

TOWN COUNCIL & PLANNING COMMISSION

Joint Public Hearing

February 1, 2011

Town Hall

6:00 PM

1. Call to Order at 6:00 PM

- A. Roll Call
- B. Establish quorum

2. Public Hearing Comments:

- A. New Wind Energy Ordinance, § 4.12 of Cape Charles Zoning Ordinance

3. Adjournment

Planning Commission

Joint Public Hearing

And

Regular Session Agenda

February 1, 2011

6:00 P.M.

1. Call to Order Public Hearing
 - a. Roll Call; Establish a quorum
2. Hear Public Comments on:
 - a. Wind Energy Ordinance
3. Close Public Hearing
4. Call to Order Regular Planning Commission Meeting
 - a. Roll Call: Establish a quorum
5. Invocation and Pledge of Allegiance
6. Public Comments
7. Consent Agenda
 - a. Approval of Agenda Format
 - b. Approval of Minutes
 - c. Reports
8. Old Business
 - a. Wind Energy Ordinance
 - b. Corridor Overlay – Routes 184 & 642
9. New Business
 - a. Planning Commissioner Training Schedule
10. Announcements
11. Adjourn



DRAFT
TOWN COUNCIL & PLANNING COMMISSION
Joint Public Hearing
Town Hall
December 7, 2010
6:00 p.m.

At 6:03 p.m. Chairman Bruce Brinkley, having established a quorum, called to order the Public Hearing of the Planning Commission. In addition to Chairman Brinkley, present were Commissioners Malcolm Hayward, Dennis McCoy, Joan Natali and Mike Strub. Commissioners Ben Lewis and Roger Munz were not in attendance.

Mayor Dora Sullivan, having established a quorum, called to order the Public Hearing of the Town Council. In addition to Mayor Sullivan, present were Vice Mayor Bannon, Councilmen Bennett, Sullivan and Veber and Councilwoman Natali. Also in attendance were Town Manager Heather Arcos, Town Planner Tom Bonadeo and Town Clerk Libby Hume. There were also five (5) members of the public in attendance.

Chairman Brinkley announced the evening's public hearing was to hear public comment regarding the Conditional Use Permit applications for residential over commercial at 207 Mason Avenue and a home occupation at 546 Madison Avenue.

PUBLIC COMMENTS:

There were no public comments to be heard and no written comments were submitted prior to the hearing.

Motion made by Dennis McCoy, seconded by Joan Natali, to close the Planning Commission Public Hearing. The motion was approved by unanimous consent.

Motion made by Chris Bannon, seconded by Mike Sullivan, to close the Town Council Public Hearing. The motion was approved by unanimous consent.

Mayor Sullivan

Chairman Brinkley

Town Clerk



DRAFT
PLANNING COMMISSION

Public Hearing
Town Hall
January 4, 2011
6:00 p.m.

At 6:03 p.m. Vice Chairman Dennis McCoy, having established a quorum, called to order the Public Hearing of the Planning Commission. In addition to Vice Chairman McCoy, present were Commissioners Roger Munz, Joan Natali and Mike Strub. Commissioner Malcolm Hayward arrived at 6:05 p.m. Chairman Bruce Brinkley and Commissioner Ben Lewis were not in attendance. Also in attendance were Town Planner Tom Bonadeo and Town Clerk Libby Hume. There were also three (3) members of the public in attendance.

Town Planner Tom Bonadeo announced the evening's public hearing was to hear public comment regarding the Rezoning application for a portion of the Mack Building located on Randolph Avenue and Strawberry Street.

Tom Bonadeo reviewed the rezoning request and the proffers being offered by the applicant as follows: i) creation of four parking spaces in the rear of the building for the potential tenants to keep cars from being parked on the street; ii) removal of the utility poles which currently block the alley access and installation of a 12' wide easement across the property connecting to the alley easement entering from Mason Avenue to restore the alley for emergency vehicle access at the least. The easement would encumber portions of two lots owned by the Mack building; iii) planting of a 12' evergreen landscape easement on 609 Randolph Avenue which was the vacant lot to the east of this property to block the view of the alley from Randolph Avenue; and iv) creation of a 12' rear yard area for the Randolph Avenue spaces to provide tenants space in the rear of the building to be used as a yard. The building front was on the sidewalk property lines and previous renters used the sidewalk as their front yard.

PUBLIC COMMENTS:

Jerome Loomis, 240 Randolph Avenue, expressed his concern regarding setting a precedent by approving this rezoning request and went on to ask whether approval of this request would then permit other commercial property owners to do the same thing and if their request was denied, could they claim favoritism towards this applicant.

Tom Bonadeo stated that he received two emails in support of this request as follows: i) The first email was from Ms. Karen Jolly Davis, a citizen of the Town and owner of a commercial building on Mason Avenue stating that the proffer of an easement through the alley was very important to her and to all the owners on the 300 block of Mason Avenue. Ms. Davis added that with the easements in place, property values on this block would be upheld and the safety of the people living and working on this block would be enhanced; and ii) The second email was from the Arts Enter Executive Committee which stated their support of the project on Randolph Avenue at the Mack building.

Motion made by Mike Strub, seconded by Malcolm Hayward and unanimously approved to close the Planning Commission Public Hearing.

