

AGENDA
MIDDLESEX COUNTY PLANNING COMMISSION
02/09/2023
7:00 P.M.

Call to Order
Roll Call

1. Organizational Meeting

- A. Nomination and Election of Officers
- B. Establishment of Regular Monthly Meeting Date, Time and Place

2. Approval of Agenda

3. Approval of Minutes – December 8, 2022

4. Public Hearings

- 1. **Ordinance Amendment #2022-02**, initiated by The Middlesex County Planning Commission. The request is for the purpose of amending Article 15, Section 15-29 (Tourist Homes), Article 22, Section 22-1 (Definitions) and any section that references the use Tourist Home, of the Middlesex County Zoning Ordinance. The amendment proposes to re-name the Tourist Homes section to Short-Term Rentals and add additional requirements related to zoning approval. The Definitions section will be amended to add definitions for Short-Term Rentals and Short-Term Rental Operator and the term Tourist Home will be replaced by the term Short-Term Rental in the district permitted uses that allow them.
- 2. **Ordinance Amendment #2023-01**, initiated by Kevin R. Huennekens. The request is for the purpose of amending Article 15, Section 15-24.1 (Accessory Structure Total Number Limitation) and Section 15-24.2 (Accessory Structure Square Footage Limitation) of the Middlesex County Zoning Ordinance. The amendment would exempt swimming pools, their adjoining decking and related equipment from these two requirements.

5. Old Business

6. New Business

7. Planning Director's Report

8. Committee Report

9. Adjournment

**MIDDLESEX COUNTY PLANNING COMMISSION
PROCEDURES FOR CITIZEN PRESENTATIONS
ON PUBLIC HEARING MATTERS**

Per the by-laws of the Planning Commission, the following procedures shall be utilized for all public hearings:

1. No person may address the Commission unless recognized by the Chairman.
2. Comments shall be directed to the Commission – not to the audience or the applicant.
3. Each person who desires to address the Commission shall be allowed five (5) minutes to present written and/or oral comments, except that attorneys or agents representing five (5) or more citizens shall be allowed fifteen (15) minutes. These time limits may be changed at the discretion of the Planning Commission.
4. Unless otherwise permitted by the Chairman, each person will be given only one (1) opportunity to address the Commission.

County of Middlesex
Office of Planning and Zoning

Minutes

AT A MEETING OF THE MIDDLESEX COUNTY PLANNING COMMISSION HELD ON THURSDAY, December 08, 2022, IN THE BOARDROOM OF THE HISTORIC COURTHOUSE, SALUDA, VIRGINIA:

Present: Melvin Beverley, Chairman, Jamaica District
Bev Butler, Vice Chairman, Pinetop District
Teresa Anderson, Secretary, Harmony Village District
John England, Saluda District
Kristin Jessie, Jamaica District
Reginald Williams, Supervisor

Absent: RD Johnson, Hartfield District
Marilyn South, Hartfield District
Gordon Jones, Saluda District
J. D. Davis, Harmony Village District
Bill Powell, Pinetop District

David Kretz, Planning Director
Jody Collier, Community Development/Building Office Manager

CALL TO ORDER

Chairman Beverley called the December 08, 2022, regular meeting of the Planning Commission to order at 7:00 P.M.

APPROVAL OF MINUTES

On a motion by Commissioner England, seconded by Vice Chairman Butler, and carried by unanimous vote, the minutes of the November 10, 2022, meeting were approved.

PUBLIC HEARING

- 1. 2023–2027 Capital Improvements Plan.** The Middlesex County Capital Improvements Plan is strictly advisory. The Plan is intended for use as a Capital Facilities planning document and is not a request for funding allocations or a County Capital Budget. The CIP is intended as a planning tool to assist the Board of Supervisors in the development of the County budget.

Chairman Beverley introduced the 2023–2027 Capital Improvements Plan.

Mr. Kretz presented his staff report recommending approval of the 2023–2027 Capital Improvements Plan.

Chairman Beverley opened the public hearing.

Deborah Miller of Hartfield addressed the Board. She said there are discrepancies in the numbers for the sewer project. She urged the Board to pay close attention to this.

Mr. Kretz explained the discrepancies, the Board thanked her for coming to the meeting and bringing it to their attention.

There being no further comments, Chairman Beverley closed the public hearing.

After a discussion amongst the Planning Commission members, a motion to approve the Capital Improvements Plan 2023-2027 was made by Commissioner England, seconded by Commissioner Smith and passed with a vote of five yes, and one abstain as submitted.

OLD BUSINESS

NEW BUSINESS

PLANNING DIRECTOR'S REPORT

COMMITTEE REPORTS

ADJOURNMENT

With there being no further business, a motion to adjourn was made by Commissioner England, seconded by Vice Chairman Butler, and carried by unanimous vote. The meeting adjourned at 7:32p.m.

