

**Northumberland County Planning Commission
November 20, 2008
Minutes**

The regular monthly meeting of the Northumberland County Planning Commission was held on November 20, 2008 at 7:00 p.m. in the Courthouse at Heathsville, VA with the following attendance:

Thomas Basker	Present	Bill Kling	Absent
Chris Cralle	Absent	George Kranda	Present
Kevin Elmore	Absent	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: OCTOBER 23, 2008 MINUTES

Upon motion from Garfield Parker, seconded by Ed King, and approved by all, the October 23, 2008 minutes were approved as written. The vote was as follows:

Thomas Basker	AYE	Bill Kling	Absent
Chris Cralle	Absent	George Kranda	AYE
Kevin Elmore	Absent	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: AUTO AND LIGHT TRUCK RECONDITIONING AND/OR REPAIRING.

Luttrell Tadlock explained to the Commission the proposed language, listed as follows:

1. An amendment to the Northumberland County Zoning Ordinance Chapter 148 Article III, Section 148-18A and Article VIII, Section 74A; Permitted Uses in the Agriculture District (A-1) and the Industrial Light District (M-1), as well as Article VII, Section 148-65B; Conditional Use in the Business General District (B-1): to delete "Auto reconditioning, truck repairing, retreading".

2. An amendment to the Northumberland County Zoning Ordinance Chapter 148 Article I, Section 148-3, Definitions and word usage; to define "Auto and light truck reconditioning and/or repairing" as follows:
 - a. An establishment for general automotive and light truck engine, body repairs, and/or maintenance where there is no sale of vehicles, fuel, and tires. Light trucks are classified as any truck that is 12,000 pounds or less in gross vehicle weight (gvw).
3. An amendment to the Northumberland County Zoning Ordinance Chapter 148 Article III, Section 148-18B; Article V, Section 148-43B ; Conditional Uses in the Agriculture District (A-1) and the Residential Waterfront District (R-2) respectively: to add "Auto and light truck reconditioning and/or repairing".
4. An amendment to the Northumberland County Zoning Ordinance Chapter 148 Article VII, Section 148-65A; Article VIII, Section 148-74A ; Permitted Uses in the Business General District (B-1) and the Industrial Light District (M-1) respectively: to add "Auto and light truck reconditioning and/or repairing".

Al Fisher opened the public hearing.

Gerard Belanger told the Commission that he appreciates the Commission trying to help Mr. Burgess, however; from a county wide perspective it is wrong. Mr. Belanger stated his concern of an adjoining property owner, who is currently refurbishing and restoring cars, who has a large garage. Since this operation is considered a hobby, nothing can be done since it is allowed in the R-2 Zoning district. Mr. Belanger also is concerned that if this amendment is passed that the same adjoining property owner, who has property on Rt. 360, will use his property in the residential area to refurbish and restore cars to be able to sell them on his property on Rt. 360. This proposal is wrong.

Ralph Millar stated that he objected to the proposed amendment. This type of use is not compatible with the R-2 Residential Waterfront zoning district. Commercial car repair is not compatible to residential living. This would have a terrific impact on the value of adjoining properties.

Anne Belanger read the current Residential Waterfront (R-2) Purpose. The Commission will be considering proposed changes to the zoning districts later. Any changes to the zoning district should be held over until after the zoning review. This request proposes a danger to the water quality and is not compatible with the Residential Waterfront zoning district. It is difficult for the County to monitor Conditional Uses approved now. She asks that the request be denied.

Ann Thompson commented that she strongly objected to the amendment. She also noted that the Commission may also be wrong in defining a light truck as anything 12,000 pounds or less. As a Residential Waterfront property owner, she stated that she deserves the right to have her property values preserved. Adopting this would erode the County's tax base. She expressed concerns of traffic, pollution, and signage in a residential neighborhood. The Commission would be doing the County a disservice if the proposed language is adopted.

