

**LANCASTER COUNTY PLANNING COMMISSION**

**Minutes**

**August 19, 2010**

The regularly scheduled meeting of the Lancaster County Planning Commission was called to order at 7:00 p.m. in the General District Courtroom of the Lancaster County Courthouse, Lancaster, Virginia.

Present were David Jones, Chairman, Robert Smart, Ty Brent, David Chupp and Glenn Pinn.

Also present were Butch Jenkins, Board of Supervisors Representative, Don Gill, Planning/Land Use Director, Audrey Thomasson, Rappahannock Record, Stuart McKenzie, Northern Neck Planning District Commission, Ken Knoll, George Bott, Jan Fadeley, Charles Costello and others.

Mr. Jones asked if there were any corrections or additions to the minutes of the July 15, 2010 regular meeting.

Mr. Jones moved to approve the July 15, 2010 minutes as submitted. **VOTE: 5-0.**

**PUBLIC HEARING #1**

**APPLICATION FOR ZONING ORDINANCE AMENDMENT ARTICLE 1,  
PRIVATE BOATHOUSE DEFINITION-KEN KNULL, YANKEE POINT  
MARINA, INC.**

Mr. Jones asked Mr. Gill to present the issue.

Mr. Gill stated that the issue was the application for a Zoning Ordinance Amendment by Ken Knoll, Yankee Point Marina, Inc., to change the definition of “private boathouse” in Article 1-Definitions by adding the following italicized language:

*Private boathouse- A structure or device, floating or temporary fixed, that encloses a boat and, in so doing, increases the profile of the boat by any amount. Placement of private boathouses is prohibited. A floating boat lift cover consisting of poles at or near the four corners, a roof frame with removable cloth cover and the total roof system having a cross section of 20” or less, the top of which does not extend above 10.5’ above the water level, is not considered a private boathouse.*

Mr. Gill stated that Mr. Knull and he had a meeting in April concerning a floating boatlift that the applicant wanted to become a dealer for and sell at Yankee Point Marina. He stated that Mr. Knull also wanted to sell an optional accessory that attaches to the FloatLift called a HoverCover. Mr. Gill stated that the cover attaches to the boatlift with four uprights that can be extended and lowered as needed. Mr. Gill stated that he looked over Mr. Knull's literature and discussed the idea at the weekly staff meeting.

Mr. Gill stated that on April 14, 2010, he sent Mr. Knull a certified letter that stated that the FloatLift by itself was permissible in Lancaster County; however the Float Lift with the attached HoverCover was **not** permissible as that combination constituted a private boathouse. He stated that Mr. Knull appealed his decision to the Board of Zoning Appeals (BZA) and on June 7, 2010 the BZA denied the appeal and agreed that the FloatLift with the attached HoverCover was indeed a boathouse.

Mr. Gill stated that the Virginia Marine Resources Commission has reviewed the FloatLift with the attached HoverCover and determined that combination to be a boathouse as well.

Mr. Gill stated that Mr. Knull's final recourse is to propose an amendment to the zoning ordinance to change the wording of the private boathouse definition by adding parameters that would allow such boat lifts with attached covers. Mr. Knull has proposed the aforementioned italicized additional language be added to the existing private boathouse definition. He stated this matter must first be considered by the Planning Commission and then a recommendation made to the Board of Supervisors.

Mr. Gill stated that the ban on boathouses in Lancaster County dates back to January 1988 when the definition of "boathouse" was changed to "A structure for storage and mooring of boats in a commercial facility, and the phrase "with boathouses or other structure attached, with a conditional use permit" was deleted wherever it followed "Boat docks, Private" in the zoning ordinance. The Virginia Supreme Court upheld that Lancaster County was within its statutory limits to create such a ban. He further stated that a zoning ordinance amendment in November 2002 applied the above definition to a "commercial boathouse" and created the definition of "private boathouse" that exists today. Those actions withstood an appeal to the Lancaster County Circuit Court in January 2003.

Mr. Gill stated that Lancaster County's ban on boathouses has helped preserve the pristine views along its 330 miles of tidal shoreline and although the floating boatlift cover is low profile, it will obstruct those views more than a boat without one. He stated that the cover's cloth content and lightweight frames would be susceptible to damage during storms with the potential of littering the waters and shores with debris.

Mr. Gill stated that the proposed additional language contradicts, rather than clarifies, the language in the existing definition and creates parameters that would make enforcement much more difficult as those not able to afford the HoverCover would try to

“gerryrig” their own version. Approval of the proposed additional language would also certainly open the door for more people to devise other methods of defying the existing county ordinance which bans boathouses.

