

# PLANNING COMMISSION MEETING

## A G E N D A

TOWN OF CHINCOTEAGUE, VIRGINIA

May 11, 2010 - 7:00 P.M. – Council Chambers - Town Hall

CALL TO ORDER

INVOCATION

PLEDGE OF ALLEGIANCE

PUBLIC PARTICIPATION

AGENDA REVIEW/DISCLOSURES:

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1. Approval of April 13, 2010 minutes
2. Old Business
  - Home Occupation Regulations/Signs
  - Work Plan – Zoning Ordinance (Historic Downtown)
3. New Business
4. Commission Members Announcements or Comments  
*(Note: Roberts Rules do not allow for discussion under comment period)*

ADJOURN

**PLANNING COMMISSION MEETING  
13 APRIL 2010  
MINUTES**

Members Present:  
Mr. Ray Rosenberger, Chairman  
Vice Mayor John Jester  
Mr. Tripp Muth  
Mr. Gene Taylor  
Mr. Steve Katsetos  
Mrs. Mollie Cherrix  
Mr. Jeff Potts

Members Absent:  
none

William Neville, Planning Director

CALL TO ORDER – Chairman Rosenberger called the meeting to order at 7:05 pm and established a quorum.

INVOCATION AND PLEDGE OF ALLEGIANCE – Chairman Rosenberger led the invocation followed by the Pledge of Allegiance.

PUBLIC COMMENT

One member of the public wished to speak about the Home Occupation regulations and waited until the agenda item came up for consideration. There were no other members of the public who wished to address the Planning Commission.

AGENDA REVIEW/DISCLOSURES

Chairman Rosenberger requested if there were any requested changes to the Agenda or any disclosures. There were none.

Mr. Katsetos motioned, seconded by Ms. Cherrix to adopt the agenda. The motion was unanimously approved.

1. Approval of March 9, 2010 minutes

The minutes as submitted were reviewed and no changes were requested. Vice Mayor Jester moved to approve the minutes of the last meeting, seconded by Mr. Katsetos. The motion was unanimously approved.

2. Old Business

- a) Home Occupation Regulations/Signs  
Chairman Rosenberger opened the review of this item with an opportunity for public comment.

Mr. John Roland, a resident of 6842 Mumford Street, stated that he strongly supports the intent of the regulations to protect the residential character of the community and does not wish for Chincoteague to become like Ocean City. He commented on the proposed changes to the signage requirements and restrictions would affect his visibility to market a business located ½ a block off of Main Street. In favor maintaining the signage standards as they are now that permit multiple signs. Question about limitation of 16 square feet of display, does it include 'through the window display'? A clarification was requested regarding the number of employees permitted per shift or total for business. A retail shop/ convenience store is proposed.

Chairman Rosenberger responded to each item and requested information about adequate parking.

Mr. Muth confirmed with Mr. Rowland that he did not want the 'Ocean City' look and yet wanted more signage.

Vice Mayor Jester expressed his concern for allowing multiple signs in a residential neighborhood. Mr. Rowland responded that he was located in a business district and would like to display flags to attract attention. Chairman Rosenberger noted that at some point the combination of signs, flags and sandwich boards can become excessive.

It was agreed that the proposed ordinance standards will primarily address standards for residential districts.

Mr. Neville summarized the revisions proposed in Alternates A and B for consideration by the Commission. The proposed use list was expanded for Alternate A to include a category for Artist, Sculptor, Crafter that will permit decoy carvers specifically. Proposed revisions to sections of the Sign Ordinance were also added. For Alternate B the standard elements of a Home Occupation Ordinance are simplified and elimination of 'limited' home occupations is proposed for easy administration. Paragraph #6 would add separate standards by zoning district to further restrict uses in the R-1 or R-2 residential neighborhoods.

Chairman Rosenberger asked for clarification of the limits on 16 square feet of display and whether that would include interior space in the dwelling. Mr. Neville indicated that if it was visible from the street or adjacent property the restriction would control whether inside or outside of the structure.

Vice Mayor Jester stated his agreement that to simplify things is good, for example limited home occupations (grass cutting or writer business

example) that do not need extra parking spaces because there are no public visits to the house should have limited regulations.

Chairman Rosenberger discussed the terms 'shall' and 'may' to make regulations clear and defensible and not over simplify so that it is too discretionary. Some level of regulation is necessary for determination of potential impacts on neighbors in the area.