Respectfully submitted,

Theresa Anderson, Secretary

Date

County of Middlesex
Office of Planning and Zoning

Agenda

Item #1

COUNTY OF MIDDLESEX, VIRGINIA

Department of Planning and Community Development

PLANNING COMMISSION STAFF REPORT

APPLICATION INFORMATION	
Case Number Ordinance Amendment 2022-02	Applicant Planning Commission
Date of Application June 9, 2022	Reviewed by Dave Kretz, Director of Planning
Requested Action 1. Ordinance Amendment #2022-02 , initiated by The Middlesex County Planning Commission. The request is for the purpose of amending Article 15, Section 15-29 (Tourist Homes), Article 22, Section 22-1 (Definitions) and any section that references the use Tourist Home, of the Middlesex County Zoning Ordinance. The amendment proposes to re-name the Tourist Homes section to Short-Term Rentals and add additional requirements related to zoning approval. The Definitions section will be amended to add definitions for Short-Term Rentals and Short-Term Rental Operator and the term Tourist Home will be replaced by the term Short-Term Rental in the district permitted uses that allow them.	
STAFF ANALYSIS	
<p>This amendment and review was initiated by the Planning Commission at the Direction of the Board of Supervisors in response to citizen concerns being relayed to the Board regarding properties being utilized for Short-Term Rentals. The Current Tourist Home section of the ordinance, which regulates short-term rental of residential homes, has been in force since July of 2018. Citizen concerns included, but were not limited to, noise and misbehavior, parking, possible trespass, over exceedance of occupancy resulting in sewage disposal failure, lack of adjoining property owner input regarding the use, general safety and possible impacts on property values.</p> <p>The Ordinance Committee met in July to review the current Tourist Home section and again on January 4th to review the proposed revision to the Tourist Home section. The Ordinance Committee found no issues with the proposed draft, but they did feel that adding a time limit on the days that the dwelling may be utilized as a Short-Term rental or a minimum time that the primary resident must occupy the dwelling may be warranted. Staff notes that adding such a provision may conflict with draft legislation that is currently being proposed and reviewed in the State Senate and the House of Representatives. If enacted, SB 1391 and HB 2271 (identical language), would restrict a localities ability to restrict property managed by a Virginia realtor. Staff has reviewed the proposed legislation against the draft amended Ordinance provisions and has found no apparent conflicts between the two.</p> <p>When drafting the amendment, Staff and the Ordinance Committee weighed citizen input against the ability of the Department to process applications and enforce the requirements as well as weighing property rights for all of those involved. As drafted, there is considerably more responsibility placed on the property Owner/Short-Term Rental operator to police the use and ensure that the rental is being operated in a proper manner. The owner/operator is responsible for providing contact information to adjoining property owners, so that in the event the use is disturbing to adjoining</p>	

neighbors, contact can be made to report the misuse. Additionally, the owner/applicant will be required to demonstrate that on-site sewage disposal complies with Virginia Department of Health requirements and that the occupancy will not exceed design capacities. It should also be noted that the use is still listed within the permitted use section of the zoning districts it is allowed in. As with the original Tourist Homes Use, the revised Short-Term Rental section does not require Special Exception approval from the Board of Supervisors. The term "Tourist Home" has been replaced by the term "Short-Term Rental". This is in response to the term now being used in the Code of Virginia and hearing citizen comments regarding an inability to locate references to Short-Term Rentals within the Ordinance. The monetary fines listed within the revised text are consistent with the Code of Virginia provisions.

Proposed Draft Revision

**15-29. Short-Term-Rentals. (Added by Amendment 07/03/2018)
(Amended __/__/__)**

All short-term rentals require issuance of a Zoning Permit and proper registration of the use with the Middlesex County Department of Planning. The following requirements shall apply to all short-term rentals in Middlesex County:

1. A Zoning Permit shall be applied for and obtained prior to the commencement of a short-term rental. In addition to a completed application, the owner/operator shall submit the following supplemental documents listed in subsections a-d below.
 - a. As part of the application, the owner/operator shall provide official documentation from Virginia Department of Health (VDH) depicting the maximum number of allowable bedrooms and any use restrictions associated with the permit. Dwelling occupancy shall conform to VDH requirements for the number of bedrooms. If the request exceeds 5 bedrooms, the owner/operator shall comply with the use group requirements as determined by the Building Official. In addition to VDH documentation, if on-site sewage disposal is utilized, the applicant shall provide proof, in the form of a receipt from a licensed pump-out contractor, that the on-site sewage disposal system has been pumped in accordance with the 5 year pump-out requirements specified in Article 4A, Section 4A-10.G.1 of the Middlesex County Zoning Ordinance or any successor regulatory agency as assigned by the Code of Virginia. The owner/operator shall not exceed the limits specified in the VDH Permit.
 - b. The owner/operator shall provide complete contact information, which shall include but not be limited to, a current phone number, an email address, and current address of the party responsible for management of the use. The responsible party contact information shall be provided via certified mail by the owner/operator to all property owners that adjoin the use and are located across the right-of-way of the property subject to these requirements. The Planning Department will provide a distribution list of the adjoining property owners and a form letter to the applicant once

application has been made. If the management entity, or any contact information changes, or the use has been discontinued, the Middlesex County Department of Planning and the adjoining property owners shall be immediately notified in writing by the owner/operator.

- c. Adequate off-street parking shall be provided and demonstrated with the application of the Zoning Permit and site plan or sketch. One parking space for each sleeping room shall be provided and shall not be located in a required front yard, except within an existing driveway. On-street parking shall not be utilized to meet the requirements of this section.
 - d. An evacuation plan shall be submitted with the application that depicts all egress points of the dwelling. In addition to the evacuation plan, the applicant shall be required to maintain a type 2A-10BC fire extinguisher in the kitchen area and indicate the location on the provided plan. Once the application has been approved, the owner/operator shall display the evacuation plan in a conspicuous location in the dwelling.
2. The Director of Planning or the Zoning Administrator, may, if determined necessary, require screening on or generally along the property line with an adjoining property. This screening may be fencing or vegetation that achieves the same screening component as fencing.
3. The use shall not generate any additional noise, light or traffic than would usually be present or associated with adjoining properties or other properties in the zoning district.
4. No signage advertising the short-term rental shall be permitted at the property.
5. Establishment of a short-term rental in the General Business and Light Industrial zoning districts shall only be permitted in an existing dwelling unit.
6. No short-term rental shall be allowed in a dwelling unit established for Workforce Housing as defined herein.
7. The use shall be operated in compliance with all conditions referenced in the sections stated above. If a short-term rental has three (3) or more substantiated complaints, including, but not limited to, noise, trash or parking within a 12-month period, the operator's zoning permit may be suspended or revoked. Before any suspension or revocation can be effective, the Zoning Administrator, or his designee, shall give written notice to the owner/operator of the short-term rental. The notice shall contain the following: a) a description of the violation constituting the basis of the suspension or revocation; b) if applicable, a statement of acts necessary to correct the violation; c) a statement that, if no written response is received by the Zoning Administrator, or his

designee, within 14 days from the date of notice, the zoning permit will be suspended or revoked. It shall be unlawful to operate a short-term rental: 1) without first obtaining a zoning permit, 2) if you have not obtained a business license from the Commissioner of Revenue's Office or your business license has been suspended or revoked, and 3) with any other requirement of this article. The penalty for each violation shall be \$500.

