

Northumberland County Planning Commission
April 17, 2008
Minutes

The regular monthly meeting of the Northumberland County Planning Commission was held on April 17, 2008 at 7:00 p.m. in the Courthouse at Heathsville, VA with the following attendance:

Gertha Basey	Present	Bill Kling	Present
Thomas Basker	Present	George Kranda	Present
Chris Cralle	Present	Garfield Parker	Present
Alfred Fisher-Chairman	Present	Jim Stone	Present
Ed King	Present	Charles Williams	Present

Others in attendance:

Richard Haynie (Board of Supervisor Ex-Officio Member)

Luttrell Tadlock (Assistant County Administrator)

W.H. Shirley (Zoning Administrator)

RE: INVOCATION

Ed King gave the invocation.

RE: MARCH 20, 2008 MINUTES

Upon motion from Jim Stone, seconded by Charles Williams, and approved by all, the March 20, 2008 minutes were approved as written. The vote was as follows:

Gertha Basey	AYE	Bill Kling	AYE
Thomas Basker	AYE	George Kranda	AYE
Chris Cralle	AYE	Garfield Parker	AYE
Alfred Fisher-Chairman	AYE	Jim Stone	AYE
Ed King	AYE	Charles Williams	AYE

RE: BOARD OF SUPERVISORS REPORT

Luttrell Tadlock gave the Board of Supervisors' report.

RE: TABLED FROM THE 2/21/08 & 3/20/08 PLANNING COMMISSION MEETINGS- REQUEST BY JAMES L. DUNN FOR A CHANGE IN ZONING DISTRICT CLASSIFICATION, TO REZONE TAX MAP PARCEL #36A-(1)-67.

Luttrell Tadlock explained to the Commission that the Office of Building & Zoning received from Mr. Dunn a letter written by "The Riemann Companies, Inc." explaining why a hotel is not feasible on the property being discussed. Mr. Tadlock explained the letter was not included in the Planning Commission packets as it was received on April

17, 2008, the day of the Commission meeting. Mr. Tadlock also explained that the Commission had in their packets the Traffic Impact Analysis provided by Mr. Dunn which the Commission received last month.

Al Fisher stated he would open the public hearing only to hear further comments on the new information received by the Commission for the Traffic Impact Analysis and information on hotels.

Sandy Harris questioned if it was standard for the applicant to pay for the traffic impact analysis to be completed or does VDOT need to complete the analysis.

Mr. Dunn stated the report was given to Virginia Department of Transportation for their review.

Lee Allain read an article in the newspaper that the market for condominiums has crashed. He thinks it is problematic, after reviewing the report on hotels just received by the Commission, to use this property for hotels or ultimately as condominiums.

Al Fisher closed the public hearing.

Chris Cralle noted according to the Traffic Analysis, the condominiums would generate the least amount of traffic being placed on Rt. 200.

Al Fisher stated that the last request by Mr. Dunn was for fourteen (14) condominium units, this request is for twenty eight (28). Mr. Fisher stated that he feels that twenty eight units would be too many.

George Kranda clarified that this is not a conditional rezoning, it is a request to rezone the property from Business to Residential Waterfront (R-2). The twenty eight units, he feels was just a point to discuss and it is his understanding that the Commission would not be selecting the final number of units. Based upon the Riemann Analysis it does not look like anyone would construct a hotel on this property, since the hotel would not be built anyway. He felt that the traffic analysis was not a fair analysis between the usages as a hotel vs. condominiums.

Al Fisher noted that the reason the hotel is included is because he is allowed by right to construct the hotel now.

James Dunn stated that he has the option and has permits to construct the hotel/restaurant. Foundation work has been done. He noted that there will be a building there, whether it is a restaurant or whether it is a restaurant with a few hotel rooms for guest on the weekends or for those people with the marina. He noted that he had all permits for a 150 seat restaurant.

Charles Williams asked if the Commission were to approve the condominiums for fourteen condominiums rather than the twenty eight, would that hold any weight?

Luttrell Tadlock noted that the Commission is making a recommendation to the Board of Supervisors as to whether or not this property should be rezoned from B-1 to R-2. Mr. Dunn would need to come back at a separate public hearing for a conditional use permit before the Board of Supervisors in order for the number of condominiums to be determined.