Larry Moore expressed his support for Billy Burgess' request. He realizes that people have come here to buy waterfront property, but they bought it with the current zoning in place. In June 2006 the Comprehensive Plan was adopted, which seemed to be flying

under the radar. In September of the same year, Dr. Haugan presented the Highway Overlay Zone, which was placed on the back burner because of the public outcry. In June of last year, there was a proposal to change acreage to 20 acres. Notices were sent out to the 13,000 R-1 and A-1 zoned property owners, and they showed up to oppose the changes. The fact is there are a lot of people that still need to make a living. Mr. Burgess maintains a professional business.

Lynton Land wanted to support Mr. Burgess as well, and stated that Mr. Burgess maintains a clean business. Anybody buying a property next to Mr. Burgess with his business in place can then decide whether they would like to live next door. But it is an entirely different matter when one allows a truck repair shop in a residential area. He hopes the Commission and the Board can find a solution to help Mr. Burgess. However, allowing a truck repair facility in Residential Waterfront is not the answer.

Larry Moore noted that the Comprehensive Plan calls for villages and its support areas. These areas are extremely restrictive due to their size. If you look at the map, these commercial hubs and support areas are small. To crowd everyone in the villages is just not going to work.

Greg Haugan noted the Planning Commission had eleven public hearings on the Comprehensive Plan before it was approved. There were also public comments that were received, analyzed, and presented to the Commission for their review. The newspapers carried the status of the Comprehensive Plan as the Commission was going through its process. The support areas to the villages were enlarged. Some of the comments that we have received are that the Village support areas are too large. He also feels that it is inappropriate to place a business in the R-2 zoning district.

Dave Willis has spoken before in support of Mr. Burgess. It seems that if this is done by Conditional Use, this gives the County the control they are looking for if “Auto and light truck and/or repairing” is going to be allowed.

Al Fisher noted that this is not a blanket change. You will not have automotive repair shops all over Northumberland County. Mr. Burgess meets all of the criteria. He feels the neighbors’ questions and concerns are paramount in the decision of this nature. He has great faith in the Board of Supervisors to decide what is best for the community.

Gerard Belanger stated that his neighbor has been in violation of his conditional use permit for the last 15 to 20 years. It has only come to light because another neighbor has started asking questions. You do not want to face lawsuits. It is a situation different from Mr. Burgess in that his neighbor’s garage is 100 ft. from his front door and approximately 100 ft. to the other neighbor’s door from the garage. If this neighbor asks for a conditional use permit and there are not any conditions placed on Mr. Burgess’, would the County not be setting themselves up for a lawsuit if they do not approve his neighbor’s request? How are you going to stop his neighbor with two bays and lifts to restore cars on his used car lot?

Bob Lindsay questioned why Mr. Burgess could not find an appropriately zoned piece of property to locate his business. Once you start granting conditional permits on waterfront zoned properties, pretty soon it will not be worth as much anymore. There is a danger with certain toxic chemicals and solvents getting into the waterways. He opposes granting this amendment.

Ray Thompson wanted to express his opposition to this amendment. If he were looking for waterfront property, and he saw this operation he would go somewhere else. Take a good long look before you vote on this matter.

Manuel Haynie stated that there will probably not be any wholesale garages on waterfront properties. He believes that we are headed for hard times. You cannot stop everything. He has listened to everyone's comments why we shouldn't do this, he thinks we should start talking about things that we can do.

Larry Moore stated that this is looking at the worst case scenario. Mr. Burgess does not have the worst case scenario. His neighbors are speaking in favor of this.

Ann Thompson noted that once you approve one "Auto and light truck and/or repairing", it will set a precedent.

Dave Willis said he sees apples and oranges. Currently, the neighbor everyone is speaking of, is using his garage for personal use, which there are no controls. What is being requested is for a repair shop that would have conditions.

Gerard Belanger questioned what assurance neighbors would have to such a request (such as a repair shop), if they objected to the application. Would the application be denied?

Bob Lindsay suggested the encouragement of those businesses to locate in areas that the County has judged already appropriate.

