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Bath County Planning Commission

Bath County Courthouse – Room 115 – 6:00 P.M.

June 27, 2016

MEMBERS PRESENT: Chairman John Cowden, Vice-Chair Jason Miller, Trudy Woodzell, John Loeffler, Monroe Farmer

MEMBERS ABSENT:

PUBLIC IN ATTENDANCE: Mike Bollinger (press), Ms. Deborah Michael, Mr. John Lockridge, Jeff Grimm, Mike Collins (County Attorney)

STAFF PRESENT: Sherry Ryder

CALL TO ORDER:

Chairman Cowden called the meeting to order at 6:00 p.m. He thanked the public for attending.

PUBLIC COMMENT—MATTERS UNRELATED TO THE AGENDA: None

ADDITIONS OR CORRECTIONS TO THE AGENDA: None

PUBLIC HEARING

- (a) Deborah Michael – Ernest Scott and Betty W. Bourne – (TM#94A1-4-20) – Conditional Use Permit to operate a retail shop of crafts related products at 6032 Sam Snead Hwy, Hot Springs, VA. The property comprises 0.81 of an acre situate in the Valley Springs Magisterial District and is zoned R-2 Residential.

Sherry Ryder: We have an application for tax map parcel # 94A1-4-20 by Deborah Michael, applicant, to operate a retail shop for hand crafted products and related crafting supplies. Located within a portion of a residential dwelling located at 6032 Sam Snead Highway in Ashwood.

The property is located between Dr. Diamond's and McLaughlin-Young Funeral Home. You can see that Dr. Diamond's business is zoned B-1 Convenience Business and that the funeral home is zoned R-2 Residential. This property adjoins the funeral home property on the half of the lot.

While the property is not similar to any of the sections within R-2 Residential zoning district, Ms. Michael points out that there are various businesses within close proximity to this. She has the funeral home adjoining this property.

If she were to occupy the property as a resident she could have made application as a home occupation but the house is occupied randomly by the owners. Ms. Michael is a caretaker of the property.

The property is approximately 0.81 of an acre and is located within a designated growth area. For this particular type of business, she would need a minimum of five (5) parking spaces as indicated by our chart, in the Land Use Regulations.

Again, the adjoining properties are zoned R-2 Residential and R-5 Planned Unit Development. Immediately to the south is the funeral home, two (2) parcels north is Dr. Diamonds, then Peter Judah's Office and then Country Café.

At this time, I have not received any opposition to this request.

I do not have any recommendation for this application.

Relevant Section(s) in the Bath County Land Use Regulations are on page 4-3 Economy Goals #3 and #8 and Objective b page 4-3 and page 11-9 #1 of the Bath County Comprehensive Plan.

Ms. Michaels does have adequate space for parking in the paved area and if there were extra customers, she would have to extend the parking into the back and more in the grassy area. I gave you a street view picture in your pack also pictures to the north and south.

I would be happy to answer any question and Ms. Michaels is here to give you any more information you may want.

Chairman Cowden: Thanks for the background. Ms. Michaels is there anything you would like to add?

Ms. Michaels: I think Mrs. Ryder pretty well covered it.

Chairman Cowden: Any discussion?

Trudy Woodzell: Mrs. Woodzell questioned parking as well as neighboring properties. Ms. Michael clarified the property owners as well as the ingress and egress that would be used if necessary.

Mr. Loeffler: Have all or the majority of the adjoining landowner written letters in support of this?

Ms. Michaels: All of them have.

Chairman Cowden opened the Public Hearing to the public for comment. There were none.

Chairman Cowden: Do I hear a motion?

Mr. Farmer:I would like to make the motion to approve this Conditional Use Permit for Ms. Michaels for a time period of five (5) years.

Chairman Cowden: I have a motion on the floor, any discussion? None. Do I hear a second?

Mr. Loeffler: I second it.

