PLANNING COMMISSION
Public Hearing & Regular Meeting
Town Hall
January 5, 2010

At 6:00 p.m. in the Town Hall, Chairwoman Joan Natali called to order the Public Hearing and Regular Meeting of the Planning Commission. In addition to Chairwoman Natali, present were Commissioners Eileen Cobb, Bruce Evans, Malcolm Hayward and Dennis McCoy. Commissioner Roger Munz was not in attendance. Also present were Town Planner Tom Bonadeo and Town Clerk Libby Hume. There was one (1) member of the public in attendance.

Joan Natali stated that the purpose of the Public Hearing was to hear public comments regarding the proposed modifications to §3.14 – PD-STIP District of the Cape Charles Zoning Ordinance. Town Planner Tom Bonadeo read the public hearing advertisement as published in the December 23rd and 30th issues of the Eastern Shore News.

PUBLIC COMMENTS
There were no public comments nor any comments submitted in writing prior to the Public Hearing.

Joan Natali closed the Public Hearing portion of the meeting.

REGULAR MEETING PUBLIC COMMENTS
There were no public comments nor any comments submitted in writing prior to the Regular Meeting.

CONSENT AGENDA
Tom Bonadeo stated that the election of officers was slated for this meeting and requested it be added as Item 7.b. under New Business. Tom Bonadeo added that Gregory and Donna Kohler, the applicants for the Conditional Use Permit (CUP) for 302 Fig Street, were in attendance and asked that the review of their application be moved prior to the discussion of Old Business.

The agenda was approved as revised by unanimous consent.

The Commissioners reviewed the minutes for the December 1, 2009 Regular Meeting. Bruce Evans stated that he was not in attendance at that so would abstain from the vote.

The minutes for the December 1, 2009 Regular Meeting were approved by unanimous consent as presented with Bruce Evans abstaining.

REPORTS
Tom Bonadeo reported the following: i) The deed for the Keck Property has been recorded; ii) The Breakwater Project bids have been reviewed and the engineer has modified the design to help reduce the cost while not sacrificing performance. The height of the breakwater was returned back to 5' vs. 7' and the slope modified to reduce the amount of stone. Even with these modifications, the cost of the project is still not within the budget amount. The Town Council elected to borrow the extra money required to complete the first two phases with the new design; iii) The November Nor'easter eroded the sand on the beach and FEMA representatives visited the Town and reviewed the damage to the beach and pier for possible emergency funding. Town

staff will meet again with FEMA on January 8th for a review. Snow fence has also been installed at the beach and the Town is collecting discarded live Christmas trees to place on the beach; and iv) The Central Park Trail Project is in final review. Modifications were made to the plans to get the project within budget. The brick edging along the sidewalk, benches, bike racks and trash receptacles have been removed but the fountain pool, brick pavers at the nodes, an irrigation system and electrical conduit system are included in the project.

NEW BUSINESS

302 Fig Street – Conditional Use Permit – Bed & Breakfast

Bruce Evans asked whether, under the Conflict of Interest Act (COIA), he would have to abstain from discussions regarding this application since he owns one (1) of two (2) bed & breakfasts currently operating in Town. Tom Bonadeo explained that typically, an individual is considered to have a conflict of interest in a situation if the value earned is over $10K. It was determined that Bruce Evans did not have a conflict of interest in this instance.

The Commissioners reviewed the Conditional Use Permit (CUP) application to operate a six (6) bedroom (5 in the main house and 1 in the pool house) bed & breakfast and the Zoning Ordinance relating to five (5) requirements for a bed & breakfast that the property owner must meet. Tom Bonadeo explained that the application meets or exceeds the requirements and that Jeb Brady, the Code Enforcement official, has also reviewed the application and no problems are anticipated.

There was some discussion regarding the number of bedrooms and the requirement that if there are more than five (5) bedrooms, a sprinkler system is mandated. Since there will only be five (5) bedrooms in the main house, a sprinkler system will not be a requirement. Tom Bonadeo stated that he recommended scheduling a joint public hearing with the Town Council for February 2, 2010, the next Planning Commission meeting, to expedite the application process since the purchase contract for this residence is contingent upon the approval of the CUP.

Motion made by Bruce Evans, seconded by Malcolm Hayward and unanimously approved to request a joint public hearing with the Town Council be scheduled for February 2, 2010.

OLD BUSINESS

Corridor Overlay – Update

Tom Bonadeo informed the Commissioners that the draft Corridor Overlay District Ordinance was under first review by the County Planning Staff. Outgoing supervisor, David Burden, made a motion to have the county study the overlay ordinance and the motion was approved at the December 2009 meeting. The Northampton County Planning Commission was also meeting tonight and would be reviewing our document. Joan Natali asked that Tom Bonadeo email the Commissioners a copy of what was sent to the County.

