

Town of Colonial Beach Planning Commission Minutes

Date: February 2nd, 2012 – Town Center, 22 Washington Avenue

Time: 4:30 p.m.

Present: Maureen Holt, Chairwoman
Desiree Urquhart, Vice Chairwoman
David Coombes
Ed Grant
Kent Rodeheaver

Staff: Director of Planning and Community Development, Gary Mitchell
Town Manager, Val Foulds
Town Attorney, Andrea G. Erard
Town Clerk, Kathleen Flanagan

Item 1: Call to Order

Ms. Holt called the meeting to order at 4:40 p.m. All members of the Planning Commission were present; there are currently two vacancies on the Commission.

Item 2: Approval of Minutes

Approval of the minutes of the Planning Commission meeting held on January 5, 2012 was postponed until the March meeting.

Item 3: Public Comment

No public comment was heard.

Item 4: Additions to the Agenda

Ms. Holt moved to add Approval of By-Laws to the agenda.

Ms. Urquhart noted she did not receive a copy of the revisions to the By-Laws discussed during the January meeting.

Mr. Mitchell asked Commissioners to “be patient until we get a replacement for Lori.”

Mr. Coombes noted he would prefer to postpone approval of the By-Laws. All the Commissioners agreed to postpone approval of the By-Laws until the March meeting.

Item 5: Discussion of Highway Overlay District (continued)

Mr. Mitchell noted that at the January meeting, a review of the proposed Highway Overlay District document was initiated.

Ms. Holt asked for comments and concerns from Commissioners.

Mr. Grant asked if that would only apply to vacant or new development? Mr. Mitchell replied “yes.” Mr. Mitchell noted the example of a current business “knocking down the building” and re-building – which would fall under the Highway Overlay District. It does not apply to current businesses.

Mr. Rodeheaver noted that the policy is “not integrated and is piece-meal” and does not see how it would improve the town.

Mr. Grant agreed. Mr. Rodeheaver further noted “It would only be effective for new commercial.”

Ms. Holt noted that Rankins created individual peaked roofs on their property – “not doing it would be a mistake because you would continue to allow development that doesn’t look that great.”

Mr. Mitchell noted “It’s a long-range process.”

Ms. Holt further replied “Not having a plan in place, I think, is a mistake.”

Mr. Mitchell advised the Commission “This is for general discussion so I know how to revise the document.”

Mr. Rodeheaver asked “How do we implement that?” Mr. Mitchell replied “It would become part of the zoning ordinance.”

Mr. Rodeheaver asked “What is the cost for a developer to do that?” Mr. Mitchell replied “It could just be landscaping. The cost of putting the façade improvement on it – that’s not really measurable in terms of real expense to the developer.”

Mr. Grant asked “Does this apply to property owned by the town like the school building and the old police station?”

Mr. Mitchell replied “Those buildings are not in the overlay district; it’s just Colonial Avenue and Route 205.”

Mr. Coombes noted he read every word and asked “Would you please have someone go through this and get the language and the repeats and the things that are not applicable out of here and corrected?” Mr. Mitchell replied he would.

Mr. Grant noted “Some of it is underlined and some of it isn’t.” Mr. Mitchell replied “It isn’t, that is in Article 2.”

Mr. Coombes noted under “listing of exterior materials” missing is “vinyl siding, aluminum siding – when you start listing stuff, we get ourselves into trouble.”

Ms. Holt noted that “Additional help is coming in March, so maybe we will see this in April.”

Mr. Mitchell noted “If you have concerns about the general direction – that’s why we’re talking about it. Is it too much? Is it too little?”

Mr. Coombes asked “Why do we need it in the first place?”

Mr. Mitchell noted “The Comprehensive Plan says that you should have it.”

Ms. Holt noted “Maybe a cleaned up copy will be helpful – we’ll look at it in April and make a decision in April.”

All the commissioners agreed.

Item 6: Discussion of Revisions to Articles 1 through 3 of the Zoning Ordinance

Ms. Holt opened discussion.

Mr. Mitchell noted “The underlined sections are new; the strike-throughs were removed. If there is neither, the language already exists” in the zoning ordinance.

In Article 1 discusses the purpose of the zoning ordinance, that it promotes “health, safety and general well-fare.” Number 12 number is added language.

