

MINUTES

NORTHAMPTON COUNTY PLANNING COMMISSION

April 27, 2011

This was a recessed meeting of the Northampton County Planning Commission held on Wednesday, April 27, 2011 in conference room #2 at the former Northampton County Middle School located at 7247 Young Street in Machipongo, Va.

Those present were Chair David Fauber, Vice-Chair Martina Coker, Roberta Kellam, Severn Carpenter, David Kabler and Mary Miller. Members absent were Michael Ward and John Wescoat, Jr.

Also attending were Sandra G. Benson, Director of Planning & Zoning; Peter Stith, Long Range Planner; and Kay Downing, Administrative Assistant.

The meeting was called to order at 7:03 p.m. and a quorum established.

Motion to accept the agenda as presented was made by Commissioner Kabler, seconded by Commissioner Coker and carried 6 to 0.

Unfinished Business:

The commission continued its consideration of Special Use Permit 2011-05 as submitted by William Parr and described below.

Special Use Permit 2011-05: William C. Parr has applied for a minor special use permit for holiday and seasonal events and an event venue on property zoned Agriculture/Rural Business located at 24021 Seaside Road. The property contains 22.67 acres of land and is described as Tax Map 92, double circle 5, parcel A.

Ms. Benson noted that during the regular meeting of April 5th the commission had asked Mr. Parr to submit additional information and that Commissioner Wescoat had specifically asked for a detailed parking layout. Mr. Parr had complied with the request and submitted the proposed parking layout along with other documents described as his written user guidelines, other zoning considerations, an aerial map designating the vegetated buffer area, letters from Mr. Barbour dated Oct. 14, 2008 and a copy of recorded Declaration of Restrictive Lighting Covenants.

Also provided was Ms. Benson's brief memo relative to her site visit conducted at the request of the applicant to investigate noise levels.

Also distributed were written comments and observations from Commissioner Kellam addressing some issues and concerns expressed at the last meeting.

Commissioner Miller reminded everyone that the application is for an event venue and not specifically limited to weddings only. Referring to the comprehensive plan, she noted that the scale and intensity of the proposal and its compatibility with agriculture uses must be considered.

The Chair also referred to the comp plan and noted that the proposal is not a “horrible fit” as it would utilize existing resources and developed property which is to be encouraged.

While referring to special use permit guidelines, Commissioner Kellam stated her opinion that the character of the existing neighborhood may be changed if this commercial use is approved. Commissioner Coker concurred and noted that neighboring property owners would like appropriate conditions imposed to allay their concerns.

Commissioner Miller continued to review special use approval guidelines and agreed with Commissioner Coker. She added that the proposal is supported by the comp plan but potential adverse impacts should be adequately mitigated.

Commissioner Kabler expressed his opinion that comments heard during the public hearing meeting with the Board of Supervisors were more negative than positive than those expressed at the commission’s meeting. Generally, Ms. Benson agreed.

While recognizing that the concept of the proposed use is not objectionable, Commissioner Kellam added that impacts created by a higher-impact use must be considered.

Commissioner Miller also voiced her support of places to host country style weddings; however, since the concept of “special events” is very broad she would be more comfortable if the use was better defined. She read from a list of venues stating that rallies (motorcycle, truck, etc.), carnivals, hot air ballooning, skeet shooting, family reunions and religious events would all qualify as special events.

At this time Commissioner Coker assumed the Chair while Commissioner Fauber left the meeting room for several minutes and then returned.

The commission then reviewed the parking diagram and calculations as presented by Mr. Parr who was present to answer questions. During discussion Ms. Benson stated that site plan review would be required and that an improved VDOT entrance from Seaside Road may be required. However, that would be determined at a later time if the application is approved.

Mr. Parr stressed that events would be private, invitation only affairs and not opened to the public. Addressing safety concerns he noted that off-duty county deputies can be hired as

security during private affairs and that a very expensive indoor sprinkler system may be required.

Commissioner Kellam asked about the feasibility of closing the barn doors in the absence of interior climate control. Mr. Parr stated that ventilation would be provided by opening the north doors that are located away from the nearest residence.

It is noted for the record that Commissioner Fauber was called away from the meeting at 7:45 p.m. and Commissioner Coker assumed the Chair for the duration of the meeting.

Commissioner Kabler asked if the applicant if he would be amenable to having the written user guidelines being made part of any recommended approval. Mr. Parr replied yes.