Vice Chairman Dennis McCoy

Town Clerk



DRAFT
PLANNING COMMISSION
Regular Meeting
Town Hall
January 4, 2011

At 6:09 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 Malcolm Hayward, Roger Munz, Joan Natali and Mike Strub. Chairman Bruce Brinkley and Commissioner Ben Lewis were not in attendance. Also present were Town Planner Tom Bonadeo and Town Clerk Libby Hume as well as three (3) members of the public.

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

PUBLIC COMMENTS

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

CONSENT AGENDA

Tom Bonadeo suggested that Items 8a – Wind Energy Ordinance and 8b – Rezoning Request-Randolph and Strawberry be switched since there were citizens in attendance interested in the outcome of the rezoning request.

Motion made by Joan Natali, seconded by Mike Strub and unanimously approved to amend the agenda as proposed by Tom Bonadeo.

The Commissioners reviewed the minutes for the December 7, 2010 Regular Meeting.

Joan Natali noted two typographical errors on pages 3 and 5.

Motion made by Joan Natali, seconded by Mike Strub, to approve the minutes from the December 7, 2010 Regular Meeting as amended. The motion was approved by majority vote with Roger Munz abstaining since he was not in attendance at the December 7th meeting.

REPORTS

Tom Bonadeo reported the following: i) The Virginia Municipal League's Town & Country magazine contains several nice articles and good information. One article was written by our PC Chairman Bruce Brinkley about a process implemented by the City of Portsmouth regarding blighted buildings. The Town has several copies available if anyone was interested in reading any of the articles; ii) Senator Ralph Northam and Delegate Lynwood Lewis will be presenting their Town Hall meeting tomorrow evening beginning at 5:30 at St. Charles Parish Hall; iii) The contract for the new docks and marina work at the Cape Charles Harbor has been awarded to Somerset Marine and the work was expected to start later this month. The IFB for the bath house would be put out for bids after the plans have been reviewed by the Harbor Area Review Board; iv) The Trail Project has reached substantial completion. The contractor has nearly finished with the punch list and several items, the fountain and sod, would be left until spring for completion since they were weather sensitive. The last few trees were scheduled to be planted later this week; v) The Wastewater Treatment Plant (WWTP) construction was on schedule and the roof was being constructed. The connection from the new plant to the Harbor outfall had

been delayed due to problems with the pipes not being where they were expected to be. The digging along the road should start when weather permits; vi) The IFB was re-advertised for the pump station upgrades. The pre-bid conference was scheduled for January 6th; vii) The Boundary Adjustment Committee has made a reassessment of the boundary adjustment process in light of the Eastville application denial. Work with the County continues on the Overlay for Routes 184 and 642 and on the missing items from the Annexation Agreement. We should have direction from the Town Council for the next meeting so we should be able to move forward with the Overlay; viii) The repairs to the Fun Pier have been completed. The second contractor should start the repair of the north boardwalk and mitigation work for both the pier and boardwalk soon; and ix) Kids from Northampton High School planted beach grass as a class project. The beach sand was holding its own.

Dennis McCoy asked if there was anything that Cape Charles could learn from Eastville's boundary adjustment application denial. Tom Bonadeo explained that several years ago, the County developed a document and procedures to follow regarding boundary adjustment requests. The process was very difficult and much of the language was taken from the State. The main thing was that a reason needed to be given to take in additional land. Eastville's application was missing some required elements. Tom Bonadeo stated that he would not be able to justify why Cape Charles needed additional land when there are 3K+ lots still to be developed in Bay Creek, but added that he felt the Town and County were moving in the right direction in working together regarding the Overlay and Town Edge. Tom Bonadeo informed the Commissioners that he recently found out that the moratorium on annexations pertained to cities, not towns. Tom Bonadeo added that he had spoken to an attorney who worked on the previous annexation and found out that the Town was expected to annex all the land to Route 13, but the Council did not do that at the time. This would have provided the Town with the ability to have input regarding the development that has occurred on Route 13.

Roger Munz asked about the scope of the repairs to the boardwalk. Tom Bonadeo stated that the work was to repair the hollow space beneath the boardwalk caused by the November 2009 nor'easter storms. All repairs were being funded by FEMA and were estimated at approximately \$60K.

Roger Munz asked whether the Town would be eligible for any additional funding for the WWTP. Tom Bonadeo explained that the Town did receive additional funding in the second round of stimulus money which was being used for effluent reuse in the Bay Creek ponds vs. discharge into the Chesapeake Bay.

Mike Strub asked whether there were any provisions to replant any of the beach grass that may not survive the winter. Tom Bonadeo stated that there were plans for early spring to transplant grass from areas around Monroe Avenue so the volleyball nets could be placed there.

OLD BUSINESS

Rezoning Request - Randolph and Strawberry - a portion of the Mack Building

Tom Bonadeo explained that over the past 10 years, these spaces have been used as offices and apartments and most recently, the apartment use came to the attention of the zoning administrator and the residents were removed. The owner at that time requested a zoning variance to allow residential use on the first floor of a commercial building. This request was reviewed by the Board of Zoning Appeals and after hearing public comment, the request was denied. Since then, the Mack building has been purchased and the new owner has requested a rezoning of the property to Commercial Residential (CR) and made several proffers that make good sense for the property and the Town.

There was much discussion regarding this application and Mr. Loomis' concern regarding setting a precedent for other commercial property owners in Town. Tom Bonadeo explained that the CR designation would not be approved for businesses along Mason Avenue with the exception of the area on the western portion of Mason Avenue towards the beach which could possibly be rezoned as CR to accommodate since the eastern portion of Mason Avenue was already zoned as CR.

