



TOWN COUNCIL

Work Session

February 2, 2017

Cape Charles Civic Center

6:00 p.m.

1. Call to Order
 - A. Roll Call / Establish quorum

2. Order of Business:
 - A. Historic Town Entrance Overlay Corridor Update

 - B. Sign Ordinance Update

 - C. Follow-Up Items from January 19, 2017 Town Council Regular Meeting
 - i. Central Park Issues from Citizens for Central Park

 - ii. Skateboard Park Repair Status

3. Adjourn

 <p>TOWN OF CAPE CHARLES</p>	AGENDA TITLE: Planning Commission review of proposed Historic Town Entrance (HTE) design criteria		AGENDA DATE: February 2, 2017
	SUBJECT/PROPOSAL/REQUEST: As requested by Council, report from Planning Commission review of HTE design criteria		ITEM NUMBER: 2A
	ATTACHMENTS: All materials reviewed by Planning Commission at their January 3, 2017 meeting		FOR COUNCIL: Action () Information (X)
	STAFF CONTACT (s): Larry DiRe	REVIEWED BY: Brent Manuel, Town Manager	

BACKGROUND:

The Historic Town Entrance (HTE) was a topic of consideration by both the Town Council and the Northampton County Board of Supervisors at their joint meeting held on Tuesday October 25, 2016. Out of that meeting came the directive for the Town to generate proposed design criteria to present to the County for review. The parcels constituting the HTE are with the boundaries of unincorporated Northampton County, and so are under the County’s planning, zoning, and building regulatory jurisdiction.

As stated in the minutes of the October 25th meeting, “It was suggested that the Cape Charles Planning Commission should revisit the HTE ordinance language to include design criteria. Any idea was reasonable and the county was open to working together to make it work.” At that joint Town-County meeting, the Council directed staff to bring the design criteria matter to the Planning Commission for review and comment. The Commissioners did so at their January 3, 2017 meeting. All materials submitted to the Commissioners for that meeting, including the staff report, are attached to this report to provide context for the Commissioners’ discussions.

ITEM SPECIFICS:

Following discussion at their January 3, 2017 regular meeting, the Planning Commission made several specific comments. Staff is bringing those comments to Town Council per Council’s directive of October 25, 2016. They are as follows:

- Any design criteria should recognize the change of place from roadside development along Route 13 into the more developed Town area with its own architectural history and building material requirements.
- Maintain the Town’s Dark Skies lighting standard, and bury all utilities for new construction projects.
- The Town should not require adherence to the defined construction materials requirements of the Commercial – 1 and Commercial – 3 Districts as found in the Town Zoning Ordinance *Article III, Section 3.6.F.1.e*
- Maintain screening and landscaping requirements for outside storage and accessory buildings.
- Parking standards and signage requirements should remain the purview of Northampton County, with the requirement that all ground-mounted signs meet the Mason Avenue commercial sign height maximum of six feet.
- Consider a joint request to VDOT for a speed limit study along the HTE corridor.

Planning Commission Staff Report

From: Larry DiRe 
Date: January 3, 2017
Item: 5b- Proposed draft Historic Town Entrance design criteria
Attachments: October 25, 2016 Town Council-Northampton County Board of Supervisors joint meeting approved minutes; Zoning Ordinance Article III, Sections 3.6.F.1.e and .g; 3.6.G.1 and .4

Item Specifics

For several years, the Town and Northampton County officials have discussed development along the State Road 184 and 642 corridors. The Town refers to these corridors as the Historic Town Entrance, while the parcels are under the planning and zoning of Northampton County. After a period of inactivity Town Council and the Board of Supervisors met on October 25, 2016 to discuss a number of matters. Out of that meeting the Supervisors articulated the following approach to development along the entrance corridors: *i) There was a strong opinion of the entrance coming into Cape Charles and it was vital that the BOS understand the town's concerns and be willing to work with the town regarding future development of the area along Routes 13, 184 (Stone Road) and 642 (Parsons Circle/Old Cape Charles Road) from Hardees to the Milestone Motel. Development along Route 13 would compete with the businesses in town; ii) Try to have the architecture of any development be more sympathetic to the historic nature and look of the town vs. metal buildings like Dollar General; iii) Make the entrance into town more appealing. The town did not want the entrance to look like the causeway into Chincoteague. This could be something that could come under the Main Street Initiative; iv) Cape Charles was the only town in Northampton County without a presence on Route 13 which put the town at a disadvantage. The town relied heavily on the county and BOS to help drive traffic into the town; v) Two years ago, the Town Council sent two letters expressing their concern regarding the town edge zoning – conditional use vs. by right use; and vi) Every town had interest in their town edge. Town Edge zoning needed to be developed for each town since many of the issues were different based on the town.*

Discussion

The attached zoning ordinance sections apply to the Commercial – 3 District for the purpose of providing acceptable design of future new construction. That zoning district is considered part of the Town's entrance gateway. The Town has concerns about the type of commercial development that may occur on parcels from Route 13 to the Town boundary. These development corridors, under the Northampton County planning and zoning jurisdiction, are considered essential corridors and both Town and County governments have expressed interest in cooperative development.