Mr. Potts stated that standards for only limited home occupations would apply to the residential neighborhoods and many subdivisions have covenants that control business use already.

Mr. Muth questioned which standards other than parking should be regulated for limited home occupations.

Mr. Neville identified Reed Signs as a good example of home occupation in a residential district that is in balance with the surrounding neighbors. The standard for 25% maximum floor area was reviewed along with grandfathering of existing uses and approval of conditional use permit.

Mr. Potts noted that all zoning districts allow for single family homes and that home occupation uses should be restricted from townhomes or multi-family due to the potential for disturbance to directly adjoining dwelling units.

Mrs. Cherrix agreed that home occupations should only be allowed in single family homes. Discussion indicated that only very 'limited' home occupations may be acceptable for attached dwellings, or should be made the 'exception'.

Mr. Neville presented a draft 'Home Occupation Permit' application and described the documentation of each business through a zoning permit process rather than the current practice of only requiring a business license. This would create a baseline and tracking system that could allow for a administration of different standards for home occupations and limited home occupations.

Mr. Potts pointed out the need to better define how the square foot calculation of the dwelling would be made and whether it would include attics, garages, porches or other accessory structures.

Mr. Neville finished up with an explanation of the permitted and excluded use lists. Sign ordinance modifications under Alternative B would allow for one sign not to exceed 8 square feet that could be any type permitted. There was a general discussion regarding one sign only, information on sign limited to business or owners name, size of sign at 8 square feet and

16 square feet, need to locate a home occupation business versus need to advertise for a retail business.

Mr. Muth summarized the conversation to state that a home occupation is the secondary use of the structure and should not overtake the primary residential use. Others agreed that in their neighborhoods existing home occupations do not typically need any signage. Sign standards must be clear (will an 'Open' flag also be allowed with a home occupation sign?). Rental home use was held up as an example of sign control limited to one sign (2'x2' max) per home.

Mr. Taylor moved to permit one sign not to exceed 16 square feet in the R-2 and R-3 districts, seconded by Mr. Katsetos. Following discussion it was agreed that there should be one standard for R-1 and R-2 (8 sf) and another for R-3 (16 sf). An informal vote was taken to revise the draft regulations accordingly which passed unanimously.

Additional discussion confirmed that there should only be one sign that may be any of the permitted sign types. The sign ordinance should be revised to control the excessive use of non-regulated signs as a means of commercial advertising within the constraints of Virginia legal limits.

Mr. Neville requested if there was a general consensus to go with Alternative A or B. Vice Mayor Jester liked the idea of a simplified ordinance that also still included a separate set of standards for limited uses. The shortened use list was preferred since it was difficult to list every potential use separately. The zoning permit application should track whether the use is limited or regular home occupation.

Mr. Taylor questioned whether the zoning permit and 'grandfathered' use would continue if the business changed without any change in the percentage of dwelling used. Examples were debated with the conclusion that any significant change or increase of use may require a re-application for zoning permit.

### 3. New Business

#### a) Work Plan – Zoning Ordinance (Historic Downtown)

The staff report was presented with a brief review of the C-2 district 'redline' revisions, maps to illustrate the planned re-mapping of 3 zoning districts to 7 districts, and a strategy to involve the community over the next year. Sample design guidelines were included to illustrate an approach that builds on a design awards program to recognize local examples of building, renovation and re-use. A voluntary set of guidelines would be prepared based on these models.

Chairman Rosenberger asked the Commission about extending the historic downtown district to include the area surrounding Maddox Blvd and Main Street at the new bridge. It was confirmed that this area should be linked to decisions about the Maddox Boulevard corridor and that the Historic Downtown should maintain a unique set of standards. The strategy for Planning Commission work on the revised districts will be to focus on all the districts associated with the Downtown Main Street area as a unit.

Mr. Potts noted that the consideration of residential use above commercial will have to address the unique limitations of Chincoteague in terms of available septic system capacity and parking. Planning for the future may allow for the assumption that public sewer service would be available at some point.

b) Virginia Certified Planning Commissioner Program Questionnaire

Chairman Rosenberger reviewed a questionnaire that he would like each Commissioner to complete and return to him.

c) By-laws and Election of Officers

Chairman Rosenberger stated that the Town Council has approved the By-laws of the Planning Commission which opens the way for election of officers with all members in attendance. Nominations were requested for Chairman and Vice Chairman. It was noted that the Town Planner serves as Secretary of the Planning Commission.

