

**Northumberland County Planning Commission**  
**September 21, 2023**  
**Minutes**

The regular monthly meeting of the Northumberland County Planning Commission was held on September 21, 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	Present
Ed King	Absent	Charles Williams	Present
John Kost	Present	Patrick O'Brien	Present
Richard Haynie	Present		

Others in attendance:  
Stuart McKenzie (County Planner)

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

**RE: MINUTES- August 17, 2023**

Mr. Kost made a motion to accept the August 17, 2023 minutes, and Mr. O'Brien seconded the motion. All voted in favor of accepting the minutes.

**RE: COMMISSIONERS' COMMENTS**

Chairman Fisher noted it was nice to have Mr. O'Brien back from his illness. Chairman Fisher continued, that after 3.5 years of aggravation, and bureaucracy, Northumberland County has a new canoe/kayak launch on the Great Wicomico River. Mr. Fisher stated that the idea began right here, and that county staff deserve much credit. Mr. Fisher stated he would like to have a grand opening ceremony, and invite some kayak and canoe enthusiasts to attend. Mr. Fisher said, (at the canoe launch) if you want to go to the right, you can get a sandwich at Horn Harbor Restaurant and Marina, and if you go left, you are more than likely able to see a bald eagle.

**RE: STAFF MEMBERS' COMMENTS**

Staff members did not have any comments.

**RE: CITIZENS' COMMENTS**

There were no citizen comments.

**RE: PUBLIC HEARINGS**

There were no public hearings scheduled.

**RE: WORK SESSION ITEMS**

There were no work session items scheduled.

**RE: DISCUSSION ITEMS**

Mr. McKenzie stated he wanted to review the battery energy storage zoning ordinance, specifically, he wanted Mr. Marston's input on how he feels about the ordinance. Mr. McKenzie went over the changes made to the Battery Energy Facility Ordinance, which were added since the last meeting, namely 500 foot setbacks from any adjacent street, right of way or building and a 500 foot setback from adjoining property lines.

Mr. Kost asked if the Battery Energy Storage Facility ordinance applied to residential systems, and Mr. McKenzie said no, the ordinance only applies to commercial systems. Mr. McKenzie stated that in the future, the electric utility will need electric storage to maintain the electric grid during times of power need, and the utility itself will most likely determine where on the electric grid to build these battery energy storage facilities. Mr. McKenzie stated that he did not know if Northumberland County would have any sizable battery energy storage facilities built in the near future, since there are no high voltage electric transmission lines in the County. Mr. O'Brien stated that the county should meet with the Northern Neck Electric Co-Op, and Dominion and request a main electric transmission line to be built in Northumberland County. Mr. O'Brien stated that such a new power line would be an economic stimulant. Mr. Fisher asked Mr. O'Brien how the Electric Co-Op would benefit by spending the money to build a new transmission line? Mr. Fisher continued that he has never heard where a business in the county had any electrical issues, or not having enough power. Mr. Fisher stated that unless there is consumer need, the electric company would likely not build a new line, even if the county asked for one. Mr. O'Brien stated if a call center locates in Northumberland, they may have to. Mr. Kost stated that up in Northern Virginia where he moved from, the data centers drive most of the battery energy storage facilities being built, because they need the backup power in case there is a power outage.

Mr. McKenzie stated that as the draft battery energy storage facility ordinance stands, the use is a conditional use in all zoning districts. Mr. McKenzie asked the commission if they would like to prohibit these facilities in the R-1, Residential, General and R-2, Waterfront Residential, similar to the newly adopted solar ordinance? Mrs. Wilkins-

Corey stated that to make it consistent, then we should prohibit battery energy storage in R-1 and R-2, since we don't want solar in those area, should we not allow battery energy storage facilities there either? Mr. Fisher stated that these battery energy storage facilities are much smaller than a solar farm. Mrs. Wilkins-Corey countered that the battery energy storage facilities are more hazardous.

Mr. Williams asked if citizens have their own battery energy storage facilities? Mr. McKenzie stated that yes, if it is a residential application (for powering the residence), this ordinance does not apply. Mr. McKenzie again clarified that this ordinance is for commercial battery energy storage where they store the energy during surpluses and release it back to the electric grid when there is a deficit.

Mr. Kost stated his old house in Northern Virginia had 42 solar panels installed, approximately 350 square feet of area, with a capacity of 22 Mw. Mr. Kost stated that the solar panels caused him to not have to pay an electric bill, as he produced a surplus of electricity for his household.

