

Department of Planning & Community Development



A meeting of the Franklin County Planning Commission was held on March 8, 2022, in the Board of Supervisors meeting room located at the Franklin County Government Center.

THOSE PRESENT:

Sherrie Mitchell- Snow Creek District
Debbie Crawford- Union Hall District
David Clements- Rocky Mount District
C.W. Doss, Jr.- Blue Ridge District
David Pendleton- Blackwater District
Cheryl Ege- Gills Creek District
Angie McGhee- Boone District

OTHERS PRESENT:

Lisa Cooper- Interim Director, Planning
Tim Mack – Senior Planner
Tina Franklin- Clerk
Chris Dadak - County Attorney

The meeting was called to order by Chairwoman Mitchell at 6:00 p.m. The next order of business was the approval of the minutes from the January 11, 2022, meeting. Chairwoman Mitchell asked the Planning Commission if there were any comments or corrections to the minutes as written; there were none.

Chairwoman Mitchell announced the minutes would stand as written.

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Franklin County and further identified by real estate records as Tax Map / Parcel # 0470404400. The purpose of this Special Use Permit request is to allow for the short-term tourist rental of a dwelling. This property has a future land use designation of Low Density Residential (Case # SPEC-02-22-17215).

Mr. Timothy Mack gave a background on the property. He stated the home is 1.5 stories and comprises of two (2) bedrooms and four (4) bathrooms and abuts Smith Mountain Lake. He indicated the neighboring properties is zoned RC1 (Residential Combined Subdivision).

Mr. Mack read the analysis and the comments from the other agencies comments.

Mr. Mack talked about the bedroom information with what is onsite to what is compared to on the revenue card. He indicated there is a seventh condition stating the applicant can use the home as a 3 bedroom with a maximum occupancy of 6 guests. He stated the Health Department limits the home to 6 occupants and that is what we are going to work with.

Mr. Mack read the recommendation including the 7 conditions.

Mrs. Cheryl Ege stated the application says 2 bedrooms instead of 4 bedrooms. Mr. Mack stated he left it in the staff report as a 2 bedroom because we did not have any information on that at the time.

Mrs. Lisa Cooper stated that when our office does the inspection for the short-term rental sometimes, he finds bedrooms in the basement or lower level and the inspection fails until it can be brought into compliance with the building code.

Mrs. Ege on condition 6 it says that the applicant must reach out to AEP for the dock and asked if wanted the owners to obtain the dock permit. Mr. Mack stated when they were doing the Development Review Team meeting AEP's representative stated he would reach out to assist with that, so he was assuming he wanted it permitted. Mrs. Ege stated she thought all the permits should be in order.

Mrs. Cooper stated the Commission can reword or add to any condition. Mrs. Ege stated she thinks all permits must be in order prior to the rental of the dwelling. Mrs. Cooper stated our department does not hold up a building permit

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application if an applicant submits for the building permit without the AEP approval. Mrs. Deborah Crawford asked how the commission has handled this in the past. Mrs. Cooper

Mrs. Cheryl Ege said her only question would be if there would be a liability. Mr. Chris Dadak stated he did not see any liability with whether a dock was permitted or not. Mrs. Crawford stated usually when a dock is built, a building permit is obtained, and all records are okay with the County. Mrs. Cooper stated there could always be a situation where our office did not permit a boat dock because the permit was never submitted to our office. Mrs. Crawford asked how the permits had been handled before. Mrs. Cooper stated she has never had an issue with the dock and the office used to require the AEP approval to issue the dock permit from the Building Department, but AEP was taking so long to issue their permit that our office changed our policy to go ahead and issue the permits. Mrs. Cooper indicated if there were any issues with a boat dock before not having been permitted, it was not brought to our attention and with this one AEP gave us that information because our office would not have that information.