22-2 ***Definitions.***

SHORT-TERM RENTAL: means the provision of a room or space that is suitable or intended for occupancy for dwelling, sleeping, or lodging purposes, for a period of fewer than 30 consecutive days, in exchange for a charge for the occupancy. The term "Tourist Home", where used in this Ordinance, shall be deemed synonymous with short-term rentals.

SHORT-TERM RENTAL OPERATOR: means the proprietor of any dwelling, lodging, or sleeping accommodations offered as a short-term rental, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, or any other possessory capacity.

TOURIST HOME: See short-term rentals.

Existing Ordinance Requirements

15-29. Tourist Homes. (Added by Amendment 07/03/2018)

The following regulations shall apply to all Tourist homes in Middlesex County:

1. A Zoning Permit, along with a site sketch that addresses requirements specified below, shall be applied for and obtained prior to commencement of the use. At such time of application, the applicant/property owner shall provide complete contact information of the party responsible for management of the use. If the management entity has changed or the use has discontinued, the Middlesex County Department of Planning shall be notified immediately.
2. Adequate off street parking shall be provided and demonstrated with application of the zoning permit and site sketch. One parking space for each sleeping room shall be provided and shall not be located in a required front yard except within an existing driveway. On street parking shall not be utilized to meet the requirements of this section.
3. Screening requirements shall be subject to the provisions of Section 15-15 of this Ordinance and shall apply to all zoning districts. This requirement may be reduced or waived if agreed to, in writing, by the owner of the adjoining property or if in the opinion of and at the discretion of the Director of Planning the screening is detrimental to adjoining property, the requirement may be waived or modified to accommodate site conditions.
4. The use shall not generate any additional noise, light or traffic than would usually be present or associated with adjoining properties or other properties in the zoning district.

STAFF RECOMMENDATION
Staff recommends approval of Ordinance Amendment 2022-02
PLANNING COMMISSION RECOMMENDATION
TBD

MIDDLESEX COUNTY

Department of Planning and Community Development
P.O. Box 427, Saluda, VA 23149
Phone: 804-758-3382 Fax: 804-758-0061

REZONING / ORDINANCE / PROFFER AMENDMENT SUBMISSION REQUIREMENTS

In order to expedite the review of Rezoning applications, please be sure that all of the following items have been included in your Rezoning application. Please return this completed checklist with the application to assure that all items have been addressed. All Rezoning applications must adhere to the regulations found in the Middlesex County Zoning Ordinance.

- Completed rezoning / ordinance amendment application.
- Rezoning application fee of \$500 plus \$10 per acre.
- Ordinance Amendment application fee of \$400.
- Proffer Amendment application fee of \$400.
- For Rezoning Applications, a vicinity map showing property lines, streets and roads and existing and proposed zoning.
- For conditional Rezoning applications, any proffers for consideration must be submitted in writing and attached to this completed application in a format acceptable to the Planning Director and County Attorney.
- All applications for Rezoning to the MH District must include a site plan showing the layout of the internal park improvements required by Article 13 of the Zoning Ordinance.
- Any other information which the Zoning Administrator may reasonably determine to be necessary for the proper evaluation of the application.

CERTIFICATION:

I hereby certify that the attached plans and this completed application form contain all the required information for a Rezoning application in accordance with the Middlesex County Zoning Ordinance. I understand that the submission of incomplete or inaccurate information may delay the processing of this Rezoning application.

Applicant's Signature

MIDDLESEX COUNTY

Department of Planning and Community Development
P.O. Box 427, Saluda, VA 23149
Phone: 804-758-3382 Fax: 804-758-0061

REZONING / ORDINANCE / PROFFER AMENDMENT APPLICATION

OFFICE USE ONLY

Application #: AM 2022-02

Ordinance Amendment Classification/Fee: Rezoning (\$500 + \$10 per acre): NO FEE P.C.
 Ordinance Amendment (~~\$400~~) Proffer Amendment (\$400)

Tax Query: Current Delinquent

Planning Commission Hearing Date: FEB Recommendation: Approved Denied
Board of Supervisors Hearing Date: _____ Decision: Approved Denied

Conditions/Comments: INITIATED JUNE 9, 2022

Zoning Administrator Signature Date

APPLICANT INFORMATION

Name: MIDDLESEX COUNTY PLANNING COMM.
Address: P.O. 427 City/State/Zip: SALUDA, VA. 23149
Phone: 804-758-3382 Fax: _____
Email: _____

PROPERTY OWNER INFORMATION

Name: N/A
Address: _____ City/State/Zip: _____
Phone: _____ Fax: _____
Email: _____

PROPERTY INFORMATION

Parcel Number(s): NA E911/Street Address: _____
Magisterial District: _____ Lot Size (in Acres): _____
Existing Land Use: _____
Proposed Land Use (If Rezoned): _____

REZONING / ORDINANCE AMENDMENT REQUEST

Pursuant to Article 20 of the Middlesex County Zoning Ordinance, I, (We) PLANNING COMMISSION
do hereby petition the Middlesex County Board of Supervisors with the following request:

- Text amendment modifying Section(s) 15-29 of the Middlesex County Zoning Ordinance.
- Text amendment modifying Section(s) _____ of the Middlesex County Subdivision Ordinance.
- Map amendment modifying the Zoning District Classification of parcel(s) or portions of parcel(s) _____
from the _____ zoning district to the _____ zoning district.
- Map amendment modifying the approved proffered conditions of parcel(s) or portions of parcel(s) _____

Why is the rezoning / ordinance amendment being requested? REVISE SECTION 15-29 (TOURIST HOMES)

What is the relationship of the proposed rezoning / ordinance amendment to the Middlesex County Comprehensive Plan? THE AMENDMENT IS RELATED TO ED-G-1, ED-G-2 AND REFERENCES TO RESIDENTIAL DEVELOPMENT

APPLICANT STATEMENT

I hereby certify that I have the authority to make the foregoing application, that the information given is complete and correct to the best of my knowledge, and that development and/or construction will conform with the regulations as set forth in the Middlesex County Zoning Ordinance as written and also with the description contained in this application.

