PLANNING COMMISSION MEETING

A G E N D A

TOWN OF CHINCOTEAGUE

JANUARY 22, 2008 - 7:00 P.M. – Council Chambers - Town Hall

CALL TO ORDER

INVOCATION

PLEDGE OF ALLEGIANCE

PUBLIC PARTICIPATION

AGENDA ADOPTION:

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1. Adoption of November 27, 2007 Minutes

2. Election of Officers

3. Update Major/ Minor Subdivision

4. Setting a public hearing for Conditional Use Permit- Ms. Schreibstein

5. Planning Director's Update
   - Comprehensive Plan
   - Current Developments
   - Planning Commission Vacancy
   - Board of Zoning Appeals Update

6. Commission Members Announcements or Comments
   (Note: Roberts Rules do not allow for discussion under comment period)

ADJOURN:

Town of Chincoteague Planning Commission Meeting

November 27, 2007

Minutes

Members Present:
Mr. Robert Behr
Mr. Ray Rosenberger, Chairman
Mr. Tom Derrickson
Mr. Chuck Ward
Mrs. Mollie Cherrix

Members Absent:
Hon. Ellen W. Richardson
Mrs. Jane Wolffe

Staff Present:
Mr. Jared Anderson, Director of Planning

1. Call to Order

   Chairman Rosenberger called the meeting to order at 7:00 p.m.

2. Roll Call by Mr. Anderson

3. Invocation followed by Pledge of Allegiance

4. Public Participation

   Mr. Tommy Clark, owner of Don's Seafood Restaurant spoke about the Sign Ordinance that was proposed by the Planning Commission. He mentioned that he and Mr. Anderson rode together to get a feel for how the proposed amendments to the sign ordinance would affect signs currently in the Town. They rode down Maddox Boulevard from Main Street to Deep Hole Road. Mr. Clark estimated that 80 % of the signs on that stretch of road would be in nonconformance if the proposed sign ordinance were to take effect. Mr. Clark also has concerns that there are too many regulations on small business owners, and that could be the cause of why businesses are leaving.

   Chairman Rosenberger stated that the Planning Commission recommendations came largely from a survey in which there were approximately 1,200 responses, the Planning Commission also reviewed regulations from other jurisdictions. Chairman Rosenberger wanted to emphasize that the recommendations were not intended to be undue hardships but rather to provide for some uniformity within the community.

5. Adoption of Agenda

   Mr. Behr moved to adopt the agenda as presented, seconded by Mr. Ward. Unanimously approved.

6. Adoption of the September 25, 2007 Minutes

There was a motion by Mr. Ward, seconded by Mrs. Cherrix to approve the minutes as proposed. Unanimously approved.

7. Election of Officers

Chairman Rosenberger stated that in the past Mr. Kenny Lewis assumed the duties of the secretary without any vote from the Planning Commission. Mr. Anderson has already assumed those duties from Mr. Lewis. Even though the Planning Commission was supposed to hold elections in September the by-laws are established by the Planning Commission so there is no need to go to Council.

Mr. Ward makes a motion to postpone Agenda #2 (Election of Officers) until a more full Commission is present, the motion is seconded by Mr. Behr. Unanimously approved.

8. Review of Major and Minor Subdivision

There have been incidences where people have gone to the County Offices to record land division that have made illegal or nonconforming lots. Since there is no formal review process for the division of land that result in less than four lots there is nothing to prevent someone from creating an illegal lot. The reason this issue was brought to the Planning Commission was that staff feels there may need to be a review process for division of land that results in less than four lots.

Mr. Derrickson asked if a review process is required if a property owner is vacating a lot line. Mr. Rosenberger stated that the Council does require a review for a vacation of lot line and it has been in effect for quite some time.

Mr. Ward suggested that the County land records is responsible for upholding the laws in the County for land subdivision, they have to be aware of subdivision requirements for each municipality. If a signature was required by the Town, it is something the County needs to be made aware of. Chairman Rosenberger stated that some idea of the review process land recordation goes through needs to be known before suggestions can be made.

