

TOWN OF AMHERST PLANNING COMMISSION
Wednesday, January 3, 2024
AGENDA

1. **Call to Order** – *Sara McGuffin*
2. **Determination of Quorum**
3. **Election of Chair and Vice-Chair-** *Sara McGuffin*
4. **Citizen Comment-** *This time is provided for citizens to bring concerns or comments to the Commission that are not scheduled for a public hearing. This is not meant to be a discussion or an exchange, but rather, an opportunity for citizens to have their concerns be heard.*
5. **Approval of December 6, 2023, meeting minutes** – *Chair- The minutes of the December 6, 2023, meeting are attached.*
6. **Ratification of Public Hearing-** *With Council's decision to not accept the conservation easement on the Ambler Farm property, Council has requested that the Commission hold a public hearing to revert the Comprehensive Plan designation on that property back to commercial. Staff requests that the Commission ratify the setting of the public hearing on their behalf.*
7. **Public Hearing- Comprehensive Plan Amendment-** *Staff recommends that the Commission hold a public hearing and amend the land use plan for the Ambler property. Attached in the agenda packet is the previous staff report requesting the change from September. Staff recommends that the Commission recommend the return of the property to its previous mixed designation.*
8. **Potential Code changes-** *Staff is requesting that the Commission consider several Code changes to clarify items in the Code. Staff would like to introduce these at this meeting, consider them in full at the next meeting, and work towards a public hearing in March. There are drafts of each, with the exception of the first one.*
 - a. *Design standards to differentiate between the CBD and B-2 districts*
 - b. *Definitions and guidance for display and storage of goods to be sold in commercial districts*
 - c. *Consideration of an amendment to the Sign Ordinance that would allow 'open' flags and chalkboard displays*
 - d. *Consideration of a new process for minor site plans and plot plans*
 - e. *Consideration of new definitions for 'driveways' and 'parking areas'*
 - f. *Short Term Rental*
9. **Concerns of Commissioners**
10. **Adjournment**

**Town of Amherst Planning Commission
Minutes
December 6, 2023**

A meeting of the Town of Amherst Planning Commission was called to order by Chairperson June Driskill on December 6, 2023, at 7:00 P.M. in the Council Chambers of Town Hall at 174 S. Main Street.

It was noted that a quorum was present as indicated below:

P	June Driskill	P	Michael Driskill
P	William Jones	P	John Vandervelde
P	Anne Webster Day	P	Veda Butcher
A	Clifford Hart		

Town Manager Sara McGuffin, and Clerk of Council Vicki K. Hunt in her capacity as Secretary, were also present.

The Chair opened the floor for citizen comments.

Fred Loving, Town of Amherst resident, came forward in opposition to allowing more than one dwelling unit on a rental property.

Jerry Martin, Town of Amherst resident and business owner, came forward in support of an ordinance amendment on surface treatment of commercial driveways and parking areas, sharing her displeasure at receiving a zoning violation that stated commercial lots developed after 2003 must be concrete, asphalt or paving stones.

Steve Martin, Town of Amherst resident and business owner, came forward in opposition of the existing code section on commercial surface treatment of driveways and parking areas expressing concern that enforcement of the existing code could be financially detrimental to small business owners. Mr. Martin requested that a code amendment include permeable surface treatment options to reduce the financial impact and runoff issues associated with asphalt surface treatment.

Geraldine Hensley, Town of Amherst resident, came forward in support of the Martins' request for an ordinance amendment on surface treatment of commercial driveways and parking areas.

Derin Foor, Town of Amherst business owner, came forward in support of an ordinance amendment that would include permeable as well as impervious surface treatment options for commercial driveways and parking areas that would reduce possible flooding issues, and reduce what could be a detrimental financial impact to small business owners should the current ordinance be enforced.

Tim Ware, Town of Amherst business owner, came forward in support of the Martins' request for a code amendment on surface treatment of commercial driveways and parking areas, and in

support of acceptance of the gift of easement for a park and, if accepted, that the Town follow through with its intent to construct the park to include bike trails, splash pad and skateboard areas.

Sunny Monk, Town of Amherst resident and President of Second Stage, came forward to offer to take a request to the Board of Second Stage to become host of a Futures Advisory Council which would allow Town citizens and business owners to come together to discuss problems and frustrations and make unified recommendations to the Planning Commission or Town Council.

James Beck, Town of Amherst resident and business owner, came forward in support of the Martins' and their request that a code amendment go back to Town Council on surface treatment of commercial driveways and parking areas.

Sandra Kirk Rodgers, Town of Amherst resident, came forward in support of acceptance of the gift of easement to be used as park.