Mr. Gill stated that advertising had been conducted as required by law and to date, he had had seven emails in opposition to the proposed amendment.

Mr. Chupp asked Mr. Gill if he had had any favorable input from the public.

Mr. Gill stated that he had not received any.

Mr. Jones opened the floor for public comment.

Ken Knull stated that he had changed the wording, with help from his attorney, of the proposed additional language (italicized) to the existing definition of a private boathouse as follows:

Private boathouse- A structure or device, floating or temporary fixed, that encloses a boat and, in so doing, increases the profile of the boat by any amount. Placement of private boathouses is prohibited. *“The term “boat house” shall not include a boat lift cover provided such boat lift cover consists of a frame with a fabric cover not exceeding 360 square feet, not more than 12’ in width and not more than 10.5 feet above the water at any time, without sides, and provided further that all State and Federal regulations are met, and that all adjoining landowners consent in writing.”*

Mr. Knull stated that he had eighty-five signatures on a petition in favor of changing the definition.

Mr. Knull stated that he understood that there were some concerns, but added that this cover is the lowest profile available. He stated that it has been in production for fourteen years and is used in forty-two countries. He stated that the HoverCover has been through storms and hurricanes and one has never been lost.

Mr. Knull gave a video presentation of how the FloatLift and the HoverCover work. He also showed pictures of how the cover looks on a boat in relation to other boats. He also stated that the HoverCover would help the taxpayers protect their investments. He further stated that the County received fifteen million dollars in boat taxes last year, so the boaters need to be heard.

Mr. Jones stated that he did not know how Mr. Knull would get by the VMRC decision.

Mr. Knull stated that the local ordinance could define a boathouse any way the Board of Supervisors wanted to do it.

Mr. Jones stated that he thought it would be hard for Lancaster County to say that it is not a boathouse, if VMRC says that it is a boathouse.

George Bott, a District 1 citizen, stated that he was a boater and wondered how many members of the Planning Commission and Board of Supervisors were boaters. He stated that some of the decisions that those Boards have made seem to be anti-boater. He further stated that he supported Mr. and Mrs. Knull and their product.

Mr. Bott stated that the Code of Virginia allows boathouses and the Lancaster County zoning ordinance prohibits boathouses. He stated that he would like to know what takes precedence. He stated that the Knulls want to add a ninety-nine word amendment to the definition in Article One of the zoning ordinance that prohibits boathouses. He proposed that instead of the amendment, the six words prohibiting boathouses be eliminated. He stated that by doing that it would be boater friendly, and in his opinion, it would add interest and value to waterfront properties.

Charles Costello, a District 2 citizen, stated that he would object to the HoverCover being by his house. He stated that he wanted to protect his home, which is his investment, and if everyone had a boathouse, the views would disappear. He referred to Mr. Knull's comment about a boat tax increase and stated that there has not been a boat tax increase.

Jan Fadeley, a District 4 citizen, stated that the Lancaster County shoreline has been protected since the 1988 ordinance banning private boathouses and it would be shameful to destroy the success of this ordinance by changing the definition of a boathouse to permit construction of a canvas cover on aluminum poles, which is by definition a boathouse. She stated that the structure encloses the boat and increases the profile of the boat. She further stated that she supports the June 7, 2010 decision of the Board of Zoning Appeals and the VMRC ruling. She asked the Planning Commission to please vote no on amending the definition and respect the wisdom of the 1988 Supervisors who voted to ban private boathouses in Lancaster County.

There was no other public comment.

Mr. Jones closed the floor to public comment.

Mr. Brent stated that he thought the lift was a great idea, however if the HoverCover was allowed, he envisioned other covers, such as tarps, that would not look professional, being used as well. He stated that the ordinance has worked well for twenty-two years and doesn't feel that it should be changed, in his opinion.

Mr. Chupp stated that he shared Mr. Brent's concerns. He stated that most waterfront homes in the area are elevated and the pictures being shown of the covers are from the water, when in reality people will be looking down on the covers and their surface area.

Mr. Jones stated that he had seen the lift and thought it was a great idea and the cover might not be objectionable if the color could be uniform, however VMRC states the cover is considered a boathouse and the Board of Zoning Appeals and County staff has said it is a boathouse.

