

Mr. Nicely opened the March 9, 2015 meeting of the Botetourt County Planning Commission to order at 6:00 PM, in Meeting Room 102 of the Old District Courthouse in Fincastle, Virginia.

PRESENT: Mr. Hiawatha Nicely, Jr., Chairman
Mr. William Thurman, Vice-Chairman
Mr. Sam Foster, Member
Mr. Steven L. Kidd, Member
Mr. John Griffin, Member
Mr. Jim H. Guynn, County Attorney
Mrs. Nicole Pendleton, Planning Manager/Zoning Administrator
Mr. Jeffrey Busby, Planner
Mrs. Laura Goad, Community Development Technician

ABSENT: Dr. Mac Scothorn, Ex-Officio Member

ALSO PRESENT: Mr. Cody Sexton, Information Specialist

After Mr. Nicely opened the meeting and welcomed those in attendance, he introduced Staff and Planning Commission members, and then read the procedures for the public hearing. Mr. Nicely stated the Board of Supervisors would hear these requests on March 24, 2015 at 6:00 PM at the Greenfield Education Training Center.

Mr. Nicely asked if there were any discussions regarding the February 9, 2015 and February 10, 2015 minutes and requested a motion.

Mr. Kidd motioned to approve the February 9, 2015 and February 10, 2015 Planning Commission minutes as written.

Mr. Griffin seconded the motion, which was approved 5:0:1:0 with the following recorded vote:

YES: Mr. Thurman, Mr. Nicely, Mr. Griffin, Mr. Kidd
NO: None
ABSTAIN: Mr. Foster
ABSENT: None

Mr. Nicely stated the Planning Commission would meet in the Kroger parking lot for the field review on Thursday, May 7, 2015 at 3:15 PM, but would not conduct a field review in April.

Mr. Nicely stated that the Planning Commission would tour the Beech Ridge Wind Farm in Greenbrier County, West Virginia on April 1, 2015, hosted by the James Madison University Center of Wind Energy.

Mr. Nicely stated that a joint work session with the Board of Supervisors would be held at 6:00 PM on April 6, 2015 at the Greenfield Education Training Center in Daleville.

Public hearings

Buchanan Magisterial District: Michael Pauley (D&P Welding, lessee) requests a Text Amendment to add "Vehicle repair, light" to the Botetourt County Code Chapter 25, Zoning, Article II. District Regulations Generally, Division 10. Business Use District (B-2), Section 25-243. Uses Permissible by Special Exception and requests a Special Exception Permit, with possible conditions, in the Business Use District (B-2), for a light auto/truck repair business on a 0.499-acre lot located at 11632 Lee Highway, Fincastle, VA (U. S. Route 11) at its intersection with Blue Ridge Turnpike (State Route 606) in Fincastle, identified on the Real Property Identification Maps of Botetourt County as Section 75, Parcel 130.

Mr. Busby read the request aloud as he displayed the zoning map on PowerPoint. He stated the surrounding area was predominately agricultural, although the subject property was already Business, B-2 because the property had been zoned that way since Mill Creek Garage was in operation. He further stated the property had a residence beside the garage since the 1960s, and was considered a legal non-conforming use. Mr. Busby explained that Mr. Scott Hill proposed to relocate his Troutville business here due to the suitability of the structure. He said the applicant requested to add light auto repair by SEP only, as he noted that Staff concurred because light auto repair differed from heavy auto repair permitted only in the Business, B-3 District. Mr. Busby described heavy auto repair, which would include engine overhaul, and major mechanical work, and said this shop would be for small, minor repairs that would not typically involve loud fumes, or glare. He then displayed the plat of the property.

Mr. Michael Pauley, of Buchanan, was present to speak on his own behalf, and offered to answer any questions for the Planning Commission.

Mr. Kidd asked about the previous type of use.

Mr. Pauley replied that he had used this property for his construction company that recently relocated to the Groendyke building in Buchanan.

Mr. Nicely and Mr. Pauley discussed business volume.

Mr. Griffin wanted to know how long Mr. Pauley had owned the building, asked about outside storage and the size of the property.

Mr. Pauley said he owned about 1.4 acres since 2008, there was a little bit of an orchard, but the house tenant kept the property mowed.

Mr. Kidd asked about the amount of property Mr. Hill would use for his business.

