

Northumberland County Planning Commission
March 16, 2023
Minutes

The regular monthly meeting of the Northumberland County Planning Commission was held on March 16, 2023 at 7:04 p.m. in person at the Northumberland Courts Building and using Zoom (telephonic meeting) with the following attendance:

Chris Cralle	Present	Garfield Parker	Present
Vivian Diggs	Absent	Roger McKinley	Present
Alfred Fisher	Present	Heidi Wilkins-Corey	Present
Ed King	Present	Charles Williams	Present
Richard Haynie	Present	Patrick O'Brien	Present

Others in attendance:

Stuart McKenzie (County Planner)

Philip Marston (Zoning Administrator)

RE: CALL TO ORDER

The meeting was called to order by Mr. Fisher.

Mr. King gave the invocation, and Mr. Fisher led the commission in the Pledge of Allegiance.

RE: AGENDA

Mr. O'Brien made a motion to accept the agenda, and Mr. King seconded the motion. All voted in favor of accepting the agenda.

RE: MINUTES- February 16, 2023

Mr. O'Brien made a motion to accept the February 16, 2023 minutes, and Mr. McKinley seconded the motion. All voted in favor of accepting the minutes.

RE: COMMISSIONERS' COMMENTS

Commission members did not have any comments.

RE: STAFF MEMBERS' COMMENTS

Mr. McKenzie stated that the Board of Supervisors have sent the Solar Ordinance back to the Planning Commission to clean it up to make it compliant with state law and make it stronger on the Decommissioning side, if possible.

RE: CITIZENS' COMMENTS

Mr. Jim Johnson of 403 Judith Sound Rd stated that he feels that the citizens should have access to the draft Planning Commission minutes, before the Planning Commission adopts them at the next meeting. His rationale was that if any statements the public made were in error in the minutes, then they could ask Mr. McKenzie to correct them. He stated that would help people that might have missed a meeting, or if there were errors before the commission approves the minutes. Sanitation facilities, VDH said they only regulate three of more campsites (a campground), not individual campsites. Then a few months later VDH stated that the tentrr.com rental camping site has a Notice of Alleged Violation. Is it possible for the Planning Commission to direct staff to bring any temporary housing applications to the Planning Commission meeting, so they can assure sanitation facilities are acceptable? The Planning Commission can ask VDH if the use and facilities are adequate before granting any permit. Mr. Johnson asked next if the Planning Commission could have a follow-up items section of the meeting. Mr. Johnson missed the February meeting. Mr. Johnson stated the county attorney stated that you do not get grandfathered just because you were there, it has to be an act of the Board, or approval. Mr. Johnson stated that that statement was not on the minutes this time, so is that going to be addressed. Mr. Johnson stated he does know that the Planning Commission told the owner of the property of the tentrr.com site was grandfathered. Is the Planning Commission going to approve that grandfathering? Where is the followup, Mr. Johnson asked, stating he thought it should be on the agenda tonight, in his opinion.

Mr. Charlie Lunsford, 373 Judith Sound Rd, stated he understands the final tent camping regulations are now before the Board of Supervisors. He stated he had a question if the recommendation was sent to the Board of Supervisors, that is to replace the term undeveloped land with land with a dwelling or a recreational vehicle in place, has that been sent to the Board of Supervisors? Mr. Fisher stated he would have to check with staff. Mr. McKenzie stated that it was delayed because of the full agenda in April's BOS meeting. Mr. McKenzie further explained that staff does not send the information to the BOS until the week before the BOS meeting date, and the ordinance language with the recommendation will be given to them at that time. Mr. McKinley asked that in addition to the recommendation, wasn't there a suggestion too, and Mr. McKinley stated he would have to rely on staff to help remind him. Mr. McKenzie stated that there is a recommendation to replace the term undeveloped land with land without a dwelling unit or recreational vehicle connect to a septic system. Mr. Lunsford stated that was not what was published in the (Rappahannock) Record (newspaper). Mr. McKenzie stated that the county does not have any control over what the newspapers publish.

