



Cabarrus County Government

REVISED Cabarrus County Planning and Zoning Commission Meeting
February 14, 2017 @ 7:00 P.M.
Board of Commissioners Meeting Room
Cabarrus County Governmental Center

Agenda

1. Roll Call
2. Approval of January 10, 2017, Planning and Zoning Commission Meeting Minutes
3. Approval of Findings of Fact for **ARCH2016-00001 Architectural Design Review for Reception Facility**
4. Approval of Findings of Fact for **CUSE2016-00004 – Conditional Use Permit for Reception Facility**
5. Text Amendments Discussion for Reception Facility, Bed and Breakfast Facility and Permanent Temporary Event Facility (Open Air)

Directors Report

Legal Update

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Ms. Shannon Frye, Chair, called the meeting to order at 7:02 p.m. Members present in addition to the Chair, were Ms. Mary Blakeney, Mr. Jeffrey Corley, Mr. Adam Dagenhart, Mr. James Litaker, Mr. Chris Pinto, Mr. Richard Price and Mr. Steve Wise. Attending from the Planning and Zoning Division were, Ms. Susie Morris, Planning and Zoning, Manager, Ms. Arlena Roberts, Clerk to the Board and Mr. Richard Koch, County Attorney.

Roll Call

Ms. Mary Blakeney, **MOTIONED, SECONDED** by Mr. James Litaker to **APPROVE** the January 10, 2017, meeting minutes. The Vote was unanimous.

Mr. James Litaker, **MOTIONED, SECONDED** by Ms. Mary Blakeney to **APPROVE** the Findings of Fact for ARCH2016-00001 Architectural Design Review for Reception Facility (Graystone Pines). The Vote was unanimous.

Mr. James Litaker, **MOTIONED, SECONDED** by Mr. Adam Dagenhart to **APPROVE** the Findings of Fact for CUSE2016-00004, Conditional Use Permit for Reception Facility (Graystone Pines). The Vote was unanimous

New Business – Text Amendments Discussion for Reception Facility, Bed and Breakfast and Permanent Temporary Event Facility (Open Air)

Ms. Susie Morris, Planning and Zoning Manager, addressed the Board stating that this will be a discussion about these items. The Text Amendment Committee back in early fall, looked at the reception facility text, after the Board had been approving several variances and different things. We have gone a little beyond that at this point now with the variances and the exceptions.

She said the Board should have the text that was proposed. The first thing that the Board talked about was whether or not the five acres was appropriate. At that point, you had people coming in and talking about traffic, talking about the sites are not big enough and that they can hear the people and they are a mile away.

If the Board remembers with Tucker Place, we had the neighbors that came in and said that they could hear it. So, the Text Amendment Committee decided to move it to ten acres and then also to shift the setbacks to try to address some of those issues where the Board was granting the variances.

If the site had existing vegetation, the 200 foot setback potentially, could be reduced to 100 feet. If they could show that they had a tree survey and a landscape plan, where they could fill in any

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of those gaps and it would be handled through the conditional use process instead of them having to get a variance for that; meeting the intent.

We talked about all of that, but since this has happened, the Board has granted a variance for a property that was less than five acres and granted variances for landscape where this would not have applied.

The conversation that we need to have is, do we need to look at bumping it up to ten acres or does it stay where it is at the five? With bumping the acreage up and bumping the setback up, the intent was to allow for where they could meet the intent of the buffer requirement. Then they would not have to put in any additional landscaping. The five acre site that the board looked at did not even meet the 100 and there was some landscaping and there was no landscaping.

Ms. Morris needs to gauge the Board's thoughts on that at this point. Because we were heading down the path of no, these sites need to be bigger sites because a lot of people are coming here and there is a lot of noise and we want them to be more interior to the site. But that is not really what happened on the Rockwell Road one. Is there even any point in us pursuing this language change?

The Chair said the one that we are talking about, that did not have the buffer contiguous for the whole property line is that the couple that had the house and owned the property just above it?

