



PLANNING COMMISSION

Regular Meeting

Town Hall

August 7, 2012

At 6:00 p.m. in the Town Hall, Vice Chairman Dennis McCoy, having established a quorum, called to order the Regular Meeting of the Planning Commission. In attendance were Commissioners Malcolm Hayward, Joan Natali and Mike Strub. There were currently three (3) vacancies on the Commission. Also present were Town Planner Tom Bonadeo and Town Clerk Libby Hume. There were 6 members of the public in attendance.

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

PUBLIC COMMENTS

Dorie Southern, 104 Tazewell Avenue

Ms. Southern stated that she wanted to speak about the agenda items which were important. Ms. Southern went on to talk about the Old Business item, Density of Harbor District / Mason Avenue Corridor stating that this agenda item had something behind it that the citizens did not know about and continued to state that in 2006 the Town hired a firm that cost thousands of dollars to do a study entitled Harbor Area Conceptual Master Plan and Design Guidelines. In 2007, the Town paid thousands more dollars to do a study entitled Harbor Area Architectural Design Standards. The Town's Zoning Ordinance required a Harbor Development Certificate application for anyone wishing to develop property in the Harbor District. Ms. Southern stated that none of this was mentioned in the Staff Report provided to the Planning Commission and asked whether the Commission had referred to it. Ms. Southern asked if the Commissioners knew what was behind the proposed density issue. Ms. Southern went on to talk about the New Business item, Proposed Text Change – Section 3.6.C Conditional Uses for 718 Randolph Avenue and EIS Holdings and stated that the Town Planner received a letter dated June 22, 2012 requesting changes in the zoning requirements in the C-1 Zone. The company referred to had a property that included commercial on the ground floor and an apartment on the second floor and wanted to construct a building behind the existing building for two apartments. Ms. Southern went on to state that while it might be in the interests of the Town to allow the second building to be constructed with a special exception or zoning change, it was not right to provide it without understanding what was being done. Ms. Southern stated that the question that was not being asked was "Where did this fit in the Comprehensive Plan? And added that the Staff Report did not address the Comprehensive Plan." Ms. Southern stated that these were two comments on the issues at hand and added that she hoped that the Planning Commission would pay attention to the Comprehensive Plan and the other plans and studies that had been done. Ms. Southern added that had this been done so, she did not think there would be a sewer plant where it was in the Harbor District.

Frank Wendell, 515 Monroe Avenue

Mr. Wendell stated that he had a couple of items that he wanted to mention and proceeded to read from page 8 of the July 10, 2012 Planning Commission minutes where Tom Bonadeo explained that the historic restoration and adaptive reuse of the old school building would be an investment of over \$2M, interjecting that a lot of that was tax money, in the neighborhood and the restoration would improve the neighborhood values. Mr. Wendell went on to talk about the density that was not allowed in the R-1 zone, but by definition was allowed in R-3. Mr. Wendell stated that he understood why the area was being proposed to be rezoned as R-1

so as not to be considered spot zoning and went on to state that the project had to pass the Comprehensive Plan litmus test of compatibility. Mr. Wendell continued to state that there were real estate studies that showed that if apartment buildings were put next to single family residences it depressed the values of the single family residences and asked whether the Town had a study that showed the opposite or if that was merely someone's opinion. Decisions should not be based on someone's personal opinion but quantitative analytical information when dealing with someone's property values. Mr. Wendell went on to state that he had missed the Planning Commission public hearing but he understood that there was one condition to the approval of the conditional use permit which was that the basketball court be relocated. Mr. Wendell continued to state that there was no discussion regarding who would pay for the relocation of the basketball court and had actually heard that the Town would be paying for this. Mr. Wendell stated that he wanted to hear discussion regarding this issue and asked why the Town would not ask the developer to pay for the relocation of the basketball court when it was trying to save money to convert the bank into a library/computer lab/possible miscellaneous use and added that he did not understand why the Town would not ask the developer to pay for it. The developer was standing to profit from turning a public asset into a private building. Mr. Wendell demanded discussion on the table regarding who was to pay for the basketball court.

Joan Natali and Tom Bonadeo stated that this was the public comment period and not a time for discussion.

Mr. Wendell continued to state that he did not agree that the developer had any legal standing to ask for the rezoning and added that at the last meeting, he had asked for discussion regarding why the Town would not follow the lawyer's advice regarding a buyback clause and performance bond. Mr. Wendell stated that the Commissioners needed to read the Comprehensive Plan and needed to get familiar with arbitration and concluded by stating that he felt this was arbitrary and capricious.

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

CONSENT AGENDA

Motion made by Joan Natali, seconded by Mike Strub and unanimously approved, to accept the agenda as presented.

The Commissioners reviewed the minutes for the July 10, 2012 Regular Meeting and the July 26, 2012 Public Hearing and Special Meeting.

