

PLANNING COMMISSION MEETING

A G E N D A

TOWN OF CHINCOTEAGUE

MAY 26, 2009 - 7:00 P.M. – Council Chambers - Town Hall

CALL TO ORDER

INVOCATION

PLEDGE OF ALLEGIANCE

PUBLIC PARTICIPATION

AGENDA ADDITIONS/DELETIONS AND ADOPTION:

1. Possible Adoption of the March 24, 2009 Minutes
2. Fence Ordinance- Public Hearing
3. Arts & Cultural District
4. Wind Energy Systems
5. Maddox Corridor Planning
6. Updates/New Items
 - CPEAV Eastern Shore meeting?
 - BZA- May Meeting
7. Commission Members Announcements or Comments
(Note: Roberts Rules do not allow for discussion under comment period)

ADJOURN:

Town of Chincoteague Planning Commission Meeting

March 24, 2009

Minutes

Commissioners Present:

Mr. Ray Rosenberger, Chairman
Mr. John N. Jester, Vice-Mayor
Mrs. Mollie Cherrix
Mr. Robert Behr, Vice-Chairman

Mr. Gene W. Taylor
Mr. Tripp Muth

Commissioners Not Present:

Mr. Steve Katsetos

Staff Present:

Jared Anderson, Town Planner

Call to Order

Chairman Rosenberger called the meeting to order at 7:00 p.m.

Invocation followed by the Pledge of Allegiance- Chairman Rosenberger

Public Participation - NONE

Adoption of Agenda

There was a motion by Mr. Behr, seconded by Mr. Muth **“to adopt the proposed agenda.”**
Unanimously approved.

1. Adoption of the February 24, 2009 Minutes

There was a motion by Vice-Mayor Jester, seconded by Mrs. Cherrix **“to approve the February 24, 2009 minutes, as presented.”** Unanimously approved.

2. Fence Ordinance

Mr. Anderson indicated that the language is in ordinance form, and because the fence ordinance is identical in all zoning districts the language in the memorandum is a reflection of the fence section of each zoning district. Because this is a fence ordinance Mr. Anderson would prefer to keep the language regarding the barn/stable as simple as possible so as not to lose the integrity of the fence ordinance.

There was a motion by Vice-Mayor Jester, seconded by Mr. Muth **“to recommend this language for public hearing.”** Unanimously approved.

3. Affordable Housing

Mr. Anderson began by directing the commissioners to the enabling legislation in the state code for affordable housing. The key for affordable housing is that there is a control measure to keep it as either an affordable rental or an affordable mortgage for a period of no less than 15 years. This would close the loophole of buying the unit below market and selling it for market or above market prices and thus rendering the unit “unaffordable.”

Chairman Rosenberger suggested that a subcommittee could be formed to address this issue. Vice-Mayor Jester indicated that it was important that the Town answer the questions of “Who are the people that will benefit? and is there a market for affordable housing?”

Mrs. Cherrix indicated that the zoning ordinance would have to be amended to accommodate what is being discussed. She reviewed an article that discussed a mixed income development and people were not able to tell which units were affordable and which units were market rate units.

Mr. Anderson indicated that in many larger communities the municipalities are requiring that a portion of a given development be affordable (inclusionary zoning), he suggested that we do not require developers to build affordable housing, however, having it as a viable option with density bonuses in specific zoning districts could give some working families adequate housing they might not otherwise be able to find on the island.

In many parts of the downtown area lots are 2,000-5,000 square feet, which makes them non-conforming. 4,000 square feet is enough space to put a Katrina Style cottage.

Vice-Mayor Jester indicated that a good next step could be an informational briefing to Council from the Planning Commission on what has already been discussed. The Commission asked Mr. Anderson to make that presentation to Mayor and Council. The Town could explore public sentiment with an article in the paper, or through the quarterly newsletter.

4. Maddox Corridor Planning

Mr. Anderson began by asking each commissioner what was the first word they thought of when they heard someone say “Maddox Boulevard?” The responses included: Unorganized, Tourism, Traffic, Main Drag, Future, Gateway.

The next question was “does everyone agree with how the consultants delineated the commercial corridor land use area?” One response was that it should be one lot removed from Maddox Boulevard, except that it should continue on Deep Hole Road to Taylor Street.

“Do you think that the traffic will increase once the new bridge is completed?” There was a consensus of the Planning Commission that traffic will invariably increase. Traffic on Chicken City will also increase once the new bridge is completed.