Tom Bonadeo went on to inform the Commissioners that the Town Council had scheduled a joint work session with the Cheriton Town Council for Monday, January 11th, at the Cheriton Fire Hall to discuss boundary adjustments.

There was some discussion regarding various businesses that would be beneficial to have on Route 13. Bruce Evans stated that the Northampton County Planning Commission and Board of Supervisors often hold public hearings regarding business on Route 13 and that it was advised that representatives from Cape Charles attend these public hearings to participate.

Conditional Use Permit Duration
Tom Bonadeo explained that currently Section 4.3.D of the Zoning Ordinance only allows a CUP to be valid for one (1) year from the date of approval with allowance of a one (1) year extension but the ordinance is vague on additional extensions. In commercial development, one (1) year is not enough time to sufficiently "act on" the CUP since there are often many additional permits to obtain prior to the start of construction. An alternative is to allow time for other permits to be obtained before starting the one (1) year clock.

Tom Bonadeo reviewed his recommended changes to the CUP process as follows: i) The application for the CUP would include a list of required permits and expected completion dates for each permit. The applicant shall prepare a Permit Completion Report within the first nine (9) months after the Town Council approval of the CUP; ii) The completed application is acted upon by the Planning Commission within the allotted 100 days and no changes to the list of permits can be made after this time; iii) The application is forwarded to the Town Council for final approval including the list of required permits and the Council approval will include an expected timetable for additional permit applications and approval. Staff will review the Permit Completion Report with the Town Council and will advise Council of the start date of the one (1) year CUP process; iv) During the one (1) year CUP timeframe, the applicant may apply for a one (1) year extension of the CUP if a good reason for non-compliance is present; v) Council shall allow only one (1) one-year extension of the CUP; vi) No permit for the same use may be reviewed within one (1) year of the expiration of the CUP or the one-year extension.

Motion made by Bruce Evans, seconded by Eileen Cobb and unanimously approved to request a joint public hearing with the Town Council be scheduled for February 2, 2010.

PD-STIP and the Harbor District Heights
Tom Bonadeo explained that the area around the Cape Charles Harbor and the now defunct Sustainable Technology Park (STIP) has changed in the past few years and that this zone limits the height of any building to 40'. The marine industry uses in the Harbor District allow building heights up to 55' with a CUP. The STIP was sold to a private investor and a 30-acre portion was rezoned Harbor District by the Town. The associated 80-acre parcel is still zoned PD-STIP which contains a long list of permitted uses and only one conditional use. Structures, other than buildings, exceeding 50' would be allowed by conditional use and no height limit is listed. It may be a limiting factor to not allow buildings over 40' while having structures over 50'. The PD-STIP zone also required a Class III buffer of 200' to residential areas. It was also noted that many of the existing pine trees on this plot are over 65' tall. Tom Bonadeo reviewed his recommended language modifications as follows: i) Maximum permitted height – No building shall exceed 40' in height; ii) Building heights greater than 40' and equal to or less than 55' may be allowed by CUP only.

There was discussion regarding the difference between the STIP and PD-STIP zones which is mainly the required 200' buffer for the PD-STIP. The Commissioners also discussed the possibility of name changes for the STIP and PD-STIP since the STIP is now defunct. After further discussion the Commissioners agreed to change the name of PD-STIP to "General Business Light Industrial H-1" and the name of STIP to "Industrial District M-2." Tom Bonadeo will check with Northampton County regarding the portion of land in the PD-STIP that is currently a wildlife refuge and whether it will be taken over by the Department of Conservation and Recreation (DCR). This portion of land can be rezoned as Open Space.

Motion made by Eileen Cobb, seconded by Dennis McCoy and unanimously approved to request a joint public hearing with the Town Council be scheduled for February 2, 2010 to

hear comments regarding the allowed heights in this district and the name changes of STIP and PD-STIP as discussed.

The rezoning of the portion of PD-STIP to Open Space will be discussed further at the February 2nd meeting.

NEW BUSINESS

Election of Officers

Bruce Evans nominated Joan Natali to continue as Chairwoman and Eileen Cobb seconded the nomination. No one else expressed an interest in serving as Chairperson of the Planning Commission at this time.

Malcolm Hayward nominated Eileen Cobb to continue as Co-Chairwoman and Bruce Evans seconded the nomination. No one else expressed an interest in service as Co-Chairperson of the Planning Commission at this time.

Joan Natali was elected as Chairwoman and Eileen Cobb was elected as Co-Chairwoman by unanimous vote.

ANNOUNCEMENTS

There were no announcements.

The Regular Meeting of the Planning Commission was adjourned by unanimous consent.

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Chairwoman Joan Natali

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Town Clerk