

Planning Commission

Regular Session Agenda

July 6, 2010

6:00 P.M.

1. Call to Order; Roll Call
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. Connector Road
 - b. Boundary Adjustment Discussion
 - c. Technology Zone
 - d. Tourism Zone
6. New Business
 - a. H.B. 1307 – Temporary Family Health Care Structures
 - b. Code of Virginia Section 15.2.2291 – Group Home/Single Family Home
7. Announcements
8. Adjourn

Planning Commission Staff Report

From: Tom Bonadeo

Date: July 6, 2010

Item: 4C – Reports

Attachments: Letter from Northampton Planning and Zoning Chairperson

Item Specifics

1. The Northampton County website is www.co.northampton.va.us and contains the updated information from county meetings. The County Planning Commission has asked for a joint meeting of the respective Planning Commissions. Our next work session date would be Monday, July 19.
2. The Breakwater Project is nearly finished. Only some additional armor stone is left to be added. The Contractor is waiting delivery. During the wait the crane is being sent for maintenance and should return shortly to complete the project.
3. The Beach Repair contract is completed. The fence has been installed and 360 loads of sand were added to the northern end of the beach. The Public Works crew is still working on the wooden accesses to the beach and the ramp at the south end of the boardwalk.
4. The Trail Project is nearing the next major change. Shallow wells will be drilled during the next week and the irrigation system will be connected. The sod should be installed within a few weeks. Final plants and bushes will then be installed along with the fence. The final 67 new trees will not be planted until fall. Some old and diseased trees were removed to make way for better trees and safer sidewalks on the east side of the park. This walk was not part of the original plan but had to be modified to allow for the ADA ramps to be completed within code.
5. The Cape Charles and Cheriton Boundary Adjustment Subcommittee did not meet this month. Town Council will appoint a new representative to replace outgoing Councilman Burdiss on the Committee.
6. The WWTP is moving along well and the new tanks can be seen from the road. These will be screened by vegetation prior to completion. New scientific developments will allow the Town to increase capacity of the plant prior to its opening. An announcement will be provided at the Town Council Meeting on July 8.
7. The Town Council met with representatives of the Governors Opportunity Fund to discuss their role in bringing new business to Virginia and their role in Cape Charles. Information will be brought to Planning Commission after the meeting as it relates to two topics on the agenda.



DEPARTMENT OF PLANNING AND ZONING
NORTHAMPTON COUNTY, VIRGINIA

RECEIVED JUN 25 2010

Sandra G. Benson, AICP
Director

Planning Commission
Wetlands Board
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June 23, 2010

Hon. Dora Sullivan, Mayor
Town of Cape Charles
635 Monroe Avenue
Cape Charles, VA 23310

Dear Mayor Sullivan:

I am writing to request your assistance. As you may be aware, the county comprehensive plan **Section 2.3.2.1 Town Edge Land Uses** calls for a joint planning process involving town residents and the residents of the Town Edge to prepare a Town Edge Plan to guide future development in the Town Edge; I have attached information from the Northampton County Comprehensive Plan Update for your use. This is intended to be a collaborative process that addresses issues of mutual concern to residents in the town and county relative to future development in the unincorporated areas near the town's boundaries. The county has envisioned the resulting plan to be one that is both consistent with goals and objectives expressed in the county and town comprehensive plans and responsive to town concerns about land uses in close proximity to the town's gateways and corporate limits. The finalized Town Edge Plan is intended to be incorporated into the county comprehensive plan, and any zoning amendments necessary to implement the plan will also be considered. Once this is accomplished, it is expected that there will be a more formal mechanism in place by which the county will solicit town input regarding pending zoning matters in the Town Edge. However, this goal cannot be achieved without input from town residents.

As a first step, we would like to schedule a joint meeting between your planning commission and the Northampton County Planning Commission, as well as our respective planning staff members, to discuss and develop a process for this undertaking. Please provide this information to your planning commission chairperson and ask them to contact Sandra Benson, county planning director, so that such a meeting might be scheduled. She may be contacted by phone at 678-0443, extension 29, or by email sbenson@co.northampton.va.us to discuss scheduling or to provide additional information.