Mike Strub stated that some of Ms. Deborah Bender's comments on the first page of the July 10, 2012 Regular Meeting minutes appeared to be quoted and suggested that quotation marks be added. Mike Strub noted a typographical error on page 7 and Joan Natali noted a change to page 9.

Joan Natali noted that on page 5 of the July 26, 2012 Public Hearing and Special Meeting minutes, Mr. Chad Davis' address was incorrect and Mike Strub noted a typographical error in the paragraph containing Mr. Davis' comments.

Motion made by Mike Strub, seconded by Malcolm Hayward, to approve the minutes from the July 10, 2012 Regular Meeting and the July 26, 2012 Public Hearing and Special Meeting as corrected. The motion was approved by unanimous consent.

REPORTS

Tom Bonadeo reported the following: i) All the buildings at the Harbor have been completed and the final parking layout was to be done. The center area would be angled parking; ii) The Shanty building was complete, the concrete pad for the dumpster had been poured and the required fencing around the dumpster should be installed soon. Air conditioning had also been added; iii) The old wastewater treatment plant was being demolished. The steel had been removed. The concrete demolition was underway and the polishing pond was being removed. After completion of the demolition, the property would be turned over to South Port Investors who had a long-term lease for the property; iv) There were numerous remodeling projects throughout Town. Many new homeowners were fixing up second homes as prices continued to be low. There were also some new opportunities for spec homes; v) The Town met with VDOT and its contractor this afternoon to review the sidewalk project which would repair or replace broken sidewalks and curbs. No new sidewalks would be constructed under this project which could cost up to \$1M. The Town would be working with the contractor to install some new sidewalks; vi) VDOT was still working on crossing signs for Route 642 (Old Cape Charles Road). Two more sets of golf cart crossing signs would be installed at the Bay Creek entrance and by the old Rosenwald School. VDOT would not install the signage until the bridges over the ditches were built; and vii) The Planning Commission previously worked on the Technology Zone covering the entire Town which was adopted by the Town Council. Council would also be reviewing a Tourism Zone with similar incentives which were permitted by the State Code.

Malcolm Hayward asked about the smell around the wastewater treatment plant. Tom Bonadeo explained how the vacuum system worked and with so little use, the sewage sat in the tank until it filled and became septic before it was pumped to the treatment plant. When the system was not pumping, there was very little odor. Staff was looking into several options, one of which was to add water to periodically flush the system. Dennis McCoy added that Bay Creek had water in their ponds for that purpose if needed to which Tom Bonadeo agreed. Tom Bonadeo added that the Bay Creek ponds would eventually be used for the effluent reuse.

OLD BUSINESS

A. *Density – Harbor District – Mason Avenue Corridor*

Tom Bonadeo stated that the Commission reviewed the density issue at the December 2011 meeting adding that the Harbor District was the least developed area of Town. Two large projects were submitted over the last several years and were approved under the current zoning ordinance. Both projects had positive growth potential but showed some of the potential weaknesses of the ordinance which contained no specific number of residential units for the Harbor Zone. Tom Bonadeo named several items which might benefit from review by the Commissioners and added that density was not defined in any zone except the basic residential zones. This issue needed to be reviewed by the Commission and potentially added to the Harbor District and other commercial zones where residential use was permitted by conditional use permit (CUP). Tom Bonadeo continued to explain that the Harbor District Zone allowed residential units over commercial space and up to 50% of the first floor. All residential space must have its own entrance at the street level and there was no limitation to the number of units on a property. The Harbor District also required 25% open space.

Tom Bonadeo pointed out the areas included in the Harbor District Zone on the map and stated that a large portion of the land in zone was owned by the railroad. Tom Bonadeo also showed the plans from Landmark Holdings US for the six acres at the end of Mason Avenue along the Harbor which were previously approved for seven buildings. The Conceptual Master Plan showed a varying difference in heights and density. This area was

marked as Main Street Mixed Use. There was much discussion regarding the differences in the Harbor District and C-1 Commercial and the specifics regarding the Cape Harbor Project. Tom Bonadeo stated that the CUP for Landmark Holdings had expired but the CUP for Harbor Development (Mr. Tom Gallagher) was still in effect due to the Governor extending CUPs approved during a certain timeframe to 2015. Mr. Gallagher was still working with the Army Corps of Engineers regarding permits.

Tom Bonadeo stated that the object of this review was to get the zoning ordinance more in line with the Conceptual Master Plan in regards to density and the heights could possibly be reviewed later. What was the proper number for the Harbor District, especially along the edge of Mason Avenue? The railroad owned all the property in the Harbor District along Mason Avenue with the exception of the former Belo building, the Cape Charles Medical Center and the Landmark Holdings property.

The Commissioners reviewed other spaces in Town. The Wilson Building at 245 Mason Avenue covered the entire lot with no off street parking spaces and contained nine apartments with two to three bedrooms each. The building at 115 Mason Avenue contained four apartments on one lot with several parking spaces in the back. The density of the Wilson Building was out of line with 60-70 per acre and the building was too tall for the surrounding area.

