

LANCASTER COUNTY PLANNING COMMISSION

Minutes

September 16, 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 Robert Smart, Vice-Chairman, Tara Booth, Ty Brent and David Chupp.

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

Mr. Smart asked if there were any corrections or additions to the minutes of the August 19, 2010 regular meeting.

Mr. Smart moved to approve the August 19, 2010 minutes as submitted. **VOTE: 4-0.**

PUBLIC HEARING #1

APPLICATION FOR CHANGE OF ZONING DISTRICT CLASSIFICATION- JAMES D. PUMPHREY AND LAURA E. VICKERS (OWNERS) AND DORINE MAHAN (CONTRACT BUYER)

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

Mr. Gill stated that the issue was an application for Change of Zoning District Classification from R-1, Residential, General to C-1, Commercial (Conditional) by James D. Pumphrey and Laura E. Vickers (owners) and Dorine Mahan (contract buyer) for a 0.582-acre parcel described as Tax Map #15-92D and located at 8545 Mary Ball Road in the Lancaster Courthouse Village Area.

Mr. Gill stated that the contract buyer, Mrs. Mahan, intends to re-locate her hair salon to this parcel from its present location just down the street adjacent to the registrar's office. He stated that this, by itself, is allowable as the owners had previously sought and received the Special Exception from the Board of Supervisors for a professional office in the R-1 zoning district. Mr. Gill stated that the applicant also wishes to rent the upstairs

for an additional professional office, which is not allowed under the current zoning. He stated that Mrs. Mahan does not want the structure to be used for residential purposes.

Mr. Gill stated that he had advised Mrs. Mahan that she had two options to accomplish her goals: 1) to rezone to R-3, Residential Medium General and then seek the Special Exception to have a professional office complex which would cost \$900.00 (\$500.00 for rezoning and \$400.00 for the Special Exception), or 2) to rezone to C-1 Commercial Conditional, which would cost \$500.00. Mr. Gill stated that Mrs. Mahan opted for the least costly option. To help with her request, she has also taken the list of permitted uses in C-1 and lined through the unwanted ones. Mr. Gill stated that Mrs. Mahan had indicated that she would present a signed and notarized copy to the Board of Supervisors to formalize this conditional rezoning request.

Mr. Gill stated that this request is considered reasonable and appropriate given the property's history and its location in the Lancaster Courthouse village area. He stated that for several years, the property served as the office for a local insurance agent and it is adjacent to the old post office building, which is a commercial property that has housed many professional offices through the years. It is also in close proximity to the Quarles convenience store and Rak's Sports Bar, which are located on C-1 properties.

Mr. Gill stated that included in the members' packages were the rezoning application, the GIS map and survey of the parcel, a letter from the applicant, a letter from the health department verifying that the existing septic and drainfield will handle the proposed uses, the rezoning plat/site plan showing a proposed parking layout to achieve the required number of parking places and the list of applicable permitted uses requested with the proposal.

Mr. Gill stated that adjoining property owners had been notified and advertising conducted as required by law and to date, there has only been one inquiry from an adjoining property owner, who is not opposed to the application.

Mr. Gill stated that Catherine Bennett, Mrs. Mahan's agent, was present to answer any questions.

Mr. Smart asked Mr. Gill if this was normal procedure to restrict the permitted uses.

Mr. Gill stated that with a conditional rezoning, it is typical for the applicant to list just the uses that they would want in the future, because it may increase their chance of getting the rezoning approved.

Mr. Smart opened the floor for the public hearing.

Mrs. Bennett stated that Mrs. Mahan had originally thought about doing an apartment rental upstairs, but saw the building across the street that had the business rental on the second floor and liked that idea.

There was no other public comment, so Mr. Smart closed the public hearing.

Mr. Brent stated that this application conforms to the Comprehensive Plan by being a low impact business within a village. He asked if anything could be done to limit the amount of commercial floor space to what exists now on the property.

Mr. Jenkins replied that the zoning applies to the parcel of land and not the structures on it. He further stated that the owner would have the right to replace that structure with a larger structure as long as the setback and height requirements of the zoning district are met.

Mr. Gill added that they would be limited to the proffered uses for this conditional rezoning request.

Mr. Smart stated that it was an ideal location and it makes effective use of the space upstairs.

Mr. Chupp stated that he agreed and that it is adjacent to the village with other commercial properties around.

Mr. Gill stated that there was a letter in everyone's packet from the health department that stated that the existing septic system was sufficient for the proposed use.

Mr. Brent stated that Mrs. Mahan had a great reputation and had been a long time business owner in the area.

Mr. Smart made a motion to forward to the Board of Supervisors with a recommendation for approval the application for Change of Zoning District Classification from R-1, Residential, General to C-1, Commercial (Conditional) for the 0.582-acre parcel described as Tax Map #15-92D. **VOTE: 4-0.**

DISCUSSION ITEM

ORDINANCE TO CO-HOLD CONSERVATION EASEMENTS

Mr. Gill stated that conservation easements are a recognized way of preserving open space and farmland, which was a predominant theme expressed during the last update to the Comprehensive Plan.