Mrs. Ege asked if there was a dock that was not permitted, and the renters used the dock could there be any liability issues. Mrs. Cooper stated that would be up to the owner's and their attorney and she indicated she did not think there would be any liability on the County, but she would ask the county attorney. Mr. Dadak stated he did not foresee any liability on the county. Mrs. Crawford indicated because when the dock and the home were built everything has been done as far as the county. Mrs. Cooper indicated the home was built in 2007 and the certificate of occupancy was issued. Mrs. Cooper asked Mr. Mack if he saw any information about the dock on the spreadsheet that Carrol Dillon sent him. Mr. Mack stated he did not. Mrs. Cooper stated there was a chance that a permit was not obtained through our office either.

Mrs. Sherrie Mitchell asked about the unpermitted fourth bedroom and understand why they would want to prohibit that but does that statement exclude that area from the rental or maybe turn that room into a pool room. Mr. Timothy Mack stated it is written that way only to limit the number of guests. Mrs. Mitchell stated if she read that by itself, she would think it could not be included in the rental. Mrs. Crawford stated if you have six (6) guests and it says three bedrooms, sometimes you may have two (2) people that do not want to

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stay in one (1) room. Mrs. Cooper stated legally you could not use the fourth bedroom as a bedroom because it was not permitted and explained why a 4th bedroom could not be used as a bedroom. Mrs. Mitchell stated number 7 condition should read any short-term rental use of the unpermitted fourth bedroom as a bedroom shall be prohibited.

Mr. and Mrs. Dale and Kathy Petrak, applicants and owners stated he would like to address some of the special conditions. He stated it is amazing what you find out about your property and home when you try to do something, and they had no idea that the dock was never permitted. He stated his fear is if they must wait on AEP approval it could take a while. Mrs. Cooper stated the Shoreline Management Plan went into effect in 2004 and that could be why Mr. Holthouser would like to talk to you. She could contact Mr. Holthouser with AEP and discuss that with him and what would need to be done. Mr. Petrak asked if the dock was built prior to 2004 would there be a need to seek a permit. Mrs. Cooper stated if AEP is fine with it then our office would talk to the Building Official and see if he was going to retrofit a permit. She stated she did not know if our Building Official saw the spreadsheet of the permits issued for the property. Mr. Petrak stated his fear would be if they had to obtain a permit from AEP and could not begin the rentals since he had heard that AEP could take a while to issue the permit. Mrs. Cooper stated he could contact Mr. Neil Holthouser with AEP and discuss that with him and what would need to be done. Mr. Petrak stated he would like to hear from the county as to whether he would need a permit from us before he contacted AEP.

Mr. Petrak also discussed the 4th bedroom and stated he would like to move forward with the prospect of a 3 bedroom. He stated they would move forward as far as the fourth bedroom to get it permitted and a septic permit to match. As far as egress both bedrooms downstairs have sliding glass doors to access outside onto a patio.

Mrs. Deborah Crawford asked how they would handle the rental process if approved. Mr. Petrak stated they have talked to Smith Mountain Lake Rentals but have not signed a contract yet and are waiting on the county approvals. He stated they would have someone on standby as far as if something happened with the HVAC and is part of the contract.

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Mr. Lonnie Hines stated he is one of the close neighbors and is concerned about the possibility that those 6 adults could invite extra adults and there be a big noisy party and asked if there was anything to prohibit that. Mrs. Sherrie Mitchell asked for his address and Mr. Lonnie Hines stated his address was 116 (tm # 0470006500). Mr. Hines stated he had concern about the steep driveway. He asked if there was anything to prevent them from have speakers outside and it being noisy. Mrs. Sherrie Mitchell stated the Commission could discuss those.

Mr. and Mrs. Marsha and Tommy Housman stated they did not live in Housman Subdivision but own 2 lots within that subdivision and have farmland going into the subdivision. Mrs. Housman stated they have the original covenants that are for those lots within the subdivision and they could only be used as a single-family dwelling, and we thought there was to be no businesses but a residential area only and asked if a rental home was considered a business. She indicated the home is constructed on a road that they must take care of the upkeep on and will the applicants be required to help with the upkeep of the road since there will be more traffic. She indicated that it could mean more trash on their property and along the roadway and they have concerns with who would be responsible to help with the upkeep with the extra traffic on the road. She stated they have children who may eventually want to use that land that they own on the right.

