off-premises sign on the Martin Luther King Expressway (the "Expressway") between London Boulevard and the Midtown Tunnel that would be required to be removed as a result of a state or federal road project may be physically relocated to a point on the same side of the roadway as the sign's original location. The new location shall be at approximately the same point laterally along the Expressway as the original location of the sign, or of any other sign which is relocated pursuant to this section, and oriented in the same direction as the sign which had been at that location. Each sign which is relocated shall be subject to setback and height requirements applicable to off-premises signs, other than setback requirements applicable to expressways, as set forth in this section plus any other requirements imposed by state or federal authorities of competent jurisdiction.

(G) General Requirements Applicable to All Signs

The following general requirements shall apply to all permitted signs:

(1) Advertising

Notwithstanding any other provision of this section, no sign except a permitted off premises advertising sign or a permitted real estate sign shall advertise any service or product which if offered on the lot where the sign is located would constitute a violation of this Ordinance or a permit granted hereunder or condition imposed.

(2) Building Code Compliance

The requirements of this section are supplemental to the building, electrical, and other applicable codes. Nothing herein shall exempt any sign from compliance with such codes.

(3) Signs to be Permanent

Except for real estate signs, yard sale signs, window signs, permitted temporary signs, and noncommercial signs utilizing the dimensional requirements applicable to any of those, all signs shall be permanently installed as defined by the Uniform Statewide Building Code. Installation using ropes, cords, and the like is not considered permanent.

(4) Illumination

Illumination, where permitted, shall be designed, installed and maintained in a manner that avoids glare on adjoining property and that avoids glare or reflection.

which in any way interferes with traffic safety. In the UR, UR-H, and Historic zoning districts, signs other than name plates shall be illuminated only by the reflector method. In the D-1 and D-2 districts, signs shall be illuminated by the manner prescribed in the Downtown Design Guidelines or the Form Based Code, as applicable.

(5) Maintenance

All signs, including those exempt from this Ordinance, shall be maintained in good condition at all times. All signs shall be kept free of holes or tears or fraying, and neatly painted, including all metal parts and supports thereof that are not galvanized or of rust resistant material. The Planning Director shall have the authority to order the painting, repair, alteration or removal of a sign which is defective, damaged or deteriorated and to remove any sign not brought into compliance.

(H) Administration

Administration of the provisions of this section shall be as set forth as follows:

(1) Computations Related to Signs; Maximum Sign Area Totals

Computations related to the interpretation and construction of this section shall be made in accordance with the following principles:

(a) Advertising Display Area

The advertising display area shall be computed as the area encompassed by one continuous line connecting the extreme points or edges of a sign. The structural supports for a sign, whether they be columns, pylons or a building or part thereof, shall not be included in the advertisement area unless they are designed as integral parts of the display for the purpose of illustration or attraction. If a sign being constructed for the City of Portsmouth is sponsored by another entity, then sponsorship information on the sign shall not be computed as part of the allowable advertising display area, provided that the sponsorship information constitutes less than 25 percent of the advertising display area. Otherwise such sponsorship information must conform to the requirements of this section.

(b) Height

The height of a sign shall be measured from the top edge of the sign to the ground level measured at the edge of the pavement of the public street on which the sign faces.

(c) Maximum Display Area

(i) Off-Premises Signs

- a. The maximum advertising display area shall be 672 square feet in Industrial zoning districts and 300 square feet in High Intensity Mixed-Use zoning districts.**

(ii) On-Premises Signs

- a. The maximum advertising display area for all applicable on-premises signs located on any property zoned UR, UR-H, RMH, or H (other than**

institutional freestanding or institutional canopy signs) shall be 18 square feet per sign face.

- b. The maximum advertising display area for all applicable on-premise signs located on any property within a business, mixed-use, and special district shall be the larger of the following:
 - 1. One square foot per linear foot of street footage of the zone lot; provided, that no individual on-premises sign may exceed 125 square feet per sign face; or
 - 2. Ten percent of the area (square footage) of the front building facade, not to exceed 40 square feet per sign face, for on-premises signs located on zone lots with street frontages of 40 feet or less.
- c. The maximum advertising display area for all applicable on-premises signs located on any property zoned D1 or D2 shall not exceed ten percent of the area (square footage) of the front building facade, not to exceed 40 square feet per sign face, for on-premises signs located on zone lots with street frontages of 40 feet or less. Locational and height requirements of the Downtown Design Guidelines or the Uptown Form Based Code, as applicable, shall apply.