Mr. Ward stated that if the lots are recorded without them being in compliance with the Town's Ordinance then they are recorded illegally. It was suggested that a letter to the County land recorder asking what their process is when a municipality within the County changes its subdivision ordinance for compliance would be a possible next step.

Mr. Derrickson states his concern about having another regulation placed on citizens. He prefers things not to change, and needs convincing why there needs to be change.

Mr. Ward believes that for subdividing one or two lots the review process should be done administratively in-house. Anything else should be considered a "subdivision" and should be subject to a more formal review process. He agrees with Mr. Rosenberger in that there is no need for 'Major' and 'Minor' subdivision.

Mr. Rosenberger suggested that staff find out what the processes are at the County level before the Planning Commission offer any suggestions.

9. Review Fencing Section of the Zoning Ordinance

Mr. Anderson brought this issue back to the Planning Commission because the issue was interrupted by the double occurrence of sight distance triangle in the Town Code and Zoning Ordinance. Mr. Ward suggested that there be a height regulation for the sight distance triangle so that it might be more easily enforced.

Mr. Rosenberger would like to see if either the Public Works Director or the Building and Zoning Administrator have problems enforcing the new regulations regarding sight distance triangle. It was decided that no action by the Planning Commission will be taken unless the enforcement officers are finding problems with the ordinance.

10. Building Permit Update

The building permit update consisted of August, and September 2007. Mr. Rosenberger asked if there had been any permit issued for the parcel on Maddox Circle, Mr. Anderson stated that there had been no permit to his knowledge. He also asked if there had been any contact with agents from the Sunset Bay North project, Mr. Anderson stated that he has not but is not sure if any other staff member has, he will ask and report back. Mr. Behr asked if there was any determination as to the apparent development off of Deep Hole Road. Mr. Anderson was unsure if there were any permits submitted for that area.

11. Commission Members Announcements or Comments

Mr. Behr stated that there was a sub-committee on architectural and historical review; he asked if there was a plan to bring those people together that are on the sub-committee. Mr. Rosenberger stated that the Commission has held off until the Comprehensive Plan Update has been completed so as to give the sub-committee some direction when they meet.

Mr. Rosenberger asked Mr. Anderson if he could provide each of the Planning Commissioners with the most recent version of the Sign Ordinance.

Mr. Derrickson asked where the Town stood with Redman & Johnson. Mr. Anderson stated that the Consultants received all the materials from the September stakeholder's meeting, staff asked them what the next step was in the process, no response as of yet. Mr. Anderson feels we need to move forward taking into consideration all the information that has been obtained from the meetings held over the last several months.

There was a motion by Mr. Behr and a second by Mr. Ward to adjourn the meeting. The motion was unanimously approved.

Minutes Approved

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Mr. Raymond R. Rosenberger Sr., Chairman

MEMORANDUM

To: Planning Commission

From: Jared B. Anderson, Town Planner

Date: [November 19, 2007] **January 14, 2008**

Subject: Officer Elections

Below is the section of the By-laws that state that the Planning Commission should have held officer elections in September. The Planning Commission voted to postpone elections to a later date.

ARTICLE 3 – OFFICERS AND THEIR SELECTION

3-1. The officers of the Planning Commission shall consist of a Chairperson, a Vice-Chairperson and a Secretary.

3-2. Nomination of officers shall be made from the floor at the regular September meeting each year. Election of officers shall follow immediately.

3-3. A candidate receiving a majority vote of the entire membership of the Planning Commission shall be declared elected. Such candidate shall take office immediately and serve for one (1) year or until his/her successor shall take office.

3-4 Vacancies in office shall be filled immediately by regular election procedures.

It is the suggestion of staff to hold elections for Chairman, Vice-Chairman, and Secretary during the January 22, 2008 meeting. The duties of these officers are also in the By-laws.

MEMORANDUM

To: Planning Commission

From: Jared B. Anderson, Town Planner

Date: January 15, 2008

Subject: Major/ Minor Subdivision- Update

This issue was originally brought before the Planning Commission because there are concerns from Staff that some of the plats that are being recorded, form lots that are not in compliance with the Town Code and Zoning Ordinance. By requiring all divisions of land to be reviewed before they are recorded we can help assure that the lots themselves are conforming to zoning requirements.