Billy Burgess stated that he came before the Commission on September 18. He read a statement of his plans, and he noted that he would like to read that statement again since there were some people present that were not present at the September 18 meeting. He stated that he is semi retired. He owned Burgess Motor Co. for 50 years. He is not looking to grow and has no employees. Mr. Dunn purchased his business and his contract states that Mr. Burgess cannot have a business anywhere in the County except at his home. He draws Social Security, so he is limited on the amount that he can make. This would be a hardship if he could not continue doing this job.

Al Fisher closed the public hearing.

Al Fisher stated that this comes down to whether we have faith in the Conditional Use.

Ed King asked since Mr. Burgess is currently doing business, could he be grandfathered and therefore, would not need any further changes to the County's regulations?

W.H. Shirley stated that Mr. Burgess is not grandfathered. The only way Mr. Burgess can continue to operate where he is currently, is to make some change in the zoning ordinance either as a special exceptions or conditional use.

Charles Williams commented that he understands the problem that the folks are having on Hidden Cove Ln. The biggest difference that he sees between what Mr. Burgess would like to do and those of Hidden Cove Ln. is that Mr. Burgess' neighbors do not object to what he wants to do. He questioned if all adjoining property owners had been contacted. He would like to see Mr. Burgess get this, but he is open minded and both sides have given good arguments.

Luttrell Tadlock noted that the adjoining property owners did not have to be notified in this case, due to the fact that the request is to change the Zoning Ordinance and is not a specific request. Once Mr. Burgess files an application for a conditional use application, if this language is approved, then all adjoining property owners would be notified.

Jim Stone asked if it is possible to place a condition on Mr. Burgess' request so that when he ceases his operation there could be no further business at that location.

W.H. Shirley stated that this could happen if the Board of Supervisors at the time of the application put such a condition on the application.

George Kranda commented that it's easy to mix the zoning text amendment with some future application for a conditional use that may or may not come along. It seems bizarre to amend the zoning ordinance for the use we are discussing tonight. He realizes that this creates a problem for an individual; however, that is not what we are considering. We are looking at an ordinance for the entire County. Looking at R-2, he doesn't believe you can even repair boats in this district, so why would we allow the repairing of automobiles? No reflection on Mr. Burgess' current business, he feels that it is not appropriate to amend the zoning ordinance in this way. While reviewing the zoning ordinance in the next several months, there may be a way that we (the Commission) can find a way to allow such an activity.

Garfield Parker thanked Dr. Haugan for reminding him of all the work that they put into the Comprehensive Plan. Commercial operations do not belong in residential areas.

Upon motion from Garfield Parker, seconded by George Kranda, and approved, the Commission is making a recommendation to the Board of Supervisors that the proposed language not be approved. The vote was as follows:

Thomas Basker	AYE	Bill Kling	Absent
Chris Cralle	Absent	George Kranda	AYE
Kevin Elmore	Absent	Garfield Parker	AYE
Alfred Fisher-Chairman	NAYE	Jim Stone	AYE
Ed King	AYE	Charles Williams	NAYE

Luttrell Tadlock stated that this would not go before the Board of Supervisors until January 8, 2009 meeting.

**RE: PUBLIC HEARING ON SECTION 1 OF THE ZONING REVIEW,
“PURPOSES SECTIONS OF EXISTING ZONING DISTRICTS”.**

Luttrell Tadlock explained what was before the Commission.

Al Fisher opened the public hearing.

Ida Hall noted that the Commission has a daunting task before them over the next year or so. Ms. Hall submitted a letter to the Commission from which she read. (A copy of this letter can be found in this month's meeting packet.)