Mrs. Mitchell stated as the Planning Commission we do not enforce the covenants.

Mrs. Cooper stated the Planning Commission would not be enforcing the use of the road. Mrs. Housman stated if the applicants have more people renting then there would be more traffic on the road. Mrs. Cooper stated that would be up to the property owners to determine who would be responsible for the upkeep on private roads and covenants. Mrs. Cooper stated the County does not enforce things that are recorded in deeds or restrictions, that would be up to the people who live in that area and are a part of that subdivision and upkeep. Mrs. Cooper stated the special use permit does not have anything to do with the road itself, it could be a state-maintained road, or a private road and the applicants have a right to apply for a special use permit for the short-term rental. Mrs. Housman asked if the county handles the restrictive covenants. Mrs. Cooper stated no, the county does not enforce those. The Commission looks at

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the number of bedrooms and other criteria that is within the county ordinance to base their decision on.

Mr. Petrak stated to Mr. Hines and Mr. and Mrs. Housman, we do not want your lives to be interrupted by noise or anything and honestly if we have homes near the adjoining lots, we would not be pursuing this permit because they would not want to live beside a rental property either. He stated the steepness of the driveway is no one's business. He indicated there were a couple things regarding the road and there is a property that is already putting in a driveway and they were told they might be looking to doing short-term rentals as well. He stated they are meeting with the other 3 owners within the subdivision and talking to them about chipping into maintaining the road and would invite the Housman's to contribute to that if they are worried about the upkeep of the road. He stated they do not want to cause any grief to anyone else.

Mrs. Crawford asked when you purchased the property were you given anything about the upkeep of the road. Mr. Petrak stated no.

Mrs. Mitchell asked about deed restriction and covenants. Mr. Petrak stated no.

Mrs. Crawford stated the property does meet all criteria for the special use permit. She indicated she does think they need to speak with AEP about the dock.

Mrs. Mitchell stated they have had an issue before with septic's. She stated property owner's may not have had documentation passed to them regarding the dock. Mrs. Crawford read the condition regarding contacting AEP about the dock.

Mrs. Angie McGhee talked about restrictions and asked if staff ever looks up to see what has been recorded in the past. Mrs. Cooper stated the county does not enforce deed restrictions and covenants and therefore neither will the Commission. She stated the Board decided some time ago that A1 would support a special use permit for short term rentals. Mrs. Cooper stated she has not seen the covenants but if they are not renewed, they become null and void and sometimes the owner is not given the covenants when they purchase the property. Mrs. Crawford asked if the covenants are recorded in the Clerk's office. Mrs. Cooper stated yes, they are and indicated staff wishes that they had

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caught the bedroom situation before the staff report so that would help make the commission's decision.

Mrs. Ege stated she would not want to be put in a position in hearing a special use permit application if short term rentals were prohibited to be allowed on a property or within a subdivision. Mrs. Mitchell stated because of what Mrs. Cooper stated and staff not looking for restrictions and covenants then the Commission would not know anything until someone came to the hearing and brought that to their attention. Mrs. McGhee indicated it clearly would not make it to this point if there was a restriction. Mrs. Mitchell stated she understood but if the county does not exercise the research of deed restrictions, then we will not have any way of knowing unless someone happens to appear at the public hearing and points that out to them. Mr. Dadak clarified that those are essentially private agreements. Mr. Dadak stated that would be between the owner and the other citizens and would be a legal matter.

Mrs. Crawford asked could they include in decision tonight that the county look for the restrictions prior to the Board of Supervisors meeting. Mrs. Cooper stated if someone takes action, and another owner does not like what they do then a civil matter is taking place and they must contact an attorney.