Also included in exemptions, and minimum requirements.

Page 4 discusses general rules of construction and interpretation. Then follows abbreviations, then a severability clause, and delinquent real estate taxes.

Ms. Holt asked for discussion on Article 1.

Ms. Urquhart noted under Section 110, subsection A, number 11 – the definitions – should we include a definition of “jurisdiction” because “jurisdiction is used in another article.

Mr. Mitchell agreed.

Ms. Urquhart asked that “Board of Supervisors” be changed to “Town Council.”

Ms. Urquhart “dba” or diameter at breast height – “dba” usually means doing business as.

Mr. Mitchell noted “In the environmental section of the ordinance, it means diameter at breast height.”

Mr. Grant noted the document talks about railroad tracks and railroad right-of-ways.

Mr. Mitchell noted “Those would be exempt.”

Ms. Holt noted “Railroad tracks, signals, bridges and tunnels – it helps to get a picture of what would be a similar facility.”

Mr. Mitchell said “I’ll make these changes and we can advertise it for next month or we can look at it again before we advertise it.”

Ms. Holt suggested Mr. Mitchell make the proposed changes and advertise a public hearing and vote. Ms. Holt asked for agreement from Commissioners; all agreed.

Ms. Holt asked for discussion on Article 2.

Ms. Urquhart noted that under 2.1, asked that the word “general” be inserted in front of “welfare” and the word “outlined in this section” should be changed to “outlined in this article applicable to all portions of the article.” Under 2.2(A) change the words “Section B below” to “Paragraph B below.”

Ms. Urquhart noted that 2.2(D)5 to 2.2.(D)6(i) on page 2-3, there is a concern that the Zoning Director also acts as the Zoning Administrator and it appears that language needs to be changed.

Mr. Mitchell replied “I wear both hats.”

Ms. Erard noted “It would make sense to tailor the language for who we have.”

Mr. Coombes asked “Can we get a determination to use one title for Gary?”

Mr. Mitchell replied “I’ll change it.”

Mr. Grant asked “Why are we involved in job descriptions?”

Ms. Urquhart continued “The Director may also revoke any zoning approval to terminate the violation” and asked who is giving the power to arbitrarily erase or void a fine or litigation with someone who has been found in violation prior to the zoning approval being terminated.

Mr. Mitchell replied “If someone had a zoning permit and it was issued in error, then you find out there is a violation, then I can revoke their zoning permit the same as a building official can revoke your building permit if you have been deceptive in your application.”

Ms. Urquhart agreed with Mr. Mitchell, but asked that the language be clearer at the bottom of 2-3.

Mr. Coombes asked “Should the director have any power to unilaterally revoke a zoning permit?”

Ms. Holt read “if such violation has not ceased.”

Mr. Coombes again asked “Should he have that power?”

Mr. Grant added “Additionally, we’re getting fined.”

Ms. Erard noted “The court collects the fines.”

Mr. Coombes noted “I don’t think that kind of authority ought to inure to one person, regardless of who it is. To give anyone that kind of unilateral authority – I think it ought to be a higher authority – a collective thing.”

Ms. Holt asked Ms. Erard how that usually operates.

Ms. Erard noted “There usually is a set of procedures.”

Ms. Holt proposed an amendment “The director, within proper procedures...”

Mr. Mitchell said “Not related to that, but in the State Code it talks about if I send a notice of violation and they do not appeal within 30 days to the Board of Zoning Appeals saying that I made an error, then my decision is final and not appealable.”

Mr. Coombes “I think we need to be more specific. There is a process you go through without having one individual making that decision.”

Ms. Erard “I will work with Mr. Mitchell on that before the next meeting.”

Mr. Grant noted the words “town government” are not included with federal, state, and county governments.

Mr. Mitchell said “We can add that.”

Ms. Erard noted “For example, if I request a permit to build a carport and Gary says ‘no,’ then I have the right to appeal that to the BZA. It’s an appeal of a decision and I have a right to a hearing. If he says ‘your use of your property is in violation of the zoning ordinance,’ I can also appeal that to the BZA. One category is zoning enforcement and the appeal of that and one category is the interpretation – an appeal of the zoning opinion.”