“Once the new bridge is completed should there still be on-street parking on Maddox Boulevard?” There was some discussion about making Maddox Boulevard one-way, however that will not become a viable option until off-street parking solutions are established. Another suggestion was to extend the yellow no-parking stripes on the curb farther up Maddox Boulevard towards Chicken City Road. If the Town is going to purchase land for off-street parking the time to do it is now, because land prices are

very low. The basic idea from the commissioners is that until there is established off-street parking, on-street parking should be allowed so that businesses do not lose their business.

“What do we envision the look of Maddox Boulevard to be?” The general style especially near the intersection of Main and Maddox is the small island-style cottage.

The commission reviewed that map that showed the vacant lots on Maddox Boulevard, they noted the relatively low number of vacant lots on Maddox Boulevard.

Mr. Behr indicated that there are Historic Main Street Merchants, however, there is no consortium of business/property owners for Maddox Boulevard. It might be advantageous if we get the collective input from these merchants along Maddox Boulevard.

5. Updates

- a) CPEAV Training on the Eastern Shore- Mr. Anderson indicated that he spoke with Mr. Mike Chandler and he is amenable to holding a training session on the Eastern Shore as long there are 25-30 participants. Most of the commissioners indicated a desire to attend the training. Mr. Anderson will talk to the County Planning Directors to see if they have any commissioners interested/ in need of training.
- b) No BZA in April
- c) Wind Energy Generators- Mr. Anderson has completed a DRAFT wind energy guideline that goes over net metering, a vendors guide, and a step by step process of how someone could purchase a windmill. Vice-Mayor Jester indicated that we should look at the ordinance enacted by Ocean City and see if we can get a copy of the ordinance. Mr. Anderson will bring it back in ordinance form for siting issues.
- d) Arts & Cultural District- Mr. Anderson indicated that Mr. Behr with former Senator Nick Rerras established an Arts & Cultural District on Chincoteague. The Town has yet to act on establishing where and what incentives should be established for the district. Mr. Anderson asked if this could be an agenda item next month, there was no opposition to this sentiment.

6. Commission Members Announcements or Comments

- Chairman Rosenberger would like complement Vice-Mayor Jester for coordinating the Oral History of the 1962 “Ash Wednesday” storm which was held at the Chincoteague National Wildlife Refuge, it was highly attended by citizens throughout the community.

Vice-Mayor Jester motioned, seconded by Mr. Behr **“to adjourn the meeting at 8:16 PM.”** The motion was unanimously approved.

Minutes Approved

Mr. Raymond R. Rosenberger Sr., Chairman

MEMORANDUM

To: Planning Commission
From: Jared Anderson, Town Planner
Date: May 19, 2009
Subject: Fencing for Horses- Razor Wire, Barbed Wire, Electric Fencing

Below are the recommendations to the following sections: 3.1.5, 3.4.7, 3.7.16, 3.10.21, 4.1.27, 4.4.39. This issue has been properly advertised.

- (1) All fences located from a point even with the front, for commercial uses, [or] rear, for residential uses, of the main structure extending to the front lot line shall have a maximum height of four feet and shall be at least 30 percent open space when viewed at any point perpendicular (90° angle) to the fence line, regardless of construction materials. Any fence on the remainder of the property shall have a maximum height of six feet and may be of solid construction. Open decks and open porches are exempted from being considered the rear of the main structure for residential uses. A fence previously in compliance with this section may remain in place if a new addition is constructed to the existing residential main structure.
- (2) As to any lot on which there is no existing main structure, all fences shall have a maximum height of four-feet and shall be at least 30 percent open space, when viewed at any point perpendicular (90° angle) to the fence line, except for a fence erected or constructed along the rear lot line which may have a maximum height of six feet and may be of solid construction.

If said lot is going to be used for the keeping of horses or ponies a fence placed on such lot shall be no more than five feet in height and shall be at least 30 percent open space, when viewed at any point perpendicular to the fence line. Within said lot the sight distance triangle (See Section 58-107, Town Code) must be free from obstructions including any fencing. If a main structure, excluding barns or stables that are no more than one and a half stories in height and no larger than 500 square feet, is ever built on such lot with this type fencing, the fencing will need to be removed or made in compliance with Section ____ (1).