Bill Kling stated he did not see anything in the Riemann report in regards to the restaurant. He asked Mr. Dunn if he would include the restaurant with the condominiums.

James Dunn commented that the two would not be done together, it would either be a restaurant or condominiums.

Jim Stone questioned Mr. Dunn if the restaurant along with a few rooms would be successful.

James Dunn noted that would be something which they would need to evaluate later and how the rooms work out. It also depends on if we would want a larger restaurant. Currently the first floor is for the restaurant bar, there is a possibility of expanding the restaurant to two floors and not putting the money into finishing the top two floors or instead of finishing the rooms for hotel rooms he could rent the rooms. This is something we need to finish the analysis to see how far we want to go within the building.

Garfield Parker noted how fragile the ecosystem is of the Great Wicomico. The approval of the marina last week by the Board of Supervisors just around the corner and now this, we will soon need a traffic light in the middle of the river. His concern was also with how the Chesapeake Bay Act played into this project.

George Kranda questioned whether the marina would be eliminated if the rezoning took place.

Luttrell Tadlock and W.H. Shirley explained that marinas are treated separately. They are done by Special Exceptions permits, which go before the Board of Supervisors at a separate public hearing. Although Mr. Dunn has received approval for the marina, the Board of Supervisors at their public hearing for the condominium request, if the property is rezoned, can place such conditions that would not allow the marina and to only allow those slips for those that have condominiums at this location.

The Commission again questioned the fourteen condominiums. Mr. Shirley noted that the Planning Commission did not have any jurisdiction in specifying the number of condominiums allowed. This will be determined at a later public hearing held by the Board of Supervisors if the property is rezoned. This is simply a rezoning request and the Commission is making a recommendation to the Board of Supervisors. There is nothing to prevent Mr. Dunn from choosing another permitted use under the R-2 Zoning district if he chose. He is not obligated to construct the condominiums if rezoned.

With a motion from Garfield Parker, seconded by George Kranda, the motion was to deny the rezoning of the property known as tax map parcel #36A-(1)-67 from Business General (B-1) to Residential Waterfront (R-2). The motion failed with the following vote:

Gertha Basey	NAY	Bill Kling	AYE
Thomas Basker	Abstained	George Kranda	AYE
Chris Cralle	NAY	Garfield Parker	AYE
Alfred Fisher-Chairman	NAY	Jim Stone	NAY
Ed King	Abstained	Charles Williams	NAY

After not accepting the previous motion there was another motion made by Al Fisher, seconded by Gertha Basey to approve the rezoning of the property known as tax map parcel #36A-(1)-67 from Business General (B-1) to Residential Waterfront (R-2). The motion was approved by the Commission with the following vote:

Gertha Basey	AYE	Bill Kling	Abstained
Thomas Basker	AYE	George Kranda	NAY
Chris Cralle	AYE	Garfield Parker	NAY
Alfred Fisher-Chairman	AYE	Jim Stone	AYE
Ed King	AYE	Charles Williams	AYE

Bill Kling asked for it to be reflected in the record that he abstained from voting on this matter (rezoning request by James Dunn) when it was discussed by the Economic Development Commission, of which he is a member.

The Commission noted the reason they are recommending approval of the rezoning to the Board of Supervisors was as follows:

- 1) Less traffic, as described in the Traffic Impact Analysis.
- 2) Density has an opportunity to be less.
- 3) Regard this area as residential.
- 4) The Board has already approved one marina in the area and feels that there would be less environmental impact if this was not a marina. Potentially fewer number of boat slips having condominiums vs. marina.

Luttrell Tadlock explained to the Commission that this item will be on the June Board of Supervisors meeting and not in May due to a full agenda.

RE: PUBLIC HEARING TO AMEND THE NORTHUMBERLAND COUNTY ZONING ORDINANCE TO INCLUDE “ADULT BUSINESSES”.

Luttrell Tadlock and W.H. Shirley explained the proposed language which is as follows:

1. An amendment to the Northumberland County Zoning Ordinance to add “Adult Businesses” as a new Article. This Article would address the following:
 - a. Define “Adult Business” and all associated terms.

