

Albemarle County Planning Commission
February 6, 2018

The Albemarle County Planning Commission held a public hearing on Tuesday, February 6, 2018, at 6:00 p.m., at the County Office Building, Lane Auditorium, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

Members attending were Tim Keller, Chair; Julian Bivins, Daphne Spain; Pam Riley, Vice-Chair; Bruce Dotson, Karen Firehock, Jennie More and Bill Palmer, UVA representative.

Other officials present were Scott Clark, Senior Planner; Margaret Maliszewski, Chief of Community Development; Elaine Echols, Chief of Community Development; David Fox, Neighborhood Planner; Rachael Falkenstein, Senior Planner; Tim Padalino, Senior Planner; Sharon Taylor, Clerk to Planning Commission and John Blair, Deputy County Attorney.

Call to Order and Establish Quorum

Mr. Keller, Chair, called the regular meeting to order at 6:00 p.m. and established a quorum.

The meeting moved to the next agenda item.

SP-2017-00004 James River Runners Amendment

MAGISTERIAL DISTRICT: Scottsville

TAX MAP/PARCEL(S): 13600-00-00-012A0, 13600-00-00-014A0

LOCATION: 10092 Hatton Ferry Rd

PROPOSAL: Amend special use permit SP197800074 for canoe livery by expanding the camping area accessory to the canoe livery to allow 5 campsites on a new parcel of 1.8 acres (13600-00-00-014A0)

PETITION: Expansion of canoe livery with accessory camping under Section 10.2.2.29 of the Zoning Ordinance, which permits boat landings and canoe liveries.

ZONING: RA Rural Area - agricultural, forestal, and fishery uses; residential density (0.5 unit/acre in development lots)

OVERLAY DISTRICT(S): Flood Hazard Overlay District

COMPREHENSIVE PLAN: Rural Area – preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources; residential (0.5 unit/ acre in development lots)

(David Fox)

David Fox, Neighborhood Planner, presented a PowerPoint presentation and summarized the staff report on SP-2017-00004 James River Runners Amendment. The request is to amend SP-1978-74, which is a special use permit for a canoe livery. The request is to expand the camping area accessory to the canoe livery on to parcel

13600-00-00-014A0, which is adjacent to the current use. This property is at Hatton Ferry in the southern part of the county adjacent to the James River approximately 3 miles southwest of Scottsville in the Scottsville Magisterial District and the zoning is Rural Area.

Mr. Fox highlighted the parcels in question and the history of the parcel.

- Original SP-1978-74 for Parcel 136-12 approved in 1978.
- 1983 Subdivided 136-12A.
- 1991 zoning complaint about campground – Official Zoning Determination that camping is an allowed accessory use to the canoe livery under the County Ordinance.
- In 2008, the current applicants, Christopher and Page Wilkes, purchased the JRR business and property.
- Request is to bring into compliance five (5) existing primitive campsites on 136-14A with the permission of that landowner which is shown on the southeastern portion of the map.

In response to some of the requests for additional information from the Commission, Mr. Fox apologized that this information was not originally included in the staff report and that the map highlights some of the additional water features that are in play at this site. He pointed out: the County's Water Protection Ordinance Buffer, the extent of the 100-year floodplain plan and the jurisdictional floodway. Mr. Fox noted that both the existing camping use and the proposed expanded area where there is existing camping are within the jurisdictional floodway and the floodplain and no permanent structures allowed.

Mr. Fox reviewed photographs to give an indication of the status of the site and pointed out the parking area at Hatton Ferry, the James River, the existing camp area approved under the zoning ordinance, and the proposed expansion area. He pointed out the vegetative nature of the bank along the James River below the camping area.

Mr. Fox briefly summarized the issues considered in the staff report and that came up in the public meeting:

- The applicant is requesting no additional uses, and only bringing into compliance a longstanding use.
- No structures or permanent changes proposed; this is primitive camping only with a seasonal use of picnic tables and portable toilets, which are removed when the boating season is not active (May to September).
- The camping is only available to participants in the canoe livery; it is not open to the general public.
- The conditions seek to protect the adjacent property owners and maintain a general quiet nature of the rural area.
- The applicant has demonstrated a continuous compliance with the Virginia Department of Health regulations related to campgrounds.
- No objection from VDOT for this use. One concern that came up in the public discussion is concerns about excessive speed on Hatton Ferry Road. Hatton

Ferry Road is currently unclassified by the Virginia Department of Transportation so it defaults to a 55 miles per hour speed limit. The applicant has actually asked VDOT to reconsider this several times; however, they have not done that. Kevin McDermott, Transportation Planner, spoke to VDOT recently and they have agreed to revisit that issue in light of this proposal.

- Staff believes this proposal is consistent with the Comprehensive Plan by promoting tourism and rural opportunities for employment. In particular, the Comprehensive Plan also calls out boating access on the James River as a desirable goal.