[Signature]
Applicant's Signature (if not Property Owner)

Date

Applicant's Signature (if not Property Owner)

Date

PROPERTY OWNER(S) STATEMENT

I hereby certify that I/we own the above described property, that the information given is complete and correct to the best of my knowledge, that development and/or construction will conform with the regulations as set forth in the Middlesex County Zoning Ordinance as written and also with the description contained in this application, and that the above person(s), group, corporation or agent has the full and complete permission of the undersigned owner(s) to make application for a rezoning / ordinance amendment as set forth in the Middlesex County Zoning Ordinance as written.

Property Owner's Signature

Date

Property Owner's Signature

Date

CONDITIONS

1. This permit application is not valid unless all property owner(s) signatures are affixed and dated.
2. All permit application charges are nonrefundable, regardless of whether the permit application is approved or denied once submitted. All checks for payment should be made payable to Middlesex County.
3. For conditional rezoning applications, any proffers for consideration must be submitted in writing and attached to this completed application in a format acceptable to the Planning Director and County Attorney.
4. The property owner states that no application for substantially the same change in zoning district classification of the above property has been acted on by the Board of Supervisors within twelve (12) months prior to the date of this application.



MIDDLESEX COUNTY PLANNING COMMISSION

County of Middlesex

NOTICE OF PUBLIC HEARING

Notice is hereby given pursuant to Section 15.2-2204 of the Code of Virginia that a public hearing will be held by the **Middlesex County Planning Commission** on Thursday, February 9, 2023, at 7:00 PM to consider the following:

- 1. Ordinance Amendment #2022-02**, initiated by The Middlesex County Planning Commission. The request is for the purpose of amending Article 15, Section 15-29 (Tourist Homes), Article 22, Section 22-1 (Definitions) and any section that references the use Tourist Home, of the Middlesex County Zoning Ordinance. The amendment proposes to re-name the Tourist Homes section to Short-Term Rentals and add additional requirements related to zoning approval. The Definitions section will be amended to add definitions for Short-Term Rentals and Short-Term Rental Operator and the term Tourist Home will be replaced by the term Short-Term Rental in the district permitted uses that allow them.
- 2. Ordinance Amendment #2023-01**, initiated by Kevin R. Huennekens. The request is for the purpose of amending Article 15, Section 15-24.1 (Accessory Structure Total Number Limitation) and Section 15-24.2 (Accessory Structure Square Footage Limitation) of the Middlesex County Zoning Ordinance. The amendment would exempt swimming pools, their adjoining decking and related equipment from these two requirements.

The public hearing will be held in the Boardroom of the Historic Courthouse, 865 General Puller Highway, Saluda, VA 23149 on Thursday, February 9, 2023, at 7:00 PM. Copies of this application are available for public inspection during normal business hours at the Department of Planning and Community Development, 865 General Puller Highway, Saluda, VA 23149, or for additional questions you may contact Planning and Community Development staff at telephone number (804) 758-3382. All interested persons are encouraged to submit written comments or attend the meeting to present their views on the matters described in this public notice.

County of Middlesex
Office of Planning and Zoning

Agenda

Item #2

COUNTY OF MIDDLESEX, VIRGINIA

Department of Planning and Community Development

PLANNING COMMISSION STAFF REPORT

APPLICATION INFORMATION	
Case Number Ordinance Amendment 2023-01	Applicant Kevin R. Huennekens
Date of Application December 28, 2022	Reviewed by Dave Kretz, Director of Planning
Requested Action <p>1. Ordinance Amendment #2023-01, initiated by Kevin R. Huennekens. The request is for the purpose of amending Article 15, Section 15-24.1 (Accessory Structure Total Number Limitation) and Section 15-24.2 (Accessory Structure Square Footage Limitation) of the Middlesex County Zoning Ordinance. The amendment would exempt swimming pools, their adjoining decking and related equipment from these two requirements.</p>	
STAFF ANALYSIS	
<p>This amendment was initiated by Kevin R. Huennekens for the purpose of exempting swimming pools, their adjoining decking and related equipment from the requirements of Section 15-24.1 and 15-24.2 of the Zoning Ordinance. As the section is currently adopted, a property owner can place an accessory structure on a lot adjoining or directly across the street or right-of-way from the lot with the primary structure present, provided they meet the requirements, and a deed covenant is recorded at the Clerk's Office. The ordinance does not permit accessory structures such as sheds, garages or pools on vacant lots without first having a primary structure.</p> <p>A Building and Zoning Permit application was submitted, for a pool on the lot directly across the right-of-way from the lot with a primary structure, by the contractor representing the applicant. During review of the application, it was noted that there was an accessory structure currently located on the lot directly across the right-of-way from the lot with the primary structure. Being that an accessory structure was already present, addition of pool would exceed the allowable structure number and structure square footage provision in the section. With the ordinance provisions currently in force, the Applicant's only option was to apply for an amendment or be forced to apply for a Chesapeake Bay Act Exception from the Board of Zoning Appeals.</p> <p>Prior to the insertion of this section, accessory structures were not permitted on adjoining lots and lots across the right-of-way were not allowed in any circumstance. In October of 2010, an amendment was made to add the section but only with Special Exception approval from the Board of Supervisors. Given that the request had become more common and without incident, the use was amended to be a permitted use without Special Exception approval. That amendment was made in December of 2018.</p> <p>The Ordinance Committee met on January 4th to review the proposed revision. They felt that the main issue with accessory structures on vacant lots would be the establishment of some type of use that may conflict with the uses in the surrounding area. It was the consensus of the Committee that adding a swimming pool would not create an undesirable use and would be consistent with the intent of the ordinance. It was their determination that the exemption for pools was reasonable and should</p>	

be added without conditions. Staff additionally feels that adding this provision may relieve requests for Chesapeake Bay Exceptions being heard by the Board of Zoning Appeals, as in this case where the Huennekens wish to not impact the Resource Protection Area Buffer by locating their pool across the right-of-way from their home. The amended language is indicated in bold text and is underlined as shown below.

