

**Northumberland County Planning Commission  
June 18, 2009  
Minutes**

The regular monthly meeting of the Northumberland County Planning Commission was held on June 18, 2009 at 4:00 p.m. in the Courthouse at Heathsville, VA with the following attendance:

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

Others in attendance:

Richard Haynie (Board of Supervisors Liaison)  
Luttrell Tadlock (Assistant County Administrator)  
W.H. Shirley (Zoning Administrator)

**RE: CALL TO ORDER**

Al Fisher, Chairman, called the meeting to order.

George Kranda gave the invocation.

**RE: BOARD OF SUPERVISORS' REPORT**

Luttrell Tadlock gave the Board of Supervisors' Report.

**RE: MINUTES**

With a motion from Charles Williams, seconded by Bill Kling, and approved by all, the Planning Commission approved the May 21, 2009 monthly meeting minutes. The vote on the matter was as follows:

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

**RE: ZONING ORDINANCE WORKSESSION**

Luttrell Tadlock and W.H. Shirley presented to the Commission recommendations of special exception usages which the Commission may wish to add to the permitted by

right or conditional use list. They also reviewed the proposed Multi-family Residential Dwelling District (R-4).

Public Utilities discussion- The Commission noted that public and private utilities need to be better defined.

Temporary construction or sales office- The Commission discussed if there had been a problem with the length of time these types of facilities exist in any one location. W.H. Shirley noted that in some cases, the temporary office may be turned into a single family dwelling once the use of the office is no longer needed for that location. In other cases, the office may be as simple as a trailer that is often carried away after construction has been completed. The Commission had no further questions or comments.

Sanitary landfill- There were no questions or comments from the Commission.

Airports and airstrips- The Commission discussed that this particular use was for private and not commercial airports/airstrips.

Cluster developments- Staff explained to the Commission the Code of Virginia requires a locality to allow clustering by right as long as the density of the cluster development does not exceed the density already allowed in that zoning district by traditional subdivisions. If the density exceeds the allowed by right density for that zoning district, the locality can then require a conditional use permit. The Commission had no further questions or comments.

Planned Unit Development- Staff explained to the Commission that a Planned Unit Development is essentially a self contained town; it would contain shops, businesses, banks, etc. The Commission had no further comments or questions.

Family Mobile Home Park- The Commission asked if there was an acreage requirement for family mobile home parks. W.H. Shirley responded that family mobile home parks do not have a minimum acreage requirement; however, commercial mobile home parks need to have a minimum of ten acres.

Ferry/Port- The Commission did not have any comments or questions.

Group Home- Staff explained to the Commission that localities have to allow group homes based on §15.2-2291 of the Virginia State Code; however, if the number of individuals specified in the Code of Virginia is exceeded, the County can require a conditional use.

With a motion from George Kranda, seconded by Kevin Elmore, and approved by all, the Planning Commission would like to incorporate the proposed changes that are on the Additions, Corrections, Deletions to Proposed Usages sheet to the May 21, 2009 Planning Commission Draft Usages. The vote on the matter was as follows:

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

The Commission continued the discussion regarding the proposed usages.

Al Fisher questioned if there is a potential for a commercial kennel to go into the R-2 zoning district since there are R-2 properties that do not touch the water.

W.H. Shirley noted that he just made a comment that there are R-2 zoned properties with large acreages that may not be heavily populated or populated at all. He was not advocating that commercial kennels be proposed in R-2, he was just pointing out that there are large acreages in the R-2 zoning district that do not touch the water.

George Kranda asked if it would be beneficial to have the property zoned differently in this case.

W.H. Shirley noted that he felt that in this case either allow commercial kennels with a conditional use or not at all.

George Kranda commented that one does not know what their property value is if everything is done with conditional uses.

Charles Williams noted that at the last meeting there were individuals speaking on how a lot of folks got a start at their home/garage. We do have home occupations and home professional offices listed as allowed by right in every district. So this would not prohibit anyone from doing this, except what they are manufacturing could not be put on display.

W.H. Shirley noted that the definition may need to be expanded; if you read it literally you could not have a home occupation in a garage only in your home. The definition could be expanded to include garages, etc. He also noted that the County has encouraged home occupations and not tried to discourage anyone from trying to start a business.

