



PLANNING COMMISSION

Regular Meeting

Town Hall

October 4, 2011

At 6:00 p.m. in the Town Hall, Chairman Bruce Brinkley, having established a quorum, called to order the Regular Meeting of the Planning Commission. In attendance were Commissioners Malcolm Hayward, Dennis McCoy and Joan Natali. Commissioners Roger Munz and Mike Strub were not in attendance. Also present were Town Planner Tom Bonadeo and Town Clerk Libby Hume. There were no members of the public in attendance.

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

REGULAR MEETING PUBLIC COMMENTS

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

CONSENT AGENDA

Dennis McCoy stated that he would like to add an item for an update of the status of filling the vacancy on the Commission.

Tom Bonadeo stated that two applications have been received from Andy Buchholz and Gene Kelly.

Malcolm Hayward added that Steve Downing had expressed an interest in service on the Commission. Libby Hume asked Malcolm Hayward to inform Mr. Downing to submit an application which was available on the Town's website. Individuals could not be considered unless an application was submitted.

Motion made by Joan Natali, seconded by Dennis McCoy and unanimously approved to accept the agenda format as amended.

The Commissioners reviewed the minutes for the September 6, 2011 Regular Meeting and the September 22, 2011 Joint Public Hearing with the Town Council.

Dennis McCoy stated that in the September 6, 2011 Regular Meeting minutes, the last sentence of Item iii under the Sign Ordinance Review would read better if the word "language" was changed to "copy."

Motion made by Joan Natali, seconded by Dennis McCoy, to approve the minutes from the September 6, 2011 Regular Meeting as amended and September 22, 2011 Joint Public Hearing as presented. The motion was unanimously approved.

REPORTS

Tom Bonadeo reported the following: i) The Sinclair FM Tower was finally scheduled for modification. The plans were expected to be delivered this week and permits should be issued after review. The monopole had been ordered. Currently, the two clients were AT&T and Verizon, but Sprint and T-Mobile were also interested; ii) The County Board of Supervisors approved a modification to their Wind Turbine Ordinance. There was a company involved which would be in competition with Gamesa; iii) Gamesa was still working on the environmental portion of the wind turbine application for a turbine to be placed in the Bay off Cape Charles by the 36A buoy; iv) The new force main on Mason Avenue was in the final phase with paving scheduled for October 6th; and

v) The Broadband project was nearing completion. The fiber was installed and about 90% spliced. Equipment had been ordered and we were awaiting delivery. Bay Creek Communications had been connected and had recently picked up two customers outside of Town via the backbone. Dennis McCoy asked what the Town's plans were regarding the broadband. Tom Bonadeo explained that Town had budgeted for broadband service for several locations including Town Hall, the Harbor and the Computer Lab, but the fiber had not yet been connected. The Town was negotiating with the Eastern Shore of Virginia Broadband Association and Bay Creek Communications for service. The estimated timeframe was approximately 30-60 days. The Library's Internet service was supplied by the Eastern Shore Public Library so it was not included in the Town's initial connection area. Dennis McCoy added that as a long-time Bay Creek Communications customer the Town would be hard pressed to find a better company to deal with. Malcolm Hayward asked if there were any plans of offering Wi-Fi at the Harbor to which Tom Bonadeo stated that there were none at this point but the service could be offered in the future. Tom Bonadeo also added that the Town was looking to take advantage of the Universal Service Fund, which provided money for schools and libraries, for future connection of the Library.

Malcolm Hayward stated that a property owner had contacted him regarding difficulties he was having with the Town in building a garage in his backyard. Tom Bonadeo stated that he was working with the property owner and added that he would like to take a few minutes to explain the Zoning Ordinance regarding this issue to the Commissioners. Bruce Brinkley stated that as long as the discussion stayed in general terms the time would be permitted. Tom Bonadeo stated that typical lots in Cape Charles were 40' x 140' and the Town was in the Chesapeake Bay Preservation Area which meant that runoff into the Bay must be limited. No more than 50% of the lot could be covered with impervious surface. Tom Bonadeo went on to explain the various issues regarding the particular application and property adding that an addition was approved in 2004 but not done. The plans which were submitted with this application did not show all the existing structures on the property nor the areas on either side of the house which were covered with pavers. Suggestions had been given to the applicant to rectify the problem. An updated plan was expected and would be reviewed by the Historic District Review Board later this month. Bruce Brinkley stated that discussion had moved beyond general terms and the Commission should move to Old Business. Malcolm Hayward complimented Tom Bonadeo on solving this applicant's problems and added that the Planning Commission's job was to hear complaints from citizens and to try to resolve their problems. Tom Bonadeo stated that it would be better to recommend the individual meet with Town staff during the day vs. bringing an issue up during a meeting. Bruce Brinkley agreed that issues such as this were issues with staff and not Planning Commission business. Tom Bonadeo added that the Planning Commission did not make decisions regarding these types of applications. These types of applications were handled by staff and the Historic District Review Board and there was a process in place. If the applicant did not like the zoning decision, he could make an appeal to the Board of Zoning Appeals, not the Planning Commission.