Mrs. Cherrix moved to nominate Ray Rosenberger as Chairman, seconded by Mr. Muth. The motion was unanimously approved.

Mr. Taylor moved to nominate Mollie Cherrix as Vice Chairperson, seconded by Mr. Muth. The motion was unanimously approved.

4. Commission Member Announcements or Comments

There were no additional comments.

ADJOURN

Mr. Taylor moved to adjourn the meeting, seconded by Mr. Potts. The motion was unanimously approved.

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Ray Rosenberger, Chairman



## STAFF REPORT

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To: Chairman Ray Rosenberger and Planning Commissioners

From: Bill Neville, Director of Planning

Date: April 9, 2010 (Revised 4.13.10)(**Revised 5.5.10**)

Subject: Draft Home Occupation Regulations

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Revised composite based on Planning Commission direction on 4.13.10 and preliminary review by the Zoning Administrator on 5.5.10

# Home Occupation Standards

May 2010 Draft

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## Zoning Ordinance

### Article II

#### Definitions

(Revised through May 11, 2010)

**Sec. 2.79. Home occupation.**

An occupation, profession, enterprise, or business activity conducted within a dwelling, or accessory structure, by a member of the household who occupies the dwelling. Such occupation must be clearly incidental and subordinate to the use of the dwelling as a residence, and must meet all of the minimum land use criteria for **home occupations**. (See Article VI, section C for parking regulations, section G for land use criteria, and Article VII Section 7.3 Signs)

**Sec. 2.88. Limited home occupation.**

An occupation, profession, enterprise, or business activity conducted within a dwelling, or accessory structure, by a member of the household who occupies the dwelling. Such occupation must be clearly incidental and subordinate to the use of the dwelling as a residence, and must meet all of the minimum land use criteria for **limited home occupations**. (See Article VI, section C for parking regulations, section G for land use criteria, and Article VII Section 7.3 Signs)

## Article III

### Residential Districts

**Sec. 3.4. Uses permitted by right.**

The following uses shall be permitted in residential district R-2 subject to all other provisions of this ordinance:

- 3.4.1. Single-family dwelling.
- 3.4.2. Two-family dwelling.
- 3.4.3. Limited Home occupation.**
- 3.4.4. Tourist rental homes.
- 3.4.5. Tourist homes.
- 3.4.6. Accessory building/structure.

# Article VI

## Home Occupation Use

### Section G. Home Occupations and Limited Home Occupations

#### Sec. 6.10 Statement of Intent

In order to preserve and protect the primarily residential character of Chincoteague Island neighborhoods, and to accommodate the economic self-sufficiency of all citizens, limited commercial uses will be allowed within residential dwellings as permitted in this section.

The purpose of the provisions of this ordinance is to allow for home occupations that are compatible with the neighborhood in which they are located, and to implement standards for limited commercial uses that are located within specific zoning districts.

#### Sec. 6.10.1 Permit procedures for **all** Home Occupations.

- a) Home Occupations complying with all of the minimum land use criteria, and approved by the Zoning Administrator, shall be permitted by right. A zoning permit, in conformance with Section 6.1, is required for such uses upon application and with evidence of payment of the appropriate business license.
- b) Home Occupations that do not meet all of the land use criteria shall be permitted only after approval of a conditional use by the Mayor and Town Council.
- c) Existing Home Occupations are granted a zoning permit under the conditions of their use at the time this ordinance is adopted or their business license is obtained. Change of use will require application for a new zoning permit concurrently with a new business license.
- d) Permits for home occupation use shall only be issued for single family dwellings only (two-family, townhouse, and multifamily dwellings are excluded)\*\*
- e) Applicant shall certify that the proposed use is not in violation of restrictive covenants or private road agreements. Land owner permission is required if the property is rented or leased.