Staff recommends the Town move forward with the construction materials, and architectural treatments already required for the Town's entrance gateway Commercial – 3 zoning district. In addition, staff recommends specific language requiring dark sky lighting standards, and the underground installation of all utilities. Staff is not recommending extending Town parking lot requirements or off-street parking requirements.

Staff recommends signage remain the under the County's legislation, with the provision that all signage be illuminated with downward-facing lights and no free-standing or ground-mounted sign exceed the Mason Avenue commercial sign maximum height of six-feet above grade. Animated and changeable signs should not be permitted along the Historic Town Entrance.

Metal buildings pose a potentially contentious issue in the joint, cooperative development process. Such commercial structures are common along Route 13. Modern steel buildings have architecturally evolved from the round-roofed Quonset huts of the past. Those structures should not be permitted along the gateway corridors, but steel buildings can be considered if they have a pitch roof (4:12 minimum), or shed roof with a front façade parapet wall. Steel building wall panels can be enhanced with wainscot, brick façade, or landscaping on the front and two sides.

Recommendation

Staff recommends that the Planning Commission review the attached zoning ordinance sections within the context of making a recommendation to Town Council to use these design standards as a basis for future discussions with Northampton County officials.

**CAPE CHARLES TOWN COUNCIL & NORTHAMPTON COUNTY BOARD OF SUPERVISORS Joint Meeting
Cape Charles Civic Center October 25, 2016 6:00 p.m.**

At approximately 6:00 p.m., Mayor George Proto noted that a quorum could not be met but since there was no action to be taken and with the Northampton County Board of Supervisors in attendance, discussion could continue. In addition to Mayor Proto, present were Vice Mayor Bannon, Councilman Buchholz, and Councilwoman Natali. Councilmen Bennett and Brown and Councilwoman Sullivan were not in attendance. Also present were Town Manager Brent Manuel, Assistant Town Manager Bob Panek and Town Clerk Libby Hume. There were 12 members of the public in attendance. Chairman Spencer Murray called to order the recessed meeting of the Northampton County Board of Supervisors. In attendance were Supervisors Bennett, Duer, Hogg and LeMond, Acting County Administrator John Andrzejewski, and Assistant to the County Administrator Janice Williams. Mayor Proto expressed his appreciation to the Board of Supervisors for coming to Cape Charles this evening for this open dialogue between the town and county and hoped that this would be the beginning to ongoing cooperation to make the entire area a better place to live for all. Chairman Murray agreed that neither one could survive and prosper without the other and hoped to move forward in the spirit of cooperation and strengthen the bonds with all towns.

ORDER OF BUSINESS This was a somewhat informal meeting and each member of the Town Council and Board of Supervisors (BOS) were given an opportunity to express their opinions regarding the agenda topics.

Town Edge Zoning / Historic Town Entrance Overlay Corridor (HTE)

The Town Council comments were as follows: i) There was a strong opinion of the entrance coming into Cape Charles and it was vital that the BOS understand the town's concerns and be willing to work with the town regarding future development of the area along Routes 13, 184 (Stone Road) and 642 (Parsons Circle/Old Cape Charles Road) from Hardees to the Milestone Motel. Development along Route 13 would compete with the businesses in town; ii) Try to have the architecture of any development be more sympathetic to the historic nature and look of the town vs. metal buildings like Dollar General; iii) Make the entrance into town more appealing. The town did not want the entrance to look like the causeway into Chincoteague. This could be something that could come under the Main Street Initiative; iv) Cape Charles was the only town in Northampton County without a presence on Route 13 which put the town at a disadvantage. The town relied heavily on the county and BOS to help drive traffic into the town; v) Two years ago, the Town Council sent two letters expressing their concern regarding the town edge zoning – conditional use vs. by right use; and vi) Every town had interest in their town edge. Town Edge zoning needed to be developed for each town since many of the issues were different based on the town. Chairman Murray read excerpts from two letters dated June 2, 2014 from former County Administrator Katherine Nunez to the Town Council regarding Resolutions 20140522 Supporting the Inclusion of the Historic Town Entrance Overlay Corridor in the Proposed 2014 Zoning Amendments Under Consideration by the Northampton County Board of Supervisors and 20140522A Supporting the Continuation of Planning Commission Involvement in the Special Use Permit Process in the Proposed 2014 Zoning Amendments Under Consideration by the Northampton County Board of Supervisors and continued as follows: i) The HTE language detailed a lot of purpose and intent and the recommended uses made sense. It was recommended that the town include information regarding Route 642 with the progress of the new road; ii) In 2014, the BOS was heavily involved in rewriting the zoning ordinance and