With that staff is recommending approval with conditions:

1. Accessory structures within the floodplain shall be constructed and secured in accordance with County Code § 18-30.3.15.
2. The use of fireworks on the property shall be prohibited.
3. The owner shall establish and enforce Campground Quiet Hours, as approved by the Zoning Administrator, for the hours between 10 pm and 6 am.
4. No amplified sound or permanent lighting shall be installed or used on the property.

Mr. Fox said he would be happy to answer questions.

Mr. Keller invited questions for staff. Hearing none, Mr. Keller opened the public hearing and asked the applicant to come forward.

Chris Wilkes, with James River Runners, said he would be happy to answer any questions the Commission may have.

Ms. Firehock said that she had a few questions - first of all the campsites since they are primitive she assumes that means that they are not set up as pads, they just literally put a tent on the grass.

Mr. Wilkes replied that is correct – there are picnic tables and fire pits.

Ms. Firehock asked where trash is stored from that, and if that is up by the main building.

Mr. Wilkes replied it is; we have a separate building for storing trash inspected every year by the Department of Health that comes down and issues our camp permit.

Ms. Firehock said on the actual location sketch she was concerned about whether the campsites themselves are within the 100' buffer that we try to maintain along the James River. She asked if he knows the distance since she could not quite tell.

Mr. Wilkes replied that they were adjacent to the river and probably are about at 100'.

Ms. Firehock said she knows there was an incident in the last five years where one of the porta-johns actually escaped into the river during a high water event.

Mr. Wilkes replied that he did not believe it was one of ours since we have never lost one, however, Parks and Rec have one by Hatton and we have moved it for them in the past and notify them of high water.

Ms. Firehock said that it is in the floodplain and she was just wondering if he knows the distance and where the porta-john will be located.

Mr. Wilkes replied that the porta-johns are at least 100'; we keep those up against a tree line where in the event that water is coming up we can move them well across the tracks and out of the floodplain. He said depending on how fast the water comes up we have had to secure them to the trees with chains before; however, in my time there we have never lost one.

Ms. Firehock asked if he had his own equipment to go ahead and move them if he has to; and Mr. Wilkes replied yes.

Ms. More asked as they are currently operating are there staff there 24 hours a day or overnight.

Mr. Wilkes replied yes, when we are in season from approximately March to October.

Ms. More asked if that would continue, and Mr. Wilkes replied yes.

Ms. More said she noted in staff's report neighbors have raised concerns about special events or fireworks display; but, it does not appear as though as far as zoning there was any official complaints. She asked if he was aware of any and if that is something that you have allowed and now are not going to allow.

Mr. Wilkes replied no, we have never allowed that; however, we have adjusted our waiver that we have people sign off on in the past to agree to comply with state and federal law and have clarified that a little more to specifically include fireworks.

Ms. More said if there are other campers or neighbors that have a concern that they would have someone they could reach out to at any hour.

Mr. Wilkes replied yes, absolutely we have somebody on site in season and then my direct contact as well is posted permanently on the front door of the building with cell phone and ways to contact me directly.

Mr. Dotson said just a further clarification on the staff that is on the site in what are their hours.

Mr. Wilkes replied we have people on site from 7:30 am to 7:30 pm on full staff and then there is one staff member on duty who stays there as long as there are campers on site. He pointed out if the campground is empty we do not have anybody there.

Ms. Spain said she was pleased to see this type of project because we do want to improve access to the river and recreational opportunities, but mainly for the river's health, she thinks it is good for more people to be on it and appreciate it. She said she was not clear about the 100' buffer and when Ms. Firehock asked about that, you said there would be campsites within that 100' stream buffer.

Mr. Wilkes replied that we are talking about 100' from the riverbank there are campsites there that have been there for 38 years.

Ms. Spain asked if the sites were already within that limit, and Mr. Wilkes replied yes.

Mr. Keller invited further questions. Hearing none, he invited public comment. Hearing none, he invited applicant for rebuttal. Hearing none, Mr. Keller closed the public hearing to bring the matter back to the Commission for discussion and action.

Ms. Firehock said obviously this use has been going on there for some time; camping along the James River is a desired activity and she has no objection to that as a general concept. However, she would like the sites to be stepped back out of the 100' wooded buffer. She noted that buffer has a purpose, which is to remove nitrogen phosphorus, and sediment from runoff that would enter the river and our Water Protection Ordinance is something that we try to enforce. She said it is structured such that if you already have cleared land it does not cause you to plant trees; however, she thinks that it is in keeping with the county's ordinance. She said given the large area of land that is available since it is not that they are constrained there, she would prefer that they move back the campsites 100' from the edge. She said even pitching tents there can compact the soil and she would like to allow the buffer to grow up naturally and fulfill its role in protecting our river from runoff. She said the James River does suffer tremendously from sediment input and that would be her personal preference. However, she understands if other Commissioners don't agree since it has been going on there for a while, but in this case it seems easy enough to move them back 100'.

