

# **Planning Commission**

## **Regular Session Agenda**

**June 7, 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
    - i. Pictures of Existing Signs
    - ii. Review of “what’s legal”
    - iii. Change suggestions – administrative
    - iv. Is any change needed?
6. New Business
  - a. Home Occupation
7. Announcements
8. Adjourn



**DRAFT**  
**PLANNING COMMISSION**  
**Regular Meeting**  
**Town Hall**  
**May 3, 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 Malcolm Hayward, Dennis McCoy, Roger Munz, Joan Natali and Mike Strub. Commissioner Ben Lewis 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 Roger Munz, seconded by Malcolm Hayward and unanimously approved to accept the agenda format as presented.**

The Commissioners reviewed the minutes for the April 5, 2011 Public Hearing & Regular Meeting.

Mike Strub noted a typographical error on the first page under Public Comments. The third line under Ms. Elton's comments should read "... the applicant must submit ..."

**Motion made by Joan Natali, seconded by Mike Strub, to approve the minutes from the April 5, 2011 Public Hearing & Regular Meeting as amended. The motion was unanimously approved.**

**REPORTS**

Tom Bonadeo reported the following: i) The new force main on Mason Avenue was under construction. The area from the bottom of the hump to the Wastewater Treatment Plant had been completed. The contract was completing approximately 90' per day and was expected to be finished by the end of May; ii) A Joint Permit Application was received for the Bay Vistas subdivision on Washington Avenue which suffered extreme erosion. The permit application was to construct an offshore breakwater with beach nourishment and was approved by the Wetlands Board and the Virginia Marine Resources Commission. Additional approvals were expected from the Department of Game and Inland Fisheries. Work probably would not begin until after September 15<sup>th</sup> due to the tiger beetles; iii) The Town received a grant to build a golf cart path from the bottom of the hump to the Bay Creek Golf Resort. Some legal issues were being worked out before construction could begin. About 10' of property was thought to be in VDOT's right-of-way but it ended up being owned by the railroad, not VDOT. We were awaiting some paperwork to finalize the agreement to use this property; iv) the Historic District Review Board met in April and reviewed another home remodel and addition. The Cape Charles Hotel was under full renovation with the expectation of opening later this summer. It would have 16 rooms and would be a full-service hotel. The Board reviewed modifications to the hotel plan and approved the project; v) Staff was revisiting the bath house plans to reduce costs even further; vi) The sale of the former Deliseries building was expected to close this week. The new owners planned to renovate the second and third floors and open a sushi restaurant; vii) There have been a number of real estate closings in the last month and people were fixing up the buildings; viii)

Roger Munz asked why there weren't any boats docked at the new boat slips yet. Tom Bonadeo explained that the pilings needed to settle and the electrical and plumbing were not finished as yet. The Town was waiting on ANEC for the electrical; ix) The fountain base and pool at the Park were being redone. The contractor would fill the pool tomorrow to test and the final walk-through was scheduled for this Friday, 5/6; x) Malcolm Hayward asked about the water pressure and pink water. Tom Bonadeo responded that maintenance was being performed on the water tower so the tank was not being used at this time. There was a problem with water pressure the first day. The pink water was due to chemicals and was not harmful. The painting was completed last Friday, 4/29, and was curing. The tank needed to be filled and drained several times before it could be brought back online.

**OLD BUSINESS**

*Review of Corridor Overlay Material*

Tom Bonadeo stated that the County was reviewing the information regarding the Corridor Overlay District. There was nothing for the Commissioners to do at this time but the information was included in this packet for their review. The original document was found and was also included. Both the County and the Town needed to have something in our respective Comprehensive Plans stating that we would be working together regarding this area. The Town's Historic Overlay could be included in the County's Zoning Ordinance as it pertains to areas of Town.

Mike Strub stated that a comment was made at Senator Ralph Northam and Delegate Lynwood Lewis' Town Hall Meeting the other evening about the speed limit and the need for a 45 MPH zone to allow people to slow down before the 25 MPH in Town. Was there anything that the Town could do to reduce the speed limit in this area? Joan Natali stated that it was very difficult to get VDOT to change the speed limit and explained that the Town had been asking VDOT for over 5 years to reduce the speed limit on Old Cape Charles Road to 25 MPH with no luck. Tom Bonadeo stated that he would email a link to VDOT's long range transportation plans for the Commissioner's review.