VOTE: 5-0 approved

PUBLIC HEARING

(b) John A. Lockridge – (TM#16-20) – Conditional Use Permit to operate a truck and tractor pull twice annually at 16226 Indian Draft Road, Williamsville, VA. The property comprises 130.44 acres, with approximately 8 acres being the area for the events. The property is zoned A-2 Agricultural General and is situate in the Williamsville Magisterial District.

Sherry Ryder: Mr. Lockridge has made application for a Conditional Use Permit to operate a truck and tractor pull. It would be, as you said, located at 16226 Indian Draft Road, Williamsville. It is near the old Williamsville store for those who know the area.

I believe you would put this under section 603.03-20 “Other uses which are similar to the foregoing”. As time progresses you come upon things that are similar but not spelled out. We do have uses that could be listed as similar.

The truck and tractor was brought to my attention approximately two (2) weeks before it was advertised to commence. I sent a message to Mr. Lockridge that I needed to speak with him and he came to my office the next morning. He stated that he had been told that he had everything that he needed and was not aware that he needed anything from zoning.

He immediately made application and payment for a Conditional Use Permit.

The truck and tractor pull was still held the following weekend. I believe that Mr. Lockridge had financial commitments that he could not get out of so he proceeded with the pull.

I did have some complaints of noise from the night that the pull was held. I understand from Mr. Lockridge’s application that any pulls that he had would be finished and cleared out by 11:00 p.m. and that is also what he stated.

I have since found out, from the time I wrote this out, that he had a delay with a sled, there were some complications that put him behind about two (2) hours from what he thought was a good starting time.

I have heard some positive response as well from several locals that the pull was something that they enjoyed and it is a pull that they can get points from. Mr. Lockridge has on his application that he would like to do this two (2) times a year.

The total acreage of property is approximately 130 acres. There are a handful of residential addresses within close proximity to the pulling area as you can see on your map. Mr. Lockridge has ample acreage for parking.

The adjoining properties are zoned A-2 Agricultural General and FH-1 Flood Hazard.

If permitted, I would recommend that County Ordinances be followed as part of that motion and I would also recommend that security be on premises during each event. And that's because of some of the calls I received.

This property is not located within a designated growth area.

Relevant Section(s) of the Bath County Land Use Regulations 603.03-20 and page 10-6 Community Facilities & Services Goal #3 of the Bath County Comprehensive Plan.

You have Mr. Lockridge's application and he has proffered with a few bullet points.

- 1) Two (2) times a year, starting at 5:00 p.m. to 11:00 p.m. on Saturdays and no Sunday events.
- 2) No alcohol
- 3) Adequate parking
- 4) Will have- porta johns, event insurance and adequate parking.
- 5) Sheriff's Office notified prior to event.

I have given you the adjoining land owners listed here with their tax cards, a map showing the property where the event took place and where he has made an application for. The 911 address location for the neighbors in pink bullets and neighboring parcels. You have some photos that were taken of the street as well as the pulling area. You can see the portable lights used after dark. Also the sled area.

I did get several calls asking about the noise ordinance and why it wasn't being enforced. I got calls Saturday night sometime before 10:00 p.m. on the noise and as promised to the person on the phone, I called the Sheriff's Office and asked if they could check into and enforce any noise ordinance that was being invasive. I think Deputy Grimm was there for a good while that night until about 9:00 p.m. I was told it ended sometime around 1:30 a.m. to 2:00 a.m. Sunday morning because they could still hear vehicles.

Mr. Lockridge has received notification that he can have no more pulls until he get a Conditional Use Permit granted. Mr. Collins is here to answer any legal questions.

Mr. Mike Collins: The noise ordinance we have adopted goes in effect from 10:00 p.m. to 7:00 a.m.

Chairman Cowden: Opened the Public Hearing for comment.

Mr. Lockridge: The truck and tractor pull is a growing sport around here. A lot of folks are getting into it. I am trying to keep the people in the county. We go all over, Madison County, Forrest, Expo, Marlinton (West Virginia), all over the map. But right now we have several tracts right close by and people enjoy being able to go out to family events and not have it cost an arm and leg to get there. I have gotten a lot of good feedback and no negative feedback. I went around at the other pulls and people couldn't get off to come here to support me. So, I have three hundred (300) signatures from people for support and hope to get the permit to pursue the event.

