

Camden County Planning Board

Minutes

January 16, 2008, 7:00pm

Upstairs Courtroom

Camden County Courthouse

Members Present: Chairman James Burnham,
Vice Chairman Rodney Needham,
Terri Griffin, Ray Albertson,
Calvin Leary, Michael Etheridge

Absent: John Aydlett

Call to Order & Welcome

Chairman James Burnham called to order the January 16, 2008 meeting at 7:04 PM.

Others Present at Meeting

Present were staff members Dan Porter (Planning Department Director), Dave Parks (Zone/Flood Administrator), and Amy Barnett (Planning Board Clerk).

Consideration of Agenda

Chairman James Burnham called for the consideration of the agenda. Terri Griffin made a motion to approve the agenda. Ray Albertson seconded the motion. The motion was approved with Chairman James Burnham, Vice Chairman Rodney Needham, members Terri Griffin, Ray Albertson, Calvin Leary and Michael Etheridge voting aye; none voting no; 1 absent; none not voting.

Consideration of the Minutes- December 19, 2007

Chairman James Burnham called for the consideration of the minutes from the December 19, 2007 meeting. Chairman James Burnham requested 1 correction to be made - change line 492 to indicate that Chairman James Burnham abstained. Michael Etheridge made a motion to approve the minutes from the December 19, 2007 meeting with changes. Vice Chairman Rodney Needham seconded the motion. The motion was approved with Chairman James Burnham, Vice Chairman Rodney Needham, members Terri Griffin, Ray Albertson, Calvin Leary and Michael Etheridge voting aye; none voting no; 1 absent; none not voting.

Comments from the Public.

None

Old Business

None

New Business

Item 1: Amendment to Article 151 of the Camden County Code of Ordinances (Design Standards)

This amendment is a reconsideration of a text amendment that was seen some time ago. This was brought back before the Planning Board to seek advice on whether to seek sending it back before the Board of Commissioners on an item by item basis, or if the Planning Board wants staff to revise it prior to submitting to the Board of Commissioners.

With the sewer system soon to be fully operational, there are some prospects on development, from a staff standpoint. If we are going to see development along these areas, we need to take some action to get the best quality of design that we can.

Basically, this amendment requires certain architectural standards on buildings, 25% fenestration on facades, does not allow metal buildings (except unless they have a facade on them), requires curbs and gutters on sidewalks, underground utilities, no outside display or storage of inorganic products, deals with roof pitches and design characteristics, loading and service areas to be out of view of public roads, deals with multi family areas, connectivity of the road systems, and decorative areas in the open spaces.

Dan Porter stated that if we were to stray beyond CC and NCD districts and look at development along corridors, we might want to look at some additional requirements in regards to access to the back lots, such as an easement to get to the areas further back.

Mr. Porter pointed out that the commissioners are having a retreat on February 21, 2008, and that they may want to consider making this one of their agenda items for that retreat.

Rodney Needham had a concern with item 1-b under the commercial district section, on line 70 of the proposed changes to this ordinance. This line reads "There shall be a minimum of two accesses to a public road (on a project by project basis)". Mr. Needham's concern is that it sounds to 'iffy' with it reading 'on a project by project basis'. He pointed out that it sounds like the change means "you may not have to do what the ordinance says" because it is on a "project by project basis". Mr. Needham voiced a desire to have this language re-written to be a little bit stronger.

Dave Parks responded to Mr. Needham's concern, saying that it has to do with the lot sizes. Dan Porter added to what Mr. Parks said, by commenting that some lot sizes are so small that 2 accesses might be a burden.

There was discussion about adding language that would indicate requirements based on lot size, something like "Adequate Access to Facilitate Traffic Flow". Ingress and Egress seem to be the important issue here.

Chairman James Burnham questioned item 2-a, on line 144, regarding manufactured and mobile units. He inquired if this meant that there could be none at all in the NCD district. Dan Porter responded that was correct. Dave Parks added that there can be manufactured and mobile units in the NCD district only on a temporary basis, during construction phases only. These types of structures can not be left after the conclusion of the construction phase.

Rodney Needham questioned item 1-a under the multi family use section, line 110. He questioned the use of the word 'portion', he wanted to know what the percent of the development that multi family dwellings can be in this type of zone. The consensus was that the use of the word portion meant that the percent of development of multi family dwellings cannot exceed is 50%. This is a commercial use district (NCD) that allows residential, not vice versa. Residential development should not exceed 50% over the commercial development.