Mr. Smart stated that he had seen the FloatLift as well and was impressed with the engineering. He stated that the lift would help in not having to paint the bottom which keeps chemicals out of the water. He further stated that the HoverCover with the canvas and the poles is a structure and that goes against the ordinance. He stated that it would add complexity to enforcement. He stated that there are numerous boat covers that can be attached to boats for a much lower cost and do the same job of protecting the boat.

Mr. Jones stated that the HoverCover is a convenience. He stated that it comes down to whether the County will allow boathouses or not.

Mr. Jenkins asked if the cover was manually or electronically controlled.

Mr. Knull stated that it was hydraulically controlled with a remote control.

Mr. Jenkins asked if the cover is down when the boat is at the dock.

Mr. Knull stated that if the boat is at the dock and out of the water, the cover is down.

Mr. Gill stated that the revised language is different than the published language in the newspaper advertisement. He stated that it could be re-advertised and come back to the Planning Commission next month or be sent to the Board with a motion to include the revised language.

Mr. Chupp made a motion to forward the Application for Zoning Ordinance Amendment Article I, Private Boathouse Definition, with the applicant's revised language to the Board of Supervisors recommending denial. **VOTE: 5-0.**

### **CONSIDERATION ITEM #1**

#### **APPLICATION FOR CHANGE OF ZONING DISTRICT CLASSIFICATION- JAMES E.C. NORRIS AND MOTOKO ENDO NORRIS (OWNERS) AND SHELIA L. KING (PROPOSED BUYER)**

Mr. Gill stated that the public hearing was held on this issue last month, however the vote was tabled until this month to give staff time to review the petitions presented at that meeting, as well as get a response from VDOT concerning the possibility of an entrance being approved off Pinkardsville Road for the proposed store.

Mr. Gill stated that eighty-two petitions signed by people in favor of the proposed country store were presented at that meeting. Fifty of those petitions were signed by residents with valid addresses along VSH 3, VSH 605, and VSH 615 and thirty-two petitions were signed by people who regularly travel those routes, but do not live on them.

Mr. Gill stated that he had talked with Chad Brooks, the VDOT Regional Land Development Manager for the area, who confirmed that an entrance off Pinkardsville Road is possible for this proposed store if it is designed in accordance with VDOT standards. He stated that this would require an engineered plan and profile designed using current traffic numbers, the number of average daily trips generated for this proposed use, the line of sight distances in both directions as well as local requirements such as the 250' setback from VSH 3 required by Lancaster County's Highway Corridor Overlay District. He further stated that this engineered plan and VDOT approval would be required before the site plan could be approved or building permits issued, but it creates an additional expense at this stage that would be wasted if this initial step of rezoning were not approved.

Mr. Jones stated that he had met with two VDOT employees, Mark Fridenstine and Robert Harper, and they stated that if the applicants applied and met the VDOT requirements, then they could get an entrance.

Mr. Jones stated that he asked if any improvements would be made to Route 3 if the applicant's entrance is granted and he was told that there probably would not be any improvements required on Route 3.

Mr. Smart stated that he thought that the store would not add considerable traffic to Pinkardsville Road and they are allotting a portion of the property for the entrance. He further stated that he didn't think the store would obstruct traffic on Route 3 either.

Mr. Jones stated that traffic studies can be done and he stated that he thought the issue last month was about the intersection of Pinkardsville Road and Route 3 and how many more vehicles might be using that intersection.

Mr. Jones stated that he did have concerns about the intersection, but what it comes down to is whether or not that particular parcel is suitable for a store, then it is VDOT's responsibility to make sure that the people using the roads are safe.

Mr. Jenkins stated that the site plan could not be approved without VDOT approval.

Mr. Jones stated that he did not think the applicants would have trouble getting their commercial entrance, but it would be costly.

Mr. Brent stated that he thought what Mr. Elliott and Ms. King were proposing was attractive, but still feels like it is spot zoning, even though there are some commercial properties nearby.

Mr. Chupp stated that he agreed with Mr. Brent. He stated that the Comprehensive Plan states that the concentration of commercial development should be near the towns and villages and this parcel is neither. He further stated that the Comprehensive Plan also talks about limiting commercial development along the three scenic highways in the County and Route 3 is one of them. He stated that he liked the country store idea, but it is not consistent with the Comprehensive Plan at that location.

Mr. Jones stated that if they were proposing to put a strip mall or gas station there, it would be something different. He stated that there was a general store down the road, about a half-mile away, for many years. He further stated that he worked on the Comprehensive Plan and the Highway Corridor Overlay, but he feels like the general store would not be as intrusive as many other things that could go there.