Proposed Draft Revision

15-24. Accessory Structures on Adjoining Lots (Amended 10/19/2010) (Amended ___/___/___)

Accessory structures shall be permitted by right (*Amended 12-4-2018*) on an adjoining lot or lot immediately across a right-of-way from a lot containing a principal building in all zoning districts. All accessory structures shall be established in accordance with the following criteria:

1. Only one (1) accessory structure shall be permitted per lot. An accessory structure shall only be allowed in association with a permitted use. **Swimming pools and their adjoining decking and accompanying equipment shall be exempt from the accessory structure number limitation.**
2. The accessory structure shall not contain a gross floor area greater than fifty (50) percent of the total living area of the principal structure. **Swimming pools and their adjoining decking and accompanying equipment shall be exempt from the accessory structure gross floor area limitation.**
3. The lot containing the accessory structure shall be subject to either of the following:
 - a. Required by deed covenant to be sold or otherwise transferred with the lot containing the principal structure in order to not create a nonconforming use or structure should one lot be sold separately, or
 - b. The recording of a Memorandum of Understanding or other document suitable to the Board of Supervisors stipulating that the accessory structure shall be removed from the adjoining lot or lot immediately across a right-of-way from the lot containing a principal building in order to not create a nonconforming use or structure if only one of the lots is sold.If both lots are sold so as to be held in common ownership, the accessory structure may remain. (*Amended 2-3-15*)
4. The placement of the accessory structure shall maintain the required setbacks of the zoning district and the Chesapeake Bay Preservation Resource Protection Area.
5. Affected property must be held in common ownership.
6. Affected property shall not be separated by a primary state highway.
7. The recorded Deed Covenant or Memorandum of Understanding shall run with the affected properties and shall not be released without the written permission of Middlesex County's Zoning Administrator or Middlesex County's Planning Director. (*Amended 12-04-2018*)

(Amended 10-19-10, 15-24 added to ordinance)

STAFF RECOMMENDATION
Staff recommends approval of Ordinance Amendment 2023-01
PLANNING COMMISSION RECOMMENDATION
TBD

MIDDLESEX COUNTY

Department of Planning and Community Development
P.O. Box 427, Saluda, VA 23149
Phone: 804-758-3382 Fax: 804-758-0061



REZONING / ORDINANCE / PROFFER AMENDMENT APPLICATION

OFFICE USE ONLY

Application #: AM-2023-01

Ordinance Amendment Classification/Fee: Rezoning (\$500 + \$10 per acre): _____
 Ordinance Amendment (\$400) Proffer Amendment (\$400)

Tax Query: Current Delinquent

Planning Commission Hearing Date: 2/9/2023 Recommendation: Approved Denied

Board of Supervisors Hearing Date: 3/7/2023 Decision: Approved Denied

Conditions/Comments: _____

Zoning Administrator Signature

Date

APPLICANT INFORMATION

Name: Kevin R. Huennekens

Address: 171 River's Edge Lane City/State/Zip: Saluda, VA 23149

Phone: _____ Fax: N/A

Email: _____ .gov

PROPERTY OWNER INFORMATION

Name: Kevin R. and Mary Ellen Huennekens

Address: 171 River's Edge Lane City/State/Zip: Saluda, VA 23149

Phone: _____ Fax: N/A

Email: _____ .gov

PROPERTY INFORMATION

Parcel Number(s): Parcels 5A and 10A E911/Street Address: 171 River's Edge Lane, Saluda, VA

Magisterial District: Saluda District Lot Size (in Acres): The two parcels aggregate 0.625 acres

Existing Land Use: Residential

Proposed Land Use (If Rezoned): Residential with swimming pool for personal use on adjacent lot behind existing garage

REZONING / ORDINANCE AMENDMENT REQUEST

Pursuant to Article 20 of the Middlesex County Zoning Ordinance, I, (We) Kevin R. Huennekens,

do hereby petition the Middlesex County Board of Supervisors with the following request:

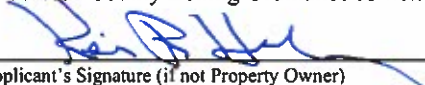
- Text amendment modifying Section(s) 15-24 of the Middlesex County Zoning Ordinance.
- Text amendment modifying Section(s) _____ of the Middlesex County Subdivision Ordinance.
- Map amendment modifying the Zoning District Classification of parcel(s) or portions of parcel(s) _____ from the _____ zoning district to the _____ zoning district.
- Map amendment modifying the approved proffered conditions of parcel(s) or portions of parcel(s) _____

Why is the rezoning / ordinance amendment being requested? See attached.

What is the relationship of the proposed rezoning / ordinance amendment to the Middlesex County Comprehensive Plan?
The proposed amendment will not interfere with the Middlesex Comprehensive Plan and will complement the character and use of the neighborhood.

APPLICANT STATEMENT

I hereby certify that I have the authority to make the foregoing application, that the information given is complete and correct to the best of my knowledge, and that development and/or construction will conform with the regulations as set forth in the Middlesex County Zoning Ordinance as written and also with the description contained in this application.


Applicant's Signature (if not Property Owner)

12/22/22
Date

Applicant's Signature (if not Property Owner)

Date

PROPERTY OWNER(S) STATEMENT

I hereby certify that I/we own the above described property, that the information given is complete and correct to the best of my knowledge, that development and/or construction will conform with the regulations as set forth in the Middlesex County Zoning Ordinance as written and also with the description contained in this application, and that the above person(s), group, corporation or agent has the full and complete permission of the undersigned owner(s) to make application for a rezoning / ordinance amendment as set forth in the Middlesex County Zoning Ordinance as written.


Property Owner's Signature

12/23/22
Date


Property Owner's Signature

12/23/22
Date

CONDITIONS

1. This permit application is not valid unless all property owner(s) signatures are affixed and dated.
2. All permit application charges are nonrefundable, regardless of whether the permit application is approved or denied once submitted. All checks for payment should be made payable to Middlesex County.
3. For conditional rezoning applications, any proffers for consideration must be submitted in writing and attached to this completed application in a format acceptable to the Planning Director and County Attorney.
4. The property owner states that no application for substantially the same change in zoning district classification of the above property has been acted on by the Board of Supervisors within twelve (12) months prior to the date of this application.

Why is the rezoning / ordinance amendment being requested?

