

Albemarle County Planning Commission
June 16, 2015

The Albemarle County Planning Commission held a public hearing on Tuesday, June 16, 2015, at 6:00 p.m., at the County Office Building, Auditorium, Second Floor, 401 McIntire Road, Charlottesville, Virginia.

Members attending were Bruce Dotson, Karen Firehock, Tim Keller, Thomas Loach, Cal Morris, Chair and Richard Randolph. Absent was Mac Lafferty, Vice Chair. Julia Monteith, AICP, Senior Land Use Planner for the University of Virginia was present.

Staff present was Claudette Grant, Senior Planner; Megan Yaniglos, Principal Planner; Rachel Falkenstein, Senior Planner; Wayne Cilimberg, Director of Planning; David Benish, Chief of Planning; Sharon Taylor, Clerk to Planning Commission and Greg Kamptner, Deputy County Attorney.

Call to Order and Establish Quorum:

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

b. SP-2015-00012 Mechums Trestle

MAGISTERIAL DISTRICT: White Hall

TAX MAP/PARCEL: 057000000031A0

LOCATION: 4294 Three Notch'd Road

PROPOSAL: Use of more than 400 gallons of groundwater per site-acre per day for a restaurant. A separate initial site plan has also been submitted for this property under SDP201500008.

PETITION: Section 22.2.2 Uses permitted by right, not served by public water, involving water consumption exceeding four hundred (400) gallons per site acre per day. Uses permitted by right, not served by public sewer, involving anticipated discharge of sewage other than domestic wastes.

OVERLAY DISTRICT: Entrance Corridor (EC); Flood Hazard (FH); Scenic Byways (SB)

PROFFERS: No

COMPREHENSIVE PLAN: Rural Area in Rural Area 3

(Megan Yaniglos)

Ms. Yaniglos presented a PowerPoint presentation regarding SP-2015-00012 Mechums Trestle. She apologized for the errors and typos in the staff report.

- The applicant requests a special use permit to allow more than 400 gallons of groundwater per site-acre per day for a proposed restaurant.
- The usage would include up to 5,000 gallons of water per day for a 100 seat by- right restaurant

The property is zoned C-1, Commercial, but is located in the rural areas at the intersection of Routes 240 and 250 and also 680, Brown's Gap Turnpike. It has a long history of containing a restaurant on the property and has many constraints including being bordered to the north and west by Lickinghole Creek, which has a Water Protection Ordinance buffer and floodplain on the property. The site has not been utilized since the 90's and the owners have been working towards approval so that the property can be used again for a restaurant.

The site currently contains two wells. The approval handed out was referenced in one of the attachments from the Health Department. The specific office reviewing this site including the wells is the Office of the Drinking Water out of Lexington. These wells will need to be abandoned as part of the permit for the new well. The Health Department uses the term abandonment to mean properly sealed off and not just unused. The applicant must contain it, which will be required during the permit process for the well. Today she spoke to Josh Kirtley at the Health Department who assured me that any sources of contamination have been looked at during the process of the permit that gave the tenant the approval, and it will be looked at again when the permit is applied for. The approval also specifies the location of the well. The well will need to adhere to the setbacks that were stated in that letter.

As seen in an aerial view of the site there is existing gravel that will remain. There is an existing dilapidated building; and the proposed building during the site plan is located in that same location. There was a Tier III Groundwater Study that was submitted, which was prepared by a professional geologist. The key findings included in the staff report are engineering has reviewed that study and found the projected water uses are supported in this area.

Factors favorable to this request include:

1. The character of the area will not be changed by the proposed use.
2. Granting the special use permit will allow a proposed development that is consistent with the existing C1-Commercial zoning district, and allows a site in disrepair to be improved and used.
3. The proposed water consumption will not adversely affect uses permitted by right in the C1-Commercial zoning district or in the surrounding RA zoning district.
4. Tier III study indicates that there is sufficient supply of groundwater in this area to support the proposed use

No unfavorable factors have been identified.

RECOMMENDED ACTION:

Based on the findings contained in this staff report, staff recommends approval of Special Use Permit 2015-0012 Mechum's Trestle with the conditions listed in the staff report.

1. The applicant shall install a meter on the well head to monitor water consumption. Results of daily water consumption monitoring results will be made available within forty-eight (48) hours of a request from the Zoning Administrator.
2. Water consumption shall be restricted to a maximum of 5,000 gallons per day.

Mr. Morris invited questions for staff.

Mr. Dotson thanked staff for the additional letter from the health department. It really answers all of his questions. However, he had a question for the county attorney. There is a site plan attached, but he takes it they are not approving a site plan tonight, they are only approving the water quantity over 400 gallons.

Mr. Kamptner agreed and asked to correct something. He had a discussion with a couple commissioners before the meeting regarding traffic related issues. He had forgotten that this special use permit is limited just to the issue of water consumption and using more than 400 gallons per acre on the site. So the analysis is limited to that. The traffic safety issues and the actual design of the site is really a site plan issue that is being reviewed by staff and VDOT.