At the November 27, 2007 meeting the Planning Commission concluded discussion about any amendments to the Subdivision Ordinance in regards to land recordation by indicating a need for additional information on the processes of the County Clerk's Office. In order to obtain additional information from the Clerk's Office in regards to recording plats I met with Ms. Donna Belote of the Accomack County Clerk's Office.

The basic issue I was interested in was if the Town amends our Subdivision Ordinance to require that all divisions of land need some sort of review process (i.e. if every subdivision plat needed at least one signature from the Town's Office) would the Clerk's office record a subdivision plat without those signatures?

The response to that question was basically if there is a space for required signatures on the subdivision plat and there are no signatures in that space then the Clerk's office will not record the plat, HOWEVER if there is no space for signatures then they would record the plat. The caveat was that if the plat is labeled a "Subdivision" it must have the proper signature from the County regardless of whether space was provided for that person's signature.

My analysis: If we were to amend the subdivision ordinance to require all divisions of land to have some sort of signature then hopefully the Clerk's office, if properly notified of our amendments, would notice if a plat is missing required signatures or even lines for required signatures to not record the plat until proper signatures are on the plat.

Attached are two additional sheets

1) The first diagram is a SWOT (Strength, Weakness, Opportunity, Threats) Analysis. This type of analysis is used often in the business world especially in marketing. Planning can use this tool when a new idea/concept is being researched. Basically we take a certain concept (in this case requiring all division of land to have a review process) and analyze it thoroughly.
    a. Strength- asks "How would this concept help current conditions?"
    b. Weakness- asks "How would this weaken current conditions?"
    c. Opportunities- "What things (positive) can come about because of this concept?"
    d. Threats- "What things (negative) can come about because of this?" OR "If this concept was implemented these things could hinder its effectiveness."

    I would urge each of you to construct your own ideas of how this may strengthen or weaken current conditions. What is written are my own observations.
2) The second diagram basically shows the subdivision plat recordation process if amended. Keep in mind this is only a hypothetical diagram and shows certain possibilities not what is definitely going to happen.

I tried to construct these supplements to enhance our understanding of what the current conditions are as well as a give an indication of what it would mean (both positive and negative) to amend our Subdivision Ordinance.

Although it is not required that the Planning Commission hold a public hearing for any proposed amendments to the Subdivision Ordinance, the Ordinance does allow for one. It is suggested that the Planning Commission hold a public hearing and come up with any possible recommendations at the next meeting.

SWOT Analysis – Amending Subdivision Ordinance [to require all divisions of land receive some sort of review]

For example plats for all subdivisions which results in 3 or few lots needs an approval by the subdivision agent. Plats for all subdivisions which result in 4 or more lots needs approval by subdivision agent, and planning commission.

Strengths

- Protect citizens from creating/ buying illegal lots
- Planning Commission has input on greater range of projects then before.
- Make sure all lots recorded on Chincoteague are recorded legally.
- Being proactive (catching nonconforming lots before recordation) instead of reactive (having to deny building permit because of illegal lot).

Weaknesses

- People that currently do not have to pay $200+ in review fees for dividing a lot in two, or $500+ in review fees for 4 or more lots, would now have to.
- There would be more work put on Subdivision Agent because everything would need to be reviewed.
- "More restrictions."

