LANCASTER COUNTY PLANNING COMMISSION

Minutes

August 20, 2009

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, Tara Booth, Steve Sorensen, Robert Smart, Ty Brent and David Chupp.

Also present were Butch Jenkins, Board of Supervisors Representative, Don Gill, Planning/Land Use Director, Audrey Thomasson, Rappahannock Record, Tom Smith, Charles Costello and others.

Mr. Jones asked if there were any corrections or additions to the minutes of the July 16, 2009 regular meeting.

Mr. Jones moved to approve the July 16, 2009 minutes as submitted. **VOTE: 6-0**.

PUBLIC HEARING #1

AMEND ARTICLE 1 OF THE ZONING ORDINANCE TO INCLUDE A DEFINITION OF "WINDMILL"

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

Mr. Gill stated that the issue was to amend Article 1, Definitions, of the Zoning Ordinance by adding the following definition:

Windmill-A small, latticework mill or machine operated by the wind, usually acting on oblique vanes or sails that radiate from a horizontal shaft, serving a single function as a dedicated energy source for a wind-driven water pump or electric generator, primarily on farms. Windmills taller than 35 feet require a special exception from the Board of Supervisors.

Mr. Gill stated that the discussion at previous months' Planning Commission meetings determined that the first step in the windmill/wind turbine issue was to define a typical "windmill" since it was not already defined in our Zoning Ordinance. He further stated that a definition for "wind turbine" and a determination of which zoning districts each would be permitted would follow in the coming months.

Mr. Gill stated that currently a "windmill" is only permitted with a special exception in the R-1, Residential General District. This permitted use is contradictory to the proposed definition as it requires all windmills to have a special exception and the definition requires only those above 35 feet to have a special exception. Mr. Gill stated that this contradiction can be solved one of two ways: 1) Delete the last sentence from the definition and address the height restriction in the "Permitted Use" section of each zoning district where windmills may be allowed or 2) Leave the definition as is and revise each permitted use to remove the special exception requirement. Mr. Gill further stated that there are no other definitions in Article 1 of the Zoning Ordinance that require a special exception. To be consistent, staff believes it is better to address the height restriction in the "Permitted Use" section of each zoning district where windmills may be allowed rather than once in the "Definitions" section, and therefore recommends deleting the last sentence from the definition.

Mr. Gill stated that the issue has been advertised as required by law and to date, there has been no input from the public.

Mr. Jenkins stated that his suggestion for the definition was to state that a windmill does not include a wind turbine.

Mr. Jones opened the floor for public comment.

Tom Smith, a District three citizen, asked what the difference was between a windmill and a wind turbine.

Mr. Jenkins stated that a windmill was for a single purpose use and not to provide electricity to the power grid.

Mr. Smith asked why the definition included farm use.

Mr. Jones stated that the original intent was for windmills to be on farms.

Mr. Smart stated that one of his thoughts was that there would be many requests for windmills that are higher than thirty five feet because the trees in this area grow so tall and the windmills would not be as effective at shorter heights. He further stated that he thought it was interesting that the Amish in Lancaster, Pennsylvania use windmills to provide electricity to their milking barns, but not to their homes, which show how windmills can be used for certain dedicated uses.

Mr. Jenkins stated that the defined small, latticework structure would not generate enough torque to provide electricity for the electrical grid.

Mr. Jones closed the public hearing.

Mr. Jones asked if the definition should include the words "does not include wind turbines" and remove the words "primarily on farms".

The Planning Commission agreed by consensus.

Mr. Jones asked Mr. Gill to read the revised definition of windmill.

Mr. Gill stated, *"Windmill- A small, latticework mill or machine operated by the wind, usually acting on oblique vanes or sails that radiate from a horizontal shaft, serving a single function as a dedicated energy source for a wind-driven water pump or electric generator. This definition does not include wind turbines."*

Mr. Jones made a motion to forward this revised definition of "windmill" to the Board of Supervisors recommending approval. **VOTE: 6-0.**

PUBLIC HEARING #2

AMEND ARTICLE 8 OF THE ZONING ORDINANCE TO REVISE PERMITTED USES IN THE C-1, COMMERCIAL DISTRICT

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

Mr. Gill stated that the issue was to amend Article 8 of the Zoning Ordinance to revise permitted uses in the C-1, Commercial District. He stated that revisions are in the form of deletions and modifications to permitted uses and are intended to make permitted uses more consistent with the spirit and intent of this zoning district.

Mr. Gill stated that the discussion at previous months' Planning Commission meetings recommended a few changes to the permitted uses in the C-1 Commercial District. The changes included removing the special exception from post offices in Section 8-1-31, adding "pet store" in Section 8-1-36 and deleting Section 8-1-37, which was a duplicated "church" permitted use.

Mr. Gill said that the issue had been advertised as required by law and to date, there had been no input from the public.

Mr. Jones opened the floor for public comment.

Hearing none, Mr. Jones closed the public hearing.

Mr. Jones made a motion to forward the revised permitted uses in the C-1, Commercial District, as presented, to the Board of Supervisors recommending approval. **VOTE: 6-0.**

PUBLIC HEARING #3

AMEND ARTICLE 8A OF THE ZONING ORDINANCE TO REVISE PERMITTED USES IN THE C-2, COMMERCIAL LIMITED DISTRICT

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

Mr. Gill stated that the issue was to amend Article 8A of the Zoning Ordinance to revise permitted uses in the C-2, Commercial Limited District. Mr. Gill stated that revisions were in the form of deletions and modifications to permitted uses and were intended to make permitted uses more consistent with the spirit and intent of this zoning district.