Ms. Morris said yes, that was the one that was less than five acres.

The Chair said that was the one where we said if they recombine property to meet the five acres, was that an option for them to go do that. They were the property owner?

Ms. Morris said yes, which they did none of and they got an approval from the Board for variances.

The Chair is trying to establish in her mind right now, before we talk about the screening and the vegetation. In that particular example, they were the owner of what was being used. They were the owners of the parcel that was beside the parcel that was going to be used for the reception facility. They owned all of that property, it was on two separate tracts, but common ownership.

Ms. Morris said yes in that particular case. In the Fulk case, they lived next to it but all of the others have been stand-alone parcels.

She said this is a working meeting to figure out what we need to do with these things. Are we going to move something forward to the Commissioners or are we not? At one point we did have kind of a clear path where we were headed. That they needed to be bigger sites and they needed to have that landscaping and if they didn't they would push it more into the interior of the site, so that they were not right at the property line. But then we had Graystone Pines which went very differently.

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Ms. Morris is trying to see where the Board is at on this at this point. If you are comfortable doing the variances for the landscape on a case by case basis. Do we need to leave it at five acres, because we granted a variance for something that was less than five acres? That particular property was long and skinny, so you cannot really say that it was interior to the site because they really weren't.

She is trying to figure out how the Board feels. She did not want to not bring it to the Board because the Text Amendment Committee had a very long meeting to work some of these things out. Just to see where we are at at this point with it

Mr. Litaker said if it went with staff's recommendation and with what we have already approved, and just say that they were grandfathered in. Is that going to hurt us when people come up and want a variance or do we just say no, these are the requirements now?

Ms. Morris said when you are looking at a variance, you are supposed to be looking at the facts of that particular case. Does it set a precedent, yes, it does because they have something to point to and something that they can have a fellow attorney point to and say you did this and you are not being consistent with your decisions. That is where we need to try to get to somewhere to where we are consistent on what the expectations are because if it is a five acre parcel, then it should be a five acre parcel.

We clearly had discussions with Graystone Pines and told them they were not going to be able to do this because they did not have five acres and that they were wasting their money; then they got everything that they asked for. As staff we need some direction from the Board on where we need to go with this.

Mr. Jeffrey Corley said he missed some of these early on coming onto the Board later. He asked if most of the cases that have come in been these big mega events wanting to host thousands of people? He said ten acres feels humongous to him. For somebody that wants to come in and run a small venue, he hopes we are not eliminating the opportunity for somebody to have a smaller facility. Ten acres is gigantic to him in the scheme of things.

Mr. Adam Dagenhart said what we looked at in regards to the acreage increasing was because we were hearing neighbors complaining about noise and the buffering. So, to increase the buffer, you have to increase the lot size. Because otherwise, you would never be able to do anything with five acres if you had a 200 foot buffer all the way around. It would be hard to do; you would have to have a square for a parcel.

Mr. Corley said his concern is we are taking this backwards, where we are trying to fit all these existing noncompliant ones into a box. He is trying to think of it another way. If I am going out to seek a piece of property, to build a venue and I want to do it right, ten acres just seems like a big chunk of land to find, if I am wanting to run a business that has a couple hundred people there. He knows we are trying to prevent a lot of the ones that have sort of gotten here from happening again.

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Ms. Morris said no, that is not what this is about. To give you some back ground, most of the sites that have come in have been over ten acres. Some of them were better than twenty. It was more to try to address concerns from the neighbors. Some of them were farms and did not have buffers in place and that is where the neighbors are complaining.

She happened to be down on Flowe Store Road doing an inspection for a temporary event that we had. As part of the temporary events, they have to notify the adjacent property owners that it is coming. She was down the road on Highway 601 and it was like she was sitting right there at that event when they were doing the sound test. She could not imagine what it sound like when the actual band got there.