(I) Localized Sign Overlay Districts

(1) Generally

Certain large scale land uses with common design elements, including but not limited to office parks, corporate centers, and medical centers having a multi-building campus, or land uses that are unique in their design, operating characteristics, and presence in the city, including but not limited to outdoor performing arts centers, may present unique development opportunities of special value to the community. In order to ensure that the economic, social, and cultural benefits of those land uses are optimized, the establishment of one or more localized alternative sign overlay districts is authorized to address the unique signage needs and opportunities associated with the land use.

(2) Application Process and Elements

- (a)** A property owner, a developer, or the City Manager may apply to the Planning Commission for the establishment of a localized alternative sign overlay district. Properties located within a localized alternative sign overlay district shall be subject to such signage requirements, as the planning commission shall establish at the time of the application's approval.
- (b)** The application for creation of a district shall include the following:
 - (i)** A description of the boundaries of the proposed district;
 - (ii)** A statement of the reasons for the request; and
 - (iii)** A comprehensive set of signage standards proposed to be applied within the district.
- (c)** The Planning Commission shall observe all notice and public hearing requirements set forth in Section 40.1-2.2, Common Review Procedures, prior to approval of an application.

(3) Required Planning Commission Findings

A localized alternative sign overlay district with alternative signage standards may be established by the Planning Commission upon a finding that the following conditions exist:

- (a)** The proposed land use in the district is consistent with the comprehensive plan;
- (b)** The value of the proposed use to the community will be optimized by the approval of an alternative set of signage standards; and
- (c)** The signage standards for the proposed district are consistent with this section.

(J) Individual Sign Standards

(1) Freestanding Signs

Freestanding signs, where allowed, shall be subject to the following standards:

- (a)** Any parts of any freestanding signs shall be setback a minimum seven feet from the front property line.
- (b)** The minimum sign setback from interstate highways and expressways designated by City Council shall be 100 feet.
- (c)** Freestanding signs on property adjoining property which is included in any R or Historic zoning district shall be set back from the property line adjoining such residential property by a distance at least equal to the height of the sign.
- (d)** There shall not be more than one freestanding sign per zone lot or, if the zone lot has frontage on more than one public street, one additional freestanding sign shall be allowed for each such street in excess of one.
- (e)** One freestanding sign may contain advertising messages for any number of businesses.
- (f)** National flags, military flags, flags of the commonwealth, city or symbolic flags of any institution or business shall not be considered banners or signs for the purposes of this section.

(2) Incidental Signs

Incidental signs, where allowed, shall:

- (a)** Not exceed two square feet in area;
- (b)** Not be illuminated;
- (c)** If freestanding, not exceed four feet in height; and
- (d)** If freestanding, be set back from the property line by a distance equal to the height of the sign, however, there shall be no setback for such signs if attached to a building or fence.
- (e)** Such signs shall not be included in the "maximum advertising area" computation.

(3) Sign, Institutional Canopy

A religious, educational or other public or quasi-public institutions shall be entitled to a certificate of compliance for one canopy sign per street frontage, subject to all other applicable requirements of this section, except that such signs may be up to 12 feet in height.

(4) Sign, Institutional Freestanding

A religious, educational or other public or quasi-public institution in any zoning district shall be entitled to a certificate of compliance for one institutional sign, or bulletin board for each separate street frontage; provided:

- (a) Each such sign must be located on the same zone lot with the institution;
- (b) The sign shall not have an advertising display area of more than 18 square feet or a height of more than six feet.
- (c) Such signs shall be illuminated only by the reflector method.
- (d) Such signs shall be set back from each property line by a distance at least equal to the height of the sign.
- (e) In zoning districts allowing larger or taller on-premises signs for business, such institutions shall comply with the zoning district requirements.

(5) Sign, Marquee

Marquee signs, where allowed, shall maintain a minimum vertical distance between the bottom of the sign and the grade at the right-of-way line of eight feet.

(6) Sign, Name Plate

Name plates, where allowed, shall not exceed two square feet in area and may be lighted by a single incandescent bulb.