OLD BUSINESS

Sign Ordinance Review – Draft Ordinance

Tom Bonadeo stated that Bruce Brinkley's suggestion to review the International Building Code pointed the Commissioners in the right direction and the sign ordinance definitions were reviewed at the last meeting. Since then, Libby Hume was able to download the 2012 International Sign Ordinance which included more comprehensive definitions and added that they were included in the packet for review. One item in particular was Figure 1003.1(3) regarding the computation methodology for sign area which would have helped in a previous application if it had been included in the ordinance. The Commissioners reviewed the various sections as follows:

Section 1004 – General Provisions:

Tom Bonadeo stated that many provisions were similar to those in the Town's current ordinance but there were several differences. Section 1004.2-signs in rights-of-way would be modified since the Town allowed a sign to go to the edge of the right-of-way. Section 1004.6-Animation and

changeable messages were not permitted currently. Joan Natali suggested that this section be kept in the new ordinance but state that they were not permitted. Malcolm Hayward asked if it wasn't the job of the Commission to review everything and possibly allow some things that were currently not permitted. Tom Bonadeo stated that if changes were made, there was a process in place involving a public hearing, etc. Malcolm Hayward suggested that some items be permitted during certain times of the year. Tom Bonadeo noted that seasonal usage would be considered. Bruce Brinkley referred to Section 1004.8-Obsolete sign copy and suggested that some old signage, such as the sign painted on the old Wilson building, may have some historic significance. Tom Bonadeo stated that language would be added to reference the Historic District Guidelines which outline saving signs with historic significance.

Section 1005 – Exempt Signs:

Tom Bonadeo stated that these were very similar to the Town's current list.

Section 1006 – Prohibited Signs:

Tom Bonadeo stated that many provisions were similar to the Town's current ordinance. Dennis McCoy stated that he had some concern regarding Section 1006.1.6. in relation to "static displays" and suggested that the concept be defined. It was not in the Town's current ordinance, but it was an interesting idea to consider. Tom Bonadeo stated that he would modify the section to include the Town's current language and highlight areas to be considered.

Tom Bonadeo informed the Commissioners that he would compare the 2012 International Building Code to the Town's current ordinance and note areas for consideration and asked that if any of the Commissioners had any ideas or concerns to send them to him so he could develop a draft. Dennis McCoy suggested that attention be directed to Section 1006.1 – Prohibited Signs. Joan Natali suggested that all the pictures be kept so people would have a visual of what was or was not permitted. Dennis McCoy asked whether the Town would work with the PUD regarding these changes. Tom Bonadeo stated that he would provide the recommended changes to the PUD for their consideration as well.

Zoning Changes – Home Occupation

Tom Bonadeo stated that the Commission and Town Council had held public hearings regarding the proposed modifications and no comments were received. Tom Bonadeo added that he made one additional modification changing "occupation" to "business" explaining that Dennis McCoy had a home-based occupation but was not a business owner since he worked for another company and there were many individuals in Town working in similar circumstances. Joan Natali asked whether this ordinance applied to Bay Creek. Tom Bonadeo stated that the PUD documents were located in the back of the Zoning Book provided to all Commissioners and the language was very simple in permitting home businesses in the R-1, R-2 and R-3 zones. The revised intent statement allows home businesses in all residential zones in that the changes to R-1 covered R-2 and R-3 as those sections allowed all permitted uses in R-1. No changes were required to those sections.

Dennis McCoy asked whether a reference should be included to direct applicants to contact the Town regarding a business license. Tom Bonadeo stated that staff included it as part of the application process.

Motion made by Malcolm Hayward, seconded by Dennis McCoy, and unanimously approved to recommend adoption of the ordinance modifications to the Town Council.

Zoning Changes - Definitions

Tom Bonadeo stated that the Commission and Town Council had held public hearings regarding the proposed modifications and no comments were received. Tom Bonadeo read the proposed definition of "Agriculture."

Motion made by Malcolm Hayward, seconded by Dennis McCoy, and unanimously approved to recommend adoption of the new definition of "Agriculture" to the Town Council.

NEW BUSINESS

Demolition of Structures – Section 8.22

Tom Bonadeo stated that, after a recent authorization to demolish a house on Jefferson Avenue in accordance with the Ordinance, the Town Council requested the Planning Commission to review Section 8.22 of the Zoning Ordinance which currently allowed the demolition of a house on the report that the structure was unsafe. The Town Council was not in favor of just tearing down a structure, especially in the National Historic Overlay. There were some situations where tear-down was required but the majority of structures could be repaired. Tom Bonadeo explained that staff had added some additional requirements to ensure that abuse did not allow the demolition of a contributing structure that was not really a hazard to life and property and continued to review the four additional requirements and suggested incorporation of these requirements into the ordinance. Tom Bonadeo asked the Commissioners to review the ordinance for further discussion at the next meeting.

Planning Commission Vacancy Update

Dennis McCoy stated that his question regarding filling the vacancy on the Commission had been answered earlier in the meeting. Tom Bonadeo stated that two applications have been received and he had heard several others express an interest to serve. The Town Council needed to interview the applicants and their meeting schedule had been full. Staff was trying to schedule a closed session for Council to interview the applicants.

ANNOUNCEMENTS

There were no announcements.

Motion made by Dennis McCoy, seconded by Malcolm Hayward, and unanimously approved to adjourn the Regular Meeting of the Planning Commission.

Chairman Bruce Brinkley

Town Clerk