- b. Allow an “Adult Business” with a Conditional Use Permit in the Business General (B-1) Zoning District (Article VII 148-65 B).
- c. Specified setbacks and spacing requirements for adult businesses.
- d. Signage requirements for adult businesses.
- e. Establish hours of operation for adult businesses.
- f. Define as a Class I Misdemeanor any violation of the Adult Business Article.

Al Fisher questioned if the video store in Callao would fall under this ordinance.

Luttrell Tadlock stated that the video stores in the County now would not fall under this ordinance based on the definition of Adult Video Store.

W.H. Shirley noted that a substantial or significant part of the businesses stock would need to be adult material, the stores in the County have other movies along with games and would not fall under this definition.

Al Fisher opened the public hearing.

Colston Newton noted that by the definition for “Adult Live Entertainment- a nightclub, bar, restaurant, or similar commercial establishment which regularly features: 1) Persons who appear in a state of nudity or semi-nude; or ...” he simply would like to point out that by his grandfather standards people going into most of our restaurants, lots of women are semi-nude.

Sue Madej commented that the Commission should consider this ordinance seriously. This is a wonderful place to live, and the Commission has a chance to be proactive to keep this wonderful place from changing.

Ben Stallings told the Commission that this is a serious problem in our culture and there was a petition presented to the Board of Supervisors in favor of this zoning language. This language sets standards that need to be in place.

Margaret Himler stated that she moved from Baltimore because of what is not in Northumberland County.

With no further public comments, the public hearing was closed.

Ed King noted that he is for peoples rights however, if there is one good function of government it is to protect its citizens. This type of businesses is cancerous to our society. It is a good thing that we can make steps in the right direction where our moral beliefs lie.

Gertha Basey stated that she is in favor of this in order to protect this beautiful County.

George Kranda questioned as to why this was not included in the M-1 zoning district.

Luttrell Tadlock answered by stating the M-1 Zoning District classification is for Industrial Uses and with “Adult Business” being more business oriented, County Staff felt that it was better suited in the Business General Zoning District (B-1).

Bill Kling commented that he had spent a good part of his life in the news business. He has covered a federal court hearing on a movie that law enforcement was trying to kick out of theatres in the 1960’s. He also did a series on the pornography business, which pulls in billions of dollars a year, for a major newspaper in Chicago. The problem is the II Amendment Freedom of Expression and Press. We owe it to the citizens of this County to do some preventive measure through the zoning ordinance.

Al Fisher stated that the humor in this is the fact that we even need an ordinance like this. However, that is in the past and we need to look in the future.

Ed King questioned as to why the business was limited to 72 hours.

Luttrell Tadlock stated that was what was in the model ordinance.

With a motion from Bill Kling, seconded by Ed King, and approved by all, the Commission recommends to the Board of Supervisors the language for “Adult Businesses” be approved as written . The vote was as follows:

Gertha Basey	AYE	Bill Kling	AYE
Thomas Basker	AYE	George Kranda	AYE
Chris Cralle	AYE	Garfield Parker	AYE
Alfred Fisher-Chairman	AYE	Jim Stone	AYE
Ed King	AYE	Charles Williams	AYE

RE: WATER ACCESS SITES

Luttrell Tadlock stated that he did not have any further information on the water access sites.

RE: OTHER BUSINESS

Luttrell Tadlock reminded the Commission that the Board of Supervisors sent by resolution to the Commission to review the Commercial Dog Kennel Ordinance. He stated that as soon as staff is able to complete the draft it will be sent to them for their review. A public hearing will need to be held and depending on the timing of when staff can complete the draft, the public hearing will be either May or June.

RE: PUBLIC COMMENT PERIOD

Ron Herring expressed to the Commission the importance of work force housing. Cost of permits is going up along with everything else. There were only eight building permits pulled last month. He stated that from start to finish the construction of a house employs

approximately 125 people. He is concerned about the younger people not staying in the area because they are not able to afford to live here due to rising costs.

RE: ADJOURNMENT

With a motion from Charles Williams, seconded by Jim Stone, and approved by all, the meeting was adjourned. The vote was as follows:

Gertha Basey	AYE	Bill Kling	AYE
Thomas Basker	AYE	George Kranda	AYE
Chris Cralle	AYE	Garfield Parker	AYE
Alfred Fisher-Chairman	AYE	Jim Stone	AYE
Ed King	AYE	Charles Williams	AYE