

Northumberland County Planning Commission
May 18, 2023
Minutes

The regular monthly meeting of the Northumberland County Planning Commission was held on May 18, 2023 at 7:00 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	Present	Roger McKinley	Present
Alfred Fisher	Present	Heidi Wilkins-Corey	Absent
Ed King	Absent	Charles Williams	Present
Richard Haynie	Present	Patrick O'Brien	Absent

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

RE: AGENDA

Mr. McKinley made a motion to accept the agenda, and Mrs. Diggs seconded the motion. All voted in favor of accepting the agenda.

RE: MINUTES- April 20, 2023

Mr. McKinley made a motion to accept the April 20, 2023 minutes, and Mr. Parker seconded the motion. All voted in favor of accepting the minutes.

RE: COMMISSIONERS' COMMENTS

Mr. McKinley stated that he had been thinking about short term rentals and the requirement for a conditional use permit in the R-3 voting districts. Mr. McKinley reasoned that many of the owners of these rentals already have customers booked for the upcoming holiday weekend, and there will be no way they could go to the Board of Supervisors and get a permit before the memorial holiday weekend. Mr. McKinley asked if there was a way to approve a temporary conditional use permit, so that these homeowners who rent properties would be able to honor their rental reservations into the future. Chairman Fisher stated that course of action seemed reasonable to him, but that he would defer to the Board member liaison, Mr. Haynie. Mr. Haynie stated he would

consider this, but would have to bring it before the Board. Mr. Fisher asked if the R-3 Zoning STR owners had been notified by the county. Mr. McKenzie stated no, because we do not have an inventory or list of short term renters that operate in R-3 zoned land. Mr. McKenzie added that as of 5 pm today, no conditional use permits had been requested. Mr. Fisher asked if the building and zoning office could process R-3 STR conditional use permits on Monday, to which Mr. McKenzie replied yes.

RE: STAFF MEMBERS' COMMENTS

Staff members did not have any comments.

RE: CITIZENS' COMMENTS

Mr. Fisher opened up the citizen comment period of the Planning Commission. Mr. James Johnson, 403 Judith Sound Rd., stated that the Board approved the tent camping ordinance in February. Mr. Fisher stated that with regards to the short term rentals, the county attorney stated that they would not be grandfathered. Mr. Johnson, asked if the existing tentrr.com commercial camping site was grandfathered, or whether they would be required to apply for a conditional use permit. Mr. Fisher asked Mr. McKenzie to comment. Mr. McKenzie stated that he has not talked to the county attorney, and the Mr. Marston, the zoning administrator is the one who makes that decision (per counselling by the county attorney). Mr. Haynie stated that the county attorney has not yet made that decision on the tentrr.com site.

Mr. Johnson stated that since STR's are not grandfathered, then commercial tent camping also be not grandfathered. Mr. Johnson stated he did not think that staff was following up on it. Six months and no answer, Mr. Johnson stated. Mr. Johnson stated that the tent site has been rented this year, and the sanitation situation has not been addressed (e.g. there is no porta-potty at the site). Mr. Johnson stated that his opinion is that it should not be grandfathered, and the owner should be forced to apply for a conditional use permit. Mr. Haynie stated that he would personally contact the county attorney to get an answer to Mr. Johnson's question, and will cc the county administrator, the zoning administrator and the county attorney on the email request. Chairman Fisher stated that if you are talking about eliminating all grandfathering, then there is a whole lot of grandfathering related to seafood industry and to forestry in the county that may need to be addressed.

RE: PUBLIC HEARINGS

There were no public hearings scheduled.

RE: WORK SESSION ITEMS

Mr. McKenzie stated that on May 2, he, Mr. Marston, most of the Board members and several planning commission members attended a presentation by the Rural Solar Development Coalition. Mr. McKenzie stated that one of the things mentioned was to require the solar developer to keep the topsoil on site. Mr. McKenzie added that all of the solar farms that have been proposed in the county to date, no grading was proposed, and the solar companies were planning on driving piles into the top soil to mount the panels.

Mr. McKenzie stated he did not think piles of dirt are very aesthetically pleasing. Mr. Fisher mentioned Hills Quarter subdivision in Lancaster County, where the piled up the topsoil into a perimeter berm around the subdivision, which helped visually screen the development. Mr. McKenzie stated that if the commission wants to include keeping the topsoil on the site, just to be on the safe side, to let him know.