Opportunities

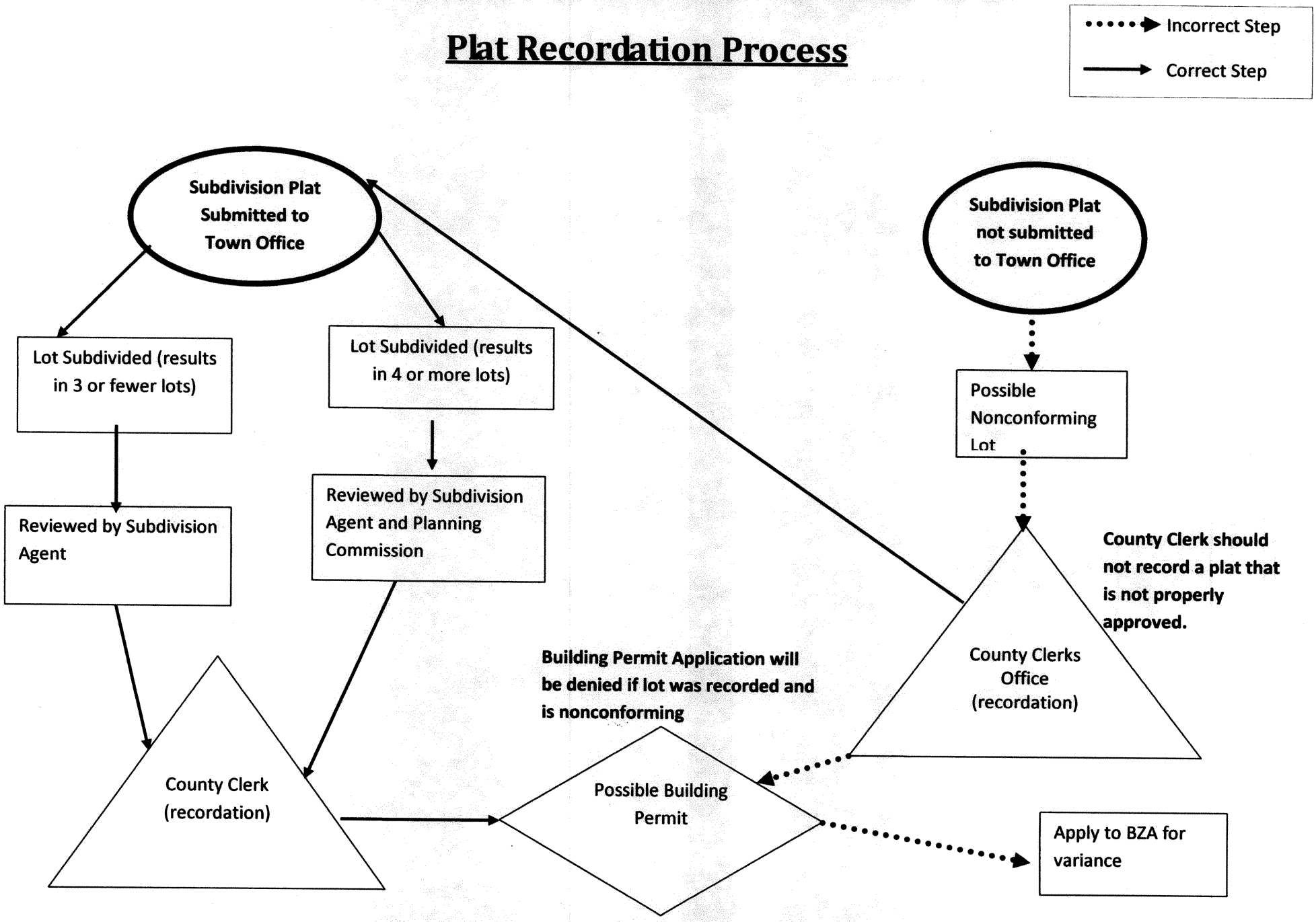
- People will not buy/ create nonconforming lots.
- County clerk will not allow any unapproved lots to be recorded.
- Allows for review process on ALL division of land.

Threats

- County clerk will not look for signature, therefore letting people by-pass requirements.
- Citizens do not want more costs.

Hypothetical Diagram-Subdivision Ordinance

Plat Recordation Process



MEMORANDUM

To: Jared Anderson, Director of Planning

From: Kenny L. Lewis, Zoning Administrator

Date: January 16, 2008

Subject: Proposed Subdivision Ordinance Changes

I reviewed your comments regarding the number of lots needed to be considered a subdivision.

The information you submitted appears to address the concerns of this office regarding the problems I have had in the past with citizens subdividing lots without going through the subdivision process.

I believe that requiring any division of land be considered a subdivision would ensure protection of the seller and buyer of a parcel of land.