#### Sec. 6.10.2 Land Use Criteria

- (a) **Limited home occupations** must be a permitted use as defined by this section and the zoning district standards, and must meet all of the following criteria:

1. The home occupation shall be clearly incidental and subordinate to the primary use of the dwelling as a residence; not more than 25 percent of the **total** gross floor area of the dwelling shall be used in conjunction with the home occupation or combination of home occupations. **Use of accessory structures is prohibited.**
2. Not more than one person, other than members of the family residing in the dwelling, shall be employed in the conduct of the home occupation.
3. There shall be no exterior evidence of the home occupation visible from the street or adjoining property, excluding one permitted sign in accordance with Section 7.3.
4. **There shall be no outside display, or storage of equipment or materials associated with the home occupation. No more than one vehicle with the business name on it may be parked so as to be visible from the street or from adjoining properties.**
5. Traffic, deliveries, or business vehicle parking generated by a home occupation shall be no greater in volume than would normally be expected in the immediately adjacent neighborhood, and the need for parking generated by the conduct of such home occupation shall be off the street and in designated driveway areas.
6. No limited home occupation use shall create noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard or any other hazard or nuisance to any greater or more frequent extent than would normally be expected in the immediately adjacent neighborhood if no home occupation use existed.
7. **Retail Sales shall be limited to items handcrafted or improved on the premises.**

(b) **Home occupations must be a permitted use as defined by this section and the zoning district standards**, and must meet all of the following criteria:

1. The home occupation shall be clearly incidental and subordinate to the primary use of the dwelling as a residence; not more than **30** percent of the **total** gross floor area of the dwelling, or the equivalent area within an accessory structure, shall be used in conjunction with the home occupation or combination of home occupations.
2. Not more than **two persons**, other than members of the family residing in the dwelling, shall be employed in the conduct of the home occupation.

3. There shall be no exterior evidence of the home occupation visible from the street or adjoining property, excluding one permitted sign in accordance with Section 7.3, and no display of goods or business-related items of any kind greater than 16 square feet in area visible from the street or from adjoining property.
4. There shall be limited storage of equipment or materials associated with the home occupation. No more than two vehicles with the business name on it may be parked so as to be visible from the street or from adjoining properties.
5. Traffic, deliveries, or business vehicle parking generated by a home occupation shall be no greater in volume than would normally be expected in the immediately adjacent neighborhood, and the need for parking generated by the conduct of such home occupation shall be off the street and in designated driveway areas.
6. No home occupation use shall create noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard or any other hazard or nuisance to any greater or more frequent extent than would normally be expected in the immediately adjacent neighborhood if no home occupation use existed.
7. Retail Sales shall be limited to services or products handcrafted on the premises, but may include similar products produced offsite, or sale of other products supportive of and secondary to the principal product or service of the home occupation use.

(c) Permitted home occupations and limited home occupations are ~~limited-restricted~~ to the following general uses defined by Chapter 18 of the Town Code:

1. Business Service
2. Contractors and contracting
3. Personal Service
4. Professional
5. Repair Service
6. Retail Sales
7. Any other limited business clearly meeting the criteria listed in subsection (a) or (b) may be approved by the Zoning Administrator.

(d) The following specific uses are excluded:

1. Group health care, group assisted living or group instruction
2. Vehicle repair shops, small engine repair, outboard motor repair
3. Kennels
4. Activity including use of weapons, hazardous materials, illegal drugs or associated equipment

5. Sexually oriented business or business activities
6. Any other use that would significantly change the traditional residential character of the property and surrounding neighborhood as determined by the Zoning Administrator

Any use not listed in subsection (c), excluded in (d) and/or not clearly meeting the criteria listed in subsection (a) or (b) shall not be considered a home occupation and shall not be permitted without a conditional use permit granted under procedures set forth in Article IX.

## **ARTICLE VII. SIGNS**

### **SECTION A. PURPOSE AND INTENT**

7.2.25 Home occupation sign. A sign directing attention to a product, commodity or service available on the premises, but which product, commodity or service is clearly a secondary use of the dwelling.

7.3.6.1 Limited home occupation signs. Such signs shall not exceed eight (8) square feet in area and shall contain only the name of the business and/or business owner. There shall not be more than one sign permitted per dwelling.

7.3.6.2 Home occupation signs. Such signs shall not exceed a total of sixteen (16) square feet in area and shall contain only the name of the business and/or business owner. There shall not be more than one sign permitted per dwelling.

7.3.11. Menu and sandwich board signs. Sign of not more than eight square feet may be displayed on private property. This sign type shall not constitute a “portable sign” as defined in this ordinance. Only one sandwich board allowed per business or home occupation.\*\*

**\*\*Items for discussion**



## STAFF REPORT

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To: Chairman Ray Rosenberger and Planning Commissioners

From: Bill Neville, Director of Planning

Date: April 9, 2010 (Revised May 5, 2010)

Subject: Work Plan – Zoning Ordinance (Historic Downtown)

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The Planning Commission Work Plan that was reviewed at the last meeting identifies those zoning districts, recommended by the Comprehensive Plan 2010, which must be created or modified.