the county administrator did not feel that this information could be reviewed as part of the proposed zoning ordinance which was passed in December 2015. In April 2016, the zoning ordinance was amended integrating the 2000, 2009 and 2015 zoning and the Board was still working diligently to improve the zoning ordinance for its citizens and it included town edge. It was difficult to include a separate town edge ordinance for each town but he realized that "one size did not fit all." The BOS was working with VACo regarding the new zoning ordinance; iii) Cape Charles did not have a presence on Route 13 but was the only town that had a beautiful beach and a lot going for it; and iv) The BOS could not control what was developed at the intersection of Routes 13 and 184. It was commercially zoned and the BOS could not stop an Olive Garden from building there if they so wanted. The BOS wanted the town's businesses to prosper. The BOS comments were as follows: i) The intersection of Routes 13 and 184 was viewed as the premier commercial area in the county. Although the BOS was sensitive to Cape Charles they didn't want to see too many restrictions placed on the land regarding development; ii) Several of the BOS had previous discussion regarding rotating signs to get people into Cape Charles but Cape Charles had been discovered and the majority of the tourism over the summer was in Cape Charles; iii) The county zoning ordinance could possibly be modified to state that the area between mileposts 79 and 80 to generally reflect the architectural nature of Cape Charles. It was suggested that the Cape Charles Planning Commission should revisit the HTE ordinance language to include design criteria. Any idea was reasonable and the county was open to working together to make it work. The Cape Charles Planning Commission should work with Northampton County Zoning Administrator Melissa Kellam, the county administrator and Planner Peter Stith throughout the process and to get the document to the County Planning Commission. The county was also working on their Comprehensive Plan and portions of this document could possibly be integrated into their Comp Plan as well; iv) The BOS was working with citizens regarding derelict structures along Route 13 vs. just sending code enforcement letters to get the area cleaned up; v) Three economic studies had been done and the county needed to begin fulfilling some of the recommendations and investing in the county such as signage directing traffic into the town. A joint effort was needed to extend the tourism season, improve infrastructure, possibly extending the water and wastewater services outside of the town across Route 13 into Cheriton to enhance opportunities in the area; and vi) The county was working on a number of large issues, such as a new high school, jobs and workforce development, and needed the help of the towns and all citizens to see them to fruition. There was some discussion regarding obtaining assistance from the Eastern Shore of Virginia Tourism Commission regarding ways to extend the shoulder season and getting more visitors to stay in town and in Northampton County.

Article III, Section 3.6.F.1.e Materials. New construction should use materials in a manner sympathetic to the historic buildings in the Town of Cape Charles. Materials should be of similar or complementary color, size, texture, scale, craftsmanship, and applicability to function performed. It should be noted that the sympathetic use of materials does not imply that materials used in new construction will replicate the old in detail nor that new construction will attempt to imitate historic structures. Rather, it is a matter of determining the compatibility of the new with the old. Certain materials are potentially so visually intrusive that their use for new construction in the Town will not be permitted. These materials include: aluminum or vinyl siding; asphalt siding; carpeted porch floors and steps; corrugated metal, except for roof applications; exposed concrete block above foundation level; exposed concrete masonry; faux brick and stone (brick face); flush exterior doors; inappropriate window treatments; jalousie

windows; picture windows; windows with horizontal glazing; metal or wood awnings; open mesh-type fencing; ornamental pierced concrete masonry screens and walls; painted concrete masonry; unpainted wood; vertical plywood siding; vertical wood siding on primary structures; wrought iron and aluminum porch columns.

Article III, Section 3.6.F.1.g Utilities Upon installation or replacement of utility access lines, such lines shall be installed underground.

Article III, Section 3.6.G.1 Architectural Treatment No building exterior (whether front, side, or rear) will consist of architectural materials inferior in quality, appearance, or detail to any other exterior of the same building. Nothing in this section shall preclude the use of different materials on different building exteriors (which would be acceptable if representative of good architectural design) but rather shall preclude the use of inferior materials on sides which face adjoining property and thus might adversely impact existing or future development causing a substantial depreciation of property values. No portion of a building constructed of unadorned concrete or concrete block or corrugated and/or sheet metal shall be visible from any adjoining agricultural or residential district or public right-of-way. Mechanical equipment whether ground level or roof top shall be shielded and screened from public view and designed to be perceived as an integral part of the building.