Mrs. Crawford stated she finds that the use will not be of substantial detriment to adjacent properties, that the character of the zoning district will not be changed thereby, and that such use will be in harmony with the uses permitted by-right in the zoning district, and with the public health, safety, and general welfare to the community. Therefore, she moved to recommend approval of the applicant's request for a Special Use Permit to allow for the Short-Term Tourist Rental of a Dwelling in accordance with Sec. 25-179 of the Zoning Ordinance, with the seven (7) conditions as recommended in the Staff Report. Second by Mr. Pendleton.

The motion to approve was approved, 7-0; voting on the motion was as follows with the following conditions:

- AYES: McGhee, Clements, Pendleton, Doss, Ege, Crawford, Mitchell
NAYES: None
ABSENT: None

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ABSTAIN: None

1. This Special Use Permit authorizing the short-term rental dwelling on Tax Parcel # 0470404400 shall only apply to the existing dwelling on the property. No additional dwellings on the property shall be used for a short-term rental unless this permit is revised by the Board of Supervisors after review and recommendation of the Planning Commission.
2. The owner shall always comply with the supplementary regulations for short-term rentals found in Section 25-138 and Section 5.5-72 of the Franklin County Code.
3. The owner shall provide proof of liability insurance covering injury to a guest on the property of no less than \$1,000,000.
4. The owner shall register the short-term rental use and shall have the property inspected for compliance with County Code. No short-term rental of the property shall be authorized until these inspections take place, and the property is found to be compliant with the applicable county codes.
5. Prior to using the property as a short-term rental use, the property owner shall provide documentation from the Virginia Department of Health (VDH) that the septic system is approved for the dwelling, and the VDH will require an Operation Permit.
6. Prior to using the property as a short-term rental use, the property owner shall contact Appalachian Power (AEP) concerning the unpermitted dock.
7. Guests shall be limited to two (2) adults per bedroom, for a total of six (6). If the applicant would like to obtain a building permit for the fourth bedroom, the number of guests would be limited to a total of eight (8). Any short-term rental use/occupancy of the unpermitted fourth room as a bedroom shall be prohibited.

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Chairwoman Mitchell announced the next item on the agenda and asked for the staff report.

Union Hall Village Plan update. Mrs. Cooper stated the consultants will be here next Tuesday in the afternoon session of the Board of Supervisors meeting. She stated the consultants will still have to write the plan for a review. The agenda should be up on Tuesday afternoon and the Board of Supervisors meetings are televised on YouTube.

Mrs. Mitchell asked if they could be emailed about the time so they can sign on to watch. Mrs. Cooper stated yes.

Mrs. Cooper stated there was mention of bringing up short term rentals once we were done with the solar panels. She stated staff wants to move on to short term rentals and are asking what some things are that the Commissioners might want to look at. She stated we could do graphs showing what Granicus is being use for as far as registrations, complaints, etc. Mrs. Cooper asked if they would be interested in seeing or talking about what is involved. Mrs. Mitchell stated she has been on some of their webinars before. Mrs. Cooper stated we have been using the system for a little over a year and it works good for some items, and we do have some issues with the system as well. Mrs. Cooper stated staff could investigate some other fines when people do not comply. She stated we could look at lot size, certain buffers, any districts that we need to look at where the short-term rentals may work with a special use permit as well. She stated staff does want the liability policy requirement added into the county code while we are in the process of updating the ordinance.

Mrs. Mitchell stated maybe they could have a conversation about flexibility or do we want to put a lot of restrictions on them.

Mrs. Cooper stated that would be something that staff wants to know. She asked if they were looking for more or less restrictive. Mrs. Mitchell stated she thought was a good start and if someone wants to look at Granicus webinars, they usually have one or two every week.

Mrs. Ege stated it would be helpful to look at what other areas are doing and if someone is in violation of the short-term rental then the permit is revoked. Mrs. Cooper stated to revoke a special use permit it would go back to the Board of Supervisors for that to happen. Mrs. Ege stated the setbacks, and the buffering

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are worth looking at but sometime just because it is in a particular zoning, some homes the property may be large enough, but some may be smaller and require buffering and setback regulations.

Mrs. Cooper stated she should be able to pull somethings together to put in the packets on short-term rentals.