A strategy is proposed to prepare the zoning revisions over the next year and to update the Official Town Zoning Map so that the proposed land use policies of the Plan will be implemented. The public will be kept informed and encouraged to participate. The approach will be to only make minimum incremental changes to each district rather than to completely revise the zoning ordinance.

There seems to be consensus that this process should begin with a focus on the Downtown Commercial district along Main Street. This planning area is referred to as “historic downtown” and “town center” in the Plan. There are a range of policies, objectives and implementation strategies that are recommended by the Comprehensive Plan:

- Zoning standards similar to the C-2 district, plus permitted residential use above the first floor of commercial use in mixed use buildings
- Business retention and economic development
- Redevelopment, infill and limit conversion of use from business to residential
- Process and guidelines for architectural appearance and design

Attached to this report is an example of how the C-2 zoning district ordinance could be re-named to “Historic Downtown” with very small changes made to implement the Plan recommendations. Examples of 5 other districts have also been prepared for initial review and consideration by the Planning Commission.

The adoption and use of design guidelines for new construction or renovations should be accomplished more gradually. Beginning with a design awards program, good examples should be documented and assembled into a guideline that is unique to Chincoteague (see example from Easton).

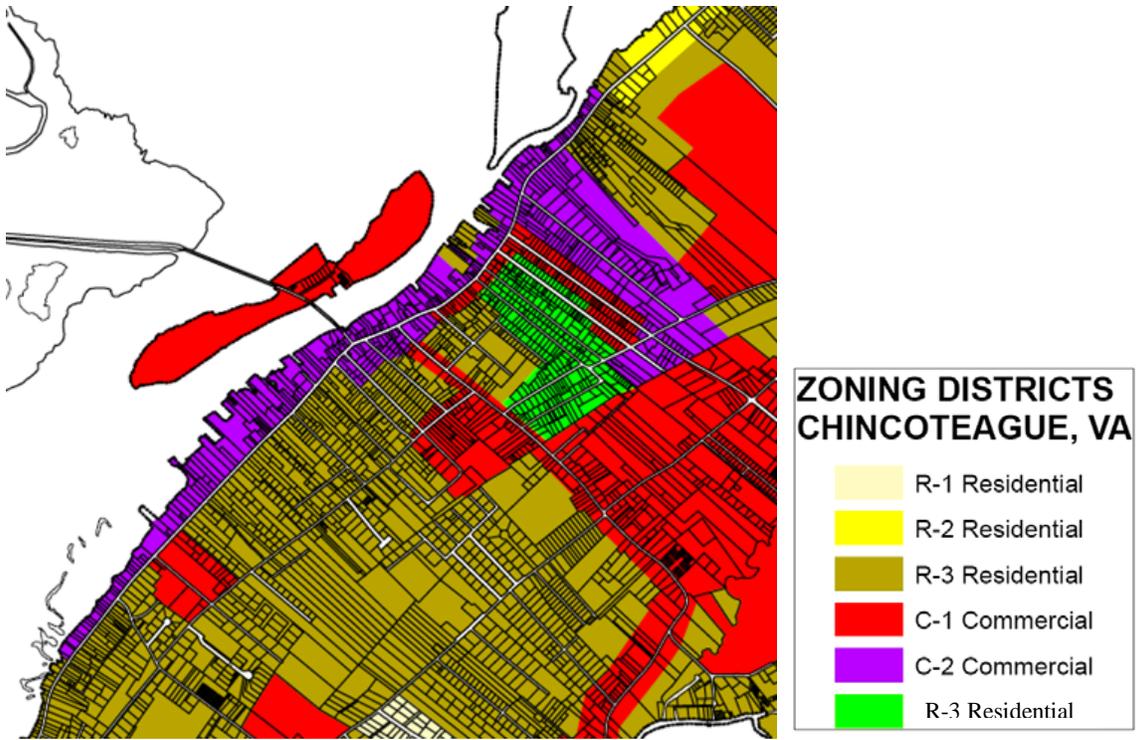
Mapping of the new zoning district(s) must be accomplished comprehensively as illustrated by the number of changes necessary just in the downtown area (see map exhibits)

The Planning Commission should continue its preliminary review of the draft zoning districts, and update a list of key questions to resolve.