Roger Munz asked whether language could be included stating that the Planning Commission recommended approval with the expressed intent to use this as a bridge between commercial and residential areas as deemed appropriate by the Planning Commission. Tom Bonadeo added that this was the intent of the CR District.

Joan Natali stated that she would like to add a condition for approval stating that all leases for units in the building shall, to the extent permitted by law, include requirements that no personal property be permitted in the front of the unit and no loitering is permitted on Town property. Joan Natali added that at the December meeting, the applicant expressed his willingness to do this but there was nothing in writing to verify this. The Commissioners agreed with the addition of this condition.

Motion made by Joan Natali, seconded by Mike Strub and unanimously approved to forward this request for a conditional rezoning to Town Council with the recommendation to approve the request with the four documented proffers and an additional condition stating that all leases for units in this building shall, to the extent permitted by law, include requirements that no personal property be permitted in the front of the unit and no loitering is permitted on Town property.

Wind Energy Ordinance

Tom Bonadeo distributed the Department of Environmental Quality (DEQ) Small Renewable Energy Projects Permit By Rule which is a new rule from the DEQ regarding wind energy and added that he had marked several areas which could be pertinent to Cape Charles. This new rule stated that the owner or operator of a small wind energy project with a rated capacity equal to or less than 500 kilowatts was not required to submit any notification or certification to the DEQ. The owner or operator of a small wind energy project with a rated capacity greater than 500 kilowatts and equal to or less than 5 megawatts needed to notify the department by submitting a certification by the governing body of the locality wherein the project is located that the project complies with all applicable land use ordinances and applicable local government requirements and in certain zones the owner or operator must contribute \$1K per megawatt of rated capacity to a fund designated by the DEQ in support of scientific research investigating the impacts of projects in the Coastal Avian Protection Zone (CAPZ) on avian resources. Cape Charles was in Zone 4 which was one of the zones requiring this contribution.

Tom Bonadeo explained that the Town's proposed Wind Energy Ordinance was reviewed by Dr. Miles of James Madison University and his recommendations have been incorporated into the draft document. Even though the State of Virginia may not be able to utilize wind energy, due to the policy where energy providers must obtain their energy power from the least expensive source, the State was in a position to benefit as part of the supply chain. Tom Bonadeo added that he recently attended the Virginia Economic Development Partnership's meeting on Offshore Wind Development and the Commonwealth and the Port of Hampton Roads was well set to be the center of the development process. Cape Charles is also set to be a potential part of the supply chain as we have a deep water port nearby.

The Commissioners reviewed the proposed ordinance and additional changes were made as follows:

Page 2:

Footnote 4: Joan Natali suggested that "dwelling unit" be changed to "lot" since the Commissioners previously agreed that wind turbines would be limited to one per lot so as not to have multiple units on the roofs of condominiums or apartment buildings.

1a: The strikeouts would be deleted.

C - Definitions: The definition for "Nacelle" was added as requested at the December meeting.

Page 5, #D.4.: Joan Natali suggested that "and" should be changed to "or" since the Historic District Review Board would approve a wind turbine in the Historic District Overlay District and the Harbor Area Review Board would approve a wind turbine in the Harbor District.

Tom Bonadeo stated that the Town was looking into the possibility of constructing a wind turbine on the property by the Wastewater Treatment Plant to help power the plant and Bay Shore Concrete was also considering a wind turbine for their property. There was some discussion regarding the possibility of constructing wind turbines offshore in the Bay and what governmental entity would have jurisdiction to approve the project.

Motion made by Joan Natali, seconded by Roger Munz and unanimously approved to recommend to the Town Council the scheduling of a Joint Public Hearing with the Planning Commission on February 1, 2011 to hear public comments regarding the proposed wind energy ordinance.

NEW BUSINESS

There was no new business to review.

ANNOUNCEMENTS

There were no announcements.

Malcolm Hayward informed the Commissioners that he would be out of town and unable to attend the next two Planning Commission meetings.

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

Vice Chairman Dennis McCoy

Town Clerk

Planning Commission Staff Report

From: Tom Bonadeo
Date: February 1, 2011
Item: 7C – 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.
2. The Harbor Redevelopment Plan-Floating Slips has been awarded to Somerset Paving and Marine. A preconstruction meeting was held on Monday, January 24th. The contractor plans to mobilize for construction during the first week of February. The Harbormaster hopes to have the slips completed by the Blessing of the Fleet on April 8-9.
3. The Trail Project has entered a new phase even though the Park portion of the trail is not finalized. The Council authorized an additional grant application to go forward. The current plan is to continue to build out north Peach Street and along Washington Avenue. The committee will meet again to review which phases are next after Phase II. TEA 21 grants have a long lead time and the current application could be approved this spring with a contract in the next fiscal and use of the money until the following fiscal year.
4. The WWTP is moving along well. The connection from the new plant to the Harbor outfall has been started and the northern lane has been blocked for several days. The roofs are being installed on some of the buildings and the backup generator has been delivered. It won't look like a wastewater treatment plant when the siding gets installed and the new trees planted.
5. The bids for the new force main on Mason Avenue are due on Thursday, January 27. We are expecting several bids and we hope the price is better. This bid is for pipe installation only; the building will be bid later.
6. The Historic Review Board met this month to consider to remodels and there are two more remodels that are seeking State Tax Credits for rehabilitation. There are four additional renovations going on in the 500 and 600 block of Monroe. These houses have been empty for some time.
7. The Harbor Development Group is in the final phases of their permit process with the Corp of Engineers. A meeting in early February should complete the process. VDOT has approved the traffic study and the entrance plan. You will notice that one of the large rusty buildings has been demolished and the second is slated to go soon.
8. Legislative Day is on February 3rd. Staff will be visiting Richmond to talk to our legislators on various subjects. The Harbormaster and Town Manager will also visit the Port Authority to lobby for our grant proposals there. Staff will also hear various speakers including the Governor.