Chairman Fisher noted that he went to Tappahannock the other day, and noticed how high the solar panels were outside of Warsaw on Rt. 360. Mr. Fisher noted the panels must be 20 or more feet tall, and that no vegetative screening would block panels that high. Mr. Fisher asked what does the county have in the ordinance regarding screening vegetation height? Mr. McKenzie stated that the draft ordinance has as a minimum 4 foot tall at planting. Mr. Fisher stated that the solar farm in White Stone is 3 panels stacked on top of each other. Mr. McKinley stated that the solar farm on Ocran Rd has 4 panels stacked. Mr. McKinley stated he did not think there is any vegetation that would screen a four panel solar farm. Mr. McKenzie queried the planning commission members about whether we should leave the vegetation height as it is (in the ordinance), or should it be addressed on an individual site basis and put the unique screening vegetation height in the conditions of the conditional use permit? Mr. Haynie noted that the minimum size for the screening vegetation should be higher, noting that some plants grow faster than other. Mr. Haynie suggested 6 to 8 feet minimum height. Mr. Williams noted that the solar industry is advancing in leaps and bounds and we do not know how much higher the solar panels might go. Mr. McKinley stated that perhaps we can make the screening vegetation height a ratio compared to the height of the solar panel. Chairman Fisher noted that if the road is higher than the solar farm site, then no realistic vegetation height would screen them. Mr. Parker stated that the topography in Northumberland County is significant, and it might be best to leave that decision on screen vegetation height on a case by case basis, so that would be best done with the conditions in a conditional use permit. Mr. Williams stated that he agreed. Mr. McKinley also stated that he agreed. Mr. Parker stated that we are chasing changing solar technology, which is changing day by day, so it has to be in the conditional use permit. Mr. Parker continued, many people have 25 Kw of solar panels and in the future, they might need more power. Mr. McKenzie detailed the changes that the Board of Supervisors requested regarding the definition of small solar systems. A citizen wants to build a small residential solar facility larger than 25 Kw, and cannot proceed until we modify the ordinance, hence the Board of Supervisors memo. As the zoning ordinance now has the maximum size of the small solar system as 25 Kw, and that limit is located in the definition of small solar systems. Mr. McKenzie explained that when the county defined small residential solar systems, the county believed that the majority of citizens would limit their small solar system to 25 Kw as that is the limit imposed by the Virginia State Corporation Commission on residential solar systems that want to use net-metering to save money on their electric bill. County rationale was that it would be prohibitively expensive to install a small solar system that was not connected to net-metering, because that would mean the citizen would have to purchase inverters, batteries, and wiring for the non-grid connected electrical system on their property. However, in defining the maximum Kw allowed for residential small solar systems in the zoning ordinance definitions, then citizens whose residential solar systems exceed 25 Kw have no recourse from the Board of Zoning Appeals. The Board of Zoning Appeals cannot provide relief from a zoning ordinance definition, they can only provide relief of the zoning ordinance itself. Mr. McKenzie continued, therefore, staff has proposed to

revise the zoning ordinance to keep the 25 Kw as the limitation on residential small solar systems, however, take that limit out of the small solar system definition and put it in the actual solar energy facility zoning ordinance, by stating that any small solar system that exceeds 25 Kw would require the citizen to go to the Board of Supervisors to request a conditional use permit. Mr. McKenzie explained this change will allow for citizens to build residential small solar systems that are larger than 25 Kw, without going to the Board of Zoning Appeals, but of course will have to request from the Board of Supervisors. Mr. McKenzie further explained that by making residential small solar systems over 25 Kw a conditional use, then the Zoning Administrator could require vegetative screening of the solar panels to help mitigate the impact on the applicant's immediate neighbors. The planning commission members were fine with the changes staff made, as the 25 kw limit is still in the ordinance, so it doesn't really change the intent of the residential small solar system.

Mr. McKenzie stated that when he discussed the solar ordinance with Virginia Department of Energy staff, he asked whether the county should consider adding an energy storage battery use to the solar ordinance. State staff stated that it would be a good idea, either a standalone ordinance, or part of the solar ordinance, because it is likely coming. Mr. McKenzie stated that staff is not sure if we will get applications for battery storage of energy, because we do not have any transmission lines in Northumberland County. Mr. McKenzie stated that staff will add draft language pertaining to energy storage batteries in the solar ordinance, and bring that back to the commission for their consideration. Mr. Fisher asked if Northern Neck Electric Cooperative (NNEC) has transmission lines that deliver power in Northumberland County? Mr. McKenzie stated that according to the state and federal government definitions regarding electric transmission lines, there are not any transmission lines in Northumberland County. Mr. McKenzie added that the NNEC does distribute electricity throughout Northumberland County, but they are deemed distribution lines, not transmission lines, and therefore have much lower capacity for adding battery or solar energy facilities. Mr. Parker stated with the added threat of battery energy storage facilities we need to consider adding an ordinance. Mr. McKenzie stated that some of these battery energy storage facilities have caught fire, and the lithium-ion batteries burn at such a hot temperature, there is no extinguishing the fire. Mr. McKenzie stated that the fire department lets the battery burn out and if the grass catches fire, then the fire department puts out the grass fire, but has to let the battery burn. Mr. McKenzie stated that staff will draft some battery storage language for the commission to review next time for possible addition to the zoning ordinance.