Mr. Pauley said that Mr. Hill would only use the garage and the length in the back for his snow removal truck, and that he would not get to use the entire 1.4 acres.

Mr. Kidd confirmed with Mr. Pauley the three bay garage was metal frame with block underneath.

Mr. Thurman inquired about the garage door in basement and the service bays.

Mr. Pauley responded that he used it for storage of overflow material, and Mr. Hill would have use of three bays, but not the bottom bay for auto repair.

When Mr. Busby showed the proposed condition to Mr. Pauley, he stated that Mr. Hill would have to keep the lot clean.

Mr. Kidd asked Mr. Busby to read the proposed condition into the minutes. Mr. Busby read, *“All repair or storage of equipment or materials and inoperative vehicles shall be inside a completely enclosed building. The zoning administrator may approve an outdoor storage area so long as it is screened from view by mean of an opaque fence, or masonry wall, or dense evergreen landscape planting or any combination thereof. Store materials shall not be stacked or otherwise placed in a manner that exceeds the height of the screening materials.”*

Mr. Kidd verified with Mr. Pauley that the condition would not be a problem.

Mr. Kidd said he had no other questions, and noted the applicant would need to have county approved signage.

No other commissioners had questions for the applicant.

There being no one else to speak, Mr. Nicely closed the public hearing.

Mr. Kidd stated that as long as the property stayed as neat and nice as the other three auto places in that area, he had no problem with the request because the repair shop would be convenient for the community.

Mr. Foster said the condition was needed.

Mr. Griffin said that he had concerns at first, but they had been answered.

Mr. Thurman said he was fine with the condition.

Mr. Kidd motioned to forward the request of a text amendment to include “Vehicle repair, light” to the *Botetourt County Code Chapter 25, Zoning, Article II. District Regulations Generally, Division 10. Business Use District (B-2)*, to the Board of Supervisors with a recommendation of approval on the basis that the proposed text amendments are consistent with the comprehensive plan and the purposes and intent of the zoning ordinance.

Mr. Griffin seconded, which was approved 5:0:0:0, with the following recorded vote:

YES:	Mr. Thurman, Mr. Nicely, Mr. Griffin, Mr. Kidd, Mr. Foster
NO:	None
ABSTAIN:	None
ABSENT:	None

Mr. Kidd motioned to forward the Special Exception Permit for Mr. Pauley to the Board of Supervisors with recommendation for conditional approval on the basis that the requirements of Section 25-583 of the Zoning Ordinance have been satisfied, and that the proposal would serve

the public necessity, convenience, general welfare, and good zoning practice, with the following condition:

1. All repair or storage of equipment or materials and inoperative vehicles shall be inside a completely enclosed building. The zoning administrator may approve an outdoor storage area so long as it is screened from view by mean of an opaque fence, or masonry wall, or dense evergreen landscape planting or any combination thereof. Store materials shall not be stacked or otherwise placed in a manner that exceeds the height of the screening materials.

Mr. Griffin seconded, which was 5:0:0:0, with following condition the following recorded vote:

YES:	Mr. Thurman, Mr. Nicely, Mr. Griffin, Mr. Kidd, Mr. Foster
NO:	None
ABSTAIN:	None
ABSENT:	None

Fincastle Magisterial District: Stephen L. Parker (dba Misty Creek Lodge, Inc.) requests a Text Amendment to amend the definition of “Camp, boarding” of the *Botetourt County Code Chapter 25, Zoning, Article VI. Definitions, Section 25-601. Definitions.* to include “occupancy by owner/operator”; and requests a Special Exception Permit, with possible conditions, in the Agricultural Use District (A-1), for a Camp, Boarding on a 6.41-acre lot, located at 696 Tucker Farm Road, Eagle Rock, VA (State Route 705) approximately 0.68 miles east of its intersection with Craig Creek Road (State Route 615), identified on the Real Property Identification Maps of Botetourt County as Section 34 (1), Parcel 5A.