Tom Bonadeo

From: kdowning@co.northampton.va.us
Sent: Tuesday, January 25, 2011 3:33 PM
To: rwest@esva.net
Cc: 'Jim Sturgis'; jimsturgis@nia.com; wbaines@microenterprises.com; obxgolf@aol.com; byork@tbaonline.org; planner@capecharles.org
Subject: Planning Commission Feb. Agenda

Agenda

Northampton County Planning Commission

Tuesday, February 1, 2011

7247 Young Street, Machipongo, Virginia

Auditorium - 7:00 p.m.

1. Call to order
2. Establishment of a quorum
3. Review and acceptance of the agenda
4. Public Hearings:
 - A. **Zoning Text Amendment 2011-01 TOWN OF EASTVILLE:** Upon motion of intent to amend the Northampton County Planning Commission proposes to hold a public hearing and forward a recommendation to the Town Council of Eastville on proposed amendments to the Town of Eastville Zoning Ordinance. Amendments include, but are not limited to, creation of a new zoning district described as Article XIII ITF In-Town Farm District, addition of a new street oriented commercial frontage map, and elimination of Articles IX and X known as the R-11 Residential-Eleven and RM Residential Mixed Districts. (ex parte communications)
 - B. **Zoning Map Amendment 2011-01 TOWN OF EASTVILLE:** Upon motion of intent to amend the Northampton County Planning Commission proposes to hold a public hearing and forward a recommendation to the Town Council of Eastville on a revised town zoning map. Amendments include but are not limited to creation of a new zoning district known as Article XIII ITF In-Town Farm District and expansion of the Commercial-Neighborhood District. (ex parte communications)
 - C. **Special Use Permit 2010-8:** S. Fisher Land Development Company has applied for a use permit to convert the second floor of a detached accessory building into an accessory living unit on property located on Beach Lane. The property, containing 77+ acres of land, is described as being Tax Map 12, double circle A, parcel 4 and is zoned A/RB Agriculture/Rural Business. (ex parte communications)
 - D. **Zoning Text Amendment 2011-02:** The Northampton County Planning Commission proposes to amend the Northampton County Code, **§154.003 DEFINITIONS**, to include a new definition for "Met Tower or Meteorological Tower"; to add a new section to be known as **§ 154.115 METEOROLOGICAL TOWER REGULATIONS AND PERFORMANCE STANDARDS**; and to amend

Appendix A – Use Regulations, Category 3, Commercial Uses, to allow Met Towers by major special use permit in the A/RB Agriculture/Rural Business District. (ex parte communications)

- E. **Zoning Text Amendment 2011-03:** The Northampton County Planning Commission proposes to amend the Northampton County Code, **§154.003 DEFINITIONS**, by adding a new definition for “Temporary Family Health Care Structure” and by amending **§154.063 TEMPORARY BUILDINGS** to add subsection (C) setting forth provisions for *Temporary Family Health Care Structures*. (ex parte communications)

5. Matters from the public
6. Consideration of minutes
 - A. Dec. 7, 2010
 - B. Jan. 4, 2011
7. New Business
 - A. Review of Pending Variance for Potential Recommendations to the Board of Zoning Appeals
8. Unfinished Business
 - A. Procedural matters
 - B. Bio-solids application
 - C. Comprehensive Plan review
9. Communications
 - A. Town Planning Commission/Town Council Agendas
 - B. Zoning Administrator’s report on site plan status
10. Board action on zoning matters
11. Committee reports/presentations
12. Director’s report
 - A. Commission’s Annual Report
13. Adjourn/Recess

Planning Commission Staff Report

From: Tom Bonadeo
Date: February 1, 2011
Item: 8A - Wind Energy Ordinance Requirements
Attachments: Final Draft Ordinance

Item Specifics

The Town Council, numerous citizens and potential businesses have expressed interest in alternative energy. The Governor of Virginia plans to promote Virginia as a center for Offshore Wind Power Development. The Planning Commission has worked on this ordinance for some time and this attached document incorporates some comments from outside sources of expertise.

Staff Review

The final draft document attached has been under development for some time. It has been reviewed by outside experts and has now had a public input session. The ordinance is designed to provide a framework within which wind turbines may be implemented with the protection of neighbors in mind. In 2001, when the Town Council approved a special use permit to install 6 turbines, no such framework existed.

The Commonwealth has also recognized the importance in wind power for the future of Virginia by creating new permitting processes.

Recommendation

Hold the Public Hearing Jointly with the Town Council and review public comment. Discuss any public comments as presented. Staff recommends approval of the Ordinance and forwarding to Town Council for consideration at their next meeting.