Chairman Cowden: Thank you and does anyone else have anything to say on his request?

A person in public spoke agreeing with Mr. Lockridge's statement. He stated that it was a good thing for people to do. You get income from those that attend as they spend their money on various things in the County.

Mr. Lockridge: He clarified that he did have a delay and explained his situation. He apologized for being so late with the pull. He stated he could start earlier to keep within the noise ordinance.

Mr. Collins: Would you file that petition with the Planning Commission?

Mr. Lockridge: He stated that it was just a notebook with names supporting the pull.

Mr. Collins: He explained that the petition isn't generally considered unless you let it become part of the record. You might be able to tell to an extent the local people that signed to those who are not.

Mr. Farmer: Are there other pulls in Bath County?

Chairman Cowden: Yes, it's a fund raiser.

Deputy Grimm: We have two (2) truck and tractor pulls each year. Millboro Fire & Rescue holds them on. We had over 700 people there at the last one, which was last weekend at \$10.00 a person.

Mr. Lockridge: We had close to 500 at the gate.

Vice-Chair Miller: The Fire Department got the money at those. Who gets the money at yours?

Mr. Lockridge: To the Trust. It goes into the Family's Trust, The John A. Lockridge Trust.

Chairman Cowden: Sherry, is there a difference between the profits going to a nonprofit and a for profit? In the Land Use Regulations?

Sherry Ryder: We have the Millboro pull is done for the Millboro Fire department it was done as part as the fair. There are events such as festivals that are held by a non-profit that are held by

a fire department, rescue squad that are held has one festival. Many non-profits hold one day events to raise funds throughout the county such a festivals. This is not a festival so it is a little tricky because the Millboro tractor pull came in with the fair. It is still operating.

Chairman Cowden: A question has been raised, Mr. Collins could you clarify this?

Mr. Mike Collins: I think what Sherry is saying it was an ancillary activity that you could you classify being under some other category of entertainment for this non-profits. It is not necessary because they are non-profits because they were part of the fair or festival with is regulated separately. This is just simply because by being for profit would be considered a business and then it would have to come under the regular zoning.

John Loeffler: Are we looking to do a retroactive conditional use permit?

Mr. Mike Collins: No, the event – I was questioned about that. I did not feel that it was appropriate to have some kind of a hearing as a mechanism to physically restraint it from happening. I felt like it was a violation and if it occurred we would write it up as one. Generally what happens with a zoning complaint if people complain about it being done we look into the ordinance and if it is a violation. We send out a letter to stop it and if you don't we will take you to court. We told them clearly that it was not authorized and constituted a violation to do it and Sherry sent a letter to follow up on that.

Mr. Mike Collins: That particular violation at this point there is no consequences. There is fine potential that could be done but the letter send any future violations would result if criminal process.

Mr. Mike Collins: I felt like you have to voting violation to tell them to stop then if they don't stop you take them to court for criminal proceeding. I feel it is shut down legally. It is shut permanently until it gets permitted or it will go to court. As far as the noise ordinance, that is not really in purview when you are considering to grant this or not, you can put a condition on time so it does not violation the noise ordinance but to determine whether or not the noise ordinance is enforced or make sure it that is does get enforced is not really a preview of the planning commission that is a county ordinance and on the books it is a criminal ordinance and is enforced by the Sheriff based on a complaint by a citizens complaint or anybody.

Chairman Cowden: Regardless, whether we had say 10:00 it would still be the Sheriff department.

Mr. Mike Collins: If it is going on after 10:00 and it's noisy it is the sheriff department who would investigate it and get warrants and justify it. If it is going on after 10:00 and we have granted a permit it would be a zoning violation if it's going on after a time that it is supposed to be ended, then it is a zoning violation. We would enforce that.