Action taken on this item: Staff to review, revise, and bring back to the Planning Board at a future meeting.

Item 2: Amendment to Article 151 and Article 153 of the Camden County Code of Ordinances (Exemptions)

This amendment deals with amending the ordinances to include under exemptions, grandparent to grandchild and vice versa.

This affects article 151, land use subdivision ordinance, and article 153, adequate facilities ordinance. A public hearing was scheduled for and held on January 22, 2008 on this issue. Staff recommended taking this to the Planning Board to get a recommendation on this modification.

Parent to child exemptions were an item of debate when the adequate facilities ordinance was adopted in April 2007. Grandparent to grandchild was talked about then. Now, the Board of Commissioners want to look at including Grandparent to grandchild and vice versa in the exemptions to the adequate facilities ordinance.

Staff feels that this raises the question of 'where is this (the exemptions) going to stop'. One concern is that if more exemptions are added, "how long will it be before someone wants a 'brother to sister' exemption?"

Also, the adequate facilities ordinance was established / adopted to provide some source of revenues for the schools. If the exemptions are expanded, it raises the question of whether the ordinance is strong enough to uphold a court case with out the possibility of discrimination becoming an issue.

Dan Porter, Director of the Planning Department, feels that any exemption, whether it be parent to child or grandparent to grandchild, are discriminatory and sets aside a class of people. He stated:

"If you cut out a lot, and it has a family in it, you have to provide public safety, water, and all the normal services to that lot, whether it's a family that has been here for a hundred years or whether it's a family that moved in here from Virginia in the last six months. Same thing goes for the adequate facilities ordinance, if there's a family in there that's producing a child, that child has to have a seat (at the public schools), it doesn't matter who's name, what last name they might have, it's still a requirement that the county provide services to it, so to exempt them from the requirements sets apart a certain class of people. I'm not going to recommend revising it to take away the exemption, but I don't think we ought to increase the number of exemptions in that category."

Dave Parks commented that the ordinance was adopted, debated at the time of adoption, and was decided, and it should be left alone, not modified when the commissioners receive a request or complaint that compels them to seek modifications.

Dan Porter said that the flip side of this story is that a lot of grandparents are raising their grandchildren because the parents are otherwise not present, but it still comes down to where to draw the line on modifications to this ordinance.

Dave Parks asked what proof of relationship would be required if this passes. Right now, on the parent to child exemption, all that is required is a birth certificate to establish parentage.

Dave Parks commented that he feels we may get sued for the adequate facilities ordinance because there are developers out there who have subdivisions that were approved prior to the adoption of the adequate facilities ordinance and the approval of that subdivision was saying there was school capacity for their subdivision. So, his feeling is that this is going to be contested, so the question becomes, do you want to make the ordinance weaker or keep it as is the way it was adopted and see if it will be upheld.

Dan Porter mentioned what Pasquotank County is doing to discourage/stop abuse of land transfers as a way to avoid impact fees. Pasquotank requires a 10 year ownership history of the land, and then a 10 year retaining requirement before selling the land is allowed. If the land is sold prior to either of these conditions being met, then it is subject to adequate facilities type ordinances, which include public schools and associated impact fees.

Terri Griffin asked about the possibility of a one time family transfer and broaden the AFO that way, because there are court created families like legal guardianships, which otherwise do not qualify for the exemption because they are not a parent, this is a grey area. She went on to say that this issue didn't come up until the issue with the years (years of ownership history before selling) was dealt with. Often the grandparent would give land to the parent who would then give it to the child. Often, the land is originating from the grandparent, the person who owned the property for the longest time.

In Ms. Griffin's view, the Planning Board created an issue when they increased the required number of years of ownership prior to being allowed to be exempt to this ordinance on transfers. Ms. Griffin further stated "I think the public in small rural counties want some protections in place where people that have land in a county for a long period of time and want to try to maintain familiar ties to the area by granting property to their family members, their children, children's children, and all. There does seem to be a public desire to have that in place."

Dave Parks responded to Ms. Griffin by saying "The legal issue is, is the adequate facilities ordinance going to be upheld with all these exemptions? Is it going to be justified in court saying that it is not discriminatory? That's a leading question that would probably need to be answered by the attorneys".

Rodney Needham spoke about the natural progression of events in this county with regard to land transfers within families. He voiced his opinion that he doesn't see any problem with exempting property passed from Grandparent to Grandchild.