I feel any review of a subdivision of land of 3 lots or less should be billed a minimum fee and the requirements of the entire subdivision ordinance should not be mandated. The Commission should make a determination of which requirements should be applied for such lots.

Upon review, please ensure that the appropriate persons are aware of my concerns.

MEMORANDUM

To: Planning Commission

From: Jared B. Anderson, Town Planner

Date: January 15, 2008

Subject: Conditional Use Application-Ms. Christine Schreibstein, Amendment to Application

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The Conditional Use Application for Ms. Christine Schreibstein is being sent back to the Planning Commission because there are amendments to the original application that were not present when the Planning Commission first discussed this application. The issue needs to be addressed again by the Planning Commission. The Planning Commission is also required to hold a public hearing. Below are the minutes of previous Council/Planning Commission meetings where this issue was discussed.

On July 18, 2007 the Planning Commission held a public hearing for a Conditional Use Permit Application for Ms. Schreibstein. The following was taken directly from the minutes:

1. Public Hearing for Conditional Use Permit Application

Ms. Schreibstein stated that she would be willing to pick up her clients so that there should be no issue over parking availability at the property.

Chairman Rosenberger opened the meeting up for public comment.
-Ms. Mary Jester, owns the property beside and two properties across from Ms. Schreibstein stated she has no problem with what Ms. Schreibstein has requested.
-Dr. Glenn Wolffe, questioned the reasons why this issue needed to be considered under a conditional use permitting process. The reason is because the use is not identified as a permitted use in the Town Code. Dr. Wolffe feels that issues of parking and whether or not there are two different businesses are not the main reason it is before the Planning Commission; rather it is because of the use not being permitted. Dr. Wolffe supports allowing this use, he feels the face of medicine is changing and he would like to see holistic medicine as a permitted use in the future.
-Ms. Corrina Limebeck, sister of applicant, stated this type of medicine gave her husband the peace of mind that helped him deal with his illness.

Mr. Ward stated that he could not find anywhere in the Town Code that would disallow this use. His concerns were of the dimensional standards of the site. In the Conditional Use section of the Zoning Ordinance it says that all the other parts of the section shall be considered. Mr. Ward feels that issues such as parking should be considering when considering a conditional use application.

Ms. Schreibstein listed several known hospitals that offer these types of services. She also said the more accurate term to describe the use is "complementary medicine."

Mr. Derrickson made a motion to recommend to council that the conditional use application submitted by Ms. Schreibstein be approved. The motion was seconded. Ayes-Cherrix, Derrickson, Richardson, Behr, and Wolffe. Abstained- Ward.

The issue was then forwarded to the Council with the recommendation that they approve the Conditional Use Permit Application for Ms. Schreibstein.

The following is taken directly from the August 6, 2007 Council Minutes:

8. Conditional Use Permit Application, Ms. Christine Schreibstein

There was a public hearing with the Planning Commission regarding a conditional use application for Ms. Christine Schreibstein. After proper notice and public hearing the planning commission made a recommendation to Council to approve the application.

Councilman Ross asked Mr. Anderson if the issue of parking came up in the discussion with the Planning Commission. Mr. Anderson stated that the issue of parking was addressed to some degree, but there was confusion on whether it should be addressed now or through the BZA. Councilman Ross has concerns about putting a commercial use in an R-2 district, also he does not want to see more congestion and traffic in residential areas. Mr. Anderson stated that currently there are three off-street parking spaces.

Councilman Wolffe asked why this use falls within the conditional use process. The reason is because complimentary medicine is not delineated as a type of business in the ordinance. Councilman Howard stated that the Council might be setting a dangerous precedent by allowing the applicant to pick up customers and thus negate the need for parking spaces at the property. Mr. Poulson stated that even if the use was acceptable by Council, to be permitted in R-2 the applicant should still be able to comply with the parking requirements of the zoning ordinance. Councilman Howard asked if the reason this issue is before Council tonight was to decide if it should go to public hearing or not. That is the reason; however Mr. Poulson advised that it might be better if staff collects more information before sending it to public hearing. It would also be advantageous to ask Mr. Kenny Lewis to come before council and explain the situation as he understands it. Mr. Poulson cited Article IX, Section 9.3, (2), (g) as giving discretion to the Council to allow certain conditions that diverge from the Zoning Ordinance.