Sonny Sundaramurthy, Town of Amherst resident, came forward in support of code amendments that would bring legally non-conforming properties to conforming properties.

Bill Tucker, Town of Amherst resident, came forward to share his family's history of the Town of Amherst and to ask that the Planning Commission remember that they are advisor to the Council, and that they should consider within the comprehensive plan what is best for the growth of the town while begin mindful of its current citizenry and existing businesses.

There being no one else present in person or otherwise to speak, no comments were made.

Mr. Jones made a motion that was seconded by Ms. Day to approve the minutes of the October 4, 2023, meeting.

There being no discussion, the motion carried 6-0 according to the following:

June Driskill	Aye		Anne Webster Day	Aye
Michael Driskill	Aye		John Vandervelde	Aye
William Jones	Aye		Veda Butcher	Aye
Clifford Hart	Absent			

Town Manager McGuffin reported that a public hearing was held by the Commission on August 3, 2023, and by Town Council on October 10, 2023, on consideration of a proposed amendment to the Town's zoning ordinance that, if approved, would allow more than one accessory unit on a residential lot, and on consideration of a proposed amendment to the Town's zoning ordinance that would, if approved, allow more than one dwelling unit on a lot based on the underlying zoning district and/or size of parcel. At its meeting on October 4, 2023, the Planning Commission unanimously voted to recommend approval of the amendment allowing up to two accessory units based on the underlying zoning district and/or size of parcel for a total of three dwellings on a lot. At its meeting on October 10, 2023, Town Council directed that the matter be

returned to the Planning Commission for clarification on their recommendation pertaining to number of accessory dwellings allowed.

After discussion, Town Manager was directed to report a split recommendation by the Commission to Town Council as follows:

- A two member recommendation that a lot may contain a single family residence and two additional buildings, each containing one dwelling unit for a total of three dwelling units.
- A four member recommendation that a lot may contain a single family residence containing two dwelling units, and one additional building containing one dwelling unit, for a total of three dwelling units.

Town Manager McGuffin gave a report on a proposed amendment to the Zoning Ordinance to include language for short term rental applications and standards for use. Town Manager McGuffin also reported that staff will propose several other Code changes in the upcoming month. A work session will be held by the Commission on January 17, 2023, to discuss the proposed code changes.

There being no further business, on motion of Ms. Day which was seconded by Mr. Driskill and carried 6-0, the meeting adjourned at 8:17 PM, according to the following:

June Driskill	Aye		Anne Webster Day	Aye
Michael Driskill	Aye		John Vandervelde	Aye
William Jones	Aye		Veda Butcher	Aye
Clifford Hart	Absent			

June Driskill, Chairperson

Attest: _____



STAFF REPORT COMPREHENSIVE PLAN AMENDMENT

Paul Kilgore
Planning Commission
Public Hearing
September 6, 2023

General Information:

Processing schedule:	Staff advertised this amendment to the Comprehensive Plan for the Planning Commission for the September 6, 2023 meeting. Staff requests ratification of the setting of the public hearing. Staff requests hearing the proposal and forwarding a recommendation to the Council for the Council to hold a public hearing on September 13, 2023.
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Application Information:

Owner and Applicant:	Amber Farm- Paul Kilgore
Requested Action:	Comprehensive Plan Amendment
Location:	Across from ACHS, no address
Tax Map Numbers:	95 A 90, 90A, 91, 110 A 103
Existing Zoning:	B-2, T-1, R-1
Proposed Zoning:	No change requested
Existing land uses:	Vacant
Comp. plan area:	Residential
Comp. plan request:	Public/Semi-public
Adjacent Zoning:	various

Summary of Request and Background Information:

Paul Kilgore has purchased a total of 28 acres across from the Amherst County High School. His intention is to donate 22 of the 28 acres to the Town for the use of the park. He intends to retain the six acres at the south western end of the property for commercial purposes.

In order to fund the donation, he is seeking to place a conservation easement upon the 22 acres. Virginia State Code requires that a conservation easement be in compliance with the locality's

adopted Comprehensive Plan. In order to accommodate the request, and allow for the land donation to move forward, staff is requesting that the 22 acres be designated for public/semi-public uses.

A plat of the property is attached to this staff report.

No zoning change is requested as a part of this request.

Public Notice

The proposal was advertised for public hearing for two consecutive weeks, as required by State Code. Because the public hearing was not set by the Planning Commission, staff is requesting ratification of the public hearing by the Commission.

Consistency with the Comprehensive Plan and Zoning Ordinance:

The request will bring the request into conformity with the Comprehensive Plan.