Thank you for your consideration of this request. Please do not hesitate to contact Ms. Benson or me if you have questions or concerns about this process. I may be reached by phone at 757-695-1025 or by email dave.fauber@capecharles.org. We look forward to working with you and town residents in coming months on this joint planning process.

Sincerely,

David Fauber, Chairman
Northampton County Planning Commission

Enclosure

cc: Heather Arcos, Town Manager

a. Towns are, or may in the future be, served by public sewer and water service provided by the County or by the towns, by mutual agreement. The County will work jointly with the Towns to evaluate the desirability and feasibility of upgrading or establishing central sewer and water facilities.

b. Towns should be considered as the most appropriate locations for public facility investments occurring in Northampton County. Towns are the preferred location for new community facilities.

c. Transportation improvements within the Towns should be designed to tie into the existing street network serving the County and the Towns.

2.3.2 Town Edge

Town Edges are unincorporated areas of the County adjacent to Towns and are under the jurisdiction of the County, its governing body, and its land use planning and zoning controls. These are areas associated with existing Towns, and residents of these areas often feel as though they belong to the Town even though they are outside the corporate limits. Town Edges are potential development areas, particularly if the possibility of infill development in the adjacent towns is precluded.

Town Edges are natural future-expansion areas for the incorporated Towns and may potentially be served by future public sewer and water extensions from the Towns. The Town Edge limits are based on areas of existing development that are accessed by public roads, may be served by Town utilities and may best be served in the future by Town services, as well as the physical and natural features that define the area.

2.3.2.1 Town Edge Land Uses

a. The County will develop a planning process to work jointly with residents of each Town and the surrounding area to prepare a Town Edge plan to guide future development. Upon completion, each plan shall be adopted as an amendment to the countywide Comprehensive Plan. *CC = 8/AC* ~~+~~ TOWN comp plan

b. Town Edge Areas could potentially be rezoned to accommodate a wide range of residential unit types and densities, from one unit per 2 acres to 5 units per acre, with densities that are proportionately lower as the distance from the town center increases, with the low end of this range providing the most appropriate use of the property. Clear justification is needed before development at a higher density is appropriate. Development density at one unit per 2 acres is anticipated where public utilities are not available. If the Town and the County determine that it is appropriate for the Town Edge to act as a "hard edge," density should be clustered toward the Town and a permanent band of open space established as part of the development within the Town Edge.

c. Transportation improvements within the Town Edge Area will be designed to tie into the existing street network serving the Town and the County and to be compatible with the Town's streets.

2.3.3 Commercial-Activity Corridor

Commercial-Activity Corridors are the most appropriate locations for new commercial-employment uses in Northampton County. These areas are located primarily within and adjacent to existing downtown business districts in existing Towns. It is the County's policy to encourage infill and expansion of the established business districts in Towns rather than encourage new commercial centers that would detract from the economic viability of the Towns' business districts. The County promotes the orderly redevelopment, infill and expansion of such areas within and around the Towns through utility agreements and mutually acceptable boundary-line adjustments.

2.3.3.1 Commercial-Activity Land Uses:

a. A mix of uses should be located in Commercial-Activity Corridors, with commercial-employment uses predominating. Commercial-Activity Corridors should retain the scale, diversity and mix of uses that are characteristic of Northampton County's small towns and their business districts.

b. Local and regional shops and offices should generally be located in established downtown centers with residential uses integrated among these uses, including within the same buildings as live/work units.

2.3.3.2 Commercial-Activity Community Design

a. The design of Commercial-Activity Corridors should be consistent with current zoning regulations and follow the traditional architectural patterns, scale and massing of historic small-town business districts. In general, densities and intensities of uses should be greatest at the center and decrease gradually away from the center.

b. When larger-scale uses, such as grocery stores or business headquarters, are to be located in Commercial-Activity Corridors, they should be designed to be compatible with the historic small-scale shop-front design of the Town's main business district. In particular, this should be achieved by locating building fronts on the sidewalk, locating parking to the rear of buildings, keeping comparable building heights and number of stories as adjacent buildings, breaking up large faces of buildings with variation in façade elements, and generally promoting a pedestrian-scaled and traditional Eastern Shore main street style of vernacular architecture.