Mr. Marston stated he is comfortable with the 500 foot setbacks, but stated he felt like 1000 foot setbacks are too harsh. Mr. Marston noted that the setbacks for the battery energy storage facilities are longer than required for a solar energy facility.

Mr. Kost stated that lithium ion batteries (like the ones used in battery energy storage facilities) have issues, mainly as a fire hazard. Mr. Kost stated that the lithium ion battery burns very hot, and the fire is difficult to put out. Mr. McKenzie confirmed Mr. Kost's assessment of lithium ion battery fires, and stated that previously, the response to a lithium ion battery fire was to suppress the flames with firefighting foam, but that now, the fire response is to let the fire burn out, and keep the fire from spreading to grass or trees (basically perimeter fence fire fighting).

Mr. McKinley stated he likes Mrs. Wilkins-Corey idea, battery energy storage facilities should not be allowed in R-1 and R-2.

Mr. Parker stated that likely there are citizens with solar panels on their house and an electric car, and they do not want to buy a gas electric generator. Shouldn't they be allowed to have battery energy storage? Mr. Parker stated that whether we like it or not, electric vehicles are coming. Mr. Parker asked if there even is a commercial electric vehicle charger in the county, and Mrs. Wilkins-Corey stated that there is one at Smith Point Marina. Mr. McKenzie once again reiterated that this ordinance does not apply to residential energy storage systems, but to commercial battery energy systems that is operated by a utility. Therefore, a citizen could have their own residential battery energy facility, if they want one. Mr. McKenzie noted that most of the home units that he is familiar use lead acid batteries and not lithium ion batteries, since they are less hazardous. Mrs. Wilkins-Corey stated that the planning commission needs to think about the future of the county and how we want to proceed.

Mr. McKinley made a motion to prohibit battery energy storage devices in zoning districts R-1 and R-2. Mrs. Wilkins-Corey seconded the motion. The commission voted as follows:

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

The motion was passed unanimously.

Mr. McKenzie asked if we want to advertise this ordinance, and asked Mr. Marston if he is comfortable with the draft battery energy facility storage ordinance. Mr. Marston pointed out that Mr. McKenzie's draft battery energy ordinance document that was being shown on the video screen was an older version of the ordinance, that had the 1000 foot setback distance from a dwelling or building, when staff had changed it to a 500 foot setback distance from adjoining property lines. Mr. McKenzie apologized, and stated he had pulled up the old version of the ordinance, not the new version, and thanked Mr. Marston for pointing out the error. Mr. McKenzie stated that the PDF version sent out to commission was correct, and the version which is shown on the screen tonight is the old unrevised version.

Mr. McKenzie transitioned to the Board of Supervisor's Memo dated April 14, 2023 that requested the Commission review any and all uses in all zones within the Zoning Ordinance to determine if certain uses should be allowed by right, conditional use, or not at all, based on the definitions of the zoning district and the Comprehensive Plan. Mr. Kost asked Mr. Haynie what is the background on the Board requesting this zoning usage review? Mr. Haynie replied a general review, to see if anything needs to be changed, added or deleted, as things have changed since the last review. Chairman Fisher summarized by stating a possible update to the zoning usages. Mr. Haynie explained that if you think the use is OK, that is fine, if you need to change it, that is good as well. Chairman Fisher implored the commission members to ask any questions, if they need clarification, or do not understand a use, to speak up during this zoning ordinance use review.

Mr. McKenzie asked the commission if they had read the zoning district purposes that he sent them prior to the meeting via email, and stated if the commission would like, I could read the aloud, if needed. Mr. Kost asked if there was any R-3 or R-4 in the county, and Mr. McKenzie stated yes, we have both. Mr. McKenzie stated that Pine Point, Fleeton Beach and Chesapeake Beach subdivisions are all zoned R-3, with small 40' x 100' lots. Mr. McKenzie continued that the Indian Creek Estates subdivision near Kilmarnock is zoned R-4, with the recreation being golf, and sailing. Mr. McKinley wanted to know the difference between B-1 and M-1. Mr. McKenzie read the zoning district purpose for B-1, namely "the purpose of this district to promote light commercial expansion, development, and redevelopment in the existing business centers for mixed commercial and residential uses, and this district covers these areas of the County intended for the conduct of general business to which the public requires direct and frequent access. This district is not characterized either by constant heavy trucking, other than stocking and delivery of light retail goods, or by any nuisance factors other than occasioned by incidental light and noise of congregation of people and passenger vehicles." Mr. McKenzie then read the