Section 4.12 Wind Turbines

A. Statement of Intent.

The intent of this ordinance is to regulate the placement, construction and modification of wind energy systems while promoting the safe, effective and efficient use of the wind energy resource and wind energy systems while not interfering with the development of independent renewable energy sources. Wind Energy Systems meeting the requirements will be allowed by Conditional Use Permit. The Zoning Administrator shall maintain an inventory of wind energy systems to include their installation, operation and removal dates to be updated annually.

B. Applicability

The requirements set forth in this section shall govern all zones and wind energy systems used to generate electricity or perform work which may be connected to the utility grid pursuant to Virginia's net metering laws (Code of Virginia, 56-594), serve as an independent source of energy or serve in a hybrid system.

Wind Energy Systems Setback Matrix

	Minimum Lot Size	Minimum Setback Requirements ¹					Maximum Height from Grade
		Occupied Buildings (Subject Property) ²	Occupied Buildings (Adjacent Prop.) ^{2,3}	Property Lines ²	Public/Private Right-of-Way	Hwys 184 & 642	
Anemometers	20,000 Sq. Ft.	1.0	1.5	1.0	1.5	2.5	Nacelle Height
Micro System	5,600 Sq. Ft.	0.0	1.0	1.0	1.5	1.0	Note 4
Small System	20,000 Sq. Ft.	0.0	1.5	1.0	1.5	2.5	120 Ft.
Large System	5 Acres	1.0	2.0	1.0	1.5	2.5	250 Ft.
Utility System	25 Acres	1.5	2.5	1.5	1.5	2.5	500 Ft.

¹ Measured from the center of the wind turbine base to the property line, ROW, or nearest point on the foundation of an occupied building.

² Calculated by multiplying the required setback number by the wind turbine height.

³ This setback proposes to reduce noise and shadow flicker impacts to any previously existing occupied buildings on adjacent property or work site.

⁴ One system per lot with a maximum of 18 feet above the roof.

1. As part of the Conditional Use Permit Process the setback requirements may be waived if the following conditions are met:
 - a. Property owners may waive the occupied building setback requirements on both the subject property and/or the adjacent properties, and the property line setback requirements for wind turbines, by executing a signed waiver that sets forth the applicable setback provisions and proposed changes.
 - b. The Written waiver shall notify the applicable property owners of the setback required by this ordinance, describe how the proposed wind turbine and/or wind energy facility is not in compliance and state that the consent is granted for the wind turbine and/or wind energy facility to not be setback as required by this ordinance.
 - c. Any such waiver shall be signed by all affected property owners and be recorded in the Northampton County Clerks office. The waiver shall describe the properties benefited and/or burdened, and advise all subsequent purchasers of any burdened property that waiver of setback shall run with the land and may forever burden the subject property.

C. Definitions

Anemometer – Measures the wind speed and may transmit wind speed data to the controller.

Hybrid System – An energy system that uses more than one technology to produce energy or work (for example a wind/solar system)

kW – Kilowatt

mW - Megawatt

Nacelle – The cover housing surrounding the turbine, usually at the center of the blades.

Tower – The structure on which the wind system is mounted.

Tower Height – The height above grade of the fixed portion of the tower, including the nacelle and excluding the rotor blades.

Wind Energy Facility – An electric generating facility, whose main purpose is to supply electricity, consisting of one or more Wind Turbines and other accessory structures and building, including substations, meteorological towers, electrical infrastructure, transmission lines and other appurtenant structures and facilities.

Wind Energy Facility, Large System – A system which has a rated capacity of not more than 999kW.

Wind Energy Facility, Micro System – A building mounted wind system that has a manufacturer's rating of 10kW or less and projects no more than 18 feet above the highest point of the roof and shall not be considered a small wind energy system in terms of the area or setback requirements. Only one facility is allowed per dwelling unit.

Wind Energy Facility, Small System – A system which has a rated capacity of not more than 25kW and primarily used for onsite consumption.

Wind Energy Facility, Utility Scale – A wind energy conversion system consisting of one or more wind turbine(s), tower(s), and associated control or conversion electronics, which has a rated capacity of 1MW or greater.

Wind Farm – See “Wind Energy Facility – Utility Scale.”

Wind Power – Electrical Power generated by wind driven turbine blades turning an electrical generator.

Wind Pump – A type of windmill used for pumping water from a well or pond.

Wind Turbine – A wind energy conversion system that converts wind energy into electricity through the use of a wind turbine generator, and may include a nacelle, rotor, tower, and pad transformer.

Wind Turbine Height – The distance measured from the grade to the highest point of the turbine rotor or tip of the turbine blade when it reaches its highest elevation.

Windmill – A machine designed to convert the energy of the wind into more useful forms using rotating blades to turn mechanical machinery to do physical work, such as crushing grain or pumping water.