Planning Commission Staff Report

From: Tom Bonadeo
Date: July 6, 2010
Item: 5A – Industrial Connector Road Stakeholder Input Session
Attachments: VDOT – Economic Development Access Program Guide

Item Specifics

The Town Council and the Planning Commission are studying the potential for a connector road between westbound Old Cape Charles Road and the entrance to Bayshore Concrete for the enhancement of attracting industrial/technology businesses to Cape Charles and to help with safety issues. At the last meeting the Commission reviewed the road requirements surrounding the area.

The attached VDOT Guide explains the two types of project based on the funding source of the project. The Industrial Access Road being discussed is approximately 2100 lineal feet in length.

Discussion

Tonight's input session is to allow the stakeholders an opportunity to present reasons for building the road, ideas opposed, value, cost, funding, etc. This will allow the Planning Commission to create a better report for Town Council.

The Commissioners could ask questions such as:

1. What kinds of business could we expect to attract if the road were built?
2. How would the road be funded?
3. What value does the road bring to their business?

Recommendation

Staff recommends that Planning Commission read the attached VDOT document and allow stakeholder to present their viewpoint.

Planning Commission Staff Report

From: Tom Bonadeo
Date: July 6, 2010
Item: 5B – Boundary Adjustment Discussion
Attachments: None

Item Specifics

The Boundary Adjustment Committee did not meet this month. A joint meeting of the Cheriton and Cape Charles Planning Commissions has not been successfully arranged. The Cape Charles Town Council will appoint a replacement for Councilman Burdiss at its next meeting. The Northampton letter and Comp Plan section on Town Edge (attached to the Reports page) deserve special consideration in preparation for the joint meeting to be scheduled in the future (hopefully July 19).

Discussion

Read the letter and Comp Plan sections for Northampton County attached to the Reports section. This is information that is in the current Northampton Comprehensive Plan. Discuss what we would like to see then schedule the meeting for July 19 to meet with the Northampton PC.

This session should first be a listening session then discussion session. The County is looking for a better working relationship with the Town so that Town Edge can be better implemented to serve both groups.

Recommendation

Staff recommends that Planning Commission discuss the Northampton letter and Comp plan sections and have staff schedule a meeting for July 19 with the 21st as an alternate.

Planning Commission Staff Report

From: Tom Bonadeo
Date: June 1, 2010
Item: 5C – Technology/Tourism Zones
Attachment: Please bring your Tech Zone Work Book

Item Specifics

The Town Council has asked that the Planning Commission to study and report on the possibility of establishing a Technology Zone to attract certain types of businesses. Even with many studies and potential projects and real projects like the STIP, Cape Charles has not had any significant new employers.

Please bring the Technology Zone Workbook so that we can review pertinent facts about other zones around the states.

Staff has found some interesting facts.

1. Many of the zones were built and owned by the locality.
2. Many of the zones were targeted at one interested business.
3. Only a small number were built on speculation with no businesses in mind.

Discussion

The concept of a Technology/Tourist Zone with incentives to attract business sounds good. The types of businesses, size of businesses and the quality of jobs created will certainly drive the amount of benefits a potential company might qualify for.

The discussion could focus on creating lists:

1. A list of businesses qualified for each zone
2. A list of business sizes by employees
3. A list of costs to be incurred by businesses
4. Cost of incentives to the Town of Cape Charles

Recommendation

Review the documents and discuss which style of ordinance fits Cape Charles. Work on the lists and plan to invite stakeholders for next months meeting.

Planning Commission Staff Report

From: Tom Bonadeo

Date: July 6, 2010

Item: 6A – HB 1307 – Temporary Family Health Care Structures

Attachments: HB 1307 copy and Section 63.2-2200 Code of Virginia

Item Specifics

During the last General Assembly session many new bills were adopted even though it is the second year of the Biennium. House Bill 1307 is a bill that doesn't require an appropriation of money. There has been some discussion on the Internet blogs that this appears to be one of those bills that "snuck by."

The bill requires that all zoning ordinances make allowances for Temporary Family Health Care Structures. When reading the bill watch for the words "shall" and "may."

Discussion

To meet the requirement it would be possible to add the requirement in Section 4 of our zoning ordinance. More specifically Section 4.2.E - 8 that would read as follows.