Mr. Gill stated that conservation easements are legal documents which control the amount, if any, of development that will be allowed on a parcel of land in perpetuity. Traditionally, conservation easements have been held by organizations such as the Virginia Outdoors Foundation and The Nature Conservancy, but these large

organizations will not usually accept easements on parcels less than 100 acres. He further stated that this leaves a void in the system for those parcels less than 100 acres, which may be equally deserving of preservation. The Northern Neck Land Conservancy (NNLC) hopes to fill this void with cooperative agreements with neighboring counties.

Mr. Gill stated that the NNLC recently entered into cooperative agreements with Northumberland and Richmond counties to co-hold conservation easements and made a presentation at our March 25, 2010 Board of Supervisors meeting seeking a similar arrangement with Lancaster County. He stated that the cooperative agreements in Northumberland and Richmond counties were done by resolution, but the Lancaster Board of Supervisors requested it be by ordinance in our county.

Mr. Gill stated that the members of the Planning Commission had a draft of the proposed ordinance in their packets and that he had incorporated the applicable language from the cooperative agreement resolutions used in the other counties in the draft. A copy has recently been sent to the County Attorney for comments. Mr. Gill added that the NNLC's attorney has reviewed the draft and had a few minor revisions to the wording.

Mr. Gill stated that the purpose of this discussion would be to address concerns of the Planning Commission before bringing it back for a public hearing at a future meeting. He stated that Joe Thompson, Field Director for the NNLC, was present to answer any questions.

Mr. Smart stated that he thought it was a good idea because there are not many one hundred acre parcels.

Mr. Smart asked Mr. Gill why the Board of Supervisors wanted this as an ordinance instead of a resolution as in the other counties.

Mr. Gill replied that resolutions can be lost or forgotten about over time as personnel changes, but ordinances are permanent.

Mr. Chupp stated that he did not understand the purpose of the partnership between the County and the NNLC.

Mr. Thompson of the NNLC stated that they have the trained staff to do technical work, which includes structuring the easement documents, and providing a "snapshot" of how the land looks at the time the land is put into a conservation easement and this prevents the County from having to employ additional staff. He further stated that it is advantageous to the NNLC because they are working with a government entity and could use their legal resources.

Mr. Smart asked about the relationship between the NNLC and the landowner.

Mr. Thompson stated that the NNLC does not have control of the property, but does do an annual monitoring visit to see if there are any issues.

Mr. Smart asked if the easement area were forestland, would the property still be able to be harvested.

Mr. Thompson stated that they would have to follow the existing laws and best management practices required by the Virginia Department of Forestry and a harvest plan would be written.

Mr. Jenkins stated that the key to remember is that the NNLC has no enforcement authority and if there were a potential violation on a parcel, it would fall under the jurisdiction of the locality.

Mr. Thompson stated that the NNLC would come to the County with any issues after speaking to the landowner.

Mr. Smart stated that the landowner gets some tax relief from a conservation easement. He asked if that money would have to be paid back if the easement was broken.

Mr. Thompson stated that he did not have the answer to that question.

Tom Smith asked if the conservation easement minimum acreage was 100 acres.

Mr. Thompson stated that it depends on the entity, but there is no regulatory minimum acreage for a conservation easement.

Mr. Smith stated that he wasn't sure what the advantage would be for the County, especially if there are legal expenses that taxpayers would have to pay.

Mr. Thompson stated that the County would get to have the easement program for their citizens and don't have to have the trained staff to run the program.

Mr. Smith asked what the NNLC's minimum acreage for a conservation easement was.

Mr. Thompson stated that there was no minimum acreage and it is done on a case-by-case basis.

Mr. Jenkins gave an example of a landowner who puts their land in an easement and later sells the land to a developer for whatever reason, and then the County would be defending a bad decision with taxpayers footing the bill.

Mr. Smart stated that he thought there were benefits to be had from the partnership. He stated that the issue is whether the draft for co-holding conservation easements is a proper document to forward to the Board of Supervisors.

Mr. Gill stated that the Comprehensive Plan does encourage the use of conservation easements and specifically names the Northern Neck Land Conservancy as one of the groups related to that. He stated that the benefit to the County is to preserve open space. Mr. Gill stated that there was an example in Northumberland County where a conservation easement helped a farmer purchase a piece of land. He stated that there was a piece of property that adjoined a farmer's land that the farmer had wanted to purchase for farmland, but the price was not affordable. He said that the property was put into a conservation easement and the owners received tax credits, which allowed them to reduce the market price of the land, and the farmer was then able to purchase the additional farmland.

Mr. Smart stated that that is the way things should work.

Mr. Chupp asked if the NNLC purchases easements.

Mr. Thompson replied no.

Mr. Chupp stated that he thought it was a great idea.

Mr. Smart stated that it helps to break the one hundred acre barrier to allow more land to be considered for easements.

Mr. Smart stated that he thought the issue should be held over until next month for more discussion.

Mr. Jenkins stated that that would give the County attorney a chance to look over the proposed ordinance.

Mr. Gill stated that the issue could come back at next month's meeting as a consideration item.

Mr. Thompson invited anyone with questions to visit the NNLC's office across the street from the courthouse.

OTHER BUSINESS

There was no other business.

ADJOURNMENT

The September 16, 2010 regular meeting of the Lancaster County Planning Commission was adjourned at 7:45 p.m.