Charles Williams agreed that the definition should be expanded. He also questioned why the Commission changed service stations from a permitted use to a conditional use in the A-1 zoning district at the last work session. The only reason that he sees that it would be placed as a conditional use in the A-1, is that if it is not a good fit for a particular area. It gives the community the opportunity to speak on the issue.

George Kranda asked a question about Intensive Livestock Operations.

W.H. Shirley noted that Intensive Livestock Operations are mandated by the state to be in our Zoning Ordinance.

The Commission took a short dinner break and reconvened thirty minutes later.

W.H. Shirley asked the Commission if they would like to delete commercial kennels from the R-2 zoning district and only allow it in the A-1 zoning district as a conditional use? This was one criticism that was brought up more than once at the public hearing.

Al Fisher noted that we should look at those areas zoned R-2 that would support commercial kennels. There are some cases where they should not be in R-2. He hoped that the conditional use would be the happy medium.

Mr. Fisher asked for any other comments on the commercial kennel issue. Having none, the Commission left the proposed language as it was shown in the draft. The draft showed commercial kennels in the A-1 and R-2 zoning districts allowed by conditional use.

Charles Williams suggested that the Commission ought to go over the uses that the Commission has put conditional uses on to see if there are any that ought to be relaxed. In consideration of the public comments, we ought to review these again.

Kevin Elmore asked if a particular use is being done by conditional use how are we taking away ones rights.

Charles Williams noted that there is a fee involved with the conditional uses.

Chris Cralle commented conditional uses become a subject of public opinion.

Charles Williams stated that maybe the Commission needs to make a recommendation to lower the fees or reevaluate the costs.

W.H. Shirley noted that it costs the County money at almost every public hearing. The fees do not cover the cost of advertising and administrative costs. The fees in today's economy are minimal. Conditional use permits are \$150; this does cover the advertising costs. The highest fee we have is the Rezoning fee which is \$400; however, this is advertised twice for the Planning Commission and twice for the Board of Supervisors. The fees are negligible when you think of the development of a piece of property and what it is worth. The Board changed the fee schedule some years ago, but he doesn't believe that they are looking to increase the fees anytime soon. By getting rid of the special exceptions and placing them into conditional use, you are actually cutting the cost of obtaining a permit from \$300 for a special exception to \$150 for a conditional use permit. He also noted that in the eleven years that he has done this, he has never had anyone say they could not pay the fee. He noted that it may not have been easy for them, but they did not say they couldn't pay the fee. He doesn't believe it is the cost, he believes it's the idea that an individual may not be able to do something by right tomorrow that they can do today. If they looked at the list, and took the usages one by one, most of the usages that are suggested to be moved from being permitted to a conditional use in the A-1 district for example, can almost be placed in a light or heavy industrial category. You don't want these in an agricultural or residential area.

Bill Kling asked what the rationale was for placing commercial cemeteries as a conditional use in A-1.

W.H. Shirley stated that this does not cover church cemeteries, but maybe the Commission suggested that it be placed as a conditional use for the simple reason that it is commercial.

With a motion from Charles Williams, seconded by George Kranda, and approved by all, the Planning Commission would like to continue to work on the usages but asked staff to continue to move forward on to section 3. The vote on the matter was as follows:

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

Next, Luttrell Tadlock reviewed the R-4 Multifamily Residential proposed district purpose with the Commission.

Charles Williams asked if there was a minimum acreage.

W.H. Shirley commented that as of right now we have not established a minimum acreage. This would all depend on if sewage was available.

George Kranda asked about off site impacts.

W.H. Shirley noted that this is always taken into consideration, especially now because VDOT has access management control on Rt. 360 and as of July 1, 2009 they will have access management control on secondary roads.

George Kranda stated that we had a discussion about multi-family vs. multi-unit.

W.H. Shirley commented that we discussed this at the last work session, but there was not a recommendation by the Commission on how it is to be handled. We look at any one single structure that has more than one dwelling unit in it as a multi-family structure.

With a motion from George Kranda, seconded by Chris Cralle, and approved by all, the Planning Commission tentatively approved the R-4 Multi-family Residential Dwelling District proposed purpose. The vote on the matter was as follows:

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

Ed King

Absent

Charles Williams

AYE

**RE: OTHER BUSINESS**

The Commission would like to hold a working session on Section 3 at their next monthly meeting, which is to be held on July 16, 2009 at 7:00 p.m. in the new courts building.