purpose for the M-1, Light Industrial zone, stating “the primary purpose of this district is to establish an area where the principal land is for light industrial operations which are not ordinarily compatible with adjacent residential development.” Mr. McKenzie stated that his understanding of how zoning was established in Northumberland County in the 1970’s was that the county took whatever uses were in place and attached the appropriate zoning district. If there was a store on the corner, it would be given a business zoning and if there was an aggregation of houses, it would be given a residential zoning. Mr. Fisher added that in his opinion, there is not a piece of M-1 zoned land in the county without a house on it. Mr. Fisher recounted a story back when zoning was instituted of a citizen with a house in front and a seafood business in the back, and the county asked him if he wanted to be zoned residential or industrial. Mr. Fisher recounts the citizen asked which is cheaper? The county replied residential, and his property was zoned residential.

Mr. McKenzie then began reviewing the zoning usage table, with the commission members noting that if there are no comments or questions on the use after staff reads the districts the use is allowed, then it is assumed to be fine. Mrs. Wilkins-Corey asked why airports are allowed in the conservation, C-1 district. Mr. Fisher stated we have a few airports in C-1, in the conservation zoning district, as there are large tracks of flat land, and a private airport is easily accommodated on such tracts. When discussing aquaculture facilities, Mr. Kost questioned upland crab shedding R-2 zoning district, wouldn’t that be a commercial aquaculture use, and require a conditional use permit? Mr. Marston stated that there are watermen shedding crabs upland at their house, but that the scale is what matters, one or two floats, he is not going to enforce. Mr. Williams stated that the watermen have to have a Virginia Marine Resource Commission license to crab. Mr. McKenzie clarified that the Zoning Administrator’s interpretation of the zoning ordinance is what matters, and that although an individual waterman’s small scale upland crab shedding is commercial aquaculture, it has been done for many decades here and is part of our culture, and the zoning administrator will take no action unless there are multiple complaints about the operation. Mr. McKenzie addressed the commission, stating is everyone ok with commercial aquaculture being a conditional use in R-2 and they all agreed to leave as is. The commission reviewed the first page of the zoning usage table from Abattoir to Bulk oil and gas storage, commercial. Mr. McKenzie asked Chairman Fisher if we should stop the zoning review to make time for the final item on the discussion agenda. Mr. Fisher stated let’s stop here, and resume at the next meeting so we can address the boathouse ordinance review.

Mr. McKenzie stated that Mr. Williams wanted to purchase a boat canopy to put over his boat lift to protect his boat from the elements. When he contacted Mr. Marston, Mr. Marston informed him that they are not allowed, as the boat canopies do not match the roof pitch requirement, and the canopy and frame not painted, stained or salt-treated. Mr. Williams stated that he thinks a boat canopy is a lot less visually objectionable than a traditional A-frame wood structure, but that they are not allowed in Northumberland County. Mr. Williams stated he sees them in Essex County on the Rappahannock River, so some counties allow them. Mrs. Wilkins-Corey stated the fabric on the boat canopy will have to be replaced every few years, what recourse do neighbors have if there is a faded, torn boat canopy next door? Mrs. Wilkins-Corey stated for the maintenance issue, she feels it should be a conditional use permit. Mr. Fisher asked if we would need a new ordinance, Mr. Marston replied, he thinks we can word it so we can fit it in the existing

ordinance. Mr. McKinley agreed with Mr. Williams that a wooden boathouse is more visually obtrusive than a boat canopy. Mr. Fisher stated if there is a dilapidated wooden boathouse, then VMRC would step in. Mr. Marston stated he discussed with VMRC boat canopies, and they stated they are worried about state bottom, and not so much structures above. Mr. Fisher stated that if VMRC does not care about a boat canopy blowing off, the county DOES care about that, and we will address that if we can revise the ordinance.

Mr. McKinley made a motion to ask the Board of Supervisors permission to investigate and discuss changes to the boathouse ordinance to allow boat canopies. Mr. Kost seconded the motion. The vote was as follows:

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

The motion passed, and Mr. McKenzie stated he would send a memo from the Planning Commission to the Board of Supervisors before their meeting next month, requesting permission to work on the boathouse ordinance.

**RE: PUBLIC COMMENTS**

There were no public comments.

**RE: ADJOURNMENT**

At 8:29 pm, Mr. Kost made a motion to adjourn, seconded by Mr. O'Brien. The adjournment vote was as follows:

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