

**Albemarle County Planning Commission
FINAL Minutes May 21, 2019**

The Albemarle County Planning Commission held a public hearing on Tuesday, May 21, 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, Vice-Chair, Jennie More, Daphne Spain; Bruce Dotson, Pam Riley. Absent was Commissioner Karen Firehock and Luis Carrazana, UVA representative.

Other officials present were Scott Clark, Senior Planner; Amelia McCulley, Director of Zoning/Zoning Administrator; David Benish, Interim Director of Planning; Rebecca Ragsdale, Senior Planner; Kevin McCollum, Planner; Andy Reitelbach, Senior Planner; Carolyn Shaffer, Clerk to Planning Commission and Andy Herrick, 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. He stated there was one change on the agenda: because of an advertising error, ZMA2018000013 would be a work session rather than a public hearing. He said there would be an opportunity for the public to speak during the work session.

The meeting moved to the next agenda item.

Public Hearing Items

SP201500028 Blue Ridge Swim Club – Day Camp, Boarding Camp

SP201500029 Blue Ridge Swim Club

Mr. Scott Clark said these two items were both special use permits amendments for existing permits. He said that SP201500028 is a request to amend an existing day camp special use permit to change the boundaries to create an adjacent lot. He said that SP201500029 is a request to amend the boundaries for the swimming club. He also that 15-28 has a request to remove an expiration date for the day camp. Mr. Clark said the site had been operated as a swim club for over 100 years. He said it became a non-conforming use with the adoption of a swimming ordinance in Albemarle. He said the Board of Supervisors approved two special use permits for the site which were the day camp permit allowing up to 100 campers with two overnight stays per week. The Board at the time imposed an expiration date of April 6, 2021 to allow for potential concerns about noise and other impacts to adjacent properties. The other permit, SP201000041, brought the existing swim club into compliance and permitted the club and associated events.

Mr. Clark said the owner and applicant requested in 2015 permission to build a home on the site and that the conceptual plan for the special use permits did not show a dwelling on the site. He said the home could not be built under the existing approval and the change was requested to allow a home on the site. Mr. Clark said the site is north of Ivy Road along Owensville Road, which is west of the site. He displayed photographs of the swimming pool and a slope which would be next to the proposed lot on which the home would be built.

Mr. Clark said in summary, this request would reduce the area that currently applies to the special use permit area and would remove the area from where the camp could operate. He said county staff felt there would be no significant change to the local context of the area. He said the owner had argued that having a dwelling on site would allow for monitoring of the site during the hours when the club and camp was closed to prevent unauthorized access to the site. Mr. Clark said removing of the camp's expiration date was appropriate because there have been no complaints about the camp since the special use permits were approved.

Mr. Clark said this site was listed on the National Register of Historic Places and was noted for its wooded location and setting. He said there was some concern from staff that building up to the slope would impinge on the wooded character of the historic site by having a dwelling visible. He said staff had requested the applicant add screening to maintain the character of the site. He showed a map depicting an existing vegetated area where new trees would be added to increase the screening between the pool area and the new home site.

Mr. Clark said there were three favorable factors which were adding plants to protect the character of the facility, the improved monitoring of the site and removing the expiration date. The unfavorable factor was adding a dwelling unit in the rural area, but Mr. Clark said this portion of the rural area was already heavily developed and this additional unit would not change the development pattern. He said there were revised conditions for both permits. He said one change to the camp permit was to remove the future home site from the jurisdiction of the permit for the camp. He said another change was to remove the expiration date. He said a new condition would be added to require planting and bonding of the landscape trees. Mr. Clark said the change to the swim club permit were the same except there was no expiration date to remove.

Mr. Keller asked Commissioners if they had any questions before the public hearing was opened.

Ms. Spain asked why the permit was titled 2015 and not 2019. She asked if the permit had been in process for four years.

Mr. Clark said it had been in process for several years for a couple of reasons. He said the applicant had had another larger and more complicated special use permit request they were working on and that the Swim Club permit played second fiddle. He also said the applicant had had more work to do on this permit request.