**RE: PUBLIC COMMENT PERIOD**

Ron Herring requested an example of what property would be zoned R-4 Multi-family Residential Zoning District. He also asked about clustering.

W.H. Shirley stated there will not be any property zoned R-4 until someone comes to the County and wants to put multi-family on their property. When that individual comes to the County, then that would necessitate the rezoning process. Clustering is allowed at the same density that is already allowed; however, greater density clustering developments would require a conditional use permit.

Larry Moore stated he brought up the fact that the Chapter 3 of the Comprehensive Plan is included in Section 1 that has been tentatively approved and he has asked for its removal, has there been any discussion to do so? Chapter 3 of the Comprehensive Plan dictates that there will be no commercial or industrial activity outside of the village areas. The Comprehensive Plan also brings in the Highway Corridor Overlay, which this question was on your questionnaire. The plan concerns him. How are you going to address conditional uses when your own Comprehensive Plan says there will not be commercial and industrial uses outside of the villages. He also cringes when he hears a Commission member say that we are not taking away rights when we do conditional use. You are taking away rights, when you take a by right use and make it conditional, you are taking rights away. He noted that as he looks at A-1 and some of the other zoning districts, he sees where there are some things [uses] in all of them [zoning districts] that should be removed completely and some that should be moved to a conditional use permit. To his estimation there are some people that he meets with that don't agree with him, they wouldn't go as far as he would in limiting some of the uses. He sees where some uses should be limited. But we are going too far. There is no present need to change the uses. The zoning ordinance has been amended time and time again; he just doesn't see a need to do this now.

Lee Allain thanked the Commission for their hard work.

Ralph Millar stated that he sent a letter regarding two uses that he felt were inappropriate in the C-1 zoning district. These uses are Commercial Child Care facilities and Commercial nursery and greenhouses. Under the current proposal, they are listed by right. He would suggest that they be moved to conditional use.

Mike Harwood commented that he did a legal review five years ago to look at the legal standing of the Comprehensive Plan. The Virginia Supreme Court had made rulings on

lower court decisions involving the Comprehensive Plan. The Supreme Court ruled that the ordinance itself has the legal standing of law, whereas the Comprehensive Plan was only brought in when the zoning ordinance was not clear.

Linda Herring noted that when one comes in and they are told the fee is \$400 and there is no choice, and the request is denied that is the problem. If I want to put a roadside stand to build bird houses but I can't because my property is in the wrong place that is taking property.

Manual Haynie stated that if the Comprehensive Plan does not have a legal standing why can't he proceed with the rezoning that he had requested earlier.

W.H. Shirley commented he would be more than welcome to come back in to submit the rezoning request and that we would have it advertised to go before the Commission and the Board. Mr. Shirley also stated that he had written a letter regarding this property. The letter stated that the current use was non-conforming but was grandfathered as it was there prior to the adoption of the zoning ordinance. Unless the use ceases, the current business could continue to operate based on his letter.

Manual Haynie expressed concern that if that use ceased the owner would then need to get a conditional use permit. He gave the example of a restaurant.

W.H. Shirley noted that as of today they would not need a conditional use in the R-2 zoning district to establish a restaurant. In the proposed language it is listed as a conditional use. He asked Mr. Haynie if he had looked at the proposed language being reviewed by the Commission at other uses that are being allowed by right and conditional uses.

Manual Haynie commented that he would need to take a look at the proposed language.

Larry Moore pointed out that the main thing is that he is grandfathered (referring to the rezoning Mr. Haynie was speaking) and that is the only thing that he could do with the property.

W.H. Shirley commented that was not the only thing he could do with the property. Mr. Haynie would be able to do any of the permitted uses or ask for any of the conditional uses listed under the R-2 zoning district.

**RE: ADJOURNMENT**

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

Thomas Basker	Absent	Bill Kling	AYE
Chris Cralle	AYE	George Kranda	AYE
Kevin Elmore	AYE	Garfield Parker	Absent

Alfred Fisher-Chairman  
Ed King

AYE  
Absent

Jim Stone  
Charles Williams

Absent  
AYE