To permit the construction of an in-ground swimming pool with surrounding decking as an acceptable secondary structure behind an existing garage on lot 10A, which is immediately adjacent to but separated by a gravel right-of way from the residence on lot 5A by (i) removing the swimming pool from the definition of a prohibited structure on lot 10A and (ii) eliminating the square footage limitation on swimming pools and decking. The amendment will enable the owners of the adjoining parcels to avoid applications of the Chesapeake Bay Exceptions by locating the pool outside the restricted boundary.

See attached exhibits.

Exhibit 1 – Proposed Language for Amended Ordinance

15-24. Accessory Structures on Adjoining Lots (Amended 10/19/2010)

Accessory structures shall be permitted by right (*Amended 12-4-2018*) on an adjoining lot or lot immediately across a right-of-way from a lot containing a principal building in all zoning districts. All accessory structures shall be established in accordance with the following criteria:

1. Only one (1) accessory structure, **other than a single in-ground swimming pool and its adjoining decking and accompanying equipment**, shall be permitted per lot. An accessory structure shall only be allowed in association with a permitted use.
2. **Except for an in-ground swimming pool and its adjoining decking and accompanying equipment**, the accessory structure shall not contain a gross floor area greater than fifty (50) percent of the total living area of the principal structure.
3. The lot containing the accessory structure shall be subject to either of the following:
 - a. Required by deed covenant to be sold or otherwise transferred with the lot containing the principal structure in order to not create a nonconforming use or structure should one lot be sold separately, or
 - b. The recording of a Memorandum of Understanding or other document suitable to the Board of Supervisors stipulating that the accessory structure shall be removed from the adjoining lot or lot immediately across a right-of-way from the lot containing a principal building in order to not create a nonconforming use or structure if only one of the lots is sold.

If both lots are sold so as to be held in common ownership, the accessory structure may remain. (*Amended 2-3-15*)

4. The placement of the accessory structure shall maintain the required setbacks of the zoning district and the Chesapeake Bay Preservation Resource Protection Area.
5. Affected property must be held in common ownership.
6. Affected property shall not be separated by a primary state highway.
7. The recorded Deed Covenant or Memorandum of Understanding shall run with the affected properties and shall not be released without the written permission of Middlesex County's Zoning Administrator or Middlesex County's Planning Director. (*Amended 12-04-2018*)

(Amended 10-19-10, 15-24 added to ordinance)

Exhibit 2 - Statement in Support of Amendment

My wife and I purchased parcels 5A and 10A in Riverview estates in 2002. We used the property as our vacation home until 2014 when we became permanent residents of the Middlesex County. The two parcels were acquired together via a single deed. *See* Deed, Exhibit 2A. The parcels are separated by a gravel right-of-way that gives us and our neighbors access to Route 673, also known as Edgewater Road. The two parcels have been under common ownership since the mid 1970s. The two lots were treated as a single property by the former owners and the owners before them. The residence is located on lot 5A. It has a detached garage that was built on lot 10A. *See* Plat, Exhibit 2B. As presently configured, the lots cannot be separated and will always be used together. The well for the residence lies on the adjoining lot across the right-of-way next to the garage. The septic field for the residence also lies on the adjoining lot 10A.

The amendment is being requested in order to permit the construction of an in-ground swimming pool with surrounding decking as an acceptable secondary structure on lot 10A. The pool would be secondary to the garage that occupies lot 10A. The submittal for approval of the pool project was not processed by the County because the existing garage is an accessory structure that does not qualify as a primary residence and only one accessory structure is allowed on a parcel adjacent to the primary residence parcel under County Ordinance section 15-24.

The amendment would allow us to locate the swimming pool behind a garage which is immediately adjacent to but separated by the gravel right-of way from the residence on lot 5A by (i) removing swimming pools from the definition of “accessory structure” so that it would not be a prohibited structure on lot 10A and (ii) eliminating the square footage limitation on swimming pools and decking.

The amendment appears to be consistent with other provisions of the County’s zoning Ordinance. Section 22-2 defines “Lot” to mean “[a] parcel of land occupied or to be occupied by a main structure or group of main structures **and accessory structures, together with** such yards, **open spaces, . . .**” Zoning Ordinance § 22-2 (emphasis added). “Open space, usable” is defined to “include . . . swimming pools . . .” *Id.* The County’s Zoning Ordinance places no restrictions on the open spaces on lots. The proposed amendment would clarify that a swimming pool is not an accessory structure.

The amendment will enable us to avoid applications of the Chesapeake Bay Exceptions by locating the pool outside the restricted boundary that immediately surrounds the primary residence.

Exhibit 2A – Deed

BOOK 333 PAGE 187

Tax Map No. 28D-1-10A & 28-10

Sales Price \$338,000.00

DEED

THIS DEED, made this 26th day of March, 2002, by and between KENNETH B. SHRADER, widower, by K. BRIAN SHRADER, Attorney-in-Fact for KENNETH B. SHRADER, whose Power of Attorney dated September 2, 1999, is recorded immediately prior hereto, hereinafter designated Grantors, parties of the first part; and KEVIN R. HUENNEKENS and MARY ELLEN HUENNEKENS, husband and wife, whose mailing address is 1201 West 43rd Street, Richmond, Virginia 23225, hereinafter designated Grantees, parties of the second part;

WITNESSETH: That for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration not herein specified, the receipt whereof is hereby acknowledged, the Grantor grants and conveys unto KEVIN R. HUENNEKENS and MARY ELLEN HUENNEKENS, husband and wife, as tenants by the entirety, with the right of survivorship as at common law, in fee simple, with **GENERAL WARRANTY AND**, with English Covenants of Title, the following described real estate, together with all rights, ways, easements, privileges and appurtenances thereunto belonging or in any way appertaining, as set forth on **Schedule A**, which is attached hereto, made a part hereof, and recorded herewith.

This conveyance is expressly made subject to such restrictions, conditions, and easements of record to the extent that they may lawfully apply to the property hereby

Drafted By: JAMES H. WARD, JR., Attorney-at-Law, Post Office Box 356, Saluda, Virginia 23149

conveyed. including but not limited to those restrictions, covenants, easements and conditions set out in that deed from The Bank of Middlesex, Trustee of the Estate of G. D. Hall, deceased to G. W. Usry, et ux, dated September 9, 1976, recorded in the Clerk's Office of the Circuit Court Middlesex County, Virginia in Deed Book 109, at page 133.