Mrs. Pendleton read the request aloud as she displayed the zoning map on PowerPoint. Mrs. Pendleton stated that the property was currently zoned Agricultural, A-1, and was currently occupied by a mobilehome, a pole shed, a temporary shipping container with a shed roof, and two septic systems, each with a two-bedroom capacity. She further stated that all surrounding property was zoned A-1, bound to north by Tucker Farm Road, and agricultural, vacant land, bounded by the south by Craigs Creek, and that future land use was agricultural. Mrs. Pendleton told the Planning Commission that Mr. Parker met with staff in 2013 and 2014, determined that he needed a Special Exception Permit, and that the proposed use met the definition of boarding camp. She said the shed was in the floodplain, the existing mobilehome would have to be removed, that the two bedroom lodge was to be constructed with a garage, an office, would be considered residential with two bedrooms and two bathrooms. She noted the text amendment was requested and a site plan would be required, the pole shed may need to be relocated, pending a flood study, because of its current location in the FEMA 100-year floodplain, , and that a building permit would be required. Mrs. Pendleton displayed pictures provided by the applicant, and the proposed site plan. She suggested the following conditions if approved:

1. The project shall be developed in substantial conformance with the concept plan dated March 4, 2014 and revised August 5, 2014 by Parker Design Group with the exception of the location of the existing pole barn, which may be relocated to bring the building into cooplaince with the Zoning Ordinance Flood Hazard Overlay District.
2. The mobile home will be removed prior to obtaining a building and zoning permit for the construction of the lodge.
3. The pole barn will be brought into compliance with the Zoning Ordinance Flood

Hazard Overlay District prior to obtaining a building and zoning permit for the construction of the cabin.

Mrs. Pendleton stated that Staff had received four comments, all in opposition to this request.

Mr. Griffin confirmed with Mrs. Pendleton that two single family dwellings were allowed by-right, that Mr. Parker could not add a dwelling third dwelling. Mrs. Pendleton also noted that if approved, that the property owner could not add another dwelling, because of the suggested condition requiring substantial conformance of the site plan.

When Mr. Griffin verified that if the request were to be denied, the property could stay as-is with the mobilehome and shed, Mrs. Pendleton responded that the site needed to be in compliance, and they needed flood elevation information to ensure that the pole shed be in compliance with the Flood Hazard Overlay District. Regarding the mobilehome and the container, Mrs. Pendleton said the mobilehome could stay if the request were denied, but the container was in violation.

Concerning Condition 1, Mr. Foster asked about relocation.

Mrs. Pendleton stressed the need of accurate information from an engineer.

Mr. Foster confirmed with Mrs. Pendleton that she did make that request of the applicant.

Mr. Stephen Parker of Roanoke, apologized on his behalf. He said that after he retired from GE, he decided to start a business, purchased this land 2007, and became his father's sole caregiver. Mr. Parker brought up property improvements, such as adding a septic system to the existing mobilehome, removing overgrown brush and removing and filling in the johnny house. Mr. Parker said he would not reside here until his father passed away, he planned to do short term rentals and not live here. Mr. Parker said he met with different sets of people in zoning about the number of cabins, setbacks, got confused along the way, did not understand but continued his plans, installed another septic for two bedroom, then in August 2014 turned those plans in and it was brought to his attention that the SEP was needed. Mr. Parker stated he had already established business for short term rentals, and had retained Mr. Hagan as an attorney for guidance. Mr. Parker brought up his rescue service to Oriskany, asked the Planning Commission if they were clear on his statement of intent, said that he received a favorable response from Tourism, said that VDOT did not have a problem with this request, then reinforced his letter of intent that targeted rental to single couples or a small family. Mr. Parker said he would not provide RV, tent camping, or day use, and that he wanted clients to have a small cabin, that his third phase would be timber frame lodge with passive solar heating, two bedrooms, two baths for families, no entertainment for large groups, although he did have that in the past.

Mr. Griffin confirmed that Mr. Parker had a well and electricity on site.

After questioning from Mr. Griffin regarding the number of people in the cabin, Mr. Parker said he wanted only a couple of people, that he wanted to provide a comfortable setting, but no other sleeping bags, no other beds.

Mr. Griffin asked about the number of people for the proposed lodge.

Mr. Parker answered that he didn't think he would get eight people there, that the lodge would have two bedrooms with a double bed in each, and he limit the number of renters.

Mr. Griffin inquired about the short term length of time.

Mr. Parker said that he did a study, and would have a two-day minimum, limited to a week at most.

Mr. Thurman wanted to know what Mr. Parker considered his busy time.

Mr. Parker responded that June through August, that most sites run from May to September or October for leaf season.

When Mr. Thurman asked if he would rent in winter, Mr. Parker said he would rent year round, and provide heat in the winter.

