



# PLANNING COMMISSION

## Regular Meeting

Town Hall

February 2, 2010

At 6:10 p.m. in the Town Hall, Chairwoman Joan Natali called to order the Regular Meeting of the Planning Commission. In addition to Chairwoman Natali, present were Commissioners Eileen Cobb, Bruce Evans, Malcolm Hayward, Dennis McCoy and Roger Munz. Also present were Town Planner Tom Bonadeo and Town Clerk Libby Hume. There were two (2) members of the public in attendance.

### **PUBLIC COMMENTS**

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

### **CONSENT AGENDA**

**The agenda was approved as presented by unanimous consent.**

The Commissioners reviewed the minutes for the January 5, 2010 Public Hearing and Regular Meeting. Dennis McCoy stated that he felt that the minutes were rather vague in regards to the information on the CUP process on page 3. There was some discussion regarding this issue and the Commissioners agreed that no change needed to be made to the minutes but that this issue would be discussed later in more detail. Joan Natali pointed out two typographical errors on page 3. There were no other comments regarding the minutes.

**The minutes for the January 5, 2010 Regular Meeting were approved as amended by unanimous consent.**

### **REPORTS**

Tom Bonadeo reported the following: i) The Town is reviewing the Keck Property for a test well; ii) The Breakwater Project contract has been signed and mobilization is expected to start next week; iii) FEMA representatives again visited the Town to review the damage to the beach. This group deals only with beaches. Pre-storm and post-storm measurements have been provided and beach maintenance work was discussed. The review should take approximately two weeks; iv) The Central Park Trail Project is underway but work is being hindered due to the weather. This January was the wettest January on record. The water retention feature in the northwest portion of the park will be the first order of construction and should help reduce the amount of water in the rest of the area. There is also a possibility to lay sod over the area vs. seeding which is preferred; and v) The Cape Charles Town Council met with Cheriton Town Council to discuss possible boundary adjustments. This issue will be reviewed in more detail later in this meeting.

### **OLD BUSINESS**

*302 Fig Street – Conditional Use Permit – Bed & Breakfast*

Tom Bonadeo stated that there had been no changes to the application and that he had been talking to the applicants and they may install a new door and new siding sometime in the future. The application is for a six (6) bedroom bed & breakfast with five (5) bedrooms in the main house and one (1) bedroom in an accessory building on the property. There is substantial parking available on the property. All requirements in the ordinance have been met. Ms. Kohler

explained that initially the bed & breakfast will open with only the five (5) bedrooms in the main house and they will work on the sixth bedroom at a later date. Tom Bonadeo informed the Commissioners that the purchase contract for the property was contingent upon approval of the CUP and the closing was currently scheduled for February 19<sup>th</sup>. A Joint Public Hearing was held earlier this evening with the Town Council and there were no public comments heard. Once the Commissioners vote on their recommendation to the Council, the Council will review and vote on the CUP at their February 11<sup>th</sup> meeting. The applicant does not have to be in attendance at the February 11<sup>th</sup> Council meeting.

**Motion made by Bruce Evans, seconded by Dennis McCoy and unanimously approved to forward a recommendation to the Town Council for approval of the Conditional Use Permit to operate a six (6) bedroom bed & breakfast at 302 Fig Street.**

*PD-STIP Heights – Zoning Change*

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. The marine industry uses in the Harbor District allow building heights up to 55’ with a CUP but the PD-STIP District limits the height of any building to 40’. A Joint Public Hearing was held earlier this evening with the Town Council regarding increasing the height limit to 55’ in the PD-STIP District with a CUP. There were no public comments heard.

**Motion made by Malcolm Hayward, seconded by Roger Munz and unanimously approved to forward a recommendation to the Town Council for approval of the increase in maximum building heights in the PD-STIP District to 55’ with a Conditional Use Permit.**

*Conditional Use Permit Process Modification*

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. The Town Council tasked the Commissioners with modifying the current CUP process.

Tom Bonadeo reviewed his proposed 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 action 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, if approved; 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. There was much discussion regarding “good reason” and it was agreed that it would be up to the Town Council to decide what constitutes a “good reason;” 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 of the CUP, if granted. There was much discussion regarding this one (1) year requirement for an applicant to submit a new CUP application for the same use and Dennis McCoy suggested adding “whichever is less” at the end of this item. Malcolm Hayward did not agree with the one (1) year moratorium for a new CUP. Tom Bonadeo read the current language from § 4.3.E of the Zoning Ordinance as follows: “No application for a use permit for

the same conditional use on a lot, parcel, or tract shall be considered by the Town Council within a one-year period from its last consideration. The provisions, however, shall not impair the right of the Town Council to propose a use permit on its own motion if it finds that there is public benefit to be gained.” Malcolm Hayward stated that he was okay with the proposed language since the current Zoning Ordinance allows the Council to move forward with approval of a CUP if they so chose.