Ms. Holt stated she didn’t think taking the matter in front of Town Council to decide is a wise idea because it has to go on their next agenda.”

Ms. Erard suggested, under Remedy, “as may be necessary.” and just delete the rest of it. At the top of the next page, add “The Director may request authority from the Town Council to initiate an injunction, abatement or any other appropriate action to prevent, enjoin, abate or remove any structure abuse in violation of any provision of this ordinance.”

Ms. Erard continued “I cannot file something in court unless I have authority from the Town Council.”

Ms. Holt noted “I believe that could be detrimental to the town, that’s too long of a wait.”

Ms. Erard replied “There are remedies for Chesapeake Bay Act violations. I am familiar with a situation when the zoning administrator issued a stop work order and then we got authority from Town Council quickly to file with the court.” “If there is a criminal violation then Gary could go to the magistrate.”

Ms. Holt noted “If you think it can be done quickly, then I don’t have a problem with it.”

Ms. Erard replied “It would be an emergency meeting of town council.”

Ms. Urquhart then asked when the notices of violation are sent, are they sent to both the owner and the tenant. Mr. Mitchell replied currently they go to both.

Ms. Urquhart then asked, under membership, to change “expired” to “unexpired.”

Mr. Rodeheaver asked that the “Clerk of the Planning Commission” be changed to “Secretary of the Planning Commission.”

Mr. Coombes spoke to Article 2.2(A) which says “The Town Council of Colonial Beach hereby reaffirms the existence of the Department of Planning and Community Development.” “Why in a zoning ordinance do we need that statement?”

Mr. Mitchell said that in 1967 when the first town zoning ordinance was approved, that the town manager was probably designated or his or her designee as the person who carried out the ordinance. This clearly states that we have a Department of Planning and Community Development that carries out the order.

Mr. Coombes stated “I get concerned when staff gives us this kind of stuff. It causes anxiety. We’re being, in a way, almost ‘hoodwinked.’”

Ms. Holt asked Mr. Mitchell if he can leave out the first sentence.

Mr. Mitchell replied “How can it perform when it doesn’t exist.”

Ms. Holt suggested the first sentence be struck.

Ms. Erard suggested she and Mr. Mitchell can go through and provide an updated draft.

Mr. Coombes objected to the language outlining the responsibilities of the Planning Director, saying “I don’t think a job description of any one employee should be in any of our zoning ordinances.”

Mr. Rodeheaver stated “It should only contain those things that have to be done to make it in accordance with state law.”

Ms. Holt asked for discussion on Article 3.

Ms. Holt had one comment under letter (i), page 3-5, “Do we still have a manufactured home park?”

Mr. Mitchell replied “We still have a manufactured home park in town. There are two of them grandfathered in.”

Mr. Coombes commented on 3-5, letter (l), why is “automobile oriented” used.

Mr. Mitchell replied that people drive to shopping centers.

Mr. Coombes asked about “gross square footage” – shall not exceed 50,000 gross square feet, with no single use to exceed 35,000 gross square feet. “What happens if a hotel comes?”

Mr. Mitchell noted the figures come from “our density requirements and from the Chesapeake Bay regulations in terms of the size of the lot and being able to maintain the 36% impermeability ratio.” “I think they should stay, but if you want to amend or change them...”

Ms. Erard noted that the sentence that reads “If the building footprints of the RC District shall not exceed 50,000 gross square feet...” you can change that?

Mr. Mitchell said “Yes. That’s why I asked.”

Mr. Coombes said “It appears to be potentially limiting that area down there in the development of something big.”

Mr. Grant asked why the school system does not have its own district.

Mr. Mitchell noted “They can be within the residential district.”

Mr. Grant noted “We should be concerned about the amount of property that is assigned to the school system because it’s the best property in town.”

Mr. Mitchell advised the Commission could create a Government zoning district comprised of government owned land.

Mr. Grant further noted “We had to do some property adjustments for the school.”

Ms. Holt asked Ms. Erard and Mr. Mitchell to look into that.

Item 7: Adjournment

The meeting was adjourned at 5:45 p.m.

Minutes Prepared by and Respectfully submitted:

Kathleen Flanagan,
Town Clerk
Town of Colonial Beach

Accepted by:

Chairperson, Planning Commission