We have not had anybody, to this point, that has proposed an actual indoor event space. Mostly what we are dealing with are temporary tents; outside. The events themselves are outside and she thinks we have had 300 or 350. It is not just having 50 people coming or being able to accommodate 200 plus cars on the property, which then equates to two to four people per car. It was more to try to address neighbor concerns.

Keeping in mind this is allowed in an AO zoning designation, which really is intended to be farm land. The smallest lot size you can theoretically have in an AO unless you do a family type subdivision is three acres. So, people are moving out there to be left alone, not to have some venue show up right next to them.

That is the discussion that we had as the Text Amendment Committee, to try to see if there is some happy medium. She can say from an enforcement stand point, the most complaints that we have, the issues that we have, typically come out of the fact that with our Ordinance, because it is unincorporated county and because it was written in 1983 and a lot of that has not changed and a lot of the political feelings about things have not changed. There are still commercial uses that are permitted in residential districts. It is not like a city ordinance where it is clear; where if you are in C2 you are in C2. If you are in RM1, you are in RM1 and you are residential.

We still have those uses mixed in so it is trying to find the middle ground to where the person who bought the 20 acres out in the eastern area of the county, because they wanted quiet and they wanted a farm. What happens when someone buys the five acres or the ten acres and comes in next to them?

That is what the discussion focused on. Is how do we find that middle ground? Again, maybe we do not need the changes. She does not know at this point if, maybe there is enough in Cabarrus County and they are competitive.

The Chair said or the market has adjusted to the demand.

Mr. James Litaker said if we just went ahead and went with the guidelines which you were presenting and just let us handle the ones as they come through and we would say no if there is a problem. He thinks there will be a point that they will phase themselves out. He thinks this something that we are only going to need but so many of them, a handful.

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He said it is expensive to do that and then it is only for a niche of good weather time too. If we go ahead and set the standards where the noise and all where we think they are, he thinks the chips will fall where they may pretty quickly, because they cannot afford it.

Ms. Morris said the ones that have been approved, are approved under the standards at that time and they have the variances. This will only apply to anything new coming in, but understanding, if somebody knows there was a variance granted to someone that was under five acres and now we are saying you have ten acres. I have to tell the commissioners why we are bumping it up to ten acres. She guarantees they are going to ask, because that is part of the discussion we need to have about bed and breakfast.

Mr. Dagenhart said what percentage of the cases that we have seen were people that were not brand new facilities. They were facilities where they got caught doing an illegal operation and it was an attempt to try to fix and make it legal. Almost everything has been one that has already operating illegally. We have not had a new one other than the Newton's that he can remember.

Ms. Morris said that one resulted out of a violation as well. Almost everything that the Board has seen that has come in has been after the fact.

Ms. Neal was trying to start up Orchard House again, but even that one was operating without proper permits and that was close to a ten acre site; if you can envision that.

Mr. Richard Price thinks that is where we are kind of trying to help our neighbors. We do not want to ruin anyone, even though they have been operating illegally. They still have a lot of money invested in what they are doing and to just really knock their legs out from under them is pretty hard hearted. It is awfully hard to do, maybe we are supposed to do that, but never the less they are our neighbors.

Ms. Morris said staff really does not have an opinion either way. But again, based on the way things were trending at that time and when we went with the Text Amendment Committee, it was kind of headed in one direction and now the pendulum has moved in back the other direction. She said that is fine, but again, we are looking for some staff direction.

Mr. Price said if it were just a situation where they were coming and saying, hey, I got this great idea for a business. I would like to have a place where we can do weddings and maybe host some corporate training events and that sort of thing, then we could tell them what they would have to meet. But, after they have already done it and have been doing it for quite some time and maybe they should have and ignorance is no excuse, but the fact is that is where they are and in some cases a whole lot of their family livelihood depends on that income. It is awfully hard to tell them no they cannot do that.

Ms. Mary Blakeney agrees with the changes that are being presented. Because the noise can be totally irritating and as it has been said before, this is going to be a business that will soon not

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exist. It is fad right now, ten years from now you probably will not even have any of these. She agrees with the changes because noise can be totally annoying.