Mr. Griffin asked if this property had been used for parties.

Mr. Parker said he had had about four gatherings with 40-50 people there for the day since 2007, in the second week of June, but no one in community had said anything to him.

Mr. Griffin noted that someone had brought that to his attention.

Mr. Kidd stated that he had viewed Mr. Parker's property today, spoken with Mr. Parker, and that he was not satisfied with the flood elevation and not knowing where that might fall.

Mr. Foster also stated his concern with the flood issue, that number of people there was a concern, that liked to think long term, and requested a maximum number of people to be placed in the conditions.

When Mr. Parker questioned limiting the number of people in a personal residence, Mr. Kidd explained that the Planning Commission had to look at the SEP and future owners. Mr. Parker then said he would adhere to the conditions.

Mr. Thurman questioned looking at the total number of non-residents versus those who might live permanently on the property.

Mr. Butch Carter of Troutville said he had an interest in his family farm just below Mr. Parker's proposed enterprise. He brought up the concern of absentee landlords that could make for bad neighbors. Mr. Carter remember when the Forest Service bought property for a campground and then had to close overnight camping due to alcohol, drugs, and a possible murder. Mr. Carter said that because the county did not require a bond, the surrounding landowners had no guarantee and was left to deal with transient renters. He asked what would happen when the next landowner wanted to build 25 rentals. Mr. Carter said that once the precedent was set, it was more difficult. He said that Craigs Creek was not the James River, it was not littered and they all want to keep it that way.

Mr. John P. Morris of Rockbridge County, said his father purchased their 240-acre property in

1963, with about one mile of river frontage. Mr. Morris said his family had a vested interest in this property, but only knew of this request for a week. He said he had no objections to Mr. Parker building a home, and it seemed like his intentions were for negative reasons. Mr. Morris stated that agricultural areas should be preserved and he was opposed to this request. Mr. Morris questioned the proposed outdoor recreation, if he would put in boats and canoes, as he explained his family had endured boaters, fishermen, kayakers, trespassing on their property and that tourism was done at his family's expense. Mr. Morris cited traffic on the dead end road, that his family was involved in two head-on collisions in past 20 years, that he could not turn his tractor around because of other traffic. Concerned about floodplain, Mr. Morris showed Planning Commission members photos from the Morris property. Mr. Morris said that Mr. Parker had cut vegetation on the river, that recent weather was not even a flood and to look at the pole barn in the pictures, and questioned the boundary line. After Mr. Morris viewed the PowerPoint, he questioned the boundary lines, and asked the Planning Commission to deny any amendments to the ordinance, and to deny this request.

Mrs. Elsie Guilliams, an area resident, stated her concern about major wrecks on the dead end road. She said that Mr Parker had cookie bake parties on Saturday evenings, and she had had problems with his guests using her parking area and she had to ford the creek to leave. Mrs. Guilliams said this was not the place for this project, that she was afraid this will get bigger and out of hand, and the biggest problem was the narrow road, because they had to back up to pull off.

Mr. Parker gave more detailed useage. He said he planned to offer fishing, kayaking, canoeing, and wading on the creek. He said he did cut the curve down after he heard about two wrecks. He said he had it graded down to see and to make the curve safer, and he graded some so for mowing purposes. Mr. Parker said that clients would not have ATVs, that he already had kayaks and canoes.

Mr. Griffin stated that the boundaries were not a Planning Commission issue.

Mr. Parker said that Parker Design Group surveyed his property and the boundary was well established. He continued that to his knowledge, he shuttled people the people who participated below the Morris property, and he did not observe anyone parking there. Mr. Parker said that picked kayaks out of water and he would have flood water photos.

There being no one else to speak, Mr. Nicely closed the public hearing.

Mr. Griffin said he had mixed emotions on this request but permitting use of this and by limiting the number of people to four in the small cabin and eight in the lodge, and by not allowing ATVs, the request might be viable for community. He stated that he would rather hear input from other members.

Mr. Thurman said that he had concerns, such as limits on numbers of people, parking, motorized vehicles.

Mr. Kidd asked Mr. Guynn about Craigs Creek, as far as navigation.

Mr. Guynn replied that it would depend on the court and the judge. He noted that the Supreme

Court looked at the Jackson River, and further noted that mattered only to those who have kings grants.