Ms. Liz Allen, 117 Lane Rd, stated she knew that all of the members had been given a copy of the suggested regulations for short term rentals in the R3 district. Ms. Allen stated they are suggesting an annual conditional use permit, to continue operating after this date, the owner/applicant would have to file another conditional use permit. The current CUP number would be put on the application, and the owner/applicant would be required to notify the commissioner of the revenue of their new CUP number in order to update their account. For the Commissioner of the Revenue and regulation purposes, a nominal fee to be determined fee be charged to apply for a Conditional Use Permit that is valid for 1 year. We request that - Within the CUP, state a Special Exception Process

which involves a public hearing with adjoining property owner(s) notification before authorization to operate is given if this is approved by the Board of Supervisors. We are asking that the Short-Term Rental Property must be at least 50ft from an existing residential structure not owned by the same individual or LLC. Under this language, if a permitted Vacation Home Rental becomes less than 50ft from another residential structure due to new construction next door to the STR, due to the small size of lots within the R3 District subdivisions, a CUP would still be required. Another suggestion would be a CAP that would be put on the amount of STR's permitted within the R3 District to develop a density formula. Two (2) is the suggested CAP per each of the 3 Subdivisions within the R-3 district. We ask that the owner/proprietor be required to keep a detailed written record of all short-term rentals to include the renter's name, address, phone number, email address, and specific dates that were rented at that home, etc. If you watch the news, you will understand why this is very important, with things that happen within STR's. There is also a Health Inspection/Occupancy Inspection required prior to the CUP to identify the maximum capacity of renters staying on the premises. This would be a requirement of the CUP to not go over this number of "guests" per rental. If conditions of the CUP are not met by the STR owner, then their ability to operate a STR is revoked for one (1) year. In an earlier meeting, Mr. Gregory stated that the current short term rentals would not necessarily be "grandfathered" prior to any regulation. We would like to request that if you decide to require a CUP within the R-3 district that current short term rentals would not be "grandfathered" in. Ms. Allen concluded by thanking the members for their time and for their work on this issue that is very important to us.

Ms. Lorrain Trice, 29 Washington Drive, stated that we have somebody that is ready to build a small STR cottage, in our area. He has twice lit a fire on the property while he was there working on it, this last fire, I called 911, because he has no water on his lot and he had a big brush fire on his lot. She stated that the Fire Department did come, and they gave him a warning, they did not issue a citation. She stated the time before that, he left a stump burning there, and a neighbor had to take buckets of water over there to put it out. She continued, this is another reason we are worried about short term rentals. She stated this one is like 140 feet from another home there, and we were concerned of the fire catching her home on fire. She said, so they are not concerned with our neighborhood, or the community. Mr. Fisher asked her what her suggestion is to the commission? She stated make the STR's abide by regulations, the by-laws of our community. Mr. Fisher asked her what community is that? Ms. Trice stated Chesapeake Beach. Mr. Fisher stated you do not have a community organization. Ms. Trice stated that they do have a community association, but not an HOA. Mr. Fisher stated that you do not have any enforcement abilities. Ms. Tice said no.

Mr. Al Meyers from Chesapeake Beach stated the thing that is happening right now is the campers coming in, they are not trailers, but campers. Recently we have had four or five come in, and we don't know if they hooked to sewer, you can't tell. We fought over a gray shed that was put down there last year, the person had been staying in their shed on the property. That person brought a camper down, and parked it in front of the shed and I supposed they got approved then by putting a camper there, but they are still staying in the shed all the time, they don't ever stay in the camper. A couple of weeks ago there was a probably 25-30 year old camper was pulled in on Main Street, and now they are there

and have a big log sled in front of it, a truck sitting beside it with tags expired, and they have a shed there. It is happening all across the community, people are not building houses, they are just bringing in campers and leave them set. We need someone to do something about that, get some inspectors down there to check to see they are following the county ordinances. Mr. Fisher stated that some of the items you have talked about are the responsibility of the county, not all of them. Mr. Fisher asked if he has notified the county, and asked what kind of reaction did you get? Mr. Meyers stated he has notified the county before, and gotten many of them removed, but I do not know if anyone works to get them removed now or not. Mr. Meyers stated the county does have a law that if it is a vehicle, it has to have tags on it, or covered. Mr. Fisher asked about the campers, that he did not know if they were hooked to sewer and water. Mr. Meyers said he has no idea, that there are 3 or 4 new ones down there, and they can be found easy. Mr. Fisher asked if he had contacted the county about the new campers you mentioned. Mr. Meyers stated that he has not. Mr. Meyers stated he would appreciate if you could do something about it.

Kim Bivins, 165 Parker Road, in Chesapeake Beach Estates in Reedville, and she stated she would like to reiterate her support for requiring a conditional use permit for STR's in R-3. Ms. Bivins added that she appreciates your time and consideration.