- (3) Containment fences of solid construction may be erected to enclose fuel storage tanks, dumpsters and aboveground sewage disposal systems. Such containment fences shall not extend more than three feet beyond the perimeter of that to be enclosed. The containment fence shall not extend more than one foot above that to be enclosed and shall not exceed a maximum height of eight feet. Such containment fences shall not be placed closer than five feet from any side or rear lot line and shall not be placed closer than five feet from the front lot line.
- (4) **Razor Wire- Shall be prohibited in the Town of Chincoteague, except at government installations.**
- (5) **Barbed Wire- It shall be unlawful for any person to erect, or have, along any street, lane, road, or any other right-of-way or easement, a barbed-wire fence. A Barbed wire fence may not be placed within ten feet of any property line.**
- (6) **Electrified Fence- Shall only be permitted for the containment of Equidae (horses, ponies, etc.). Such fence shall emit an intermittent electric shock. All electric fences shall be surrounded by a non-electrified, non-barbed wire outer fence subject to the requirements of Section _____ (1) and (2). The distance between these two fences shall be no less than three feet.**

****Editorial Note-Should we include a clause exempting invisible fencing or similar that is subterranean and is only harmful if used with a shock collar.***

MEMORANDUM

To: Planning Commission
From: Jared B. Anderson
Date: May 14, 2009
Subject: Arts & Cultural District

As most of us probably know the Town of Chincoteague was authorized by the General Assembly to establish an Arts & Cultural District. The following language is taken directly from the state code in regards to an Arts & Cultural District:

§ 15.2-1129.1. Creation of arts and cultural district.

*A. The Cities of Alexandria, Charlottesville, Falls Church, Harrisonburg, Manassas, Petersburg, and Winchester and the Towns of Blacksburg and **Chincoteague** may by ordinance establish within their boundaries an arts and cultural district for the purpose of increasing awareness and support for the arts and culture in the locality. Each locality may provide incentives for the support and creation of arts and cultural venues in the district. Each locality may also grant tax incentives and provide certain regulatory flexibility in an arts and cultural district.*

B. The tax incentives may be provided for up to 10 years and may include, but not be limited to: (i) reduction of permit fees; (ii) reduction of user fees; and (iii) reduction of any type of gross receipts tax. The extent and duration of such incentive proposals shall conform to the requirements of the Constitutions of Virginia and of the United States.

C. Each locality may also provide for regulatory flexibility in such zone which may include, but not be limited to: (i) special zoning for the district; (ii) permit process reform; (iii) exemption from ordinances; and (iv) any other incentive adopted by ordinance, which shall be binding upon the locality for a period of up to 10 years.

As of 2008 only the City of Harrisonburg has progressed to the point where they have established where their district is and what incentives should be allowed in the district.

The Town of Chincoteague has had the authority to establish an Art & Cultural District (ACD) since 2006, and to my knowledge we have neither designated where the district is or what are the incentives within the district. Although there is not much literature on ACDs in the Commonwealth, the City of Alexandria completed a Memorandum (please see attached) that discusses the costs and benefits of implementing an ACD. This is well written and can be a very useful guide for us.

Since we are basically starting at scratch, we first need to decide if it is appropriate to establish an ACD on the island at this time.

Secondly, and if we (the Town, the Chincoteague Cultural Alliance, and other interested parties) decide that it is a good idea to establish an ACD we need to establish some basic goals and objectives which would help answer “why we wanted to establish an ACD, how will we help artists, where is the district, what are our definitions of art, artist, etc.”

Next we need to try to delineate where the district would be. The ACD would be an overlay district which means that it would have its own regulations, however it may be situated so that it encompasses multiple zoning districts. Under these conditions the overlay district regulations would supersede the regular zoning district regulations that are in direct conflict.

According to the State Code of Virginia we may “provide for regulatory flexibility” which could include several different types of incentives for artists. We need to address what, if any ‘regulatory flexibility’ we are going to allow in the ACD. Some recommendations include:

- A property tax credit for upgraded properties within the district
- Reduction in sales tax or sales tax exemption
- Exemption from business license fee (for x number of years)
- Modified Zoning (residential over business in this district by right)
- Spearhead a promotional campaign for the district through brochures, and websites.

Attached is the City of Alexandria Memorandum that discusses the Costs and Benefits of Arts and Cultural Districts. To get an idea of what we could or could not do I would highly recommend reading this attached memorandum.

Questions for the Planning Commission

Definition for art and artist?

Where do we want to incentivize arts and cultural related activities?

What type of incentives do we want to provide?