WITNESS the following signature and seal:

*Kenneth B. Shrader by
K. Brian Shrader
his attorney in fact* (SEAL)
KENNETH B. SHRADER by
K. BRIAN SHRADER, his Attorney-in-Fact

STATE OF VIRGINIA,

CITY COUNTY OF Middlesex, to wit:

I, the undersigned, a Notary Public, in and for the jurisdiction aforesaid, do hereby certify that K. BRIAN SHRADER as Attorney-in-Fact for KENNETH B. SHRADER, whose name is signed to the foregoing Deed dated March 26, 2002, has this day displayed his Power of Attorney to me, dated September 2, 1999, and has acknowledged his signature before me in my jurisdiction aforesaid and made oath that at the time of the same he has received no actual knowledge or notice of revocation or termination of said Power of Attorney by death, disability, or otherwise or notice of any facts indicating same.

Given under my hand this 30th day of March, 2002.

My commission expires: 8-31-03.

Jean H. Marshall
Notary Public

SCHEDULE A

ALL those two (2) certain lots, pieces or parcels of land, together with all improvements thereon, situated in Saluda Magisterial District, Middlesex County, Virginia, lying in **Riverview Estates Subdivision**, shown and designated as **Parcel 5A** and **Parcel 10A**, containing in the aggregate **0.625 of an acre, more or less**. For a more accurate and particular description as to the metes and bounds of the property hereby conveyed, reference is made to a Plat of survey prepared by Dalton D. Brownley, Jr., L.S., dated March 20, 2002, entitled "Physical Survey of Lot 5A & 10A Riverview Estates," a copy of which is attached hereto, made a part hereof, and recorded herewith, whereon said plat the property hereby conveyed is shown and designated as **Lot 5A 0.350 ACRE ±** and **Lot 10A 0.275 ACRE**." For a more accurate and particular description as to the metes and bounds of the roads within the subdivision, reference is made to a plat of survey prepared by Charles F. Dawson, C. L. S., dated June 16, 1976, revised July 14 and August 6, 1976, recorded in the Clerk's Office of Middlesex County, Virginia, in Plat Book 6, page 17.

TOGETHER WITH an appurtenant easement to the land hereby conveyed over and across the 30' road or right-of-way leading from VSII #673 until it reaches a line drawn from the southeast corner of Lot 12 to the northeast corner of Parcel 23 and thence over and across the "30' R/W" located in the northeastern corner of Parcel 23 and across "Outlot A" to the Rappahannock River, which right of way to Outlot A across Parcel 23 is established by Court Order entered in Chancery Suit No. 3422 filed in the aforesaid Clerk's Office. Said right of way to Outlot A as well as Outlot A are shown on a plat of Riverview Estates Subdivision by Charles F. Dawson, C.L.S., dated June 16, 1976, revised July 14, 1976 and August 6, 1976, and recorded in the Clerk's Office of Middlesex County, Virginia, in Plat Book 6, page 17. The aforesaid grantee herein shall have the use of "Outlot 'A'" as a recreational area and the easement hereby conveyed shall be used in common among all lot owners in the said subdivision. There is no access to Outlot A across that portion of the 30' road or right-of-way adjacent to Lot 13 as shown on the above mentioned Dawson plats.

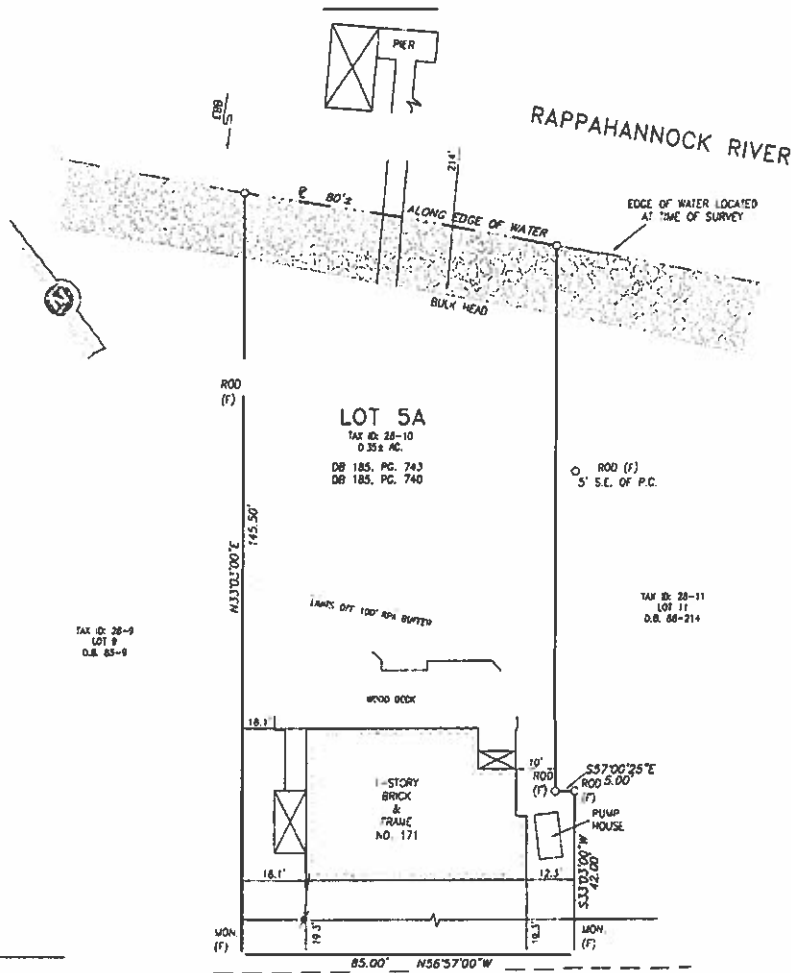
BEING that property acquired by Kenneth B. Shrader and Helen R. Shrader, husband and wife, as tenants by the entirety with the right of survivorship as at common law, by deed dated November 7, 1989 from Elizabeth G. Ursy,

widow, recorded in the aforementioned Clerk's Office in Deed Book 185, page 741. Helen R. Shrader died August 17, 1999 and by virtue of the terms of the deed the entire fee simple title to the property became vested in Kenneth B. Shrader, the Grantor herein.