Mr. Dave Miller, 63 Julian Street, Fleton Beach, wanted to note that vacation season is coming, as well as Memorial Day, and we usually have 200-300 folks in our community Memorial Day weekend. Will there be any oversight on STR's and who do we call if we have problems, and when should we call? Mr. Miller stated that we do not have any enforcement of our own, it is private property, and a private community, but we do have renters who are strangers to the community. Mr. Fisher stated that during holiday weekends, you are not going to be able to get in touch with county staff, you can call 911 and complain, if it is a criminal matter, but the Sheriff's Office will respond 24/7. If it is a criminal case, the sheriff will take care of it. If it is a case for county staff, then the sheriff will report that violation to county administrator's office for him to follow up on it with staff, but that probably won't happen until the next working day. Mr. Fisher stated he hoped he answered your question. Mr. Miller stated yes, and he thanked the members for their oversight of STR's in the county.

RE: PUBLIC HEARINGS

There were no public hearings scheduled.

RE: WORK SESSION ITEMS

Mr. Fisher asked staff to get us started on short term rentals. Mr. McKenzie stated that as from the beginning of the process, staff stated the majority of complaints are from areas zoned R-3, so requiring a conditional use permit for short term rentals in R-3 (Residential, Restricted) zoning district seems to be the best way to solve the problems. Mr. McKenzie stated that all of the suggestions mentioned tonight could be considered as possible conditions for a future conditional use permit in the future for STR's, if the Board approves this. Mr. McKenzie stated that staff does not feel like creating a registry for STR's is appropriate, as Northumberland County does not require business licenses,

and thus singling out one type of business would not be very consistent with existing policy, and could be viewed as selectively enforcing ordinances.

Chairman Fisher stated he had great confidence in conditional use, and that the Board of Supervisors is very receptive to citizens concerns regarding a conditional use permit. Mr. Fisher added that he also knows of several STR's that are applauded by their community.

Mr. McKinley asked if was legal to single out a zoning district for restrictions. Mr. McKenzie stated that that was one of the reasons to have zoning in the first place, to group similar uses to avoid incompatible uses adjacent to each other. Mr. McKinley then asked what is required of a community to form a HOA (Home Owners Association). Mr. Fisher stated he heard if 90% of the property owners agree they can form an HOA. Mr. Haynie stated it was 75% or more to form an HOA.

Ms. Liz Allen stated that you are not allowed to have an HOA if the subdivision was established before 1950.

Mr. O'Brien stated it is not really a problem of what the ordinance says, it is more of a problem for enforcement. Mr. O'Brien stated that if a neighbor calls 911 and a deputy arrives, he would go to the offender and ask if he has permission to be there. How do we verify that? The renter will need to provide proof he is legally occupying the rental house.

Mr. Fisher stated he was not asking that. Mr. Fisher continued, there are two types of complaints, 1. A criminal complaint, or 2. A civil complaint. The deputy can enforce a criminal complaint, but cannot enforce a civil complaint. The deputy can take a report, but is not able to enforce any action.

Mr. O'Brien suggested creating a public nuisance? Mr. O'Brien stated that the person that might pull up in a trailer, they may or may not be able to prove they are legally allowed to be on a property. Mr. Fisher stated that would be a civil complaint. Mr. O'Brien continued this person may or may not go away. There is no way to verify if this person is allowed to occupy a property. Mr. Fisher stated that the sheriff's deputy would take a report. Mr. O'Brien stated that if we put a requirement that the renter has to have permission in writing and have contact information for the owner, then that will solve the problem.

Mr. McKinley asked if this wouldn't be better as a condition in a conditional use permit?

Mr. O'Brien stated what if the visitor does not comply? Mr. McKinley stated then that falls back on the property owner, as the county could revoke the conditional use permit. Mr. O'Brien said what if the landowner doesn't know that the person has a trailer on his lot? Mr. Fisher stated that the county relies on the its citizens to report zoning and land use violations.

Mr. McKinley asked the type of conditions that the Board of Supervisors might put on short term rentals. Mr. Fisher stated that the Board can take suggestions from the public. Mr. McKinley stated he would like to have a basic list of required conditions. Mr. O'Brien asked if one of the conditions could require the property owner to have a copy of

the conditional use permit with them so he can show the deputy? Mr. Fisher stated the owner would not be allowed to operate without the conditional use permit. Mr. O'Brien asked if we are going to object to someone putting a trailer or camper adjacent to a house rented? Mr. O'Brien stated as he understands the ordinance, you can have a trailer adjacent to a house and what if the homeowner was out of town? Mr. McKinley stated he can call the sheriff's office for trespassing. Mr. O'Brien stated that the sheriff may or may not have the phone number of the owner.

Mr. Fisher stated we cannot get this deep into it, we cannot keep on getting deeper and deeper.

