

Minutes  
Northampton County Planning Commission  
Public Hearing  
August 4, 2015  
16404 Courthouse Road, Eastville, VA  
7:00p.m., Board Chambers

Those present – Dixon Leatherbury, Jacqueline Chatmon, Mark Freeze, Kay Downing and Michael Ward

Absent – Sylvia Stanley

Also in attendance was Peter Stith, Long Range Planner

The meeting was called to order and a quorum was established.

The agenda was reviewed and accepted as presented.

Public Hearings:

Peter Stith read the following into the record in addition to the staff report:

- A. Special Use Permit 2015-10: Kiptopeke Villas, LLC has applied to operate a 200 square foot retail area inside of an approved restaurant. The use is identified as Other retail establishment, less than 2,500 sq. ft. (NCC 10/21/2009, Appendix A, Category 3: Commercial Uses, #72). The property containing 1.52 acres of land, is described as Tax Map 112, double circle A, parcel 69, is zoned H, Hamlet, and located in Kiptopeke.

Chairman Leatherbury opened the hearing to the public for comment. Angelo Manuel, applicant and owner was present. He elaborated on the proposed project and noted that he had contracted with MSA, PC to draft the site plan to progress the approved portions of the project. He intended purpose of the retail space is to provide simple items that the beach patrons may need. Some of these items will be jumper cables, air, water, sunscreen, etc. A partnership with Chris' Bait & Tackle was also established to provide tackle and supplies to the fisherman. He asked that the Commission consider his request as presented.

The Chairman asked for comments from the public. Mr. Terry Ramsey of 4192 Kiptopeke Drive was present and spoke in opposition to both applications SUP 2015-10 & SUP 2015-11. His letter was entered into the record as follows:

To: Northampton Board of Supervisors  
From: Terry Ramsey (residence at 4192 Kiptopeke Drive)  
Date: August 7, 2015  
Subject: Special Use Permits (SUP) 2015-10 and 11 – Condition Needed to Ensure Parking Space for Recreational Vehicles

My key concern is Kiptopeke Villas is not required to provide safe and legal parking for recreational vehicles (including boat trailers). The applicant agreed to provide such parking for recreational vehicles in the April Board of Supervisors (BOS) meeting and displayed a site plan showing such parking. However, the special use permit (SUP) issued by the County for the restaurant does not require providing a parking area for recreational vehicles. VDOT does not require a business to provide parking. However parking on the VDOT right of way is only legal with VDOT permission.

I believe we will have an unsafe condition for the food truck to be operating with temporary facilities (e.g., power cords running to truck and no permanent rest rooms) in addition to inadequate parking. Also applicant will be allowed to operate during construction and I believe it is unsafe to attract the public to a food truck on a construction site. I object to the food truck after the restaurant is open as will look unsightly next to a nice restaurant building in a nice neighborhood. Also question why a food truck is needed and why all food and other retail cannot be sold in the restaurant.

I ask your support to include a condition for both SUPs to provide legal parking for recreational vehicles before any retail/restaurant/food truck business is open on the site. The site plan the applicant displays at the BOS and Planning Commission meetings shows a paved area for parking recreational vehicles. However the applicant has not agreed to pave the area for recreational vehicle parking before the food truck operates. While Kiptopeke Villas has an application into VDOT, it is only for removing the cement ovals and not to use the area to provide legal parking on the VDOT right of way. It begs the question why the applicant needs to remove the cement ovals if the applicant does not plan for patrons to park on Kiptopeke drive in front of the property. Parking on Kiptopeke drive is only legal with VDOT permission.

My point is simple - Ensure adequate, safe, legal parking for recreational vehicles by putting in writing and making binding the condition to provide the parking which the applicant shows on the site plan he displays. The current SUP and the SUP recommendation from the Planning Commission do not require the applicant to provide the parking for recreational vehicles shown on the displayed site plan. The need for adequate parking for recreational vehicles is as much for a food truck on a construction site as after the restaurant is open. In fact such parking may be more important during construction.