Article III, Section 3.6.G.4 Outside Storage Areas All outdoor storage areas shall be visually screened from public streets, internal roadways, and adjacent property. Screening shall consist of either a ventilated solid board fence, masonry wall, dense evergreen plant materials, or such other materials as may be approved. All such screening shall be of sufficient height to screen storage areas from view. Outdoor storage shall include the parking of all company owned and operated vehicles with the exception of passenger vehicles.



TOWN OF
CAPE CHARLES

AGENDA TITLE: Sign ordinance text amendments and issues related to potential interagency right of way agreement

AGENDA DATE:
February 2, 2017

SUBJECT/PROPOSAL/REQUEST: As requested by Council, report from Planning Commission review of the sign ordinance as related to a potential right of way agreement with VDOT

ITEM NUMBER:
2B

ATTACHMENTS: All materials reviewed by Planning Commission at their January 3, 2017 meeting

FOR COUNCIL:
Action ()
Information (X)

STAFF CONTACT (s):
Larry DiRe

REVIEWED BY:
Brent Manuel, Town Manager

BACKGROUND:

The issue of placing and removing private signage in the VDOT right of way has been raised on numerous occasions, including during the public and Council comment sections of the November Town Council meeting. As stated in the minutes of the November 17, 2016 Town Council meeting, staff was directed to “pursue an agreement with VDOT and provide Council an update on the sign ordinance update in three months.” Staff brought several signage-related issues to the Planning Commission for review and comment. The Commissioners did so at their January 3, 2017 meeting. All materials submitted to the Commissioners for that meeting, including the staff report, are attached to this report to provide context for the Commissioners’ discussions. It should be noted that the staff report to the Planning Commission repeatedly and erroneously cites “Resolution 20141009” when that document is Ordinance 20141009.

ITEM SPECIFICS:

Following discussion at their January 3, 2017 regular meeting, the Planning Commission made several specific comments. Staff is bringing those comments to Town Council per Council’s directive of November 17, 2016. They are as follows:

- The sign ordinance’s inconsistency of designated Town agent being both the Town Manager and the Zoning Administrator needs to be resolved, with preference being the Zoning Administrator as the designated agent.
- Sign ordinance language failing to meet the content-neutral standard needs to be removed from the ordinance.
- The Town should consider banners on the Mason Avenue lamp posts to direct pedestrian traffic to the Strawberry Street businesses.
- While a “big fix” is needed to bring the Town’s sign ordinance into compliance with the United States Supreme Court’s ruling in the 2015 Reid v Town of Gilbert case, some immediate changes are required. (Planning Commission agenda item for February 7th meeting and proposed April joint public hearing date.)
- Sign area definition should be simple geometric area of the sign’s material substrate, and not be calculated only by the text and graphic areas of the sign board.
- The Town should determine its liability arising from signage in the VDOT right of way resulting from the language of Ordinance 20141009.
- The intent of Ordinance 20141009 was short-term, and not intended for the current duration approaching two and one half years.

Planning Commission Staff Report

From: Larry DiRe 
Date: January 3, 2017
Item: 5d - Current sign ordinance language on signage in the public right-of-way and proposed draft amendment language
Attachments: Town Resolution 20141009

Item Specifics

The Town Council is considering entering into a formal, written agreement with the Virginia Department of Transportation (VDOT) for the purpose of granting the Town authority to remove signs from the VDOT public right-of-way. According to some staff members, an informal verbal agreement to do so has been in place for years. The Council, at their November 17, 2016 regular monthly meeting, directed staff to bring this matter to the Planning Commission for review and recommendation.

The following zoning ordinance sections directly discuss the Town's signage regulations in relation to the Virginia Department of Transportation. They are followed by the "political sign" regulations, which expressly forbid such signage in the public right-of-way, for comparative purpose.

Article IV, Section 4.1.D.2 Signs in rights-of-way No sign other than an official traffic sign or similar sign shall be erected within any public way, unless specifically authorized by other ordinances or regulations of this jurisdiction or by specific authorization of the Town Manager and the Virginia Department of Transportation (VDOT).

Article IV, Section 4.1.H.2.d Special event signs in public ways Signs advertising a special community event shall be allowed in or over public rights-of-way, subject to approval by the zoning administrator and the Virginia Department of Transportation as to the size, location and method of erection. The zoning administrator may not approve any special event signage that would impair the safety and convenience of use of public rights-of-way, or obstruct traffic visibility.