At this time Ms. Benson reviewed her memo related to the non-scientific on-site noise demonstration. Commissioners Kellam and Kabler agreed that vegetation is not an adequate noise buffer. Ms. Benson cautioned that noise buffering materials may be very flammable and should be researched before being recommended as a condition.

Referencing Mr. Parr's written comments under Other Zoning Considerations, item f. and Items 12 and 13 as well, Commissioner Miller suggested that any conditions related to amplified live music be termed as "any amplified audio" instead. Commissioner Kellam noted that noise is more discernible at night since there is less background noise.

Ms. Benson cautioned that any conditions proposed by the commission may contain such wording; however, Mr. Parr's written comments and guidelines cannot to be revised except by him.

Commissioner Kellam noted concerns about event ending times due to the intrusion of vehicular headlights and post-event commotion impacting nearby property owners. Commissioner Miller concurred and stated that traffic may even have an effect on homeowners along Seaside Road.

Commissioner Kabler asked about requirements for other special venues such as those held at Chatham Vineyards. Ms. Benson noted that such venues are required to obtain a county zoning clearance although seasonal events have not yet been defined. However, she did not know if the vineyard owner had obtained a zoning clearance yet.

Commissioner Kabler was also concerned about intoxicated attendees driving after sunset along an unfamiliar and dimly lit Seaside Road. He added that due to public safety issues he would not support this proposal.

Commissioner Miller noted that the hours of operation should be similar to other farm events which usually occur from sunrise to sunset. She cautioned that sometimes there are adverse impacts that cannot be adequately mitigated.

When asked if a traffic impact analysis is required, Ms. Benson replied no, that only a rezoning application triggers such a requirement.

Commissioners Coker and Kellam agreed that many other venues and places serve alcohol legally. However, in this case Commissioner Kabler noted that one hundred percent of attendees would have to travel Seaside Road making this proposal unique.

The Vice-Chair called for a straw poll to see how many remaining commissioners would approve the special use permit with mitigating conditions. Of the remaining commissioners only Commissioner Kabler would not recommend approval regardless of conditions. He explained that due to his deep concerns about alcohol consumption and traffic safety issues he would not vote to approve this application under any circumstances.

At this time the meeting was disrupted by Hank Jones, a nearby resident of the area, who insisted that Mr. Parr's application had changed since it was first presented to nearby homeowners.

Commissioner Miller stated that any decision of the Board can be challenged through the legal court process. Commissioner Kellam added that an applicant has the right to challenge any decision of the Board as well.

Commissioner Kellam's written observations and suggestions as submitted are as follows.

General Information/Background

- *Minor special use permit: (1) holiday and seasonal events and (2) an event venue*
- *Property zoned Agriculture/Rural Business (A/RB)*
- *Low-Impact Agritourism use category in Appendix A of Chapter 154 of the Northampton County Ordinance.*
- *Applicant proposes to lease venue on an event-by-event basis for use by others.*

ZONING ORDINANCE QUESTIONS/CONCERNS:

- *Is this "Commercial" or "Low Impact Agritourism"?*
- *Event venues are not listed as Commercial uses in the Zoning Ordinance.*
- *"Event venue" is not a defined term in the Z.O.*
- *Z.O. does not list performance standards for this use; default to M-SUP considerations.*
- *"Low Impact" is not defined in Z.O. Is each use, by virtue of being listed as "low impact agritourism" presumed to be, in fact, low impact? Or does the Planning Commission have responsibility for ensuring that any approved use is low impact on a case-by case basis?*

Adjacent Zoning and Land Use

- *The subject parcel is a flag lot with approximately seventy-five (75) feet of frontage on Seaside Road, with the primary parcel area located roughly 0.7 mile east of Seaside Road.*

- *Adjacent to the north of the subject property is vacant land zoned Existing Subdivision-Agriculture;*
- *Adjacent to west is zoned AR/B (active agriculture);*
- *Adjacent to east: marshland zoned Conservation;*
- *Adjacent to south: zoned A/RB, which is the site of a home and several farm buildings and accessory structures;*
- *Land on the southern side of the "flag pole" is zoned Existing Subdivision-Agriculture and is currently under cultivation. Parcels situated to the west of the subject property are zoned Hamlet.*
- *The closest existing residence is ___ feet away.*
- *In general, the area where events would take place is located among several lots clustered along the waterfront.*
- *Except for the subject residential lot and the residential lot adjacent on the south, the zoning is Existing Subdivision, and the setting is rural.*
- *The potential for a significant increase in population along the waterfront in close proximity to the event venue could be anticipated based on existing zoning.*

