



PLANNING COMMISSION & TOWN COUNCIL

Joint Work Session
Cape Charles Civic Center
October 24, 2023
6:00 PM

At 6:00 p.m. Vice-Mayor Bennet, having established a quorum, called to order the Work Session of the Town Council. In addition to Vice-Mayor Steve Bennett present were Councilmen Ken Butta, Andy Buchholz, Paul Grossman, and Councilwoman Tammy Holloway. Councilman Follmer was not in attendance. Mayor Adam Charney arrived around 6:24p.m.

In the absence of Chairman Stramm and Vice-Chairman McCoy, Ms. Nunez, having established a quorum, called to order the Work Session of the Planning Commission. Present were Commissioners Bill Ashworth, Paul Grossman, Jim Holloway, Shannon Smith, and Michael Strub.

Staff in attendance were Town Manager John Hozey, Town Clerk Libby Hume, Director of Planning/Zoning Administrator Katie Nunez, Planning Administrative Assistant Maureen Tamares-Meditz. There were no members of the public in attendance.

APPROVAL OF AGENDA

The agenda format was approved by unanimous consent.

ORDER OF BUSINESS

- A. *Continue with the review of all proposed Zoning Ordinance Amendments starting at Article III, Page 64, Section 3.14 General Business/Light Industrial H-1 (GBI-H1).*

Discussion about the review were as follows:

Article III

§3.14 General Business/Light Industrial H1 (GBI-H1)

- Ms. Nunez stated that as she mentioned last meeting she will combine all the industrial Districts into new format and will have it for the next meeting. Mr. Hozey asked if it were Heavy and Light Industrial. Ms. Nunez confirmed yes.

§3.15 Open Space District

- Update Internal Section Reference once the ordinance is finalized.
- Permitted Uses
 - Commissioner Ashworth asked the difference between non-recreational uses and court sports. Mr. Hozey replied one is a field sports (i.e., soccer, football) the other one is a court sport (i.e., volleyball or tennis).
 - (sub-paragraph B) Combine Items 1&3. That would read: Non-commercial recreational uses which could either be court or field sports.

§3.16 Bay Crossing Planned Unit Development (Bay Crossing PUD)

- *Conditional Uses*
 - Commissioner Ashworth asked why in this new section it read: commercial or professional use wherein compared to the one in PUD District on page 58 it read: commercial offices granted one is permitted and one is consistency Conditional. Ms. Nunez replied that when this PUD was created it was specifically put for by the property owner indicating what elements in the other Zoning District he

would like to carry forward, as he applied for the Conditional Use with this District that went to public hearing. Ms. Katie continued to say that she does not want to tamper with the property owner requested PUD that went to public hearing recently so she left exactly how it was adopted by the town. Commissioner Stramm asked if all the languages has to line up. Ms. Nunez replied each is unique to its own property. After much discussion it was decided to leave this section as is.

Article IV

§4.0 Home-Based Occupation

- (sub-paragraph B) Line 5 change small to smell
- (sub-paragraph C) Commissioner Ashworth asked why it should be permissive and not mandatory if the applicant meets all the criteria. He reads: zoning clearance MAY be granted. Ms. Nunez replied she wanted people to come to the Planning Department to obtain zoning clearance and to confirm to make sure that they were complying. After much discussion about this, it was decided to change: zoning clearance MAY be granted to: zoning clearance SHALL be granted. All agreed.

§4.2 Exceptions to the Regulations

- (sub-paragraph E) Item 12 Commissioner Grossman asked why this was dropped. Ms. Nunez replied because RE District was dropped.
- (sub-paragraph F) Projection Allowed in Required Setbacks. "Additional uses may project into setbacks, as interpreted and determined by the Zoning Administrator". After some discussion, the majority agreed to leave this sentence as proposed to provide flexibility to the Zoning Administrator when reviewing site plans and possible encroachments not detailed in the current zoning list.
- (sub-paragraph J) Accessory Dwellings add R3 after R2 for consistency as pointed out by Councilman/Commissioner Grossman.

§4.3 Conditional Use Permits

- (sub-paragraph E) Since one (1) year was changed to six (6) months, the extension should also be changed from one (1) year to six (6) months. As suggested by Vice-mayor Bennett.
 - Councilman/commissioner Grossman pointed out that sub-paragraph E was changed, and it should still be part of sub-paragraph D. Ms. Nunez said she will fix formatting and numbering.
- (sub-paragraph F) should be changed to D as pointed out by Commissioner Holloway. Ms. Nunez said the formatting will be changed accordingly.

§4.4 Landscaping and Screening Regulation

- Exterior Lighting (sub-paragraph E) Item 3 Ms. Nunez said she will have more definition of what a Dark Sky consideration mean within the light consideration. She has a product coming that will be for consideration. It will not be a definition but will be a whole concept.

§4.5 Off Street Parking and Loading Standards

- Councilman/Commissioner Grossman Proposed add Duplex on the R1. Add 1a or 1b.