Larry Moore questioned the last sentence in the first paragraph of the Agriculture District proposed language. Under the proposed language, businesses in A-1 will no longer be allowed unless it is related to an agriculture purpose. What this does is it guts the A-1 Zoning District. This seemingly small change will put us on the footing for more changes. This small change will greatly restrict property rights and subsequently property values. There are many small parcels zoned A-1 up and down Rt. 360 that are not useful for farming. Thirteen thousand letters were sent out last year and the people voiced their opinion. Are those same 13,000 letters going to be sent out again notifying people in the A-1 zoning district that their property rights will be restricted and their land values decreased? I want those letters to go out. What is reasonable today may not be reasonable tomorrow. You can't address every fear.

Anne Thompson stated that the R-2 Residential Waterfront district proposed language is too ambiguous. The language needs to be tightened.

Ralph Millar had a question regarding people losing value of their land due to the proposed A-1 purpose definition. He questioned whether a person that has an existing use would be grandfathered if the zoning definition changes?

W.H. Shirley stated that there must be a current use in which it would be grandfathered.

Larry Moore commented that if one goes up and down 200 and 360 you will see a lot of vacant property. Some of it is in use and it would be grandfathered, but what about the vacant property that one has just bought. He doesn't see the crushing development that everyone is concerned about. He asked if someone could point that out because he surely doesn't see it on 200 and 360. He stated that he is about to get his property rights run over.

Manual Haynie questioned why this is being considered.

W.H. Shirley stated that sometimes change is necessary. You can have uncontrolled development and the time to address the issue is before development becomes a problem.

The reason for the proposed zoning is to allow growth but also to control where that growth is located.

Lee Allain stated that he feels that property values will be affected. On the other hand, when he lived in Melbourne Florida, which at the time was very much like Northumberland County, over a period of time stop lights went up, the speed limit went from 55 mph to 25 mph. The only way to keep this from happening is to do exactly the type of thing the Commission is looking at in the zoning regulations.

Lynton Land challenged the Commission to drive the Village areas. What you discover is that 1/3 of the mileage is in the Villages. He is not sure of the number of small parcels along 360 and 200. He doesn't think that it is very many people that would be affected by this language moving non-agriculture businesses to the villages. We need to keep the spaces outside of the Villages rural and to keep the Villages for commerce.

Manual Haynie stated that he recommended that the letters be sent out again to the A-1 property owners.

Larry Moore commented that property in the villages is not a large area. In Burgess there are two or three land owners that own virtually all the land. Where is the crush of commercial development? We need to address this when there is a need to address it.

Mike Harwood supports Section 1 with a few modifications. The time to review the zoning ordinance is now, when you have the time to review the ordinance. The Board of Supervisors did the right thing to ask the Planning Commission to review the ordinance.

Reid Armstrong asked if there was a process where property owners need to be notified or was that something special done previously.

Luttrell Tadlock commented that the Code of Virginia requires a locality to notify property owners when the density of the lot sizes in a zoning district is reduced. What is being considered here are the Purposes and Usages of each district not the lot sizes. In this case, a mass mailing is not required.

Since there were no further public comments, Al Fisher closed the Public Hearing.

Ed King stated that 1/3 of the County is farmland and 1/2 is forestry, that means that 5/6 of the County is in agriculture or forestry and only 1/6 equals residential, business, highway, and schools.

George Kranda was listening to the comments by Larry Moore. Can a government take value of one's land without compensation because of zoning.

W.H. Shirley stated that he could not answer his question and would be a question for the County Attorney.

Upon motion from Garfield Parker, seconded by Ed King, and approved by all, the Commission wishes to hold a work session on December 18, 2008 and the Commission also wishes to accept comments up to the work session. The vote was as follows:

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

RE: PUBLIC COMMENT PERIOD

Anne Belanger asked why the request by Mr. Burgess for the Auto Reconditioning will not be heard by the Board of Supervisors until January.

Al Fisher stated that it is due to the number of agenda items.

Larry Moore commented that he understands the waterfront property owners concerns; however, he would like to keep a certain amount of his property rights as well.

RE: ADJOURNMENT

With a motion from Garfield Parker, seconded by Ed King, and approved by all, the meeting was adjourned. The vote was as follows:

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