4.2.E

8. Temporary Family Health Care Structures are only allowed per the Code of Virginia Section 15.2-229211.

We would also add the definitions for "Caregiver," "Temporary family health care structure" and "Mentally or physically impaired person" to our definitions in Section 2 of our zoning ordinance.

We should also discuss the implications of the bill by paragraph so that we all are of the same understanding of the issues and how it relates to our ordinance.

Many of the issues will be administrative, such as fees, building code requirements and setbacks. This does appear to have been written for a specific location but could lead the way to other types of accessory apartments.

Recommendation

Review and discuss HB 1307 and set a public hearing.

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HOUSE BILL NO. 1307
AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee on Counties, Cities and Towns
on February 12, 2010)
(Patron Prior to Substitute--Delegate Griffith)

A BILL to amend the Code of Virginia by adding a section numbered 15.2-2292.1, relating to temporary family health care structures.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 15.2-2292.1 as follows:

§ 15.2-2292.1. *Zoning provisions for temporary family health care structures.*

A. Zoning ordinances for all purposes shall consider temporary family health care structures (i) for use by a caregiver in providing care for a mentally or physically impaired person and (ii) on property owned or occupied by the caregiver as his residence as a permitted accessory use in any single-family residential zoning district on lots zoned for single-family detached dwellings. Such structures shall not require a special use permit or be subjected to any other local requirements beyond those imposed upon other authorized accessory structures, except as otherwise provided in this section. Such structures shall comply with all setback requirements that apply to the primary structure and with any maximum floor area ratio limitations that may apply to the primary structure. Only one family health care structure shall be allowed on a lot or parcel of land.

B. For purposes of this section:

"Caregiver" means an adult who provides care for a mentally or physically impaired person within the Commonwealth. A caregiver shall be either related by blood, marriage, or adoption to or the legally appointed guardian of the mentally or physically impaired person for whom he is caring.

"Mentally or physically impaired person" means a person who is a resident of Virginia and who requires assistance with two or more activities of daily living, as defined in § 63.2-2200, as certified in a writing provided by a physician licensed by the Commonwealth.

"Temporary family health care structure" means a transportable residential structure, providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person, that (i) is primarily assembled at a location other than its site of installation, (ii) is limited to one occupant who shall be the mentally or physically impaired person, (iii) has no more than 300 gross square feet, and (iv) complies with the Uniform Statewide Building Code (§ 36-97 et seq.). Placing the temporary family health care structure on a permanent foundation shall not be required or permitted.

C. Any person proposing to install a temporary family health care structure shall first obtain a permit from the local governing body, for which the locality may charge a fee of up to \$100. The locality may not withhold such permit if the applicant provides sufficient proof of compliance with this section. The locality may require that the applicant provide evidence of compliance with this section on an annual basis as long as the temporary family health care structure remains on the property. Such evidence may involve the inspection by the locality of the temporary family health care structure at reasonable times convenient to the caregiver, not limited to any annual compliance confirmation.

D. Any temporary family health care structure installed pursuant to this section may be required to connect to any water, sewer, and electric utilities that are serving the primary residence on the property and shall comply with all applicable requirements of the Virginia Department of Health.

E. No signage advertising or otherwise promoting the existence of the structure shall be permitted either on the exterior of the temporary family health care structure or elsewhere on the property.

F. Any temporary family health care structure installed pursuant to this section shall be removed within 30 days in which the mentally or physically impaired person is no longer receiving or is no longer in need of the assistance provided for in this section.

G. The local governing body, or the zoning administrator on its behalf, may revoke the permit granted pursuant to subsection C if the permit holder violates any provision of this section. Additionally, the local governing body may seek injunctive relief or other appropriate actions or proceedings in the circuit court of that locality to ensure compliance with this section. The zoning administrator is vested with all necessary authority on behalf of the governing body of the locality to ensure compliance with this section.

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§ 63.2-2200. Definitions.

As used in this chapter, unless the context requires otherwise:

"Activities of daily living" or "ADLs" means bathing, dressing, toileting, transferring, bowel control, bladder control, and eating/feeding.

"Assistance" means aid that is required to be provided by another person in order to safely complete the activity.

"Care for a mentally or physically impaired person" means assistance with the activities of daily living provided to such person when the person has been screened and has been found to be eligible, in accordance with relevant state regulations, for placement and Medicaid reimbursement for services in an assisted-living facility or a nursing home or for receiving community-based long-term care services.