Mr. Keller asked Mr. Clark to explain how a subdivision and the lot size required for rural areas. Mr. Clark said the minimum lot size for a development site in the rural area was two acres. He said this parcel has been in use since before development rights in the rural area were allocated and that it had several development rights to be used. He said they were only requesting to use one and that they needed to make the lot they were creating a minimum of two acres to create that. He said that would include the area that would be removed from the special use permit. He said that a pipe stem out to the road would remain under the special use permit because it was needed for the entrance to the commercial use.

Mr. Keller opened the public hearing and invited the applicant to speak.

Ms. Kelsey Schein introduced herself as a planner with Shimp Engineering. She said the applicant, Todd Barnett, was in attendance as well and would be available to say a few words. Ms. Schein said there was a significant amount of residential development surrounding the property. She showed a map with features on the site included the site for the home. She said

there is a stream buffer which limits the development area. She indicated an alternate location which would require significant alterations to the site in order to accommodate parking.

Ms. Schein said the length of the special use permit was long because there had been outstanding comments that were worked through during several revisions, including the screening of the historic resources. She said there several other possible house sites. She said there had been a concern from VDOT on adequate site distance and that had taken time to work through.

Mr. Todd Barnett said he was asking to cut off a lot in order to build a house for a caretaker to watch the 14-acre property. He said when he bought the property his neighbors had said they did not want any trespassing to visit the pool at night. He also said that over the past 10 years, he has been told by people that they had trespassed at the site. He said the best way to deal with the issue was to build a house and live it or hire someone to be a caretaker. He said he got the idea from Camp Albemarle.

Mr. Barnett said in 2015 he thought he would apply for the property to become part of the National Register for Historic Places because he thought it was the third oldest commercial swimming pool. He said he is a historian by training and did the work himself. He had asked state officials if the registration would tie his hands in any way with future decisions about the property and he had been told no. He said he just wanted recognition for the site and wanted to honor the people who had kept the pool going for many years. He said he had been assured the registration would not come back to haunt him, but when he read in the staff report that it was a historic resource where certain things had to happen, he felt it was unfortunate.

Mr. Barnett said he wanted to get the expiration date on the camp removed because he wants to be able to run a camp there. He said he was not sure where the suggestion of planting white pines came about but he did not think that was a good idea. He said the property was covered with trees already and the area between the pool and the caretaker property has naturally growing, taller canopy trees such as tulip poplars as well as smaller cinnamon bushes and other shrubs that have grown up during that time. He said these provided an excellent summer screen when people are there, but there is no one ever there except in June, July and August.

Mr. Barnett stated that he had planted white pine trees in some areas but they would stick out and not look like they belong, adversely affecting the appearance of the property. He noted that the property gets its historic designation from the period from 1913 to 1965 -- and during that era, there were hardly any trees in the area because the owners at the time wanted to minimize leaves falling in the pool. He asked that the Commission drop the requirement for white pines or consider a requirement for trees that are already occurring naturally on the property, such as walnut, poplar, cherry, and oak, with cinnamon bushes for the undergrowth.

Mr. Barnett referenced a diagram showing where they intend to put the trees, pointing out the areas where screening were desired and where it did not make sense. He presented a photo of how the site looked in the winter, noting the location of houses that were visible in the winter but were completely shrouded in the summer. He pointed out the location of a pavilion in the woods and said that his intent was to shroud the new building as much as possible. He emphasized that historically there have been no trees in this area of the site.

Public comment was invited.

Mr. Justin Shimp presented photos to the Commission and said that it hadn't crossed his mind that the pool was only seasonal, and the request was to remove the requirement for trees or the part that specifies that they be white pines.

There being no further comment, the matter was placed before the Commission.

Ms. Riley stated that she is curious about the new site and entranceway to the house and whether it is off the existing driveway.

Mr. Shimp confirmed that it is and said there was a path going in toward the house, with the house and drain field placed outside.

Mr. Keller asked how much of the roof could be seen from the area, given the slope.

Mr. Shimp responded that it was more visible in the winter than the summer.

Ms. More asked [inaudible] regarding critical slopes and how disturbance would be necessary because of where the build site is.

Mr. Shimp replied that the area between the pool and house was a critical slope that could not be disturbed, and there was a tree clearing on the front side of the house -- but not between the house site and the pool.