Citizen Comment:

There has been no citizen comment at this time.

Conclusion:

Staff recommends that the Planning Commission hold a public hearing on this request. Staff further recommends approval of the request.

The timeframe for the completion of the land donation is as follows:

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|------------|--|
| September: | Planning Commission public hearing of Comprehensive Plan amendment
Town Council public hearing of Comprehensive Plan amendment |
| October: | Planning Commission Determination of Substantial Accord
Town Council Confirmation of Substantial Accord
Town Council MOU with Ambler Farm, LLC
Town Approval of Conservation Easement |
| November: | Town Council Public Hearing for land donation
Acceptance of land donation |

Outdoor display- Display of goods for sale outside of a business. Where goods are typically those that are outdoor in nature, such as automobiles, trailers, farm equipment, outdoor display is permitted without limitation as governed by the zoning district. Where the goods are typically inside, a small display of goods may be outside of the building, limited to no more than twenty square feet of area, so long as the display is not in any required area, such as parking.

Outdoor storage- Outdoor storage of goods or equipment not otherwise expressly allowed within the zoning district shall be screened from public right-of-way or adjacent uses. No outdoor storage is permitted in residentially zoned areas. Outdoor storage cannot be an independent use, and must be associated with a business on the same parcel, or an adjacent one, with approval from the Zoning Administrator. Screening shall be accomplished by the following: when adjacent to residentially zoned property, a six foot tall opaque fence, with a double row of staggered trees, ten feet on center and with the rows five feet apart. (Need tree standards). Where adjacent to commercially zoned property, either a fence or trees shall provide screening.

Sec. 24-576. Signs permitted in all sign districts.

The following signs shall be permitted in all sign districts and shall not require a sign permit, unless otherwise indicated. The area of any sign described in this section shall not be included in computing the aggregate sign areas specified for individual districts.

- (1) *Temporary signs.* Temporary signs, which shall be nonilluminated and limited to the following types:
 - a. When buildings are under construction or sites are under development, signs may be displayed provided that they are removed upon issuance of a certificate of occupancy. The maximum sign area of each such sign shall be 32 square feet.
 - b. When a property is offered for lease or for sale, signs may be displayed provided that they are removed within five days of the date of closing or within five days of the beginning of the lease.
 1. In the residential sign and mixed use districts, the maximum aggregate sign area shall be four square feet and the maximum height shall be 12 feet.
 2. In the commercial and industrial sign district, the maximum aggregate sign area shall be 32 square feet and the maximum height shall be 12 feet.
 - c. When a business in the mixed use or commercial and industrial sign district opens, temporary building-mounted signs and banners shall be permitted, provided that such sign or signs shall not be displayed for more than 30 days. The maximum aggregate sign area shall be 32 square feet.
 - d. When a dwelling in a residential sign district is holding a yard sale, signs may be displayed for only 48 hours and only on the property where the yard sale will be held.
 - e. For special events within the town, any property owner may display up to two signs of up to four square feet each for up to five days in any 60-day period.
 - f. Signs on private property that exercise the property owner's right to right to free speech and express noncommercial messages such as ideals, causes, policies or candidates, provided that the aggregate sign area is not larger than 40 square feet in the mixed use and commercial and industrial sign districts or 16 square feet in the residential and agricultural sign district, and the total number of signs on a parcel cannot exceed two. Such signs shall be removed within 60 days of installation, and no property can display such signs for more than a total of 120 days per year.
 - g. Signs in the commercial or mixed use district, at a permitted and licensed business, designating that they are open, or showing current specials, so long as the sign is only out during business hours, and is on the same property as the business. Such signs shall be limited to no more than 15 square feet.
- (2) *Permanent signs.*
 - a. One sign at each parking lot entrance with no commercial logo or other message and not exceeding three square feet in area.
 - b. Nonilluminated names of buildings, dates of erection, monumental citations, commemorative tablets, insignia of local, state or federal government, and like when carved into stone, concrete or similar material or made of bronze, aluminum or other permanent type construction and made an integral part of a building structure. The maximum size of such sign shall be 32 square feet.
 - c. Usual and customary signs identifying disabled parking, restrooms, directions, driving instructions or other facilities relating to such places or activities.
 - d. Signs not visible from adjacent properties or public rights-of-way.