**NEW BUSINESS**

*Review of Home Business Conditional Use Permit (CUP) – Paperwork Reduction*

Tom Bonadeo stated that the CUP process was a lengthy process which could take approximately three months. Ms. Elton informed him that the US Department of Agriculture, which must approved a home-based kitchen, recently changed its process in that it would no longer process an application without an approved CUP. This added to the lead time for a home-based occupation to approximately four months. This issue was brought up to the Town Council at their April meeting and they asked the Commissioners to review the process for home occupations to see if it could be streamlined to allow some applications to be handled administratively. There was some discussion regarding creating a list of the types of businesses which could be pursued by right such as software engineering or website design. Bruce Brinkley stated that he was interested in streamlining the process without prohibiting neighbors' rights to object. Malcolm Hayward agreed and added that some businesses would affect the neighbors and there were some types of businesses that we would not want in Town. There was much discussion regarding various types of businesses. Tom Bonadeo stated that the criteria for a home occupation were included in the Zoning Ordinance and the last two CUP applications were straight forward and met all the requirements. Tom Bonadeo suggested that a questionnaire be developed listing the criteria from the Zoning Ordinance and added that if the applicant satisfactorily answered all the questions and met all the requirements, the home occupation could be approved administratively. If there were any irregularities, the application would be go through the normal process for the CUP. Once approved, if the rules were broken, the business could be shut down. Bruce Brinkley asked staff to develop the questionnaire, for review at the next meeting, to decrease the timeline for CUP approval without infringing on the rights of the neighbors. Tom Bonadeo clarified that the questionnaire would be completed by the potential

business owner. If the answers were satisfactory, the application would be approved as a zoning clearance permit. If not, the application would go through the CUP process.

Joan Natali asked that all zoning clearances be reported to the Commission with a copy of the questionnaire. Dennis McCoy agreed that the Commissioners needed to review the questionnaires to stay informed.

Joan Natali asked about the fees for application review. Tom Bonadeo stated that currently, zoning clearances were mostly for signs and fences and there was not charge for residential and a \$50 charge for commercial properties. The property owners had to sign an affidavit that they understood and agreed to abide by the requirements. This affidavit would be added to the end of the proposed questionnaire. There was further discussion regarding the process and timeframe for compliance if a business were found to be in violation. Tom Bonadeo stated that the Town could not police these issues but if it were brought to the Town's attention, the Town could act and he believed that a timeframe for compliance was outlined in the Town Code and that he would check on it. Tom Bonadeo went on to inform the Commissioners that staff currently sent a notice of non-compliance the property owner if a property were found to be in violation of the guidelines and reminded all that a CUP, once acted upon, went with the land, not the individual.

**Motion made by Mike Strub, seconded by Joan Natali, and unanimously approved to develop a questionnaire, to be reviewed by the Commission, to decrease the timeline for approval of the home occupation without infringing on the rights of the neighbors.**

#### **OTHER BUSINESS**

Tom Bonadeo informed the Commissioners that he and representatives from Bayshore Concrete would be meeting with Senators Web and Warner regarding the harbor dredging. Delegate Lewis would also be in attendance.

Roger Munz asked about the status of the Tavi property. Tom Bonadeo explained that the CUP was due to expire around July 7, 2011. It was extended last year to allow for the permitting process.

Mike Strub stated that there was a faded sign in front of a vacant property at the corner of Jefferson Avenue and Plum Street that stated "No Parking or Standing" and asked whether it could be removed since it did not appear to serve any purpose. Tom Bonadeo stated that it was in the VDOT right-of-way and the Town could not legally do anything about it.

#### **ANNOUNCEMENTS**

There were no announcements.

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

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Chairman Bruce Brinkley

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Town Clerk

# Planning Commission Staff Report

**From:** Tom Bonadeo

**Date:** May 3, 2011

**Item:** 4C – Reports

**Attachments:**

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## Item Specifics

1. The Northampton County website is [www.co.northampton.va.us](http://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.
2. The Harbor Redevelopment Plan-Floating Slips are installed and were put into service over the Memorial Day Weekend. Water is still not available. The water line has been installed and connected and is in the process of testing and approvals.
3. The Bath House will be built next and a Design-Built Contract is planned. Town Council is expected to authorize this at their next meeting.
4. Land Studio will be providing the design work for the next phase of the Trail. As mentioned last month, the Trail will continue out north Peach Street and Washington Avenue. The budget for next fiscal year includes matching funds for the design and construction plans only. This is expected to start once the Park portion of the project is finalized.
5. The WWTP is moving along well but behind schedule about 75 days. There are penalties for late completion as well as weather and equipment related delays to be negotiated.
6. The new force main on Mason Avenue is now completed. This is only the Mason Avenue section, next is Fig Street and the final piece is the gravity line in Mason Avenue near the beach and pump station.
7. The Historic Review Board met this month to consider 5 applications including new and remodeling.
8. The beach is in pretty good shape so far this year. Volleyball has been moved off the bathing beach and into an area that will allow beach cleaning and bathers without interference.