Ms. Ragsdale commented that staff's concerns may have come from when the trees were surveyed, and they look at the vegetation as it is at that time.

Mr. Bivins asked the applicant to reiterate which trees he would consider.

Mr. Barnett responded that the trees that are out there are many giant tulip poplars, some walnuts, cherry trees, dogwood trees, etc.

Mr. Dotson said that Condition #11 doesn't reference a certain tree type but mentions an additional sheet.

Mr. Clark referenced a plan and white pine trees, noting that this was where that reference came from.

Mr. Dotson suggested amending the condition to say "trees common to the site" instead of specifically saying "white pine."

Mr. Clark said they could say as it is in the applicant's [inaudible].

Mr. Dotson asked if it would have been possible to keep the boundaries of the SP where they are and add a caretaker house to that, or if it is necessary to subdivide it -- which mean it can be sold and no longer be a caretaker house.

Mr. Clark responded that from the County's perspective, they could probably approach it that way, but whether it made legal sense for the applicants and their ownership issues was uncertain.

Mr. Dotson stated that he is in favor of approval, and he is not sure his mind would be changed if the applicant needed to sell a lot to keep the property going.

Ms. Spain asked if they could change it in this way so the applicant wouldn't have to do anything else.

Mr. Clark responded [inaudible].

Mr. Herrick stated that Mr. Barnett had indicated that the wording anticipated now would allow for submission of a revised "Sheet C-3," and there was nothing in Mr. Clark's conditions that referenced "white pines" -- as that was on Sheet C-3.

Mr. Clark commented that as long as the applicant didn't object, that was easy enough for staff to handle.

Ms. More said that she understands that there were no trees around the property at the time it was originally established, but there was something symmetrically pleasing about the pool and the trees on either side -- and she was concerned about how that changes this, as it was hard to envision how the open grass spaces on the side would look if they didn't have trees.

Ms. Riley stated that they could leave that condition in, as long as naturally occurring trees on the property could be sited.

Mr. Keller asked for clarification as to where the comments were coming from.

Mr. Clark responded that all of the comments on historic resources and screening were provided by Margaret Maliszewski, who he worked with extensively on this.

Mr. Keller asked if that was where the recommendation for white pines came from.

Mr. Clark replied that he did not immediately see that in the comments, and he could not recall whose suggestion that was. He said that Ms. Maliszewski had mentioned tree height of 68 feet because the screening need was for something on top of the slope -- and it seemed like they were considering not requiring screening or requiring screening of a different species. He said that if they were going to consider no screen or different species, he would not recommend a small species like dogwood because it would never get tall enough to do the screening of something further up the slope.

Mr. Keller said that there has been an evolution of this site from the time shown in the pictures representing its early history, with significant development and trees providing screening for that. He stated that he tends to agree with Mr. Dotson's perspective and asked if the 13-acre parcel is the original ownership size and parcel configuration back to that historic time period.

Mr. Barnett responded that originally it was about 500 acres from 1901, and most recently there was a trade between Virginia Land Company and the pool so they could build two houses.

[Mr. Barnett is still speaking at this point, but the sound is inaudible.]

Mr. Keller stated that the parcel had become smaller and smaller, so the question is the remaining character as an historic resource in the context of changing land use patterns and how the trees have grown up -- and an argument has been made that the existing, now mature canopy of the tulip poplar trees is providing a filtered separation. He said that he didn't think there was an

argument for putting in conifers, especially since they would be gone in 30 years. He stated that as Ms. More had stated, he wasn't sure why this should be changed from an open space.

Mr. Dotson **moved** to recommend approval of SP 2015-0028 with the conditions provided in the staff report and that a revised Sheet C-3 be submitted before the Board of Supervisors action to specify trees of similar species to those already existing on the site. Ms. More **seconded** the motion, which passed unanimously (7:0).

Mr. Dotson **moved** to recommend approval of SP 2015-0029 with the conditions provided in the staff report and that a revised Sheet C-3 be submitted before the Board of Supervisors action to specify trees of similar species to those already existing on the site. Ms. More **seconded** the motion, which passed unanimously (7:0).