Article IV, Section 4.1.H.2.e(3) Political signs Such signs shall not be in any public right-of-way or obstruct traffic visibility.

Discussion

A number of issues are involved here. First, the sign ordinance as written appears to be in violation of the content neutral requirement for regulating speech. By allowing the potential for only signs in the public right-of-way that "advertis(ing) a special community event" while specifically excluding signs posting commercial or political speech from those same public rights-of-way, the Town (and by extension the VDOT) is promoting certain language while sanctioning other. Any cooperative, joint agreement with another jurisdiction or public body requires content neutrality. Second, as currently written the zoning ordinance is inconsistent regarding which Town agent has authority for approving signs in the public right-of-way. Both the Town Manger and the zoning administrator are cited with that power. Original and appellate authority should be clarified and stated in any agreement with another jurisdiction or public body. Third, the Town's resolution adopted by Town Council at their October 9, 2014 meeting allowing for commercial signs in the Mason Avenue right-of-way is problematic. This resolution seems to endorse commercial speech over other language, since it extends sign placement "right" to businesses on Strawberry Street who might otherwise be obscured from pedestrian activity while not rescinding or suspending the general prohibition of right-of-way signage found in *Article IV, Section 4.1.D.2*

cited above. The intent of Resolution 20141009 is admirable. That resolution also includes language providing for a remedy. That remedy should be pursued without delay, thus terminating any necessity for signage in the Mason Avenue right-of-way.

Recommendation

The Planning Commission will discuss, and direct staff accordingly. Staff recommends that the sign ordinance text and any corresponding agreement with the Virginia Department of Transportation include the following:

- Assign original authority over signage to a singular Town agent, and a singular appellate body. Staff recommends these being the Town Manager and Town Council, respectively (alternative is stated in *Article II, Section 2.6.2.C* under powers and duties of the Board of Zoning Appeals “*To hear and decide appeals from the decision of the Zoning Administrator. No such appeal shall be heard until after such notice and hearing as provided in Section 15.2-2204 of the Code of Virginia.*”)
- Install a wayfinding map\sign at a town-owned facility or site in the central business district prior to April 1, 2017 and inform the Commercial – 1 District property and business owners that the provisions of Resolution 20141009 have been met.
- Amend *Article IV* of the zoning ordinance by removing *Section 4.1.H.2.d* in full because it is not content neutral, and in conflict with other ordinance sections.
- Amend *Section 4.1.D.2* to include the following language: *Signage shall not impair the safety and convenience of use of public rights-of-way, or obstruct traffic visibility.*
- Banners installed on the Mason Avenue Town-owned street lamp posts (considered signs under the Town’s zoning ordinance definition) may continue to be placed and removed as needed.

ORDINANCE 20141009
TEMPORARY SUSPENSION OF ENFORCEMENT FOR A PORTION OF THE SIGN
REGULATION FOR BUSINESSES LOCATED ON SIDE STREETS

WHEREAS, on December 19, 2013, the revisions to Cape Charles Zoning Ordinance § 4.1-Sign Regulations were adopted by the Town Council; and

WHEREAS, off-premise signs are defined as billboards which are prohibited in the Town; and

WHEREAS, a number of businesses are located on side streets, such as Strawberry, Peach and Nectarine Streets, and are not as visible as those on Mason Avenue, causing them to lose foot traffic and business without an off-premise sign; and

WHEREAS, the Planning Commission reviewed this issue and recommended temporary suspension of a portion of the sign regulations, Section 4.1(F)11 to allow businesses on side streets to place portable signs to attract foot traffic until a way-finding sign can be installed on Mason Avenue or the sign regulations are revisited; and

WHEREAS, in an effort to support the businesses on the Town's side streets, Council agrees with the Planning Commission recommendation, provided that:

- i. any-off premise signage be limited to ten square feet in area;
- ii. the sign be located at the intersection of Mason Avenue and the street which the advertised business occupies;
- iii. the sign be removed at the end of each business day; now

THEREFORE BE IT ORDAINED by the Town Council of Cape Charles, this 9th day of October, 2014, that enforcement of a portion of the sign regulations pertaining to off-premise signs for businesses located on the Town's side streets be temporarily suspended, subject to the above conditions, until such time that a way-finding sign is installed on Mason Avenue or the sign regulations are revisited.

Adopted by the Town Council of Cape Charles on October 9, 2014.

By: _____
Mayor

ATTEST:

Town Clerk