John Loeffler: So we can set a time on the conditional use permit?

Mr. Mike Collins: Yes, that's why it is conditional. You can put conditions on it. If it would go beyond that we would initiate the warrant. Criminal action for violating the zoning ordinance.

Sherry Ryder: If it is a conditional use that has been violated then it can come up before the BZA to have the permit reviewed and revoked.

John Cowden:Public comment – We have a question from Mr. Grimm. Mr. Grimm was asked about following up on noise complaints with dispatch the night of the Pull.

Mr. Grimm: I can tell you what I observed while I was there. It was a normal truck and tractor pull, I mean they a noisy. I think it is great that John had something like that up there because the youth at the church was able to raise money with selling food. So part of that is giving back to the community. I think that is a great thing.

John Lockridge:I let Burnsville United Methodist Church Youth Group serve the food. I bought the food initially and then reimbursed me the cost after they finished the sale

Mr. Grimm: I was up there until 9:00 and I got there about 5:00. I actually volunteered my time. I was not being paid by the County or anything like that.

John Loeffler:He questioned why an event that pulled in 500 plus people that Sheriff Plecker did not have a deputy follow up with the event or noise complaint.

Mr. Grimm:He explained that there were four officers working, but that everyone had gotten really busy that day during that timeframe.

John Cowden: Any other public comment on the subject? He closed he public hearing.

Monroe Farmer: The noise from the machines is because they are big right.

John Lockridge: Yes

Monroe Farmer: So if you follow the ordinance at 10 o'clock, if there were no more machines running. I obviously don't know what a tractor pull is but if they were not pulling anything at 10:00 o'clock then the noise would be brief.

John Lockridge: Right.

Monroe Farmer:So if all those things were shut off it would be quiet.

John Lockridge: It would be quiet.

Jason Miller: When was the last pull this time?

John Lockridge: It was around 12:20.

Jason Miller: Once you saw you weren't going to be done 10 or 11 o'clock was there anything that prohibits you from saying, "Hey, its midnight and somebody might be trying to sleep. Was there anything that would have stopped you from throwing in the flag at 11 or 12 o'clock?"

John Lockridge: Well, I would just have to start at 2 o'clock.

Jason Miller: No, I mean this one why did you keep going past 12 o'clock?

John Lockridge: You have people that just come from so far away to do these events. I mean if you drove from here to Lewisburg, West Virginia to operate your vehicle in anything you do and then they came out there and said its 5 o'clock and you can't do it now. You just got to go home. We were just trying to please everybody.

Mr. Smith: Commented he was not home at the time of the pull. He was home by the end of the pull. He commented that if you started earlier and could end at an appropriate time it might be okay. It was held too long and was too loud. He thought it was good that it helped support the youth group from church.

John Cowden: He closed the public hearing.

Jason Miller: What are you going to do with track when it is not in use?

John Lockridge: We make hay off of it.

Jason Miller: I mean the track. You have gravel and dirt on it.

John Lockridge: It sits dormant.

Jason Miller: There will be no practice runs or use.

John Lockridge: Correct.

John Loeffler: Could you start this event at 2 in the afternoon?

John Lockridge: Yes.

Trudy Woodzell:Ms. Woodzell made a motion the CUP be granted for twelve months, up to 2 events in the next 12 months, to be finish by 10:00 p.m. and any further violations would be reviewed by the BZA and security is something to be considered if not by the sheriff office than private security.

Jason Miller: We don't make that part of the motion.

John Cowden: Do we have a motion?

Sherry Ryder: She said consider. Consider security.

John Cowden: Is that the motion you are calling for?

Trudy Woodzell: Yes.

Sherry Ryder:Trudy, you want to reference your land use?

Sherry Ryder: 603.03-20

Trudy Woodzell: I reference 603.03-20 as part of that motion

John Loeffler: Seconded the motion

John Cowden: 2nd by Mr. Loeffler.

VOTE: 4-1 (Jason Miller dissenting vote)

John Cowden: Next on the agenda – Capital Improvement Plan requests.