There being no further questions for staff, Mr. Morris opened the public hearing to the applicant and for public comment. He invited the applicant to address the Commission.

Bill McKinley, co-owner of property with Nelson McGuire who was also present, said the staff report pretty much sums up the results of the Water Assessment Study. Obviously, this is one step in the site planning process that will allow us to get to the point where they would actually build a well on the property. Ultimately, the success of the project hinges on that. It hinges on finding sufficient quantity to be able to drive the use and it has to be of the necessary quality so as to be acceptable for public consumption. There are obviously steps that are well documented and very clearly laid out for us to follow once that step is actually reached. If anybody has any questions about the diligence that they have performed up to this point in terms of soil testing he would be happy to address those issues.

Mr. Morris invited questions for the applicant.

Ms. Firehock said if she understood the staff report correctly the amount of water that the applicant is asking to withdraw is kind of established based on how many people will be customers of the restaurant.

It is sort of a standard number and they could use less than that. She asked would that be a fair statement.

Mr. McKinley replied yes, it would be not only be fair but very accurate. As he understands the process, and again this is going back a little bit to ancient history, 5,000 gallons was based on a health department estimate of usage of a full service restaurant based on 50 gallons per seat per day. So in a 100-seat restaurant that results in a 5,000 gallon cap, which is actually more germane to the development of a sewage interceptor or the forced main that taps into the sewage that allows that amount to be pushed. It does not necessarily represent what we would anticipate the usage to be. In fact, given the fact that he is in the restaurant business and operates establishments that are very water intensive that analysis of our bills would indicate the number would probably be closer to 1,500 gallons per day than 5,000. That is a lot of water.

Ms. Firehock noted that was reassuring. Her following question is more of a minor question. She noticed he was not offering any proffers in exchange for this. She was wondering if he would tell them a little about your water conservation practices because there are certainly low flow toilets and all different types of faucet attachments you could use to reduce the water. However, he could not get around the Department of Health requirement because he was following the standard equation. So he has to go with that. However, maybe you could tell us a little bit about your water conservation because where he is drilling the well it will hydrologically intersect with the ground water of Lickinghole Creek. That is why the flow is going to be great. However, it also has the potential to dewater the creek depending on the amount of use. She was just curious to hear a little bit about your water conservation practices.

Mr. McKinley replied he probably was not prepared to address that at this point. He knows certainly that it would be in our best interest from an economic standpoint as a responsible member of the community to employ such practices and that certainly would be part of our plan. Given the fact that this process has taken so long he would say that given all the hoops that they have jumped through at this point they have not gotten to that level at this point. He certainly would pledge our desire to be good stewards of the land.

Ms. Firehock said she would not hinge her vote on that, but she really would like to see it. Since he is intersecting with a stream she would like them to go ahead and get some of those types of technologies. They will save money in the end since the county has a tiered water rate system, or with a well they will save the earth because in a sense the water will be free. However, it has a consequence.

Mr. McKinley asked if she would like a further report on that, and Ms. Firehock replied she would like to see what they do because she always loves when people come back and voluntarily tell us something great they did.

Mr. McKinley replied that he would be pleased to.

There being no further questions, Mr. Morris invited public comment.

There being no public comment, Mr. Morris closed the public comment period and invited the applicant for rebuttal.

Mr. McKinley asked to address Ms. Firehock's comment that they actually will be paying because it is not free. One of the conditions mention there will be a meter set on the well side to go towards the sewage.

Ms. Firehock agreed it will save money.

There being no further public comment, Mr. Morris closed the public hearing to bring the matter back to the Commission for discussion and action.

Mr. Loach suggested the applicant has met the burden for the special use permit to use more than 400 gallons of groundwater per day. That said, he would hope during the site plan that serious consideration would be given to the traffic safety. He has concerns with that intersection. If they go to Attachment A they will see that is a very complicated intersection there. The road speeds coming off 250 are in a 50 to

55 miles an hour range. When he came down today he clocked it from about the middle of the bridge to the driveway and it was about 2 to 2 ½ seconds that he had to make a decision. You can see in the attachment itself there is another car coming on a side road, which would be another lane across that to get out. To be very honest, if it was a McDonalds he would have less problems, but if they are going to have a restaurant serving alcohol he knows he can't make the exception on safety, but he does have a lot of qualms. He hopes that again during the site plan process this is looked at very carefully. That said he will support the motion.

Motion: Mr. Loach moved and Mr. Lafferty seconded to recommend approval of SP 2015-0012 Mechum's Trestle with the conditions outlined in the staff report.

The motion passed by a vote of 6:0. (Lafferty absent)

Mr. Morris noted that SP-2015-00012 Mechum's Trestle would be forwarded to the Board of Supervisors with a recommendation for approval on a date to be determined.

(Recorded and transcribed by Sharon C. Taylor, Clerk to Planning Commission & Planning)