# Planning Commission Staff Report

**From:** Tom Bonadeo  
**Date:** June 7, 2011  
**Item:** 5A – Sign Ordinance  
**Attachments:** Photographs and ordinance

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## 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).

Sign permits and permit number display vs. zoning clearance. The costs associated with actually numbering a sign or purchasing stickers to place on a sign has been shown to be impractical. Many signs are custom made and the method and materials do not lend themselves to this method of approval. Currently, the zoning administrator keeps zoning clearance forms on file for signs that have been approved.

## Item Specifics

Problem number one is that most people getting signs do not know or ignore zoning approval prior to making the sign. Most folks come to the zoning department with a sign already made. Most of these are not compliant. Many folks have signs made and display them without regard to the ordinance. Much of this stems from lack of knowledge about the ordinance or disagreement with the ordinance.

In addition, the rules are different for government and non-profit organizations than they are for business. This leads to some confusion or the argument of unfairness.

Staff will give an overview of the ordinance in outline form.

## Recommendations

Devote some amount of time (one hour) to the review and discussion of the ordinance, especially the Statement of Intent and the permit requirement. Staff recommends change from the numbered permit to zoning clearance and the approval method (text change).

THE MANE STATION II  
JAY BELOTE

M.J. Sullivan & Co., Inc. 757-331-3182  
Custom Built Computers  
Repairs - Parts - Installation - Upgrade - Advice

Pharmacia Inc./Hoff-La Roche  
RPT  
Independent Massages  
All 6 Practices

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MASSON AVENUE

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WESTERN  
VA RE

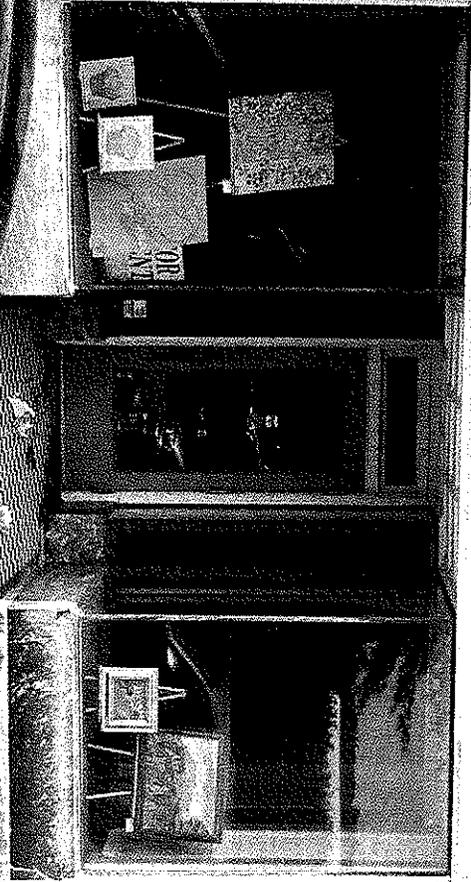
WATSON REALTY

Schneider  
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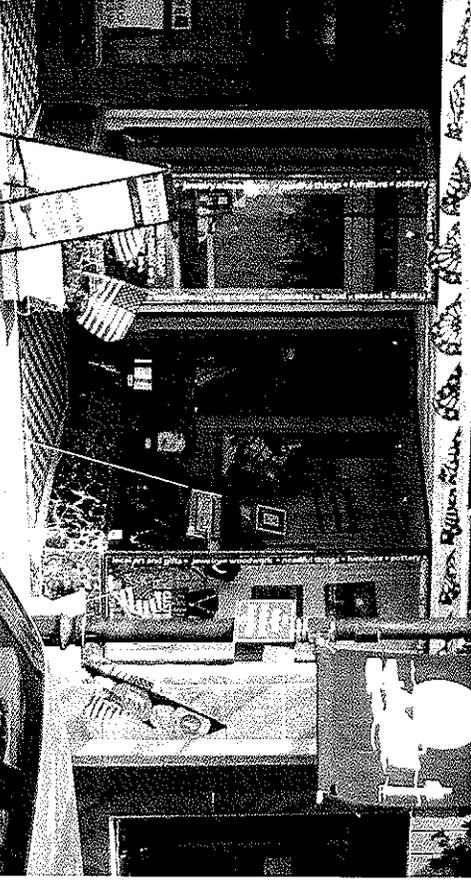
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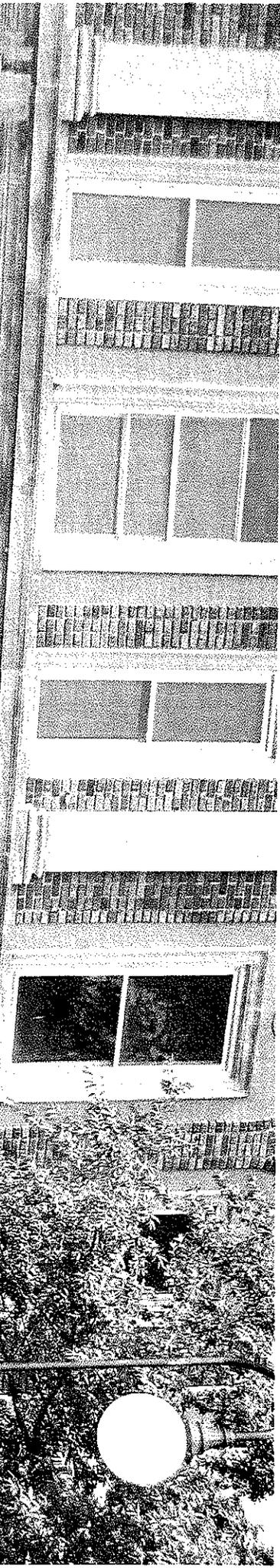
**FURBARD'S HOME CENTER**  
HOTPOINT  
For the long run.  
*Profile*