§4.6 Stormwater Management

- (Sub-paragraph B) delete the first sentence, except as provided in Section 4.7.C, as it does not reference to anything as pointed out by Councilman/Commissioner Grossman).
- Ms. Nunes mentioned that she will be back in this section next year

§4.7 Swimming Pool Regulations

- (sub-paragraph E) Fencing. Ms. Nunez said that she talked with the building official, and he agreed to require a fence thru a zoning ordinance and not just an electric pool covering which is now acceptable standard in lieu of a fence in the Building Code. Bay Creek Homeowners Association and the ARC have agreed they support this zoning change to require a fence. All agreed.

§4.8 Satellite Dish

- Commissioner Smith suggested to change Satellite Dish to Communications Equipment
- (sub-paragraph A) Commissioner Smith suggested to delete: Dish type; it should just read: Satellite or other ground...
- (sub-paragraph A) item 1 Large satellite (should have a size limitation of not more than 2 ft. or 24 inches for large, as suggested by Commissioner smith)
- Mr. Hozey suggested for it to be more technical §4.8 Satellite Dish should read: §4.8 Communication/Data Equipment

§4.9 Demolition Policy Guidelines

- After some discussion and concerns about this it was agreed that the Zoning Administrator and Building Code Official will discuss further and align this section between state codes and Building Code. Ms. Nunez said she will work with Mr. Brady and bring the revision back at the future meeting.

§4.11 Wind Turbines

- Ms. Nunez mentioned the town does not mention telecommunication towers in the ordinance at all. She mentioned that Solar panels are allowed in the Historic District.
- Vice-Mayor Bennett, after discussion on Article 4.14 came back to this. At first the majority wanted to delete this. Ms. Hume stated that in the past when wind turbines was just being popular and there was a concern about micro units being on the roofs and they did not want anyone in the historic district having one of those. Mr. Hozey said that if it will be removed we have to be careful on unintended consequences of allowing it or not regulating it. Ms. Nunez stated that she will verify the Code of Virginia and will get back on this.
- It was suggested that there could be a section about Solar Panels too.

§4.13 Development Standards for Residential Zoning District

- *As Article II will be moved in here Councilman/Commissioner Grossman suggested to add Sidewalks in this section as well.*

§4.14 Development/Redevelopment Standards for Commercial Districts

- *Mr. Hozey suggested to put a placeholder in here so when embark The Harbor Master Plan is out in place we will know what can be put it here and amend it again.*
- *Harbor District does not have a standard for now so the Town really need to have a Harbor master Plan*

ADA COMPLIANCE: MS. Nunez will bring something back

ARTICLE VI. Floodplain Ordinance

§3.1 Description of Special Flood hazard District

- (sub-paragraph A) Item 3 Ms. Nunez explained why they added the base level plus eighteen (18) inches for any new construction.
- (sub-paragraph A) Item 4 "if no flood depth number is specified, the lowest floor including basement, shall be elevated no less than two feet above the highest adjacent grade". Vice-

Mayor Bennett asked if the word “basement” could be taken out. Ms. Nunez replied she will check and concur with Mr. Brady the Floodplain Administrator.

§4.3 Elevation and Construction Standards

- Ms. Nunez read and explained the reason for adding additional languages here. She also mentioned that this would apply only to new constructions.
- (sub-paragraph D) Accessory Structures. Ms. Nunez said that none at the Town of Cape Charles is in the FEMA map zone, but he said that, when the FEMA Map changes, this ordinance will be prepared for that. Only for new construction. Mayor Charney suggested and agreed to what Councilman Butta pointed earlier to add 18 inches as well to all electrical, heating and ventilation. All agreed.

§7 Glossary

- (Sub-paragraph MM) Substantial damage. Added second sentence “It also means flood-related damages sustained by a structure on two occasions in a 10-year period, in which cost of repair, on the average, equals or exceeds 25 percent of the market value of the structure at the time of each flood event”. All agreed.

ARTICLE IX Historic Harbor Area Overlay District

- Councilman/Commissioner Grosman asked about the significance of Historic Harbor Overlay. After some discussion it was suggested to delete the word Historic. All agreed.

Appendix A: Subdivision Ordinance

- §3.4 Additional authority. Ms. Nunez discussed this and mentioned that this is used especially in the Bay Creek Area.

Appendix F

- §1.3 will update the reference and come back to the board after VA Department of Forestry does an initial review of our current ordinance.

The evening’s review stopped at Appendix F, page 13. Next discussion would start with definitions.

Ms. Nunez requested to hold off the next Zoning Ordinance Joint Work Session to allow for the next Joint Work Session to be devoted to discussion of the work proposal on Short Term Rentals.

Motion made by Councilman Grossman, seconded by Councilman Butta, to adjourn the Town Council Work Session. The motion was approved by unanimous vote.

Motion made by Commissioner Grossman, seconded by Commissioner John Holloway, to adjourn the Planning Commission Work Session. The motion was approved by unanimous vote.

The joint work session was adjourned at 8:03 p.m.

Vice-Mayor Bennett

Katie Nunez

Planning & Zoning Administrative Assistant