(7) Sign, Off Premises

Off-premise signs, where allowed, shall:

- (a) Be only single-faced;
- (b) Be set back at least 25 feet from the right-of-way of any public street and 660 feet from any expressway designated by City Council;
- (c) Be set back 15 feet from any other property line, or, if the property line adjoins property zoned R, by a distance at least equal to the height of the sign;
- (d) The maximum height of any off-premises sign shall be 50 feet in Industrial zoning districts and 26 feet in MU-H districts.
- (e) No off-premises sign shall be erected within 500 feet of any other off-premises sign on the same side of the same street.
- (f) Off-premises signs within 660 feet of the right-of-way of any highway classified as an interstate highway or as a federal aid primary highway shall also comply with Chapter 7, Code of Virginia, Section 33.1-351 et seq., as amended.

- (g) No off-premises sign shall be permitted within the MU-H zoning district on any zone lot upon which improvements have been constructed.
- (h) Notwithstanding the zone, no off-premises signs shall be allowed along or oriented towards any street or highway or portion thereof which has or have been designated by the City Council as streets having special sign restrictions.

(8) Sign, Permanently Mounted Banner

There shall be no more than one permanent banner sign per establishment per zone lot.

(9) Sign, Projecting

- (a) Projecting signs, where allowed, shall not extend more than six feet from a building to which they are attached.
- (b) Such signs shall maintain a minimum vertical distance of eight feet between the bottom of the sign and the grade at the right-of-way line. (c) Projecting signs in the D1, D2 and H zoning districts, shall extend no more than six feet from a building to which they are attached and shall be perpendicular to the building.
- (d) Such signs shall maintain a minimum vertical distance of eight feet between the bottom of the sign and the grade directly below the bottom of the sign.
- (e) Projecting signs shall not exceed 12 square feet in area per face;
- (f) Such signs shall be non-illuminated.
- (g) Projecting signs shall consist primarily of graphics or symbols with a minimum of lettering.
- (h) Projecting signs located within the public right-of-way shall comply with the provisions of Section 32-7 pertaining to street encroachments.

(10) Sign, Residential Freestanding

Residential freestanding signs shall not exceed three square feet per side in area.

(11) Sign, Temporary

Such signs shall be subject to the limitations as to size, height, and location requirements of the zoning district in which they are located, as well as the following:

- (a) Temporary inflatable signs may, if affixed to the roof of a building or structure, project no more than 30 feet above the roof line or top of the building or structure, or if affixed to the ground, have a height not exceeding 30 feet above ground level. Such signs shall be displayed no more than once per year per zone lot, for a period of time not to exceed seven days.
- (b) Temporary signs may include A-frame or T-frame signs in the D1 or D2 zoning district and such signs shall require the issuance of an annual certificate of compliance and depositing with the City Manager and keeping current a policy of liability insurance covering bodily injury and property damage in the amount of \$1,000,000.00 which names the city as a co-insured.

- (c) Temporary signs must be removed on the day after the last day of the advertised event or promotion or upon expiration of the required certificate of compliance or termination of the required insurance coverage.
- (d) Temporary real estate signs shall be permitted for on-premises sale, lease or rentals only and provided that such sign is removed within seven days of consummating such sale, lease or rental.
- (e) No temporary signs advertising off-premises sale, lease or rentals are permitted.
- (f) Banner signs that are mounted with rope or straps or other temporary means shall be considered temporary signs.
- (g) In no case shall any establishment display a temporary banner sign for a cumulative period of time longer than 30 days in any calendar year.
- (h) National flags, military flags, flags of the commonwealth, city or symbolic flags of any institution or business shall not be considered banners or signs for the purposes of this section.

(12) Sign, Wall

Wall signs, where allowed, shall be subject to the general requirements, except that where groupings of office or commercial businesses share a common zone lot, additional wall signs shall be permitted based upon the actual building frontage as related to the requirements of this section.

(13) Sign, Window

- (a) Window signs, where allowed, shall:
 - (i) Be permitted on the ground floor only; and
 - (ii) Not cover more than 20 percent of any window area, except that where groupings of office or commercial businesses share a common zone lot.
- (b) Window signs in conformance with this section are not counted towards the maximum display area calculations contained within Section 40.1-5.11(l)(1)(c).

Planning Commission Staff Report

From: Tom Bonadeo
Date: August 2, 2011
Item: 5B - Aircraft Intermittent Use Operations Area
Attachments: Ordinance Model and Guidance Document

Item Specifics

The Code of Virginia made some changes in relation to Heliports both private and commercial. These changes prompted the creation of a Model Ordinance for helicopter landing areas. I have had input from some local pilots and landing strip owners.