There was a lengthy discussion as to whether the applicant was applying for a Home Occupation or a Business License. More information would be needed to make that determination. Mr. Anderson did state that at the planning commission public hearing the applicant stated to the

commission that she did not profess to be a physician, but rather the most appropriate term to describe the uses she is applying for is "complementary therapy."

Another thing to consider is the fact that the applicant already has a business license for a vacation rental property at the residence.

Council members wanted to suspend discussion on this issue until staff can come back with additional information.

After listening to Council's concerns and comments staff gave the applicant a series of questions in the hope of clarifying some of the issues. The applicant met with staff and the Mayor to answer those and any other question they might have had (See Attached). In addition to the questions the applicant also stated at that meeting that she would be willing to rescind the business license for the vacation rental.

To further clarify the issue the applicant amended her application to explicitly state that she was applying for a 'home occupation' (See attached). This will be reflected in the complete application that is attached.

Below are the minutes from the November 5, 2007 Council Meeting

1. Setting a date for Public Hearing for Condition Use Permit Application

Mr. Anderson stated on July 18, 2007 the Public Commission held a public hearing for a Conditional Use Permit application for Ms. Schreibstein. Mr. Anderson asked that a public hearing be set. Mr. Poulson stated that now Ms. Schreibstein has changed her application to a home occupation, which affects the way it was advertised by the Planning Commission. Mr. Anderson stated Ms. Schreibstein changed her application after the Planning Commission meeting. Mayor Tarr asked that a letter be sent to Ms. Schreibstein with the option to either proceed on as a business or go back and have a new public hearing with the Planning Commission as a home occupation.

Staff contacted Ms. Schreibstein and she indicated that she wanted the application to state that she was applying for a "Home Occupation," therefore the application needs to go back to the Planning Commission. Attached are the questions presented to the applicant and her answers completed between the August 6, 2007 Council Meeting and the November 5, 2007 Council Meeting. Also attached is the amended portion of the Conditional Use Application that reflects her amendments to the application.

If the Planning Commission so desires a motion could read "move to hold a public hearing on February 26, 2008 for the Conditional Use Permit Application of Ms. Christine Shreibstein."

Follow up questions for Ms. Schreibstein concerning Conditional Use Permit Application

1) This will/will not be a medical facility?
2) What term most closely describes the use(s) identified in the application?
3) Is 6225 Clark Street your permanent residence?
4) If there is not sufficient off-street parking on the property are you willing to develop more off-street parking to meet zoning requirements? For instance if you need four parking spaces but only have three would you be willing to add an additional space?
5) Would this business ever be functioning while you did not inhabit 6225 Clark Street?
6) Would you have any employees?
7) How many clients, at most would you have in your house at one time?
8) Do any of the uses involve laying the hands on a client?
9) Does the applicant operate the business at another location (i.e. Massachusetts).
10) Do the uses that are described in your application fall into any of the following professional occupations?
    a. Homeopath
    b. Naturopath
11) Will there be less than 16 square feet of display of products or inventory for sale visible from road or adjacent dwellings?
12) Approximately how many square feet of the structure will be used for conducting business?

JBA_8/22/07

1. **This will/willnot be a medical facility?**

   This will NOT be a medical facility

2. **What term most closely describes the use(s) identified in the application?**

   Complimentary therapy.

3. **Is 6225 Clark Street your permanent address?**

   This is not our permanent residence year-round as of now. We live here approximately 12 weeks out of every year.

4. **If there is not sufficient off-street parking on the property, are you willing to develop more off street parking?**

   No, as this will alter the integrity of the neighborhood. We wish not to disrupt any part of our neighborhood. To turn a yard and gardens into a flat top for parking would greatly alter the look and feel and ruin the area in many respects in our opinion, and thus defeat the whole process of keeping Clark Street as is.

5. **Would this business ever be functioning while you did not inhabit 6225 Clark Street?**

   It would not be functioning at 6225 Clark Street.