Potential Impacts from Proposed Use

- 1) *Traffic and Parking: The proposed use contemplates a large number of vehicles utilizing designated areas for ingress/egress, unloading, delivery and parking. This area has not previously been improved for use by large numbers of vehicles. Trespass of vehicles on adjoining property, improper use of local roadway (Riverside Farm Lane) by event venue patrons, and vehicle operation unsuitable for an unlighted secondary road, are foreseeable problems associated with this use that must be mitigated. It is unclear whether or not VDOT regulations will require an upgrade to a commercial entrance from Seaside Road and what those attendant conditions may be.*
- 2) *Public Safety: The barn where events will be used currently is not equipped with fire suppression mechanisms, mechanical ventilation, or indoor plumbing. The Building Department of Northampton County must address fire safety. The Health Department must address lavatory facilities and food service rules. The Planning Commission should be aware of all public safety issues so that conditions are not imposed that threaten public safety while addressing other concerns. For that reason, the forced enclosure of the event patrons at a certain time of night in order to address noise and other concerns is not feasible because the existing structure lacks fire suppression, indoor plumbing and mechanical ventilation.*
- 3) *Noise and other nuisances: The use of the subject property for events including weddings contemplates activities such as musical entertainment, large crowds, service of alcoholic beverages, and intoxicated patrons which could create a nuisance for surrounding residential neighbors. The subject property, while zoned Agriculture/Rural Business, is not large enough to provide adequate setbacks from neighboring properties*

to avoid nuisance impacts. Consequently, operational conditions are more appropriate than setbacks to address these concerns.

- 4) *Zoning: Low-impact Agritourism uses are commercial uses of agricultural land that (1) provide additional opportunities for income in rural areas; and (2) are either enhanced by or dependent upon agricultural land uses. As impacts from any agritourism use may vary on a use-by-use or parcel-by-parcel basis, conditions for use are appropriate when issuing any approvals for Low-impact agritourism uses. In this case, much of the land in close proximity to the subject parcel has been subdivided for residential use. Impacts to quality of life for nearby residents must be considered.*
- 5) *Property value impacts: Incompatible commercial uses in close proximity to residential development have the potential to depress the property values of the residential properties and consequently negatively impact the tax base of Northampton County. New commercial uses on land zoned agriculture may conversely have a positive impact to the tax base, if there is substantial commercial investment improvement to the property and if the Commissioner of Revenue makes appropriate adjustments to the property valuation of the subject parcel.*
- 6) *Comprehensive Plan: The Comprehensive Plan encourages Low-impact agritourism uses for agricultural lands in the County as a way to provide additional income to farmers and to enhance the tax revenue to the County. Such uses help to preserve farm land and increase the tourism activity in the County.*

Proposed Conditions for each event:

1. *No later than two weeks prior to any event, the Applicant shall provide written notification of event to all adjacent property owners.*
2. *Electronic amplification (i.e. use of speakers, microphones, etc.) shall not be used after 9:00 p.m. on Friday and Saturday and 8:00 p.m. on Sunday through Thursday.*
3. *No event activity (including food/beverage service, departure of guests, clean-up crew operation) shall continue past 11:00 p.m. on Friday and Saturday and 9:00 p.m. on Sunday through Thursday.*
4. *The maximum decibel level as measured at the property line shall not exceed 60 decibels. Should amplification be projected at a level higher than 8 feet above ground level, decibel levels must be measured at the height of median sound projection at the property line.*
5. *The maximum number of event guests is 200 people.*
6. *No alcoholic beverages shall be served to minors, and all ABC requirements shall be met.*
7. *No firearms shall be permitted on the site during events.*
8. *No use of Riverside Farm Lane shall be allowed by event guests, caterers, entertainers, or any other vendors associated with events.*
9. *Approval of this M-SUP is contingent upon completion of the new access road located entirely upon Applicant's property. The new access road shall be constructed of permeable strata such as gravel, shell or other similar material.*