Ms. Echols asked to provide a little bit of clarification on the 100' buffer since it is a little confusing. She said if you look at the image our 100' buffer is coincident with the floodplain boundaries so it is actually a lot further than the 100' and so if it were entirely out of the buffer it would be entirely off the parcel. She pointed out the floodplain boundary and then the 100' buffer is about the same. She said it sounds like maybe what she is saying that you would prefer that the campsites be at least 100' away from the river itself to help with that 100' between the river and the edge of the campsites for the filtering purposes and the purposes that a buffer does serve.

Ms. Firehock said that was correct and one of the purposes of our buffer ordinance. She said that 100' from the scientific literature removes more than 90 percent of the

nitrogen phosphorus and sediment that would naturally run off the land so she would like the campsites to step back 100'. She understands this was a prior approved special use permit for the parcel on the other side; however, had she been sitting on the Planning Commission at that time she would have made the same request that it be stepped back 100'. As this is a special use permit, she believed it is within our privy to request that. This would not preclude the people going camping from sitting at the edge of the river and enjoying it; it just simply means that most of the occurrence would occur 100' back from the river's edge.

Mr. Fox said to address that concern without taking an exact field measurement there was a question if you measure from the bottom of the bank of the James or the top of the bank. However, he thinks 100' would essentially preclude the use of this existing parcel since it was only a little bit longer than 100' wide. He said he had discussed this issue at length with the county engineer and he did not recommend that we preclude camping based on the WPO buffer.

Ms. Firehock said she misunderstood; she thought that red line was just the area denoting where they wanted to have their tents; but, you were saying that is the actual legal boundary of the parcel, and Mr. Wilkes replied that is correct; that is the entirety of parcel 136-14A.

Ms. Firehock said given that she did not want to preclude them from camping at all and so she will withdraw her concern although she would still say for the record that we should protect the 100' buffer along the James River. She suggested that maybe they could plant a couple extra trees, but she would not ask that as a condition.

Mr. Keller asked if there was further discussion.

Mr. Dotson said he just had a comment perhaps for reaction from other commissioners or from the applicant. Mr. Dotson said he thinks my comfort level with conditions 2, 3, and 4, the fireworks prohibition, the quiet hours, the lighting, the sound and so forth are based on what the applicant indicated that a staff person would be present. He said that is considerably to my comfort level given the location and the difficulty of the county enforcing this really puts a lot of onerous on the owner's shoulders. Mr. Dotson suggested a condition that says staff must be on site during the time when camping takes place that would give us some greater assurance that those conditions would actually be achieved so he would be interested in commissioner, staff or applicant reaction.

Ms. Riley agreed with Mr. Dotson's suggested additional condition since she thinks the previous complaint was around fireworks. She said there is a real possibility of people camping and getting a little loud and out of hand and so thinks requiring a staff person there may not preclude these things from happening, but if there is an issue and there is a complaint there is somebody there to deal with it.

Ms. Firehock asked if it was possible to ask one other question of the applicant, and Mr. Keller replied yes.

Ms. Firehock said her question was concerning staff themselves since she was not sure exactly what the response time is for any emergencies from the Scottsville Fire Department; she was guessing it was 25 to 30 minutes.

Mr. Wilkes replied that Scottsville Fire Department is only about five miles away so he would say that is probably an over estimate. He noted that usually when we have had incidents with the rescue squad, which is even further away, they are generally there within ten minutes.

Ms. Firehock thanked Mr. Wilkes.

Mr. Wilkes noted that we do also continually plant trees along the bank on the proposed site there as well just to help with erosion.

Mr. Dotson asked if he would have any concern with a fifth condition that says staff must be on site during time when camping takes place, and Mr. Wilkes replied no, not at all.

Mr. Blair said that he had sketched out a fifth condition that “a staff member shall be on the premises at all times when individuals are utilizing camp sites on the property.”

Mr. Keller asked if there was a motion.

Ms. Riley moved to recommend approval of SP-2017-00004 James River Runners Amendment with the conditions outlined in the staff report, as amended, including the additional of a fifth condition as stated by our attorney.

1. Accessory structures within the floodplain shall be constructed and secured in accordance with County Code § 18-30.3.15.
2. The use of fireworks on the property shall be prohibited.
3. The owner shall establish and enforce Campground Quiet Hours, as approved by the Zoning Administrator, for the hours between 10 pm and 6 am.
4. No amplified sound or permanent lighting shall be installed or used on the property.
5. A staff member shall be on the premises at all times when individuals are utilizing camp sites on the property.

Mr. Dotson seconded the motion.

The motion was approved unanimously by a vote of 7:0.

Mr. Keller thanked the applicant and said this request for SP-2017-00004 James River Runners Amendment is moving forwarding to the Board of Supervisors with a recommendation for approval.

The meeting moved to the next item on the agenda.