Mr. McKinley made a motion that all properties in zoning district R-3, an owner must obtain a conditional use permit from the Board of Supervisors to operate a vacation home rental (short term rental). Mr. O'Brien seconded the motion. The vote was as follows:

Chris Cralle	Aye	Garfield Parker	Aye
Vivian Diggs	Absent	Roger McKinley	Aye
Alfred Fisher	Aye	Heidi Wilkins	Aye
Ed King	Aye	Charles Williams	Aye
Richard Haynie	n/a	Patrick O'Brien	Aye

The motion passed unanimously.

Mr. Fisher asked if the existing vacation home rentals are grandfathered? Mr. McKinley stated that he felt that short terms rental should not be grandfathered. Mrs. Wilkins-Corey asked how do we determine the grandfathering piece? How do we stand regarding that, I think we need to address that issue.

Mr. Haynie stated the Board of Supervisors has grandfathered things before and would continue to do so. Mr. Haynie stated he would need to see an opinion from the Virginia Attorney General to consider eliminating grandfathering. Mr. Haynie stated if the commission wants to recommend a conditional use permit in the R-3 zoning district that is fine. The Board will take input from the comment period, and the Board could apply conditions that they feel are necessary to minimize the impact on adjoining properties. Mr Fisher asked if the county has the ability to pick and choose which ordinances are grandfathered, or is it across the board. Mr. Haynie stated that in the past, it has been across the board.

Mr. Cralle stated he has had several citizens contact him and request no regulation of vacation home rentals. Mr. Cralle added that when a realtor shows a prospective buyer a house one of the first three questions that are asked is can the house be uses as a vacation home rental?

RE: DISCUSSION ITEMS

Mr. McKenzie stated that the Board of Supervisors sent a memo to the Planning Commission asking them to examine if service stations should be a by-right use in B-1, Business zoning district. Mr. McKenzie stated that service stations are a business, and it only make sense that they should be located in areas zoned B-1.

Mr. King made a motion to allow service stations as a by-right use in the B-1 zoning district. Mr. O'Brien seconded the motion. The vote was as follows:

Chris Cralle	Nay	Garfield Parker	Nay
Vivian Diggs	Nay	Roger McKinley	Nay
Alfred Fisher	Nay	Heidi Wilkins	Nay
Ed King	Aye	Charles Williams	Nay
Richard Haynie	n/a	Patrick O'Brien	Aye

The motion failed, 2 votes for, 7 votes against.

Mrs. Wilkins-Corey stated that there is often R-1 residential zoning adjacent to B-1 zoned land and there is a liability in being next to a gas station. Mr. McKinley stated that service stations should be located in B-1 zoned land, but that service stations are busy places and a conditional use permit allows the Board of Supervisors to ask how the neighbors feel about the new proposed use next door. Mr. Fisher countered by saying that houses have been mixed in with businesses in the villages in Northumberland County throughout history. Mrs. Wilkins-Corey stated she would not agree to making service stations a by-right use in B-1.

Mr. McKinley made a motion to retain the current requirements of a conditional use permit for service stations in the B-1 zoning district. Mrs. Wilkins-Corey seconded the motion. The vote was as follows:

Chris Cralle	Aye	Garfield Parker	Aye
Vivian Diggs	Absent	Roger McKinley	Aye
Alfred Fisher	Aye	Heidi Wilkins	Aye
Ed King	Abstain	Charles Williams	Aye
Richard Haynie	n/a	Patrick O'Brien	Nay

The motion passed by a vote of 7 for, one against, and one abstention.

RE: PUBLIC COMMENTS

Mr. Johnson stated that he feels that citizens should have access to the draft planning commission meeting minutes, because if a citizen has a disagreement, they could take it to the commission to resolve the disagreement.

Mrs. Sharla Pence thanked the planning commission for all of their hard work on the short term (vacation home) rental zoning revisions and thanked them for recommending that short term rentals will be required to apply for a conditional use permit to operate. Mrs. Pence wanted to note that there has been citizen comments from each of the three R-3 zoned subdivisions in the county, and that they have all tried to work with the short term rental owners before they came to the county to ask for help.

RE: ADJOURNMENT

Mr. Parker made a motion to adjourn, seconded by Mr. O'Brien. The adjournment vote was as follows:

Chris Cralle	Aye	Garfield Parker	Aye
Vivian Diggs	Absent	Roger McKinley	Aye
Alfred Fisher	Aye	Heidi Wilkins	Aye
Ed King	Aye	Charles Williams	Aye
Richard Haynie	n/a	Patrick O'Brien	Aye

The meeting was adjourned at 9:08 pm.