Mr. Gill stated that the discussion at previous months' Planning Commission meetings recommended a few changes to the permitted uses in the C-2 Commercial Limited District. He said the changes included adding post offices as a permitted use in Section 8A-1 and deleting it from Section 8A-1-7 where a special exception was required. Mr. Gill said that in Sections 8A-1-1, 8A-1-2, and 8A-1-3, the 2,000 square footage limitation was eliminated and in Section 8A-1-8, the 5,000 square footage limitation was eliminated.

Mr. Gill stated that the issue had been advertised as required by law and to date, there had been no input from the public.

Mr. Brent made the comment that this ordinance deals with commercial businesses in residential areas. Mr. Brent stated that the reason the businesses were probably limited was that they were not what surrounding homeowners would want nearby.

Mr. Jones stated that he thought that a 4,000 square foot building was not very big when conducting a business.

Mr. Jenkins stated that he thought the undesirability of an adjacent business in a residential area would be based more on anticipated traffic than the size of the building.

Mr. Jones asked Mr. Gill if most C-2 parcels are currently near towns.

Mr. Gill stated yes.

Mr. Gill stated that each one of the permitted uses where the square footage limitation has been eliminated still require a special exception.

Mr. Jones opened the floor for public comment.

Charles Costello, a District two citizen, commented that it seemed that everything was controlled by special exceptions.

Mr. Jenkins stated that special exceptions can be arbitrary, where one person can get a special exception and another one cannot with the same scenario, because of adjoining property owners objecting to a project.

Mr. Jones stated that an added control with special exceptions is the fact that since there aren't many C-2 properties, most parcels would also have to be rezoned.

Mr. Brent referred to the statement of intent for the C-2 and said he envisioned an extremely large business beside a much smaller business or residence.

Mr. Jones stated that a four thousand square foot building was not a large building for a business.

Mr. Jenkins restated that his primary concern, if he lived close to a C-2 business, would be the amount of traffic that the business was going to generate and not the size of the building.

Mr. Jones closed the public hearing.

Mr. Jones stated that if the business is needed, the business owner should be given enough space to conduct business and if the business is not wanted, then the option is to deny the special exception or not rezone the parcel. Mr. Jones further stated that, most likely, those businesses would not be in a residential area anyway.

Mr. Chupp stated that there is a difference between a repair shop and a restaurant and he wouldn't want a repair shop next to his home.

Mr. Jones stated that 8A-1-3, which addresses repair shops, seems to be the problem, so he asked if it should be left with the 2,000 square feet floor area limitation.

The Planning Commission agreed by consensus.

Mr. Jones made a motion to forward the revised permitted uses in the C-2, Commercial Limited district, as amended, to the Board of Supervisors recommending approval. **VOTE: 6-0.**

DISCUSSION ITEM

REVIEW OF PERMITTED USES IN THE M-1, INDUSTRIAL LIMITED ZONING DISTRICT

Mr. Gill stated that this was a continuation of the Planning Commission's review of the permitted uses in each zoning district, as required by the Comprehensive Plan, to verify that the permitted uses are compatible with the intent of each zoning district.

Mr. Jenkins stated that he thought the M-1 District requires more scrutiny.

Mr. Brent asked where there was an example of an M-1 property.

Mr. Gill stated that the Hubbard property off of Ocran Road where the Verizon Wireless cell tower stands is an M-1 property. He further stated that there were many M-1 properties in Lancaster County.

Mr. Jenkins stated that this district needs to be looked at closer because it confines certain reasonable things, that could be in other zones, only to the M-1 District.

Mr. Jones stated that he agreed with Mr. Jenkins on that point.

Mr. Jenkins stated that some cottage industries should be allowed in other zoning districts.

Mr. Smart stated that he was amused by some of the old terms used in the permitted uses of the zoning district. He suggested that the language in Section 9-1-1 be revised. Mr. Smart added that in Section 9-1-2, he would suggest that those uses be by special exception because it included such things as battery manufacturing.

Mr. Jones stated that there have been a lot of changes in the way in which batteries are manufactured now as opposed to thirty years ago. He further stated that there might be businesses that aren't manufacturing, but simply assembling parts.

Mr. Chupp stated that he had a problem with the statement of intent. He stated that there were uses listed there that would detract from residential desirability.

Mr. Brent asked when a parcel had been up zoned to M-1.

Mr. Jenkins stated that, to his knowledge, the Board had only rezoned one parcel to M-1. The rest were downzoned from M-1 to residential.

Mr. Smart stated that he thought the statement of intent needed to be re-worked.

Mr. Jones asked if it was the consensus of the Commission to have Mr. Gill re-work the ordinance.

The Planning Commission agreed.

Mr. Jenkins requested that the staff review of the M-1 district also include the County Administrator, Assistant County Administrator and Zoning Officer.

Mr. Smart stated that this was an important district to look at because of the creation of jobs and to encourage businesses.

Mr. Jones agreed and stated that in the current economic climate, small businesses needed to be protected.

Mr. Chupp asked about Section 9-2-1 and why building plans needed to come before the Planning Commission before a building permit could be issued.

Mr. Gill stated that the Planning Commission would make a recommendation only if the project involved land disturbance of more than 2,500 square feet. Mr. Gill referred to a recent example when the Chesapeake Boat Basin acquired additional land for boat storage and the issue was docketed as a Consideration Item at the Planning Commission level and then forwarded with a recommendation to the Board of Supervisors.

Mr. Gill stated that he would consult with staff and have a revision of the M-1 Ordinance at next month's meeting.

OTHER BUSINESS

Mr. Gill stated that there would be at least one rezoning application for next month's meeting.

ADJOURNMENT

The August 20, 2009 regular meeting of the Lancaster County Planning Commission was adjourned at 8:00 p.m.