Discussion

The Guidance document offers some good information for the rationale for having an ordinance like this. Our experience over the last 10 years here in Cape Charles has been that during the "boom" years we had helicopters landing in any area they liked. Certain helicopters such as life support have designated areas that they land in for general transport. There have been others that have landed in specific undeveloped residential areas.

In review of the zoning ordinance no reference is made to any uses as landing areas. The input from helicopter pilots and landing strip owners is that it may be too early to deal with a problem that doesn't yet exist.

The guidance and definitions that have been supplied by The Commonwealth of Virginia are good to keep on file but it may be too early to act for Cape Charles for the following reasons:

1. None of the residential districts allow such a use and all lots are under one acre.
2. Locations that are large enough for a helicopter to land aren't generally near residential locations.
3. We only have occasional landings now with no negative impact.
4. If we get complaints or residential districts are used for this purpose we have the information to enact an ordinance. At the time of the complaint we will be more aware of what a problem really looks like rather than trying to imagine one.

Recommendation

Staff recommends discussion of the pros and cons of implementation.

Aircraft Intermittent Use Operations Area Guidance Bulletin

Purpose

As a result of a number of helicopter related questions and concerns from localities and citizens of the Commonwealth, the Virginia Department of Aviation has drafted a model zoning ordinance to aid localities in creating or revising existing zoning ordinances that address and differentiate a variety of helicopter takeoff and landing sites. While many adopted zoning ordinances address helicopter operations from "heliports", they often do not address helicopter operations that originate or conclude from off airport/heliport sites.

This guidance bulletin is to be used in conjunction with the model ordinance to provide localities with technical information to be used in the development of such ordinances as well as identify multiple sources of information, both federal and state, to be used in the event an entity disputes the rationale or language found in local ordinances.

Information and Technical Data

The Federal Aviation Administration's annual publication, The Federal Aviation Regulations/Aeronautical Information Manual defines a heliport as "an area of land, water, or structure used or intended to be used for the landing and takeoff of helicopters." Design criteria for heliports is available in Federal Aviation Administration Advisory Circular 150/5390-2B, Heliport Design. This publication can be found online at www.faa.gov.

The Commonwealth of Virginia expands the definition of heliport in the Virginia Administrative Code, Title 24 VAC 5-20-10 as "any identifiable area on land, water, or structure, including any building or facilities thereon, used or intended to be used for the landing and takeoff of helicopters, or other rotorcraft, appurtenant areas which are used, or intended for use, for heliport buildings or other heliport facilities including rights-of-way, easements and all heliport buildings and facilities located thereon." Additionally Virginia Administrative Code, Title 24 VAC 5-20-140 mandates that heliports used for commercial public use purposes will have unobstructed primary, approach and transition surfaces to the heliport that has at a minimum dimensions of 75' by 75'.

The Commonwealth of Virginia requires that prior to operating any public use landing area a license must be issued by the Department of Aviation. This is also applicable to any private landing area within five miles of a commercial public use airport. This requirement may be found in Title 5.1-7 of the Code of Virginia. Any person owning a private landing area not within five miles of a commercial airport is only required to register with the Department as per Title 5.1-7.2 of the Code of Virginia. **If there are any questions regarding this subject matter or any aviation related topic, staff at the Virginia Department of Aviation are available to assist local jurisdictions by providing technical assistance and may be contacted at (804) 236-3632 or via our website at www.doav.virginia.gov.**

The important issue to note is that neither the State nor Federal Aviation Administration regulations restrict the number of operations at a "heliport". Although information on heliports in both the State code and Federal Aviation Regulations is comprehensive and reflected in zoning ordinances throughout the Commonwealth by either identifying the use as permitted or a specially permitted use, guidance on the use of land for the occasional use as a non-public use landing area is not typically found in zoning ordinances. To assist localities in addressing this issue the Department has drafted the attached model zoning ordinance.

Rationale for Model Ordinance Language

The initial section of the draft ordinance identifies existing definitions and offers a proposed definition for Aircraft Intermittent Use Operations Area. The proposed definition would allow localities to differentiate the licensed or registered heliports from the intermittent use landing areas.

The proposed definition allows localities to customize the model ordinance to their existing zoning ordinance based on individual zoning district classification criteria. In other words, a locality may authorize helicopter/rotorcraft intermittent use landing areas in districts that permit residential dwellings by right but only in those districts with sufficient acreage so as not to create a nuisance or safety issue to neighboring properties. This would ideally include agriculturally zoned districts with large parcels but restrict such operations in high density residentially zoned districts such as multi-family residential districts.