MEMORANDUM

To: Planning Commission
From: Jared B. Anderson
Date: May 8, 2009
Subject: Wind Energy Systems

The Planning Commission has discussed on several occasions wind energy systems (i.e. windmills, or wind turbines) especially those residential in nature. Currently all the districts allow 'power generating windmills' only by special exception through the BZA. In the past couple of meetings we have discussed how wind energy systems should be permitted, how to site them, how tall they should be, the insurance required, and many other issues. Our current zoning ordinance is very vague in regards to 'power generating windmills,' there is not even a definition for this use type. After talking to ANEC's alternative power liaison Mr. Tom Larson about net-metering, it seems as though most of the federal (e.g. FAA) and state (State Code) mandates are in place to allow for wind energy systems. Basically it is up to the local governments to place wind energy systems in the zoning ordinance for height regulations, setbacks, decibel levels, etc.

The attached document is based off of two ordinances, the "Draft Model Small Wind Ordinance for Maryland," and the Rockingham County, VA, Wind Energy System ordinance (adopted). I have followed more closely the Rockingham County ordinance because it follows the State Code of Virginia. Rockingham County have "wind energy systems" listed as a special use, which for them means review by the County Board of Supervisors, a process which would be similar to the Town of Chincoteague's conditional use process.

Because of the nature of wind energy systems and the perceived externalities, it would be prudent for there to be a review process where concerned citizens can voice their concerns. Another reason why it would be reasonable to have a review process is that not all properties will be suitable for a wind energy system and there are many variables to consider besides lot size and zoning district. I recommend allowing wind energy systems as a conditional use. However, I would make a special notation that the \$1,500 fee be reduced significantly.

Please review the attached ordinance.

Zoning Ordinance

Article VI

Section F. Wind Energy Systems

6.9 The purpose of the article is to regulate the placement, construction, and modification of small wind energy systems while promoting the safe, effective, and efficient use of small wind energy systems.

Section 6.9.1 Applicability

The requirements set forth in this section shall govern the siting of small wind energy systems used to generate electricity or perform work which may be connected to the utility grid pursuant to the Virginia's net metering laws, serve as an independent source of energy, or serve in a hybrid system.

Section 6.9.2 Siting Requirements

The requirements for siting and construction of all small wind energy systems regulated by this section shall include the following:

- 1) Small wind energy towers shall maintain a galvanized steel finish, unless FAA standards require otherwise, or if the owner is attempting to conform the tower to the surrounding environment and architecture, in which case it may be painted to reduce visual obtrusiveness. A photo simulation may be required at the request of the Mayor and Council.
- 2) Small wind energy systems shall not be artificially lighted unless required by the Federal Aviation Administration (FAA) or appropriate authority.
- 3) No tower should have any sign, writing, or picture that may be construed as advertising by the building and zoning administrator or their designee.
- 4) A Small wind energy system shall be located on a parcel that, at minimum is ½ acre in size.
- 5) The applicant shall provide evidence that the proposed height of the small wind energy system tower does not exceed the height recommended by the manufacturer or distributor of the system.
- 6) The applicant shall provide evidence that the provider of electric utility service to the site has been informed of the applicant's intent to install an interconnected customer-owned electricity generator, unless the applicant intends, and so states on the application, that the system will not be connected to the electricity grid. This notification will take place by having the electric utility provider sign the conditional use permit application. This signature does not construe approval for net metering by the electric utility.
- 7) Small wind energy systems shall not exceed sixty (60) decibels, as measured at the closest property line. The level, however, may be exceeded during short-term events such as utility outages and/or severe windstorms.

- 8) The applicant will provide information demonstrating that the system will be used primarily to reduce on-site consumption of electricity.
- 9) The tower height shall not exceed a maximum height of seventy (70) feet on a parcel.
- 10) The minimum distance between the ground and any protruding blade utilized on a small wind energy system shall be fifteen (15) feet, as measured at the lowest point of the arc of the blades. The lowest point of the arc of the blades shall also be ten feet above the height of any structure within seventy-five (75) feet of the base. The supporting tower shall also be enclosed with a six-foot tall fence or the base of the tower shall not be climbable for a distance of ten (10) feet.
- 11) The applicant will provide proof of adequate liability insurance for a small wind energy system. Whether or not the applicant is participating in the net metering program, the applicant will be required to meet the insurance coverage requirements as set forth in 20 VAC 5-315-60.
- 12) The small wind energy system generators and alternators should be constructed so as to prevent the emission of radio and television signals and shall comply with the provisions of Section 47 of the Federal Code of Regulations, Part 15 and subsequent revisions governing said emissions.