**Motion made by Eileen Cobb, seconded by Roger Munz and unanimously approved to forward a recommendation to the Town Council for approval of the proposed modifications to the Conditional Use Permit process as discussed.**

#### **NEW BUSINESS**

##### *Text Change – Name Change STIP and PD-STIP Zones*

Tom Bonadeo explained that the STIP and PD-STIP Zones were named for the Sustainable Technologies Industrial Park. The STIP zone is the industrial area outside the Planned Unit Development (PUD) and the PD-STIP zone is the industrial zone within the original area of the PUD. Since the Sustainable Technologies Park is now defunct, the Commissioners discussed the possibility of a name change for these two (2) zones at their December meeting. The recommendations were: i) PD-STIP would be renamed “General Business Light Industrial – H1 (GBI-H1)” which reflects the type of uses in this zone more closely; and ii) STIP would be renamed “Industrial – M2” which reflects the more industrial nature of this zone. These are only text changes for the names of the zones and no uses will be changed except for the modifications to the PD-STIP District as discussed earlier in this meeting.

**Motion made by Roger Munz, seconded by Dennis McCoy and unanimously approved to schedule a public hearing for March 2, 2010 prior to the Planning Commission Regular Meeting to hear comments regarding these text changes.**

##### *Rezoning of County – DCR Property 90A-4-C*

Tom Bonadeo explained that the Cape Charles Coastal Habitat Natural Area Preserve is a wildlife area of approximately 23-29 acres located within the Town limits and is currently owned by Northampton County. It was formerly part of the STIP and was rezoned PD-STIP along with the other land within the PUD industrial park. At the December meeting, the Commissioners suggested rezoning this area as Open Space since a wildlife easement has been established in perpetuity for this area. In the very near future, the land will change ownership to the Department of Conservation and Recreation (DCR). Staff has reviewed this zoning change with Northampton County and the DCR and neither has objections to this change which will better reflect the use of the land.

**Motion made by Bruce Evans, seconded by Roger Munz and unanimously approved to schedule a public hearing for March 2, 2010 prior to the Planning Commission Regular Meeting to hear comments regarding this zoning change.**

##### *Boundary Adjustment Information*

Tom Bonadeo stated that the Cape Charles and Cheriton Town Councils met in January to discuss possible boundary adjustments and agreed that it could be in the Towns’ mutual interest to work together on a boundary adjustment vs. working separately and possibly against each other. Cheriton needs land for new businesses because there is no place for new businesses downtown and many lots are not buildable due to the septic tank problems. Cape Charles’ concern is mainly the type of businesses to be approved for the Route 13 corridor between the two towns. The process needs to be worked through with Cheriton. A sub-committee was appointed, comprised of Councilmen Burdiss and Veber and Tom Bonadeo representing Cape

Charles and Vice Mayor Spencer, Councilman Larry LeMond and Consultant Beverly Harper representing Cheriton, to work on this issue in more detail. The sub-committee decided that a Memorandum of Agreement (MOA) would be of value and that a press release should be published to help citizens understand the process. Tom Bonadeo went on to explain that as part of the sub-committee, he would be doing research on parcels, property values, tax implications, service provisioning and legal issues. The sub-committee has agreed that most of the work would be handled and reviewed by the respective Town Planning Commissions.

The Commissioners reviewed the draft MOA and several minor revisions were made.

There was much discussion regarding opposition from property owners in Tower Hill and Kings Creek regarding tax implications. Tom Bonadeo stated that typically there is a 10-year period to phase in taxes, services, etc. Bruce Evans asked Tom Bonadeo to check to see if after the 10 years whether the taxes could be abated. Bruce Evans added that in his opinion, the most valid reason for this boundary adjustment was that both subdivisions have been approved for well and septic which are bad for the environment and with the County's new reassessment, the property assessments will come down tremendously.

Tom Bonadeo stated that he will prepare a list of everything that is involved in this process and that the process would take approximately 10-11 months. It is important for the process to be orderly.

#### **ANNOUNCEMENTS**

There were no announcements.

**Motion made by Malcolm Hayward, seconded by Roger Munz and unanimously approved to adjourn the Regular Meeting of the Planning Commission.**

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Chairwoman Joan Natali

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Town Clerk