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- (3) *Flags.* Flags containing no commercial message are not regulated.
 - (4) *Location on right-of-way.* Signs installed on VDOT right-of-way under a VDOT permit. The town will only assist in the VDOT permitting process with town-approved banners installed above South Main Street on the existing banner bracket.
 - (5) *Nonconforming.* Any sign may remain in use provided that it was lawful at the time this article was enacted. However, signage for any business shall be required to conform to all requirements of this chapter as a condition of approval before any change to the signage for that business.
 - (6) *Community promotions.* Community promotions that do not contain any commercial messages or references and are constructed or displayed on public property under the auspices of a locally based government agency.

(Zoning Ord. 2003, § 18.1-908.06)

Amherst County:

1103. Developments subject to site plan review.

1103.01. A plot plan shall be submitted, prior to the approval of a zoning permit, for any new or expanded development not requiring a minor or major site plan and subject to the plan provisions under Section 1104 of this article.

1103.02. The following types of development shall be subject to the site plan review provisions under Section 1104 for a minor site plan of this article:

1. Additions to an existing commercial or industrial structure and to an existing institutional facility such as schools, hospitals, churches and clubs where the addition is less than twenty (20) percent of the square footage of the existing structure;
2. A proposed revision to a site plan where an existing major site plan is on file;
3. Non-commercial wind turbines as specified in Section 918; and
4. All development requiring a commercial entrance permit from the Virginia Department of Transportation.

1103.03. The following types of development shall be subject to the site plan provisions under Section 1104 for a major site plan of this article:

1. All new commercial and industrial facilities, including off-street parking;
2. Additions to existing commercial or industrial facilities and all new institutional facilities such as schools, hospitals, churches and clubs where the addition is greater than twenty (20) percent of the existing structure;
3. Mobile home parks;
4. Residential projects with more than four (4) units in one (1) building or on one (1) lot;
5. Planned unit developments;
6. A change of use that requires the addition of ten (10) or more parking spaces;
7. Any development requiring public water and/or sewer connections for more than four (4) units;
8. Wireless communication facilities; and
9. Townhouse development projects.

(Ord. of 7-21-09(2); Ord. No. 2015-0011, § 2, 11-17-15)

Sec. 24-511. Surfacing.

- (a) Parking spaces and driveways for single-family dwelling units, duplexes, and accessory dwelling units in a residentially zoned district shall be constructed of gravel, compacted stone, concrete, asphalt, brick or paving stones.
- (b) Parking spaces and driveways for other than single-family dwelling units shall be constructed of concrete, asphalt, brick or paving stones.
- (c) For the purposes of the section, parking spaces are those spaces that are required for the use by the Zoning or Building Code. Driveways for section b are the access between the road and the required parking spaces. Driveways must be 22 feet in width.

(Zoning Ord. 2003, § 18.1-602.04.1)



TOWN OF AMHERST

P.O. Box 280 174 S. Main Street Amherst, VA 24521
Phone (434)946-7885 Fax (434)946-2087

Question and Answer:

(Q) What is considered a Short-Term Rental?

(A) Any rental less than 30 days is considered a short-term rental.

(Q) Am I allowed to have a Short-Term Rental?

(A) Short-Term rentals are allowed in commercial zoned areas as well as R1 and R2 areas. However, they are only allowed after applying for a Special Use Permit and final approval from Town Council.

(Q) How do I apply for a Special Use Permit?

(A) Application for Special Use is available at Town Hall or on our website at www.amherstva.gov. There is also a \$300 fee associated with the application and process.

(Q) Do I need a business license?

(A) Yes. Code of Virginia considers short-term rentals under the retail sale category of business and requires a business license.

(Q) Do I have to pay Transient Occupancy Tax (Lodging Tax)?

(A) Yes. The owner is required to submit Lodging Tax forms each month by the 20th of the month for the previous month along with payment.

(Q) What if AirBnb, VRBO, etc. charged for taxes from the renters?

(A) The third-party intermediary will submit payment to us for the bookings that were made on their site. However, they do not remit tax forms or documentation to us. That is the responsibility of the owner.

(Q) Is this an annual process?

(A) Once approved, the owner does not have to apply or go through the Special Use Permit process again, however, there is an annual review process to determine if you will be able to continue to operate under the Special Use Permit and the owner must turn in their business license forms and payment annually by May 1st.

Conditions for Short-Term Rentals:

The owner will provide point-of-contact information to the Town and keep the information current. This is required per the business license application. Should any information change prior to renewal the provider must update the Town in a timely manner.

No renter/guest on-street parking is allowed.

No outside events after 10:00 PM.

No amplified sound outside.

Overnight adult-plus-teen occupancy shall not exceed the advertised number of guests or beds. If there is no advertised “guest” number, overnight occupancy shall not exceed the number of furnished bed spaces.