D. Conditional Use Permit Requirements

1. The application shall demonstrate that the proposed wind energy facility will comply with this ordinance and shall contain at a minimum the following:
 - a. A narrative describing the proposed wind energy facility;
 - b. The approximate generating capacity of the wind energy facility;
 - c. The specific number, representative types and height or range of heights of the wind turbines to be constructed, including their generating capacity,

dimensions and respective manufacturers and description of ancillary facilities;

- d. Identification and location of the properties on which the proposed wind energy facility will be located;
 - e. A plot plan showing the planned location of each wind turbine, property lines, setback lines, access road and turnout locations, substation(s), electrical cabling from the wind energy facility to the substation(s), ancillary equipment, buildings and structures, including permanent meteorological towers, associated transmission lines, and location of all structures and properties with the geographical boundaries of any applicable setback;
 - f. Evidence of compliance with Federal Aviation Administration regulations;
 - g. Signed and approved copies of any negotiated power purchase agreement and the utility company's approved schematics.
 - h. An Environmental Assessment is required for small, large and utility scale wind energy facilities, which shall include review and comments from the applicable state and federal agencies, including but not limited to, Virginia Department of Mines, Minerals and Energy, DNR, USACE, US Fish and Wildlife and a completed Virginia Renewables Siting Scoring System (VRS3). The Planning Commission may require an additional Environmental Impact Statement (EIS) for the installation of three (3) or more turbines or if significant impacts could result from the installation.
 - i. Decommissioning plans that describe the anticipated life of the wind power project, the estimated decommissioning costs in current dollars, the method for ensuring that funds will be available for the decommissioning and restoration and the anticipated manner in which the wind power project will be decommissioned and the site restored. This obligation shall be recorded and goes with the land.
 - j. Signature of the property owner(s) and the facility owner/operator of the energy facility;
 - k. Other relevant studies or reports that may be reasonably requested by the Town of Cape Charles to ensure compliance with this ordinance.
2. Throughout the permit process the applicant shall promptly notify The Town of any changes to the information contained in the permit application.
 3. Changes to the pending application that do not materially alter the initial site plan may be adopted administratively.

4. Historic District Review Board or Harbor Area Review Board approval is required for systems within the Historic District Overlay District or Harbor District.

E. Installation and Design

1. The installation and design of the wind energy facility shall conform to applicable industry standards, including those of ANSI.
2. All electrical and mechanical components of the wind energy facility shall conform to relevant and applicable town, state and national codes and ordinances.
3. Small and Micro wind energy facilities shall not exceed 60 decibels as measured at the property line. The level, however, may be exceeded during short term events such as utility outages and/or severe windstorms.
4. Any on-site transmission or power lines shall, to the maximum extent possible, be placed underground.
5. The visual appearance of wind energy facilities shall at a minimum:
 - a. Maintain a galvanized finish and be a non-obtrusive color such as white, off-white or gray;
 - b. Not be artificially lighted, except to the extent required by the FAA or other applicable authority that regulates air safety;
 - c. Not display advertising, including flags, streamers or decorative items, except for the identification of the turbine manufacturer, facility owner and operator.

F. Decommissioning or Abandonment

1. The wind energy facility owner, and/or operator and/or property owner shall have 3 months to complete decommissioning of the facility if no electricity is generated for a continuous period of 12 months. Repair, maintenance or redesign plans shall be submitted to the zoning administrator if turbines will be off-line for 12 months or more.
2. Decommissioning shall include removal of the wind turbines, buildings, cabling, electrical components, roads and any other associated facilities. Foundations shall be removed to a depth of 48" below finished grade.
3. Disturbed earth shall be graded and re-seeded, unless the landowner requests in writing that the access roads or other land surface areas not be restored. The required Erosion and Sediment measures shall be put in place per the Virginia Erosion and Sediment Control Handbook.

Planning Commission Staff Report

From: Tom Bonadeo
Date: February 1, 2011
Item: 8B – Historic Town Entrance Corridor Overlay District
Attachments: Old staff-work for a new perspective

Background

The Planning Commission has been discussing the content of a corridor overlay district since May of 2006. The overall theme of the discussion has been the preservation of the entrance corridors' rural and scenic characteristics. Corridor overlay districts in other localities have been reviewed, as well as a rough draft of a corridor overlay district for the Town's entrance corridors. Observations were also made by traveling Route 184 during a work session.

The purpose of this item is to renew work with a new direction. The Town Council established a Boundary Adjustment Committee and began meetings with the Town of Cheriton who is also embarking on a Boundary Adjustment.

Several public meetings were held and members of the general public in the adjustment area voiced a united opinion that they were not interested in becoming part of Cape Charles. The Town of Cheriton has general agreement in its boundary adjustment area. Cheriton's new boundary area was quite large and Cape Charles was interested in coordinating development along Route 13 with Cheriton so that any commercial development would be supportive of Town business and not destructive to existing business.

During this meeting process the Town of Eastville submitted an application for boundary adjustment to the County. The Town pressed for a vote and the application was unanimously denied.

Item Specifics

The ordinance that was submitted is based on the Highway Overlay that the County has developed. While it didn't fit well, the Cape Charles Planning Commission thought that this would be the most likely way that the ordinance would be agreeable to the county.

The Planning Commission had prepared and shared a copy of the Corridor Overlay Ordinance with the County and in a spirit of cooperation the county planners have reviewed it. It was not really the best plan but we thought it might pass review. Staff has met with the County and heard comments on the plan. At the same time the County is beginning review of their Comp Plan.

The staffs of both planning commissions feel that this is right time to work on a real cooperative plan to protect the entrances to Historic Towns and to coordinate sections of the comp plans that are important to both the County and Towns and to develop a better definition for Town Edge.

The Town of Cape Charles should prepare a list of what should really be considered in the corridor overlay, our view of Town Edge and the development along Route 13 as designated in the Annexation Agreement.