Bath County Administration

Ashton Harrison, County Administrator, presented the County’s request for the Courthouse Energy and Safety. The County would perform an electric upgrade to improve energy efficiency and safety to the Courthouse and Sheriff’s Office. Mr. Robert Bopp with Odyssey Engineering and Electrical presented the request to the Planning Commission along with the County Administrator.

The request was for \$423,134.

Bath County Public Service Authority

Mr. Gene “Buggs” Phillips presented FY16-17 request to the Planning Commission. The PSA was placed under a Consent Order for the Hot Springs Regional Sewer Treatment Plant in 2010 by DEQ for modifications to reduce I&I. The Consent Order must be put in place and acted upon 2016. He explained that DEQ would shut down the facility and no more connections, with fines and penalties. DEQ gave the PSA numerous things to do, along with the proposed modifications to the plant.

He explained to the Planning Commission that it was difficult to acquire a grant due to the low monthly fees being paid by their customers.

The request was for \$402,000.

Bath County Electoral Board, Director of Elections

Mr. Charles Garratt presented the request to replace voting equipment to comply with Code of Virginia. The current equipment will be out of date 2020. He explained that it could be put off for another year, but the price may go up due to purchasing in bulk with another locality. It could be very expensive if you wait until near 2020. He suggested purchasing them and putting them in place for the upcoming November election.

The request was for \$200,000.

Millboro Fire Department

Mr. Jeff Grimm presented the request of Millboro Fire Department for a new pumper truck. He explained to the Planning Commission how the Bath County Fire Rescue Association was involved with requests of each department. The Association has a spreadsheet with all departments and their vehicles to indicate when each one would be replaced according to a schedule.

He explained that Millboro has an old pumper that has to be packed quite often, pump won't stay in gear and really is not a safe vehicle to even take on a call. He explained the need to protect the lives and property of their service area a new pumper was necessary.

The request was for \$349,950.

Bath County Solid Waste

Mr. Ashton Harrison presented two requests.

The first request was for a Disposal Pad. The need to install a disposal pad to allow citizens an opportunity to directly dump solid waste into the containers. This would contractors to dump directly into the containers.

The request was for \$141,300.

The second request was for Transfer Station retaining wall and floor repair. It would repair the floor of the transfer station. The retaining wall would allow use of the existing building.

The request was for \$193,159.

Bath County Public Schools

The schools had two requests. Ms. Hirsh was unable to attend due to a conflict.

The first request was for the Bath County High School parking lot rehabilitation. This would include paving, lighting, striping the parking spots, etc. This has been requested for several years and has only gotten worse. There are holes in the parking lot. Runoff does not go where it probably should go. The parking is erratic. Last winter they could not have school due to the parking lot being iced up and not being able to clear it off. If there were pavement it could have been cleared and school could have taken place earlier.

The request was for \$580,000.

The second request was for school bus replacement. They have a maintenance replacement schedule of school buses for each year. One year they replace one bus, the next year they replace two buses. If this isn't done the buses are not operable or unsafe for children to occupy. It helps to keep them on a replacement schedule to avoid buying multiple buses as time goes on.

The request was for \$94,123.

The Planning Commission discussed making recommendation to the Board of Supervisors to include the bus replacement in the school's normal operating budget.

The total requests for FY16-17 was \$2,383,666.

CHAIRMAN'S REPORT: None.

STAFF REPORT:

Sherry Ryder: A copy of my report is in your packet. If you have any questions let me know.

OLD BUSINESS:

NEW BUSINESS:

MINUTES

John Loeffler made a motion to approve the May 23, 2016 minutes. Trudy Woodzell seconded the motion

VOTE: 5-0

There will be a meeting on Thursday, June 30, 2016 at 5:00 p.m. to discuss the Capital Improvement Plan requests.

ADJOURN

Jason Miller made a motion to adjourn the meeting. John Loeffler seconded the motion

Meeting adjourned @ 9:25 p.m.

Chairman, John Cowden

Date