I have no objection to 200 square feet of retail within the restaurant, however the condition to pave the recreational vehicle parking area needs to be included in both SUPs before the BOS so that the requirement is tied to the restaurant which it currently is not.

Please add the following condition to both of the SUPs:

The applicant provide parking for recreational vehicles by paving the state right of way as shown on the site plan applicant provided to the County dated March 19, 2015, and in doing so adhere to VDOT requirements.

I thank you for your support and please let me know if there is any additional information I may provide.

Mr. Ken Dufty of Exmore spoke in opposition of the proposed project and submitted a letter into the record as follows:

6182 Wardtown Road  
Exmore, Virginia 23350

August 4, 2015

Chairman Dixon Leatherbury  
Commissioners, Northampton County Planning Commission  
Administration Building  
Eastville, Virginia 23347

Dear Commissioner Leatherbury and fellow Commissioners:

I am writing in regard to the application for Special Use Permits #2015-10 and #2015-11, which both seek additional uses for the 1.5 acre parcel of land owned by the applicant in addition to the two Special Use Permits previously awarded to the applicant for the same parcel.

While we reside over twenty (20) miles from the parcel that is the subject of these SUP applications, the granting of this request could, and probably will, have a profound and far-reaching effect on every resident in this county.

Specifically, the special exceptions that are requested by this applicant for the 1.5 acre parcel of land that was previously the subject of multiple SUP requests, if granted will set precedent for similar multiple requests for single parcels in the future. As you are aware, the applicant has received two Special Use Permits for this parcel which is nestled in the vicinity of an area that is primarily residential in nature. Those permits allow the construction of a multi-unit apartment building and also a restaurant sized less than 2500 square feet without a drive through. Now permission is sought to add 200 square feet of retail space to the existing restaurant location, along with permission for two (2) food trucks on the same site. All of these constitute a commercial use in what is characterized by the majority of those who live in the proximity of the site as a residential area.

The Northampton County Board of Supervisors has reportedly reached a consensus that the Kiptopeke area in which this parcel is located should not be zoned "Hamlet", which allows light commercial uses within the district. Therefore, they have concluded that the Hamlet zoning distinction should be changed to "residential".

Uses that are required to be reviewed under a Special Use Permit, while able to deviate from the standard "by right" zoning allowance, must still be "harmonious" with the surrounding land use and character of the community. The process allows regulators to impose conditions and ensure that the prospective use seamlessly blends with the surrounding neighborhoods and residences. In short, any proposed use must not be granted unless it is a reasonable fit for the host community.

The request for yet a third and fourth commercial Special Use Permit for this relatively small parcel in the middle of what has been characterized as a residential community, if granted, will set a dangerous precedent that will have very far-reaching implications for all of Northampton County.

We believe that the granting of four (4) Special Use Permits for this one tiny parcel is absolutely without precedent. If indeed the Planning Commission approves these two additional Special Use Permits for this use that is not being embraced by the majority of the surrounding community, it will send the message to other prospective applicants that anything and everything goes in Northampton County, as it pertains to "bending the rules" and writing blank checks to any developer regardless of code or law.

The recommendation to approve the two additional SUP's for this tiny parcel will fly in the face of the residents who have invested considerable assets in this neighborhood, and will send the message to those who have invested elsewhere in the county that there is no certainty or safeguard in regard to future land use decisions by the Planning Commission and the Northampton County Board of Supervisors.

The recommendation to approve these two additional Special Use Permits may, and probably will, serve as a disincentive for those who might be considering investing in land and property in this great county. While the approval of the SUP's requested in this proceeding may fiscally benefit the applicant, I believe it will be at the expense of the rest of the citizenry in this county and will undermine our confidence that our elected and appointed officials are acting in our best interest.