Recommendations

Re-read the attached document and work on a list of items to be included in the overlay.
Establish a committee to work with a like committee at the County planning level.

Planning Commission Staff Report

From: Jason Pruitt

Date: May 1, 2007

Item: 6. D. – Historic Town Entrance Corridor Overlay District

Attachments: * Note – Please see the attachments for the March 6, 2007 regular session. The staff report has been copied from the April 3, 2007 regular session since the agenda item was not covered.

Background

The Planning Commission has been discussing the content of a corridor overlay district since May of 2006. The overall theme of the discussion has been the preservation of the entrance corridors' rural and scenic characteristics. Corridor overlay districts in other localities have been reviewed, as well as a rough draft of a corridor overlay district for the Town's entrance corridors. Observations were also made by traveling Route 184 during a work session. The purpose of this item is to continue discussion of the Town's entrance corridors.

Item Specifics

The Planning Commission has considered including regulations for the following items in a corridor overlay district:

- Permitted and conditional uses
- Development density
- Building height
- Mass of structures
- Setbacks
- Architectural styles and materials
- Lighting
- Signage
- Landscaping
- Stormwater management
- Viewsheds
- Transportation issues
 - Curb cuts
 - Multiuse, pedestrian, and bicycle paths
 - Sidewalks
 - Traffic calming measures
 - Turning lanes

A slightly modified version of Northampton County's Route 13 corridor overlay district has been reviewed by the Planning Commission. At the February 12, 2007 recessed session, the Planning Commission determined that the draft needs more provisions regulating aesthetics. The Planning Commission requested examples of corridor overlay districts for York County, Hilton Head, SC, and any other examples of corridor overlays with an emphasis on aesthetics. The requested districts, as well as other previously provided districts, were provided in the Planning Commission's March 6, 2007 package. The Planning Commission may wish to refer to these districts to determine which characteristics are desirable for a Route 184 and 642 overlay district.

Route 184 was the original area considered for the overlay. The discussion has expanded to include Route 642. As requested at the February 12, 2007 recessed session, a map was distributed in March showing alternatives for the overlay district's boundaries. The Planning Commission may wish to review this map to determine which boundaries should be pursued.

Recommendations

1. Determine which features of the previously distributed ordinances may be desirable to include in the draft Historic Town Entrance Corridor Overlay District.
2. Review the previously distributed map and determine if either of the two alternatives, or a combination of the two, would be desirable boundaries.

Planning Commission Staff Report

From: Tom Bonadeo
Date: February 1, 2011
Item: 9A – Planning Commissioners' Training Schedule
Attachments: Program Outline and Schedule

Item Specifics

The Planning Budget pays for each Commissioner to attend the Certified Planning Commissioner Program sponsored by PlanVirginia. Plan Virginia is the trade name for Citizens Planning Education Association of Virginia Inc. This is the 70 such training program held by the organization.

Staff Review

The program is excellent for providing insight into the role of the Planning Commissioner. When I first became a Commissioner I had no idea how or why I should be making the kinds of decisions that have been asked of me. This course provides insight from other commissioners, legal authorities and experts in the field.

The course takes two sessions of two days each as shown in the attached schedule. Well worth the time investment.

Recommendation

Review the attached schedule and arrange for registration by February 14, 2011 for those interested.

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70th Certified Planning Commissioner Program

This event is composed of two training sessions (opening and closing sessions) and a self-study component of approximately 10 weeks. Self-study includes selected readings and homework assignments to be completed as part of the course.

The Program is designed to provide a basic foundation of planning law, history, and to provide the technical expertise needed by planning commissioners to maximize their competency and ability to render legally defensible decisions and recommendations. This course is particularly important for planning commissioners whether they are newly appointed or are veteran commissioners who have never received formal training.

Session Information

	Date(s)	Location
Opening Session:	March 7th & 8th, 2011	Will be held at the Richmond Marriott West.*
Closing Session:	May 19th & 20, 2011	Will be held in Charlottesville or Staunton.**

*Lodging reservations for the March 6 and/or 7, 2011 at the Richmond Marriott West (804-965-9500) must be made no later than February 14, 2011. Please state you are attending the PlanVIRGINIA Planning Commission Class to secure the special \$87 daily rate.

**Lodging accommodations for the closing session will be announced later,

Because courses and facilities are limited in size and often fill to capacity, early registration is encouraged.

When March 7th, 2011 12:00 AM through May 20th, 2011 12:00 AM

Location 4240 Dominion Blvd.
Richmond Marriott West
Glen Allen, VA 23060
United States

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Program Background

Since the mid-1970's PlanVirginia has been committed to the goal of offering the best possible training to those who give of their time and talent to make their communities better places in which to live, work and do business.

A majority of PlanVirginia members are planning commissioners (approximately 85%). Because our members face the pressures of accommodating growth in an appropriate manner, even though it often comes rapidly; we are keenly aware of their need for training and assistance. Such help and knowledge are essential to enable planning commissioners, boards of zoning appeals members, other public decision makers, and support personnel to properly make decisions. These public servants must meet their legal responsibilities, yet do so in a manner that will withstand legal challenges while earning the trust of those being served.