10. *Approval of this M-SUP is contingent upon continued agricultural use of the property, which shall be monitored on an annual basis by Northampton County staff.*
11. *Approval of this M-SUP is contingent upon continued ownership of subject property by the Applicant, Mr. William C. Parr, and this M-SUP is not transferrable with the property nor is it assignable by leasehold agreement.*
12. *Designated parking areas during events shall be clearly indicated by signage.*
13. *Barriers shall be placed at the boundary of the subject property to prevent access by event patrons to Riverside Drive.*
14. *Approval of this M-SUP is contingent upon compliance with all applicable building code provisions, as well as satisfaction of all deficiencies stated in the _____ letter issued by the Northampton County Building Department.*
15. *Approval of this M-SUP shall be contingent upon compliance with all applicable Health Department regulations, both for the property and off-site caterers and other food handlers.*
16. *An opaque vegetative buffer to be located on the southern boundary of the parcel in the area where events are held shall be installed and maintained throughout the life of the M-SUP.*
17. *Any additional lighting installed on the property shall be "dark skies" compliant and lighting shall be restored to the level that currently exists upon conclusion of each event.*

While discussing hours of operation Commissioner Miller reiterated that usual farming activities occur from sunrise to sunset. She also noted her concern that traffic and vehicular headlight illumination created by 200 guests would change the character of the neighborhood since there are only two agricultural lots in the midst of an existing subdivision. She added that there are many other sites available in the county for weddings.

Commissioner Kellam stated that she would like to hear other opinions from the commission about limiting the number of guests.

Ms. Benson noted that the commission could recommend a limitation on the types of venues allowed on the premises.

Commissioner Kabler reiterated his total opposition to the proposed special use due to roadway safety issues.

Commissioner Carpenter stated his opinion that the county is trying to encourage tourism and would not be supportive of a significant limitation on the number of guests allowed at any venue. He also noted that when major accidents occur on U.S. 13 vehicular traffic, estimated between 300 and 400 vehicles, is diverted along Seaside Road where he resides which can be inconvenient, but temporary. He added that he sees the proposal as a benefit to the county economically.

Commissioner Kellam stated her opinion that the proposal could negatively impact property values on neighboring parcels and that those landowners should be considered. Such

devaluation would result in lost real estate tax revenue. She added that if conditions were implemented properly then perhaps a higher number of guests should be allowed and that she would be agreeable to having the proposed user guidelines being made part of any recommendation to approve.

Mr. Parr was asked if he would contract directly with an event planner. He replied no and stated that such a person would work directly with the event host.

Discussion to limit the types of events was held. Commissioner Kellam noted that other functions would be appropriate, such as banquets and reunions. However, it was her opinion noise limitations should prevent activities such as tractor pulls and motorcycle rallies. She stated her support of increasing the number of guests to 400 if building codes were met.

By consensus the commission agreed that Item 9 was not necessary and that county regulations would apply to designated parking areas.

Item 14 was deleted from Commissioner Kellam's comments.

While discussing Item 16 Commissioner Miller suggested that the fence area be measured to accurately determine the length of the proposed opaque vegetative buffer.

Mr. Parr stated that the courtyard area would be accessible and tents would not be used.

While reviewing Item 11 Commissioner Miller expressed her opinion that a condition be imposed prohibiting any third party lease agreement between the owner and another entity or person for the operation of the business.

Ms. Benson explained that when any zoning violation occurs the property owner is always designated as the responsible party regardless of lease language. In the event that a violation occurs in regards to this special use permit Mr. Parr would be held responsible as the property owner.

Mr. Parr reiterated that event contracts or leases must be approved between him and the event host who can hire anyone they wish.

Commissioner Miller suggested again that the hours of operations be a condition beginning with a starting time no earlier than 8:00 a.m.

Commissioner Kellam suggested 11:00 p.m. as an ending time for Friday and Saturday events including any post-event clean-up activity.

The number of people allowed was discussed again with Mr. Parr noting that the figure of 200 was used only as a mathematical model in his letter of justification. Commissioner Kellam

suggested 400 and Commissioner Miller added that venue staff may extend that number to at least 450 people being on site.

Noise and audio impacts were briefly discussed again.

At this time motion was made by Commissioner Kellam to continue the meeting beyond 10:00 p.m. in order to conclude discussion which was seconded by Commissioner Miller. The motion carried 3 to 2 with Commissioners Carpenter and Kabler opposed.

Item 16 was discussed and Commissioner Miller concurred that the proposed opaque vegetated buffer line along the fence should be measured. Other minor and editorial changes to the list of suggested conditions were made with it being determined that Commissioner Kellam would provide a revised list of conditions for the commission to consider before a recommendation is made to the Board. Commissioner Kellam noted that she would check lease agreement language as referenced in Item 11 as well.

Due to time constraints no other business was considered.

Adjourn

Motion to adjourn was made by Commissioner Kellam and second by Commissioner Miller at 10:05 p.m.

Chair

Secretary