Therefore, in the interest of due process and to uphold the integrity of the land use approval process in this county, I am respectfully requesting that you recommend to the Northampton County Board of Supervisors that they deny the approval of these 2 additional uses on this parcel.

Sincerely,

Kenneth Dufty  
(757) 442-7889



Bill Prochise of 25425 Lankford Highway was concerned with parking. He noted that everyone thinks VDOT does more than they do. Not saying yes or no, but parking is a big issue. Mr. Manuel addressed Mr. Ramsey's concerns by noting that there will be asphalt near the bike path. He intends to landscape the property to ensure adequate screening and will actually exceed the landscaping requirement and it will look like a park when it's done. He added that only twenty three percent of the parcel is actually being used, with the other seventy seven percent being green-space. He's doing all that can be done to ensure the project is attractive and fits in with the area. He added that the 200 square feet is just a convenience and the focus of the building is food.

Mr. Charles Bruckner submitted a memo to staff to be presented to the Commission and entered into the record as follows:

4012 Bunch Walnut Road  
Chesapeake, VA 23322-2872

August 3, 2015

Mr. Peter Stith, Long Range Planner for Northampton County  
BY EMAIL

RE: PROPOSED SPECIAL USE PERMITS 2015-10 and 2015-11 FOR KIPTOPEKE LLC

Please provide a copy of this letter to each of the Planning Commission members and place a copy in the record of the Commission. I own a residence at 29315 Stuarts Way, Cape Charles, VA 23310.

The proposal by the developer, Kiptopeke LLC to use 200 square feet of his restaurant for retail sales (Special Use Application 2015-10), is without question interesting; however, it begs the question: what is really in the plans for the triangular piece of property at the intersection of Arlington Road and Kiptopeke Drive? The developer presently has two approved Special Use Permits 2014-09 for three multi-family dwellings (four bedroom units) and 2015-02 for a 2500 square foot restaurant. I understand his desires for this retail service, but is he aware that the same types of items proposed for sale in his restaurant retail area are being sold in the Kiptopeke State Park store just down the street from his location, where there is ample parking for cars and trucks with boats and campers? Why would someone want to patronize a business that doesn't support the state park that they are using, while having a difficult time parking oversized vehicles on the street or in his parking lot? This is a legitimate safety concern and will further congest and erode the appearance of a residential area and the entrance to a beautiful state park.

With regard to the developer's second Special Use Application 2015-11 for two 200 square foot food trucks during the construction of the restaurant to be later reduced to one food truck after the restaurant is in operation is again interesting, but totally out of character for this area. Please remember this area is primarily residential, the entrance to Kiptopeke State Park, and some beautiful agricultural land. Now the developer wants to bring in two food trucks, which are typically used in big cities where there is a high density population and insufficient food service facilities to accommodate the lunch-time customers. These are primarily mobile vehicles that meet a need each day and then are removed to prepare for the next day's business. This is not the case with the applicant, and the food trucks will further congest an already busy and dangerous construction site with little or no infrastructure to support their business. Once again, the issue of parking for oversized vehicles will be difficult and more dangerous with the construction activities underway. Let me say, this is not a good business plan and not a way to generate additional tax revenue for Northampton County. It could only be described as a recipe for disaster.

I am asking the Northampton Planning Commission to recommend to the Board of Supervisors the denial of these two Special Use applications and instruct the developer to proceed with his already approved Special Use Permits for this area.

Regards,

Charles J. Bruckner Jr.

The Chairman then closed the hearing.

With no further comments the hearing was closed to the public. After discussion and clarification of the application request, Commissioner Freeze motioned to recommend approval of the application as submitted. The motion was seconded by Commissioner Chatmon and carried with all in favor (5-0).