Mr. Jenkins asked if about one hundred feet of vegetation would remain at the proposed site on the Route 3 side.

Mr. Gill stated that there would be some clearing on the Route 3 side, but there will be at least seventy feet of vegetation left.

Mr. Smart stated that he was leaning towards favoring the request and hated to stand in the way of someone wanting to start a business. He stated that more people are interested in buying locally and the prospective business owners have stated that they want to sell local produce and seafood.

Mr. Smart stated that the history of success for this kind of store is relatively poor, but the structure could be converted to a different use if the store is not successful. He stated that he did not see it as spot zoning because of the commercial properties nearby.

Mr. Smart made a motion to forward the Application for Change of Zoning District Classification from A-2, Agricultural, General to C-2, Commercial (Conditional) by James E. C. Norris and Motoko Endo Norris, Trustees (owners) and Shelia L. King (agent) for the 4.227-acre parcel described as a portion of Tax Map #16-61 to the Board of Supervisors recommending approval conditioned by the applicant's proffer to restrict the permitted uses to retail grocery and food store. **VOTE: 3 aye –2 nay.**

## **DISCUSSION ITEM**

### **BLUE-GREEN INFRASTRUCTURE PLANNING**

Mr. Gill stated that Stuart McKenzie, the Environmental Planner with the Northern Neck Planning District Commission, was present to make a second presentation on blue-green infrastructure planning. He stated that at the June 17<sup>th</sup> Planning Commission meeting, Mr. McKenzie introduced the concept of delineating “greenways” or conservation areas with reduced or no development in our county that could be linked to similar areas in adjoining counties to create a “greenway” across the Northern Neck.

Mr. Gill stated that Mr. McKenzie is making presentations to the Planning Commissions in Lancaster, Northumberland, Richmond, and Westmoreland counties and if the Planning Commission deems this to be a worthwhile venture, the ultimate goal would be to define those areas with a map that would be included in the next revision to the Comprehensive Plan.

Mr. McKenzie stated that since the county is in charge of planning growth and the Comprehensive Plan has a growth area, there also might be some areas in the county where growth might not be a good idea because of ecological reasons, physical constraints, habitat or species protection.

Mr. McKenzie stated that there are currently 3,883 acres that are permanently conserved in the county now. He stated that there are public areas, such as Belle Isle State Park and there are private areas, where individuals have placed land in a conservation easement. He showed maps of the currently conserved areas.

Mr. McKenzie discussed the other surrounding counties and what percentage of land is conserved in those counties.

Mr. McKenzie stated that he would like the Planning Commission to look twenty, fifty or one hundred years ahead when thinking about conservation areas.

Mr. McKenzie stated that the main idea is to have a map that would preliminarily identify areas in the county that would be best left in a natural state.

Mr. Smart stated that he noticed that only parcels of 100 acres or more had been identified so there would be few private landowners that could consider conservation easements.

Mr. Smart asked what incentives would there be for a private landowner to consider a conservation easement.

Mr. McKenzie stated that there were tax incentives.

Mr. Smart asked Mr. McKenzie if he spoke to the prospective landowners.

Mr. McKenzie stated that he was more of a planner.

Mr. Jones stated that it was easy to say that some areas would be good for possible conservation, but it would be better to have someone explain the financial benefits for landowners who may consider a conservation easement. He further stated that it comes down to educating people on the advantages or disadvantages of having a conservation easement.

Mr. Costello asked if the conservation easement takes away the uses of the land, for example, if it is a forested parcel, could it still be timbered.

Mr. McKenzie stated that it could be timbered. He further stated that it is up to the owner as to what could be done, for example, a hunt club could use a conservation easement.

Mr. Chupp stated that it would be hard to argue against this long range planning. He stated that it is pretty obvious that it needs to be done and the fact that someone is willing to help with the data and maps is great.

Mr. Smart asked about other programs, such as the tree farming program and whether or not Mr. McKenzie's group works with them.

Mr. McKenzie stated yes.

### **OTHER BUSINESS**

Mr. Gill stated that he had included an invitation in the Planning Commission members' packets for the Cornerstone Laying Ceremony at the new judicial center on Saturday, September 11, 2010 at 3:00 p.m.

### **ADJOURNMENT**

The August 19, 2010 regular meeting of the Lancaster County Planning Commission was adjourned at 8:40 p.m.