Dave Parks countered: "If this passes, you're opening up the door to someone being able to obtain 20+ acres and gifting it to their kids, and grandkids, and this creates a subdivision - one that would be exempt from the adequate facilities ordinance."

Terri Griffin responded to this, saying that if it passes, a perpetuation of family will be preserved by the passage of property from people who have been born and raised here.

Dave Parks responded to Ms. Griffin saying that if it is strictly for those who have been born and raised here and are the ones who have owned the property for a long time, then the requirements regarding the number of years of ownership history should be raised to where ownership history must be at least 10 years and retention prior to selling the land should also be 10 years.

Ray Albertson asked what kind of time frame would stop people from abusing the exemption, 5 or 10 years. Dan Porter responded that the 5 year requirement seems to be doing a pretty good job of stopping the abuse.

Calvin Leary pointed out that the 10 year question had come up previously and one of the Board of Commissioner's members didn't like it, that they thought it was too long. Dan Porter pointed out that several other communities have already gone to a 10 year requirement, Suffolk, Pasquotank, Currituck, etc.

Dave Parks again referred to the AFO, saying that the major issue is the AFO. The AFO is going to be contested at some point. At some point, the Board of Commissioners will be hearing from the developers, and those developers will be saying things like 'my subdivision was approved at the time before you adopted the ordinance and the subdivision approval process is saying you had adequacy at your schools when you approved it, so why am I susceptible to this advancement of capacity fee?'. Also, individual landowners will be saying things like 'I have lived here all my life, why do I have to pay this?' Mr. Parks fears that the county may be sued by developers and individual landowners for this reason.

Dave Parks continued, saying that this is why the Planning Department has been telling people that if they want to build a house, modular home, or put a manufactured residence in place, that they need to come in and get their building permit before April 2, 2008 or they will be subject to the AFO.

Terri Griffin commented that if the ordinance is contested, it will be contested in court, it will go through and be decided in the legal systems, it won't be the decision of the Planning Board. Ms. Griffin went on to say "I understand where you are coming from because you guys (Planning Staff) are the ones having to manage this and having to face the issues, but in my conscience, as a person who has grown up in the community and thinking I know what a lot of the people in this community want, my motion is to add the Grandparent clause to this because in my heart I believe that is what a lot of the people would want in this community. I don't do this lightly, and I do it knowing the issues that you all are bringing here."

Dave Parks again asked "If this gets adopted, what happens next month when the brother or sister comes in (wanting to be exempt)?"

Terri Griffin responded to Mr. Parks saying "Then say: 'your board chose to stop it at grandparents'. If they have a problem with that, they can take it to the Board of Commissioners where they need to take it and the Board of Commissioners will have to make a decision."

Chairman James Burnham reminded the Planning Board members that the motion had been made, and needed a second. To recap, Terri Griffin made the motion to approve the changes to the ordinances as written. Mike Etheridge seconded the motion. After seconding the motion, Mike Etheridge made the following comment: "there are a lot of children that when they come of age, won't be able to build a house unless a grandparent gives them a piece of land to do it." After the motion was made and seconded, a vote was taken. The motion was approved with Chairman James Burnham, Vice Chairman Rodney Needham, members Terri Griffin, Ray Albertson, Calvin Leary and Michael Etheridge voting aye; none voting no; 1 absent; none not voting.

Information from Board and Staff

The following were presented to the Planning Board for their information:

Building Permit Statistics from 1-1-1999 through 12-31-2007

Land Use Consistency Statement

W-4 Forms, from the Personnel Department, to be filled out and returned

Chairman James Burnham expressed his appreciation to the board for the opportunity to serve Camden County. The board also expressed to him, their appreciation for a job well done.

Dave Parks mentioned that nominations for Chairman will be opened at next month's meeting.

Consider Date of Next Meeting – February 20, 2008

Adjournment

At 8:15 PM, Vice Chairman Rodney Needham made a motion to adjourn the meeting. Ray Albertson seconded the motion. The motion was approved with Chairman James Burnham, Vice Chairman Rodney Needham, members Terri Griffin, Ray Albertson, Calvin Leary and Michael Etheridge voting aye; none voting no; 1 absent; none not voting.

Date: _____

Approved: _____
Chairman Rodney Needham

Attested: _____
Amy Barnett, Planning Clerk