Mrs. Crawford stated she would like to see short term rentals become something that staff only deals with and not a public hearing.

Mrs. Mitchell stated if there are other places that have where the staff handles all the short-term rentals. Mr. Mack stated Bedford County has no restrictions for short term rentals they are all by right.

Mrs. Ege stated to clarify, she thinks it would be constructive to see how many short-term rentals there are, how many problems were there called into the hotline, the sheriff's office, etc. and maybe not using special use permits for the short-term rentals. Mrs. Ege asked if neighbors are being advised and directed to the complaint line....

Mrs. Cooper asked if the Commission wanted to start with Granicus information first.

Mrs. Crawford asked for the tax revenue.

Mrs. Cooper stated that would not be a problem.

Mr. Randy Hodges and his family lives on a farm within the Gills Creek district. He stated he would like to speak about property rights of the citizens, and it seems like property values of It does not seem like residents' thoughts matter. Please think about the residents when making decisions.

Mrs. Crawford stated she had an email sent to her from Mrs. McCarthy. Mrs. Lisa Cooper stated we told Mrs. McCarthy we would give to all Commission members. Mrs. Crawford stated she would like to have the email placed into record. Mr. Doss asked where Mrs. McCarthy was located. Mrs. Crawford stated she lives in Three Quarter Point.

Mrs. Ege asked about the Coves. Mrs. Cooper stated the Board made the developer prohibit short-term rentals so they will not be doing short-term rentals.

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Mrs. Crawford stated she received an email from Jan McCarthy and she asked that they be included under the citizen comments in the minutes.

Citizen Comment:

Ms. Jan McCarthy emailed Mrs. Crawford some questions and ideas and asked that the email be included in the minutes.

Dear Ms. Crawford:

I hope it's not too late to send you some comments to take with you to tonight's Planning Commission meeting for your discussion on short-term rentals.

In all of the research I have been doing through the ordinances dealing with The Coves rezoning request and other concerns, I am noticing that some of the ordinances really need to be improved in several ways. Many are either vague or not descriptive enough, loosely worded, or too flexible, and some do not have any definitions while others do not exist at all.

For example, one ordinance refers to "outdoor theatre", but then when I go look up "outdoor theatre" in the Definitions section, there is no definition. The newspapers say that Mr. Crumpler is looking to make The Coves concerts a permanent venue, but there IS no ordinance in Franklin County for a "permanent venue" so what rules and regulations would govern that if he were to be granted that nebulous status?

In terms of short-term rentals, once I learned about The Coves Getaway Club, I realized that any ordinance dealing with short-term rentals should also include "habitation by non-homeowners" in order to cover anyone who doesn't own the house that is being occupied on a short-term tourist-type basis. I believe the ordinances were designed to protect the community and those who live near tourist areas, which it appears The Coves is becoming. Therefore, I think the Planning Commission needs to address the shortfalls of the existing ordinances wherever the language is vague or hard to define or worse, not at all defined.

Additionally, I note that Ordinance #15-05-2020 was enacted which includes a Short-Term Rental Registry, which I hope The Coves and The Getaway Club are going to comply with, along with the rules that govern those rentals, including how many occupants, safety considerations, parking, etc. I also wonder who will monitor compliance with this ordinance? As far as I know, Franklin County

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doesn't have any kind of officer or department in place to make sure its ordinances are adhered to. There are times when the honor system works, and times when it doesn't.

By copy of this email to the members of the Board of Supervisors, I would like them to consider my comments about the ordinances governing short-term rentals in their consideration of the rezoning application for The Coves, because it is definitely part and parcel of the issue at hand. And by copy to Lisa Cooper, I am asking her to include my comments as well.

I will be interested to hear your views, Debbie, and will look for the publication of the minutes, as I will not be able to attend tonight's meeting to hear for myself.

Again, would you kindly introduce my comments as part of the public record of citizen comment on this matter? I would greatly appreciate it! Please let me know.

Meeting adjourned at 7:39pm