After further questioning from Mr. Kidd, Mrs. Pendleton suggested that if a condition to limit the number of people staying on the property were included, the term "tenants" instead of "occupants" should be used.

After further discussion regarding FEMA, Mrs. Pendleton stated that a flood study would be required to determine the base flood elevations, and elevation certificates were necessary in order to ensure compliance with regulations regarding future development in the 100-year floodplain.

Mr. Busby confirmed that if a structure was close, then a flood study could be required for the cabin to ensure compliance.

Mr. Kidd commented that we would not have to have a condition, but if property was sold then it would be nice to have that condition stated in the SEP so it did not get overlooked.

Mr. Foster said it would be good to have as condition, but not necessary, noting Mr. Parker did build the pole barn in the floodplain. Mr. Foster also brought up the lack the property owner not being on site with tenants.

Mr. Nicely remarked that Mr. Parker built the pole barn in the floodplain and that would have to be remedied, the container on the property would have to be remedied, that he thought Mr. Parker had good intentions but some things that didn't happen.

Mr. Griffin commented that if approved, approval would clean the property up, the trailer would be gone, that this was not really unreasonable to rent out two places, that he felt this would be with the three restrictions mentioned earlier, with additional conditions limiting the tenants in the small cabin to four and eight for the lodge, with 12 as a maximum, no motorized off road vehicles, no tents or RV camping, and all vehicles must be parked on this property.

Mr Guynn suggested specifying a maximum of four occupants for the cabin, and eight for lodge, twelve total.

Mr. Griffin said he appreciated all input.

When Mr. Foster discussed the parties and landowner rights, Mr. Griffin said that had happened only four times since 2007.

Mr. Thurman stated that he did not know how many conditions could be placed upon the property with this request to make it acceptable.

Mr . Griffin motioned to forward the request to add "the operator may or may not live on the property" to the definition of "Camp, Boarding", to the Board of Supervisors with the recommendation of approval on the basis that the proposed text amendment was consistent with the comprehensive plan and the purposes and intent of the zoning ordinance.

Mr. Kidd seconded, which was approved 4:1:0:0, with the following recorded vote by roll call:

YES:	Mr. Kidd, Mr. Foster, Mr. Nicely, Mr. Griffin
NO:	Mr. Thurman
ABSTAIN:	None
ABSENT:	None

Mr. Griffin motioned that the Special Exception Permit for Stephen L. Parker be forwarded to the Board of Supervisors with recommendation for approval on the basis that the requirements of Section 25-583 of the Zoning Ordinance have been satisfied, and that the proposal would serve the public necessity, convenience, general welfare, and good zoning practice with the following conditions:

1. The project shall be developed in substantial conformance with the concept plan dated March 4, 2014 and revised August 5, 2014 by Parker Design Group with the exception of the location of the existing pole barn, which may be relocated to bring the building into compliance with the Zoning Ordinance Flood Hazard Overlay District.
2. The mobile home will be removed prior to obtaining a building and zoning permit for construction of the lodge.
3. The pole barn will be brought into compliance with the Zoning Ordinance flood Hazard Overlay District prior to obtaining a building and zoning permit for the construction of the cabin.
4. The residential structure described as a "cabin" shall not be occupied by more than four (4) tenants and the property shall not be occupied by more than a total of twelve (12) tenants at any given time.
5. There shall be no off-road vehicles utilized for recreational purposes.
6. There shall be no tents or recreational vehicles utilized on this property.
7. All parking is required to be "off road" and located on Mr. Parker's property currently described as Tax Map 34(1)5A.

Mr. Kidd seconded, which was approved 4:1:0:0, with the following recorded vote by roll call:

YES:	Mr. Kidd, Mr. Foster, Mr. Nicely, Mr. Griffin
NO:	Mr. Thurman
ABSTAIN:	None
ABSENT:	None

Other Business

Mrs. Pendleton announced that she and Mr. Nicely would be participating in the Gateway Corridor Plan update, and they would update Planning Commission members.

Adjournment

There being no other business, on motion by Mr. Foster at 7:29 PM, and seconded by Mr. Kidd, the Planning Commission recessed until April 6, 2015 at 6:00 PM with the following recorded vote:

YES:	Mr. Thurman, Mr. Nicely, Mr. Griffin, Mr. Kidd, Mr. Foster
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NO:	None
ABSTAIN:	None
ABSENT:	None