No rental shall be made unless the contracting renter/guest is 21 years old or older.

Accommodations provider is responsible for refuse removal into receptacles dedicated to the rental property and for ensuring the receptacles are emptied during weekly refuse pickup.

Additional requirements or restrictions on specific short-term rentals may be imposed, based on neighborhood objections, special conditions, unique environments, etc.

SHORT-TERM RENTAL POLICY

“Accommodations Intermediary”

Definitions:

Accommodations Intermediary is any person other than an accommodations provider that facilitates the sale of an accommodation, charges a room charge to the customer, and charges an accommodations fee to the customer.

Accommodations Provider is any person that furnishes accommodations to the general public for compensation.

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.

Registration:

The accommodations provider must fill out an Application for Special Use Permit in order to operate in Town limits. This process must be advertised for public hearing and go through a discussion and voting process at the Town Planning Commission meeting prior to public hearing, discussion and vote by the Town Council. The accommodations provider must go through a

yearly renewal process to allow Council to determine if any issues have been created for the Town as a result of the Special Use Permit to allow Short-Term Rental at the registered address.

In addition to the Application for Special Use Permit, Code of Virginia specifically defines “Short-term” rentals as a business and should be reported as “retail” for business license purposes under Section 58.1-3706. Accommodations Providers are required to pay for a Business License prior to making any accommodations in the Town. This Business License renewal applications and payments are due each year by May 1st. The license tax shall be paid on all gross receipts received for operating a Short-Term rental business.

If at any time an accommodations provider is not granted renewal or fails to file a renewal business license application and payment, the accommodations provider must cease all short-term rentals in Town limits. If operations are not ceased, the accommodations provider will be subject to zoning violations and business license collection efforts.

Filing Transient Occupancy Tax:

If you use an accommodations intermediary, you will file and remit taxes on accommodations one of the following ways:

1. If all taxes for a particular month are collected by an accommodations intermediary or real estate company, you will file and report the total gross receipts from ALL sales on the monthly reporting form but will not remit any taxes since they are collected and remitted by an accommodations intermediary.
2. If you rented and collected the taxes for your property and use an accommodations intermediary or real estate company to rent and collect the taxes, you will file and report the total gross receipts from ALL sales on the monthly reporting form but will only remit the taxes for the portion of gross receipts you collected.
3. If you rented and collected all taxes for a particular month without the use of an accommodations intermediary or real estate company, you will file and report your total gross receipts on the monthly reporting form and remit the total amount of taxes collected.
4. If any taxes for a particular month are collected by an accommodations intermediary, you are required to include in your filing a copy of the report(s) you receive from the accommodations intermediary showing the total gross receipts and taxes collected by them for that month.

As the accommodations provider, you are ultimately responsible for collecting and remitting the Town’s transient occupancy tax. Should an accommodations intermediary fail to collect and/or remit the taxes correctly on your behalf, you will be responsible for any uncollected or unremitted tax liability.

Transient Occupancy Tax forms are due by the 20th of each month following the report month. Forms must be submitted regardless of any tax being owed by the accommodations provider for the filing month.

Short Term Rental (STR)

Council has reviewed and proposed the following framework for Short Term Rentals. This concept assumes that these would be allowed with a Special Use Permit. The following items would be contained within the Ordinance for their use.

Council requests that the Planning Commission review this information, and if agreeable, work with staff towards an Ordinance that would codify these items.

The Short-Term Rental Process should have 3 key components.

1. Application
2. Management/ Maintenance
3. Enforcement

Application

Each Applicant would have to register their STR property with the Town of Amherst.

- Application Fee
- Management Plan
- Yearly Renewal
- Resident Owner signature acknowledging he/she has read all terms and conditions and understands requirements.

Town of Amherst will provide a Short-Term Rental Information Packet.

- General Information i.e., trash pick-up schedule
- Tax information and requirements
- Copy of short-term rental ordinances
- All other required documentation

Management/Maintenance

Each Applicant would have to present a management plan.

Suggested items in the management plan:

- Floor Plans designating all rooms.
- Site plan for parking and Property boundaries.
- Emergency contact.
- Occupancy Requirements.
- Must carry business insurance policy (general liability and property damage).
- Proof of fire extinguishers, and appropriate detectors on premises. Documentation of equipment being maintained.
- Keep a guest registry, digital or paper.

Enforcement

- If a violation occurs, the council reserves the right to take appropriate actions which could result in removing the Special Use Permit.
- 3 violations permit will be revoked for 2 years.
- Expanding the STR without obtaining a new permit would be a violation and subject to fines.
- Operation of an STR without a permit would be a fine.