INSTRUMENT #200200871
RECORDED IN THE CLERK'S OFFICE OF
COUNTY OF MIDDLESEX ON
APRIL 16 2002 AT 10:34AM
\$300.00 GRANTOR TAX WAS PAID AS
REQUIRED BY SEC 58-1-532 OF THE VA. CODE
STATE: \$169.00 LOCAL: \$169.00
FIDY W. MALTON, CLERK

SVD: *J. S. Marshall* (200)

Exhibit 2B - Plat



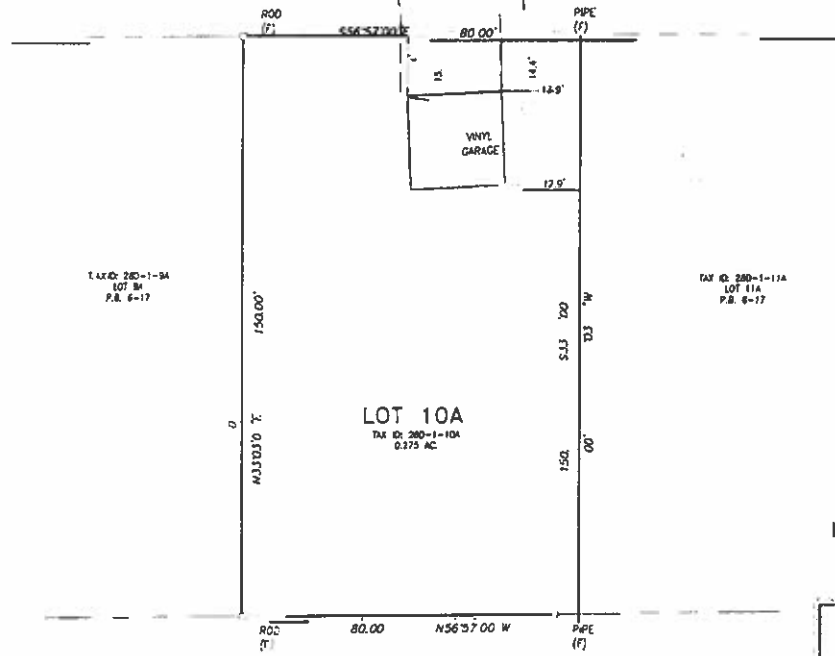
TAX ID: 28-9
LOT 9
D.B. 65-9

LOT 5A
TAX ID: 28-10
0.352 AC.
DB 185, PG. 743
DB 185, PG. 740

TAX ID: 28-11
LOT 11
D.B. 66-214

GRAVEL RD43

RIVERS EDGE LANE
30' R/W



TAX ID: 280-1-34
LOT 34
P.B. 6-17

LOT 10A
TAX ID: 280-1-10A
0.375 AC.

TAX ID: 280-1-11A
LOT 11A
P.B. 6-17


LOT 23
P.B. 6-17

LOCATION OF U/C UTILITIES BASED ON FIELD OBSERVATIONS. ADDITIONAL U/C UTILITIES MAY EXIST OTHER THAN THOSE SHOWN.
METERS (IF ANY) AND RECORD PROVISION AREA LINES ARE NOT SHOWN ON THIS SURVEY.
BUILDING SETBACKS OR OTHER ZONING CONDITIONS NOT DETERMINED FOR THIS MAP. COMPLIANCE WITH APPLICABLE ZONING ORDINANCES SHOULD BE CONFIRMED PRIOR TO CONSTRUCTION.

This is to certify that on 2/9/14 I made an accurate field survey of the premises shown hereon, that all improvements and structures shown or made on other papers, that there are no encroachments or improvements other than as shown or made subject to the provisions of applicable zoning ordinances which are confirmed prior to construction.



**SURVEY SHOWING IMPROVEMENTS
LOCATED ON LOTS 5A, 10A & WELL LOT,
RIVERVIEW ESTATES
SALUDA DISTRICT, MIDDLESEX COUNTY, VIRGINIA**

 Scale: 1"=20'
Date: 2/9/14
Rev.
Bruce Robertson Land Surveying, P.C.
P.O. Box 34311 Richmond, Virginia Phone/Fax (804)350-2800





MIDDLESEX COUNTY PLANNING COMMISSION

County of Middlesex

NOTICE OF PUBLIC HEARING

Notice is hereby given pursuant to Section 15.2-2204 of the Code of Virginia that a public hearing will be held by the **Middlesex County Planning Commission** on Thursday, February 9, 2023, at 7:00 PM to consider the following:

- 1. Ordinance Amendment #2022-02**, initiated by The Middlesex County Planning Commission. The request is for the purpose of amending Article 15, Section 15-29 (Tourist Homes), Article 22, Section 22-1 (Definitions) and any section that references the use Tourist Home, of the Middlesex County Zoning Ordinance. The amendment proposes to re-name the Tourist Homes section to Short-Term Rentals and add additional requirements related to zoning approval. The Definitions section will be amended to add definitions for Short-Term Rentals and Short-Term Rental Operator and the term Tourist Home will be replaced by the term Short-Term Rental in the district permitted uses that allow them.
- 2. Ordinance Amendment #2023-01**, initiated by Kevin R. Huennekens. The request is for the purpose of amending Article 15, Section 15-24.1 (Accessory Structure Total Number Limitation) and Section 15-24.2 (Accessory Structure Square Footage Limitation) of the Middlesex County Zoning Ordinance. The amendment would exempt swimming pools, their adjoining decking and related equipment from these two requirements.

The public hearing will be held in the Boardroom of the Historic Courthouse, 865 General Puller Highway, Saluda, VA 23149 on Thursday, February 9, 2023, at 7:00 PM. Copies of this application are available for public inspection during normal business hours at the Department of Planning and Community Development, 865 General Puller Highway, Saluda, VA 23149, or for additional questions you may contact Planning and Community Development staff at telephone number (804) 758-3382. All interested persons are encouraged to submit written comments or attend the meeting to present their views on the matters described in this public notice.