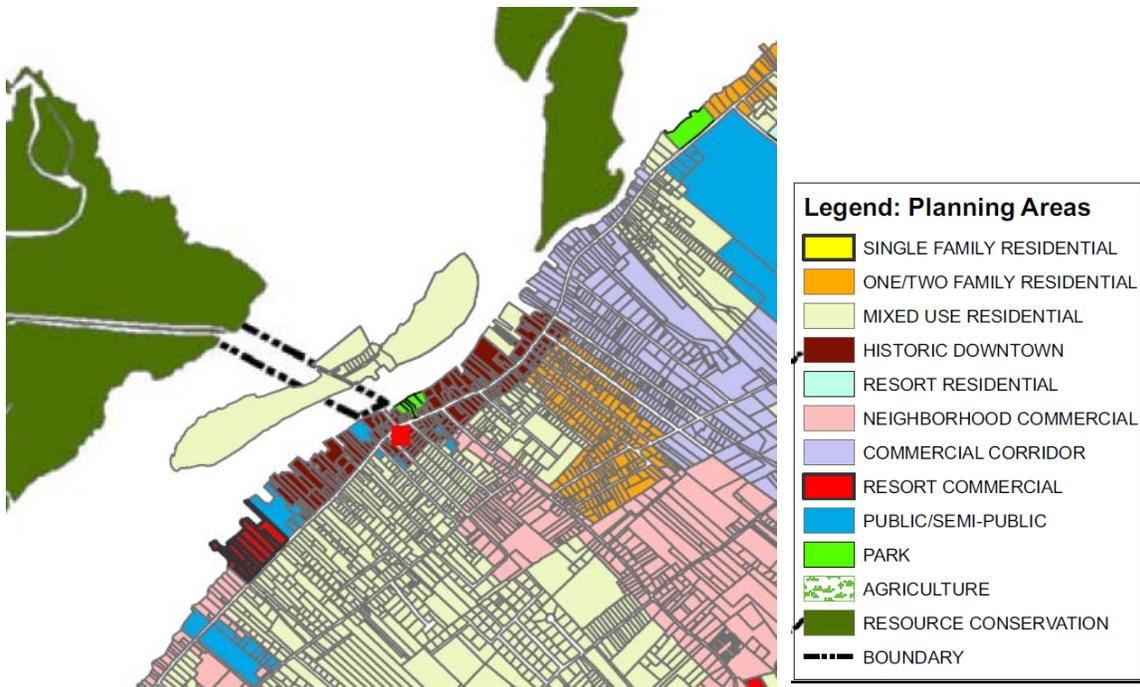
1. How will participation by business and property owners as well as the public be incorporated into this planning effort?  
*(Presentation to Downtown Business Association and Chamber of Commerce in the Fall after preliminary review by the Planning Commission over next several meetings)*
  2. Should each district be considered separately or grouped by all commercial/residential/other districts?  
*(Review all districts as a group by area)*
  3. Are there overall or new sections of the zoning ordinance that will need to be reviewed or adopted?  
*(New district standards such as the proposed design guidelines should be reviewed separately in order to simplify the process of comprehensive mapping to conform with the Comprehensive Plan)*
  4. What approach will allow an efficient and comprehensive update to the zoning ordinance and adoption of a new zoning map?  
*(further discussion required)*
  5. Will this approach address the unique characteristics of the Chincoteague waterfront, the important views of Town from the new bridge, and the need to encourage new tourist destination uses and programs that will keep the Town Center healthy?  
*(further discussion required)*
  6. Should other problems and issues with these ordinance sections be corrected at this time?
  7. Current zoning districts do not control the density or intensity of uses directly. What incentive could be offered to encourage redevelopment and/or mixed use PUD?
  8. How could appropriate landscaping or screening be encouraged?
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The following existing zoning districts that are located along South Main Street and within the historic downtown area are proposed by the Comprehensive Plan to be re-named as follows:

<b>Existing District</b>	<b>Proposed District</b>
C-2	Historic Downtown
C-1	Neighborhood Commercial
R-3	Mixed Use Residential
C-1	Public/Semi-Public
C-1	Resort Commercial
R-1	Park and Open Space



Existing zoning districts C-2, C-1 and R-3



Proposed re-mapping of 3 districts into 6 districts