The Virginia Certified Planning Commissioners' Program which has received both state and national recognition and awards, is designed to provide the legal and technical background needed by citizen-planners and decision makers. The course is the most thorough and comprehensive available. There is nothing like it available in the nation. It thoroughly covers the law and principles that guide the practices of planning so the student will learn and understand both "why" and "how" to properly handle the various matters that come before a planning commission. The techniques of making legally defensible planning and zoning decisions are literally built into the core of the course. Indeed, a growing number of Planning Commissions are insisting their members learn these techniques by requiring them to successfully complete this Program within a reasonable period following their appointment or even as a prerequisite to their appointment.

Because the PlanVirginia course provides its students a thorough understanding of the legal background, the planning process and practices; many localities also find it to be excellent, invaluable and affordable training for elected officials. A growing number of localities are also requiring their administrative and support staff to complete the course as well because the process and procedures to make a proper and defensible planning decision must rest on a solid foundation, the construction of which begins at the administrative level.

The Program is designed to provide a basic foundation of planning law, history, and to provide the technical expertise needed by planning commissioners to maximize their competency and ability to render legally defensible decisions and recommendations. This course is particularly important for planning commissioners whether they are newly appointed or are veteran commissioners who have never received formal training. The ever-growing and changing legislation which mandates and regulates the operation of planning programs and procedures makes training a

necessity because the traditional OJT or "on the job training" is simply no longer adequate in the more technical, complex, and expensively litigious world of the 21st Century.

This training is also exceedingly helpful for elected officials, as well as others such as real estate persons, lawyers, builders and developers, engineers, architects and landscape architects. Moreover, members of citizen groups and community representatives, as well as anyone else who works with matters normally going before planning commissions for decisions will greatly benefit from the knowledge gained in this Program.

Staff members serving planning commissions and elected officials are welcomed and encouraged to attend this program. It will provide them an invaluable foundation of general knowledge on which to build and improve their skills. They will not only be more knowledgeable about what their planning commission does, but what, why and how it must discharge its responsibilities.

In order to accommodate varying schedules, this certification program is presented several times each year— usually in early March, in June and again in September. A certificate is awarded to those who successfully complete all requirements.

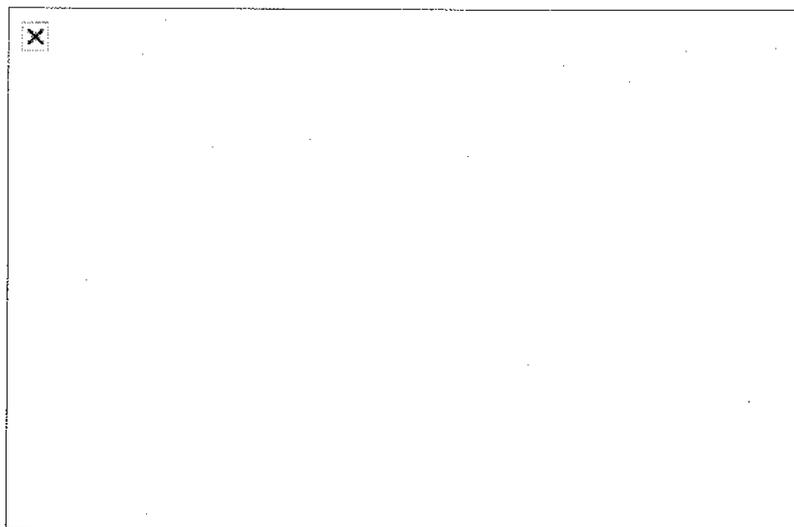
The Program is divided into Sessions — two classroom and one home study Session.

The two-day opening session features classroom instruction from 8:00 AM to 5:00 PM on the first day and from 8:00 AM to 4:30 PM on the second day. This first session focuses on the principles and practices of planning, the planning process, the legal foundations for planning, planning commission duties and responsibilities, the tools of planning, and the job of the planning commissioner.

The concluding session also features two days of classroom instruction. The topics covered include principles of meeting management, communication skills, decision making skills, conflict management, principles of community visioning, creative thinking and leadership principles.

Between the two classroom sessions, all students are required to read several books that are included in the registration fee and complete and submit a series of open-book tests and essays. Everyone is also required to attend a planning commission meeting in another locality and analyze and report on the meeting using an observation guide that is provided during the first session.

All instruction during the Program is provided by the PlanVirginia cadre of highly regarded, skilled professionals with considerable experience in their respective fields.



Here guest speaker, Bob Hammond, the Goochland County Director of Planning, addresses a class. This type of training

brings real-world experience of other localities to students.

Attendance

PlanVirginia urges you to carefully consider this information and then act quickly to reserve your place in the Course of your choice. Courses fill rapidly and attendance may be limited and registration is on a first-come, first-served basis.

The published registration fee for the Program includes all education materials and most meals during both classroom sessions. Transportation and lodging costs are the personal responsibility of each registrant. The Registration Form will provide first session hotel contact information and how Program participants may obtain special lodging rates for their stays.

If you consult the current Training Schedule and still have questions, please contact either Michael Chandler, PlanVirginia Director of Education or Teresa Schardein, Treasurer and Membership Coordinator for help.

To obtain registration and information contact either Michael Chandler or the PlanVirginia office. Mr. Chandler's email address is rmchan@vt.edu and his telephone number is 804-794-6236. The PlanVirginia office 24/7 voice mail is 804-270-0532 within the Richmond area and 888-827-2482 outside of the Richmond calling area. Teresa Schardein our Treasurer and Membership Coordinator can be contacted at Planvirginia@aol.com.

Rev November 26, 2011

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