Section 6.9.4 Review process

The property owner will adhere to the conditional use permitting process as provided by Article IX of the Town of Chincoteague's Zoning ordinance.

Section 6.9.5 Federal and state requirements

- 1) Compliance with the Uniform Statewide Building Code: Building permit applications for wind energy systems shall be accompanied by standard drawings of the wind turbine structure, including tower, base, and footings, An engineering analysis of the tower showing compliance with the Uniform Statewide Building Code and certified by a licensed professional engineer shall also be submitted.
- 2) Compliance with FAA Regulations: Wind energy systems must comply with applicable FAA regulations including any necessary approvals for installations close to airports.
- 3) Compliance with National Electric Code: Building permit applications for wind energy systems shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code.
- 4) Compliance with regulations governing energy net metering: Wind energy systems connected to the utility grid must comply with the Virginia Administrative Code 20 VAC 5-315: Regulations Governing Energy Net Metering.

Section 6.9.6 Setbacks

The wind energy system shall be set back a distance at least equal to one hundred ten (110) percent of the height of the tower plus the blade length from all adjacent property lines and a distance equal at least to one hundred fifty (150) percent of the tower height plus blade length from any dwelling

inhabited by humans on neighboring property. These setbacks may be reduced by notarized consent of the owner of the property on which the requested wind energy system is to be erected and the adjacent landowner whose property line or dwelling falls within the specified distance. Additionally such adjacent landowner must execute a deed of easement for the benefit of the property on which the wind energy system is to be erected prohibiting construction of any new structure on such adjacent property within the specified easement. Wind energy systems shall meet all setback requirements for primary structures for the zoning district in which the wind energy system is located in addition to the requirements set forth above. Additionally no portion of the small wind energy system, including guy wire anchors may be extended closer than ten (10) feet to the property line.

Section 6.9.6 Removal of defective or abandoned wind energy systems

Any wind energy system found to be unsafe by the building official shall be repaired by the owner to meet federal, state and local safety standards or removed within six (6) months. Any wind energy system that is not operated for a continuous period of twenty-four (24) months shall be considered abandoned and the owner of the system shall remove the turbine within ninety (90) days of receipt of notice from the town instructing the owner to remove the abandoned wind energy system.

MEMORANDUM

To: Planning Commission
From: Jared Anderson, Town Planner
Date: May 20, 2009
Subject: Maddox Corridor Planning

Results of our discussion from March's Meeting:

Words that come to mind when thinking of "Maddox Corridor:"

- Unorganized
- Traffic
- Gateway
- Future
- Tourism
- Main Drag

After hearing what everyone thought of Maddox Corridor the one word that I would use to describe the area is "important." There is no getting around the fact that Maddox Boulevard is and will continue to be a vital element of our island. The reorientation of the bridge will only increase the visibility and traffic within the corridor.

Although there was a general consensus from the Planning Commission that traffic will increase, there is no way to be sure by how much or how the flow will change once the new bridge comes in.

In regards to the off-street parking options, Council is looking at different options at this time. It was agreed by the Planning Commission that no recommendation for the elimination of on-street parking be made until adequate off-street parking has been established, and only then should we entertain the possibility of prohibiting on-street parking..

Another idea that was discussed was the possible formation of a Maddox Corridor Organization. The organization would ideally be made up of property owners, business owners, and other stakeholders whose interests lie in the well-being of Maddox Boulevard and the surrounding areas. The formation of such a group would not only be advantageous for planning purposes but it could in the future function much like the Historic Main Street Merchants.

Corridor Planning is becoming more commonplace in the planning community because it is a comprehensive way of planning for an area that is built or being built around transportation nodes. Ideally we would look at multi-modal transportation facilities, (i.e. bicycle, pedestrian, scooters, automobile, etc.) potential economic development opportunities, and grant opportunities such as Safe Routes to School infrastructure grants, TEA-21, Enterprise Zone/ Empowerment Communities incentives, etc. If a general consensus can be made, architectural guidelines or standards could be developed so new or substantially improved structures will fit into the existing area.

Things to think about:

- Should the Town promote the formation of a Maddox Boulevard organization that would be counted on as being representatives of the entire corridor?
- How do we propose accommodating bicycles, especially if we have increased traffic and on-street parking?
- With the help of business/property owners do we start to devise architectural guidelines, or architectural standards?