Peter Stith read the following into the record in addition to the staff report:

B. Special Use Permit 2015-11: Kiptopeke Villas, LLC has applied to operate 2 Food Trucks not to exceed 200 square feet each and is identified in the Northampton Code as a Restaurant, including waterfront service, less than 2,500 sq. ft., no drive-thru service (NCC 10/21/2009, Appendix A, Category 3: Commercial Uses, #83). The property containing 1.52 acres of land, is described as Tax Map 112, double circle A, parcel 69, is zoned H, Hamlet, and located in Kiptopeke.

Chairman Leatherbury opened the hearing to the public for comment.

Mr. Angelo Manuel, owner and applicant for the proposed project was present. Mr. Manuel explained that he would like to have two food trucks. One truck would be on the site to provide quick food for the purpose of salvaging a bit of the season, while the other would travel the Shore and attend festivals or events. The trucks would not be parked on the street, but kept on the site out of the way of traffic. Upon completion of the restaurant there would be only one truck on-site as a satellite. Hampton Roads has a fleet of food trucks called ETS757 and they park at the beach front selling varied types of foods and treats. These trucks can also be hired out for private events and festivals.

Mr. Ramsey requested that an area be paved to accommodate recreational vehicles.

Mr. Dufty spoke and requested that the cumulative impacts be reviewed citing all the uses to be located on the parcel. He also added that there is no correlation between the J&J Market and the proposed project here today.

Bill Procise 25425 Lankford Highway, If the application is approved there needs to be accommodations made for parking. This is a third separate entity that will need to be accommodated for.

Peter added that Mr. Bruckners's comments would also be added to the record as he referenced SUP 2015-11 also.

With no further comments from the public, the Chairman closed the public hearing.

There was discussion amongst the Commissioners regarding parking, access and decreasing the number of trucks from two to one. The Commission discussed parking and access and possibly limiting the request for one food truck. Commissioner Downing made a motion to recommend

approval with the following conditions: (1) access and parking before and during construction of the restaurant shall be worked out with staff and the applicant during the zoning clearance process, (2) the food truck location will be within the building setback, (3) hours of operation will be the same as the restaurant, (4) limit the special use permit to 1 food truck and (5) access to the site will be in accordance with VDOT requirements. Commissioner Leatherbury suggested adding the condition to pave the area adjacent to the bike lane to accommodate large vehicles as shown on the site plan submitted by the applicant dated March 19, 2015. This condition will not be imposed immediately but will be incorporated into the site development and construction of the restaurant. With the additional condition, Commissioner Chatmon seconded the motion and it carried unanimously (5-0).

**Matters from the public –**

Mr. Ken Dufty discussed the number of people that leave Northampton for work in other places. It's not a bad thing, but a good thing, because they don't want to live in Virginia Beach, Norfolk, and Accomack because they don't want to live next to Perdue and industrialized and commercialized areas. People want to live in Northampton County to get away. The County is in need of better internet, phone service and schools, but it's a great place. We need to support our agriculture, aquaculture, emergency health care and the school systems.

**Consideration of Minutes**

July 7, 2015 – Commissioner Chatmon motioned to approve the minutes with changes. The motion was seconded by Commissioner Ward. The motion carried with all in favor (5-0).

July 15, 2015 – Commissioner Freeze motioned to approve the minutes with changes. The motion was seconded by Commissioner Chatmon. The motion carried with all in favor (5-0).

**Unfinished Business**

CBPA -

Chairman Leatherbury suggested that the Commission revisit the request by the Board to look at the Chesapeake Bay Act at the next work session. The Commission would address the four questions asked by the Board concerning (1) septic pump-out (2) setback/buffer (3) land disturbance of 2500 square feet versus 1 acre for stormwater and (4) agricultural farm assessments. Chairman Leatherbury requested staff to send electronic copies of the Bay Act to the Commission to ensure everyone had everything. Peter Stith stated that he would send the Commission the new Bay Act language to compare to the present.

With no further business the Chairman asked for a motion to recess. A motion to recess until August 26, 2015 was made by Commissioner Downing and seconded by Commissioner Chatmon. The motion carried with all in favor (5-0).

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Chairman

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Secretary