"Caregiver" means an adult who is a single person with a Virginia adjusted gross income of not more than \$50,000, or married and the combined Virginia adjusted gross income of both spouses is not more than \$75,000 who provides care for a mentally or physically impaired person within the Commonwealth. A caregiver shall be either related by blood, marriage, or adoption to, or the legally appointed guardian of, the mentally or physically impaired person for whom he is caring.

"Fund" means the Virginia Caregivers Grant Fund established by § [63.2-2202](#).

"Mentally or physically impaired person" means a person who is a resident of Virginia that requires assistance with two or more activities of daily living during more than half the year.

(1999, cc. [737](#), [763](#), § 63.1-331; 2002, c. [747](#); 2007, c. [588](#).)

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Planning Commission Staff Report

From: Tom Bonadeo

Date: July 6, 2010

Item: 6B – Code of Virginia Section 15.2 -2291 Group Home Changes

Attachments: Code of Virginia Section 15.2-2291

Item Specifics

During the last General Assembly session many new bills were adopted. This is one of those bills even though it is the second year of the Biennium. Section 15.2 Group Homes is another section of the Virginia Code that was modified during the 2010 session. Prior to this session this code section only applied to the Counties of Arlington and York along with the Cities of Lynchburg and Suffolk.

The modification added paragraph A thereby expanding the rule to all Virginia Zoning Ordinances.

Discussion

This modification is slightly different than the previous modification for health care structures. This code section is saying that a group home of eight or less and with one or more resident advisors is equal to residency by a single family. No conditions more restrictive can be placed on the home than is placed on the single family.

The Cape Charles Zoning Ordinance considers the Group Home as a Home Occupation. In Section 4.0-C of our ordinance we also have a list of uses specifically excluded from the Home Occupation and Group Home is on the list. The result is that the Cape Charles Zoning Ordinance currently does not allow group homes in any residential district.

Discuss the implications of the new Code section and craft modifications to the Cape Charles Zoning Ordinance. The new language and/or changes should be reviewed by legal counsel.

Recommendation

Review and discuss Code section 15.2-2291, draft new languages and/or changes to be reviewed by legal counsel.

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§ 15.2-2291. Group homes of eight or fewer single-family residence.

A. Zoning ordinances for all purposes shall consider a residential facility in which no more than eight individuals with mental illness, mental retardation, or developmental disabilities reside, with one or more resident counselors or other staff persons, as residential occupancy by a single family. For the purposes of this subsection, mental illness and developmental disability shall not include current illegal use of or addiction to a controlled substance as defined in § 54.1-3401. No conditions more restrictive than those imposed on residences occupied by persons related by blood, marriage, or adoption shall be imposed on such facility. For purposes of this subsection, "residential facility" means any group home or other residential facility for which the Department of Behavioral Health and Developmental Services is the licensing authority pursuant to this Code.

B. Zoning ordinances in the Counties of Arlington and York for all purposes shall consider a residential facility in which no more than eight aged, infirm or disabled persons reside, with one or more resident counselors or other staff persons, as residential occupancy by a single family. No conditions more restrictive than those imposed on residences occupied by persons related by blood, marriage, or adoption shall be imposed on such facility. For purposes of this subsection, "residential facility" means any group home or residential facility in which aged, infirm or disabled persons reside with one or more resident counselors or other staff persons and for which the Department of Social Services is the licensing authority pursuant to this Code.

C. Zoning ordinances in the Cities of Lynchburg and Suffolk for all purposes shall consider a residential facility in which no more than four aged, infirm or disabled persons reside, with one or more resident counselors or other staff persons, as residential occupancy by a single family. No conditions more restrictive than those imposed on residences occupied by persons related by blood, marriage or adoption shall be imposed on such facility. For purposes of this subsection, "residential facility" means any group home or residential facility in which aged, infirm or disabled persons reside with one or more resident counselors or other staff persons and for which the Department of Social Services is the licensing authority pursuant to this Code.

(1990, c. 814, § 15.1-486.3; 1993, c. 373; 1997, c. 587; 1998, c. 585; 2007, c. 813; 2008, c. 601; 2009, cc. 813, 840.)

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