Malcolm Hayward had numerous questions regarding the Cape Harbor Project and Joan Natali reminded the Commissioners that the Cape Harbor Project was no longer valid since its CUP had expired. Malcolm Hayward pointed out uses for this property for residential along the waterfront, asked why the area could not be rezoned as residential and stated that he could envision town homes along the waterfront with boat slips. Tom Bonadeo stated that the purpose was to determine how many residents would be permitted in the area.

Malcolm Hayward asked Dorie Southern regarding her questions on density during the public comment period. Ms. Southern stated that she wanted to know why the Town was doing this review and who was asking for it. Tom Bonadeo responded that no one had asked for this review and that it was being done to clear up the zoning ordinance regarding density in the Harbor District Zone since it was not currently defined.

Tom Bonadeo referred to several pages from the planning book "Planning the Built Environment" (pages 173, 172 and 168) and reviewed each with the Commissioners. Cape Charles currently had a density of 8 per acre for single family dwellings. Tom Bonadeo showed the Commissioners Mr. Gallagher's plans for two boatels and three apartment buildings.

Dennis McCoy stated that the Commissioners needed to ensure that proposed projects kept the integrity of the existing Historic District and visually complimented the area and was a practical use in the area.

Tom Bonadeo stated that it was important to get the discussion regarding this issue started. Joan Natali asked for clarification that the Commissioners were looking at the residential density only which excluded hotels. Tom Bonadeo responded in the affirmative.

Mike Strub clarified that this discussion was to prepare for the future.

Tom Bonadeo informed the Commissioners that earlier this year, the County initiated proceedings to sell the Landmark Holdings property due to the taxes being delinquent. Someone could have bought the property at auction and, without a clear zoning ordinance, a project similar to the Cape Harbor Project could have been built.

Tom Bonadeo asked the Commissioners to review the provided information from the planners book, especially the paragraph on page 168, for the next meeting. Tom Bonadeo added that a future meeting regarding heights might be appropriate.

NEW BUSINESS

A. *Proposed Text Change – Section 3.6.C – Conditional Uses*

Tom Bonadeo stated that a letter from Mr. John Huchler, the owner of 718 Randolph Avenue was received requesting a change to the C-1 zoning as it pertained to residential use in the commercial zone. Mr. Huchler wanted to construct a second building behind the existing building for two apartments. This was the property where Stephen Fox's office was located as well as the former Two Sisters store. Tom Bonadeo stated that there was adequate space behind the existing building to construct a second building with an alley to park cars to meet the parking standards.

The ordinance currently allowed residential use only on the second floor with separate access to the street level. Tom Bonadeo added that the Harbor District Zone had a similar allowance with an additional clause allowing 50% of the first floor to be used for residential as long as the front of the building appeared as commercial. Tom Bonadeo went on to state that the C-1 zone consisted primarily of existing buildings along Mason Avenue and the 700 block of Randolph Avenue and the allowance of residential use in this zone was to encourage the rehabilitation of the buildings in this area. The Wilson building was once a four-story commercial building and the mix of commercial space and residential space was chosen to maximize the ground floor commercial space to revitalize the downtown knowing that a four-story retail space would not be viable. In lieu of changing the ordinance, Mr. Huchler could apply for a variance to allow some use of the first floor but the rules for variances would apply such as having to define a hardship.

Tom Bonadeo asked the Commissioners to go look at the property for further discussion at the next meeting and added that it was legitimate for people to ask to change the zoning ordinance. Changes to the zoning ordinance would affect a large area and the Commissioners needed to review the information to make sure that if any changes were made, it was being done for the best of the C-1 and not just for Mr. Huchler.

OTHER

Tom Bonadeo stated that he was meeting with VDOT next week regarding the sidewalk project and would be going through Town to identify damaged sidewalks, curbs, gutters and driveways for repair and replacement. VDOT had a prescriptive right-of-way which meant that VDOT did not own the land but managed and maintained it. People were required to put in a sidewalk when they built a new house.

Malcolm Hayward asked about the parking on Peach Street. Tom Bonadeo stated that Peach Street parking was being reviewed as part of the Multi-Use Trail project.

Dennis McCoy asked about the progress regarding filling the vacancies on the Planning Commission. Tom Bonadeo stated that seven applications were received and the Town Council would be interviewing the applicants within the next several weeks.

Joan Natali asked whether the presentation given during the Walkability Tour could be made available to the Planning Commission. Tom Bonadeo stated that the presenter, Dan Burden, was modifying the presentation to include areas that were discussed and would provide a copy for the Town. When received, copies would be made available to the Commissioners. Tom Bonadeo added that Mr. Burden was very impressed with Cape Charles.

ANNOUNCEMENTS

There were no announcements.

Motion made by Joan Natali, seconded by Mike Strub, to adjourn the Planning Commission meeting. The motion was approved by unanimous consent.

Vice Chairman Dennis McCoy

Town Clerk