**gallery209**  
art & frame shop



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BENEFIT  
BY THE  
BAY  
Tickets Sold Here

AGE DOOR  
GALLERY

No Smoking  
No Alcohol  
No Pets

Joe

Stage Door  
301 Mass  
Ave, HI  
331-5

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# Planning Commission Staff Report

**From:** Tom Bonadeo

**Date:** June 7, 2011

**Item:** 6A – Home Occupations – streamline the process

**Attachments:** Checklist and affidavit

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## **Item Specifics**

We have received simple applications for simple home-based businesses in the recent months. These applications are costly and time consuming with little value except to follow the rule. Staff has developed a checklist for home-based businesses that will allow administrative approval of some applications. Administrative approval will be in the form of zoning clearance which is the same process required for fences, sheds and numerous other items in the ordinance.

The checklist will be used only for those business and zones where allowed. This process will not change the list of specific businesses that are not allowed as home-based businesses.

## **Discussion**

The questionnaire is taken directly from the list of review requirements listed in the zoning ordinance and used by the zoning administrator. These are the same criteria used for the staff work on the recent CUP applications.

If you choose a potential home-based business, then ask the questions you will see that compliance with these regulations is really all that is required. As documentation of the answers there is an affidavit attached so that the file will show the answers if come complaint arises during operation of the business the zoning clearance can be withdrawn.

## **Recommendation**

Review the checklist and test the list for some sample businesses. Request staff to modify the ordinance using the checklist and zoning clearance process.

## Home Occupation Checklist

The following criteria are required for home occupations allowed in the Residential zones and not listed in Article IV Section 4.0C.

1. Is the home-based business clearly incidental and subordinate to the residential use of the dwelling (<50%)? YES\_\_\_NO\_\_\_
2. Is any change required to the exterior of the building? YES\_\_\_NO\_\_\_
3. Will there be any storage of goods, products, equipment, solid waste or other similar items stored outside the house to a greater extent than that associated with normal neighborhood characteristics? YES\_\_\_NO\_\_\_
4. Are any accessory buildings on the property used for the home occupation? YES\_\_\_NO\_\_\_
5. Will the home based business create noise, dust, vibration, smoke, smell, glare, electrical interference, fire hazard, or other hazard or nuisance to any greater or more frequent extent than would normally be expected in the immediately adjacent neighborhood? YES\_\_\_NO\_\_\_
6. Will the pedestrian and commercial delivery traffic be greater than if the business wasn't there? YES\_\_\_NO\_\_\_
7. Does the home-based business conform to the zoning district in which it will be located? YES\_\_\_NO\_\_\_
8. The home-based business meets the requirements for administrative approval\_\_\_\_\_ Zoning Administrator

The business shall comply with any and all Federal, State or Local regulatory agency requirements.

Affidavit for permit authorization

I \_\_\_\_\_, owner of the property, am requesting a permit for a home-based business; affirm that the answers to these questions are correct.

Name \_\_\_\_\_  
Address \_\_\_\_\_  
City, State, Zip \_\_\_\_\_  
Phone \_\_\_\_\_

Has appeared before me in the town, city or county of \_\_\_\_\_ VA  
On the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, in the presence of the undersigned notary.

\_\_\_\_\_, Notary Public

MY Commission expires on the \_\_\_\_ day of \_\_\_\_\_.