The limit of ten operations in a 24 hour period and utilized no more than three days in a seven day period was derived from criteria identified in the Federal Aviation Administration's Advisory Circular 150/5390-2B Paragraph 104. The FAA Advisory Circular defines Temporary and Intermittent Use as:

- 1.) Visual Flight Rules Operations (VFR), used or intended to be used no more than 30 consecutive days with no more than 10 operations a day.
- 2.) Visual Flight Rules Operations (VFR), used or intended to be used for no more than 1 year, with no more than 3 days in one week with no more than 10 operations in a day.

Since the Commonwealth does not have any comparable criteria in either the Code of Virginia or the Virginia Administrative Code, the language from the FAA Advisory Circular was utilized in the model zoning ordinance. However, we have excluded the 30 days and 1 year criteria from our Model Ordinance. This omission of time limitations was done in an effort to differentiate time limitations often found in special use permits to the perpetual nature of an ordinance.

The Department recommends the use of civil penalties as an enforcement action. The penalty amount (the model ordinance identifies \$100 only as an example) would be determined by the locality.

Summary

The language utilized in the model zoning ordinance was drafted in order to address use of helicopters in the Commonwealth while clearly differentiating licensed or registered heliports

from the helicopter limited use landing areas and offers localities a means to incorporate these uses into their zoning ordinances.

Article 1. Aircraft Intermittent Use Operations Area Model Ordinance

Section 1-1. Definitions

Heliports- Any identifiable area on land, water, or structure, including any building or facilities thereon, used or intended to be used for the landing and takeoff of helicopters, or other rotorcraft, appurtenant areas which are used, or intended for use, for heliport buildings or other heliport facilities including rights-of-way, easements and all heliport buildings and facilities located thereon. *Virginia Administrative Code, Title 24 VAC 5-20-10*

Aircraft Intermittent Use Operations Area- Any zoned property that permits single family dwellings by right with a density of no more than one dwelling unit per five acres (Actual density restrictions are determined by individual locality zoning classifications) that is to be used for no more than ten helicopter operations in a 24 hour period. This area is not an established licensed or registered airport or heliport and is intended for intermittent use only. The parking or basing of aircraft is limited to three days in a seven day period. The storage of fuel or other support equipment is not permitted. Authorization for use of property as an Aircraft Intermittent Use Operations Area must be provided to the aircraft operator prior to operations. Use of public property as an Aircraft Intermittent Use Operations Area may only be granted by the jurisdictions governing body and subject to any provisions stipulated by that body.

Helicopter Operation- A takeoff and associated landing conducted by a helicopter/rotorcraft. *Federal Aviation Advisory Circular 150/5390-2B Paragraph 104*

Section 1-2. Off-Airport/Heliport Helicopter Takeoffs/Landings

Helicopter/rotocraft operators are authorized to land on or depart from property within the jurisdiction provided that operator:

1. Is operating from a licensed or registered airport/heliport, (i.e. any land in which a heliport is authorized by right or special use permit),
2. Is carrying out an emergency operation,
3. Is working in conjunction with a federal, state or local law enforcement effort,
4. has received authorization from the property owner to utilize said property as a "Aircraft Intermittent Use Operations Area"

Section 1-3. Heliports

Prior to conducting operations at a proposed heliport, a Federal Aviation Administration (FAA) 7480-1 form must be submitted to the FAA and accompanied by a proposed heliport layout diagram and a proposed heliport location map. All heliports' layout and design specifications must comply with Federal Aviation Administration Advisory Circular 150/5390-2B, Heliport Design, or any subsequent revision thereof.

All heliports must be licensed or registered by the Virginia Department of Aviation and comply with Title 5.1-7 of the Code of Virginia.

Instances where heliports are permitted by special use permit, the permit may include conditions pertaining to but not limited to;

1. hours of operation
2. mapped routes of ingress and egress
3. setbacks from property lines
4. security/safety gates and fencing
5. fuel/solvent storage
6. lighting and marking
7. noise/dust mitigation
8. insurance requirements
9. permit expiration/reissuance

Section 1-4. Penalty

Violations of provisions of this article shall be subject to a civil penalty and fined \$100 for each offense. Each day shall constitute a separate offense. (Actual Civil Penalty to be established by locality)