6. **Would you have any employees?**

   No

7. **How many clients, at most would you have in your house at one time?**

   Two

8. Do any of the uses involve laying the hands on a client?

Only at the end of a treatment. At that time I hold their ankles. The client is completely clothed at all times.

9. Does the applicant operate the business at another location?

Yes, Massachusetts

10. Do the uses that are described in your application fall into any of the following professional occupations?

No.

Per MedicineNet.com, a homeopathic is person who practices homeopathy. Homeopathy is a system of therapy based on the concept that disease can be treated with drugs (in minute doses) thought capable of producing the same symptoms in healthy people as the disease itself.

Homeopathy was invented by the German physician Samuel Hahnemann (1755-1843) in the late 18th and early 19th centuries. It was both refined and popularized by the American physician James Tyler Kent. Homeopathy is based on the theory that each naturally occurring element, plant, and mineral compound will, when ingested or applied, result in certain symptoms. Hahnemann believed that, by diluting these substances in a standardized manner, one could reach the true essence of that substance. Hahnemann described this process of dilution as "potentizing" (German: "potenziert") the substance. These dilute amounts could then be used to treat the very symptoms they were known to produce.

Likewise, according to MedicineNet.com, a naturopath is a system of therapy based on preventative care, and on the use of heat, water, light, air, and massage as primary therapies for disease. Some naturopaths use no medications, either pharmaceutical or herbal. Some recommend herbal remedies only. A few who are licensed to prescribe may recommend pharmaceuticals in those cases where they feel their use is warranted.

Naturopathy is an American healthcare profession. It was founded in the US as a formal healthcare system at the turn of the 20th century by medical practitioners from various

natural therapeutic disciplines. By the early 1900s, more than 20 naturopathic medical schools existed, and naturopathic physicians were licensed in most States. Today there are more than 1,000 licensed naturopathic doctors in the US.

As practiced today, naturopathic medicine integrates traditional natural therapeutics -- including botanical medicine, clinical nutrition, homeopathy, acupuncture, traditional oriental medicine, hydrotherapy, and naturopathic manipulative therapy -- with modern scientific medical diagnostic science and standards of care. The medical research base of naturopathic practice consists of empirical documentation of treatments using case history observations, medical records, and summaries of practitioners' clinical experiences.

11. Will there be less than 16 square feet of display of products or inventory for sale visible from road or adjacent dwellilngs.

There will be less than 16 feet square feet of product or inventory displayed from the road or adjacent dwellings.

12. Approximately how many square feet of the structure will be used for conducting business?

Approximately 192 squared feet

16 x 12 space

PLEASE PRINT

THE PROPERTY IN WHICH THIS APPEAL IS SUBMITTED IS LOCATED AT (911 ADDRESS)

~~Scott~~ 6225 Clark Street, TAX MAP # 30A5-8

THIS PROPERTY IS OWNED BY:

NAME: Scott & Christine Schrebstein

ADDRESS: 6225 Clark St

CITY, STATE, ZIP: Chincoteague VA 23336

PHONE: [redacted] 336-1611 WORK PHONE: 302-479-1680

HAS ANY PREVIOUS APPLICATION FOR A VARIANCE OR AN APPEAL TO THE BOARD OF ZONING APPEALS FOR A SPECIAL USE PERMIT BEEN FILED IN CONNECTION WITH THESE PREMISES?

(✓) NO

( ) YES, EXPLAIN: _____

IS THIS APPLICATION FOR A CONDITIONAL USE PERMIT FILED DUE TO A ZONING VIOLATION IDENTIFIED BY THE ZONING ADMINISTRATOR?

(✓) NO

( ) YES, IF THE VIOLATION HAS NOT BEEN CORRECTED,

EXPLAIN WHY: _____

ARTICLE AND SECTION # THAT APPLIES TO YOUR CONDITIONAL USE PERMIT APPLICATION:

(1.) ARTICLE: ____

SECTION: 9.3

~~REQUIRES:~~ Home Occupation

REASON FOR YOUR APPLICATION: Complementary Therapy

- this type of business is not currently listed as an approved business