Mr. McKenzie asked the Chairman if he has had enough for the evening, or would he like to move on to examining county owned properties, as requested by the Board of Supervisors. Mr. McKenzie stated that the memo from the Board to the Planning Commission asked that the members recommend whether the properties should be held by the county for future use, used for water access, or sold. Mr. Fisher stated let's get started on those properties and see how far we can get. Mr. Fisher stated he did not think that the county should sell any waterfront property, as it is so expensive, it is unlikely the county will be able to purchase additional waterfront property in the future. Mr. Williams asked why does the Board of Supervisor want this? Mr. Haynie stated that Tommy Tomlin wants to review which county property we want to keep and what property that

should be sold. Mr. Williams asked if there is any cost involved in holding onto property. Mr. Haynie stated no, but there could be some revenue generated if some property is sold. Mr. Haynie stated there was no reasoning behind it, other than a periodic review of county assets. Mr. Williams stated it was good to inventory and know what you have. Mr. McKenzie brought up aerial photographs and topographic maps of the first property on the projection screen for all to see. Mr. McKenzie noted that the aerial photos help you see what type of vegetation is on the parcel, trees, pasture, farmland or marsh. Mr. McKenzie then noted that the USGS topographic maps has elevation contours so we can tell if the land is flat, has slopes and how steep those slopes are.

Mr. McKenzie stated the first property to examine is tax parcel 1(1)1, which he described as the historic Hampton Hall Public Boat Landing. Mr. McKenzie stated that the parcel is actually made up of three parcels totaling 3.89 acres, however some of that land is marshland. Mr. Cralle asked if the land is county owned property, can the public use it? Mr. McKenzie stated that he believed technically yes, but that the condition of the property is such that use at this time not appropriate. Mr. Fisher added "Enter at your own risk"! Mr. McKenzie told the members that decisions on individual properties do not have to be made tonight, that there is no deadline given and we are just introducing the properties to begin the discussion. The next property examined was tax parcel 8(1)10, which Mr. McKenzie described as the old Callao Dump on Rt. 202. Mr. Haynie stated that back in the 1950's-60's this was a dump site, where trash was dumped in the gully and buried, then it would be refilled again. Mr. McKenzie stated it was 13 acres in size, but that it was bisected by a gully and stream, with steep slopes on both sides, which limits the usable area considerably. The next tax parcel examined was 8(1)83, which is a land locked parcel with no road frontage, between Bells Cove Rd, and Lodge Rd. Mr. McKenzie noted it looks like it is wooded and next to a stream, but was perplexed that the property card has the size of the parcel at 0.00 acres. Mr. McKenzie stated he would inquire at the real estate office for the size of the parcel, and whether it has a right of way to a public road. Mr. McKenzie stated that there is not a deed book reference, so researched the property will be difficult if not impossible. Mr. Cralle suggested that the property might be a county repossession. Mr. McKenzie stated he would do his best to research information on the parcel. The next tax parcel examined was 8A(1)11, which Mr. McKenzie described as the county owned Lodge Creek Boat Landing at the end of Lodge Rd. Mr. Fisher stated as this property is a county owned waterfront access point, that the commission should recommend keeping it for public water access, which all members present agreed. The next set of properties to be examined as 8B(1)43B, 8B(1)43B1, and 8B(1)46A which make up the area around the county's Callao Sewage Treatment Plant. There was some discussion whether we should save the property for possible sewage treatment plant expansion in the future, or possibly relocating the treatment plant outfall further downstream. Mr. McKenzie stated that the Town of Kilmarnock did this, because Virginia DEQ stated that the volume of the stream at their existing outfall could not process the copper that was in the effluent. Mr. McKenzie stated the reason for the outfall relocation was that the solution to pollution is dilution. Mr. McKenzie stated that the next parcel to be examined was 9(1)153, and 9(1)153C, which Mr. McKenzie described as the old Elementary School/old School Board Office, and Recycling Convenience Center in Lottsburg, Virginia. Mr. McKenzie noted that the property card had the size of the parcel at 0.00 acres. Mr. Cralle asked if the county leases the land or do they own it? Mr. McKenzie stated he thought the county owned it. Mr.

McKenzie stated he would research the deed book reference and try to get an acreage for the next meeting.

Chairman Fisher noted that he would not keep the members past 9 pm, but he stated that would only work if you live less than five minutes from here.

RE: DISCUSSION ITEMS

There were no discussion items.

RE: PUBLIC COMMENTS

There were no public comments.

RE: ADJOURNMENT

At 8:55 pm, Mr. McKinley made a motion to adjourn, seconded by Mr. Parker The adjournment vote was as follows:

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

The meeting was adjourned at 9:09 pm.