Mr. Price thinks the ten o'clock standard that we have sort of been imposing on people is probably about as close to a happy medium as we can to letting them have what they want and still let the neighbors have some peace and quiet at a reasonable time of night.

Ms. Morris said if we get down to the legalities of that, the Board really cannot do that. The noise ordinance would actually control that. They have been agreeing to it and that is fine and it can go into the record. But, if it were challenged, we really could not enforce that. The hours of operation is not really a zoning thing.

Mr. Dagenhart said unless they came for a conditional use.

Ms. Morris said they would have to agree to it. In these cases they have agreed to it and then it becomes an enforcement issue. But if somebody did not want to agree to that condition, we would be hard pressed to make them. It is kind of like talking about the cost of a house when somebody is trying to do a subdivision. There are some things that are just outside of the scope.

Ms. Blakeney said it is like the noise from cars going along the street. They want you to know that they have a car with a radio in it.

Mr. Steve Wise said if they have a conditional use permit then it could be enforced, at 10 o'clock, right? The City of Concord he thinks enforces Ritchie Hill. They kind of police that, the City of Concord Police. So could Cabarrus County police five acres, at 10 o'clock you have to be quiet?

Ms. Morris said the County Code says 11 o'clock. She said that is a perfect example. It is called Ritchie Hill for a reason and that music carries to all the neighbors back behind them.

Mr. Wise thinks having five acres will attract more people. He does not really see people have a big outing on five acres of land with cars. Five acres is a lot, but when you start having 200 people and cars it gets crowded really fast.

Mr. Dagenhart said if you look at that case she referred to earlier, if you have 50 to 75 cars there and you only have a lot that is 200 feet, 250 wide, you are going to blast your neighbors. All of this stuff is new and we did not really have any standards before, so we have to come up with some standards and that is what we are doing here.

Ms. Morris said some background on the Orchard House. Their daughter wanted to have a wedding there and other people started asking if they could have a wedding there. So, then they think they may have a viable business.

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When we did the text amendment, it was originally for Orchard House and there was some provisions in there about the buildings having to be historic structures; not just an open field where you go build. When it got to the Planning and Zoning meeting, there was a lot of discussion that night about that. Ultimately, the vote was everybody for and one against and the historic part came out of it. If that historic language was in there, we would be in a very different place right now.

Having said that, Orchard House started operating and never came back in to get the conditional use permit. So, until these other ones started coming in, we did not really know what worked and what did not. That was back in probably 2006, and until just two years ago, is when people actually started inquiring about that particular type of use.

Staff needs some direction, do we stay with the five acres or do we bump it up to ten acres? If we bump it up to ten acres do we go with the 200 foot setback? Do we leave it at the 100 feet and then handle it on a case by case bases? We need some clarification on acreage, setbacks and the landscape.

Mr. Chris Pinto thinks the acreage does not really matter; it is the setback that matters. It dictates the size of the site. You can have a ten acre site that is 250 feet wide by however X long and it is not going to meet any of the setbacks. Just like that deal we did in LDR, you had a 200 x 200 and could not put a 10 by 10 barn in the middle on a five acre site.

He thinks the size of the acreage does not matter. You have to set your setbacks, enforce the setbacks, whether it is 100 or 20 and then they come in with a site plan stating where they are going to put a barn and the bathrooms. Whatever that is, that dictates the size of the site, five acres, three acres it does not matter. It is off of the property line if that is what you are trying to do; if you are worried about the neighbors. It is either 200, 100, 150, whatever. You can talk about five or ten or twenty.

He said ten sounds like a lot, but the lady next door to him has eleven acres and it is only 220 feet wide, it is a strip and nothing would fit on it. He thinks all this talk about all of that does not matter.

Mr. Dagenhart asked is it right that in AO the smallest residential lot is three acres? But, you can allow a commercial use in an AO district, which is agricultural and they can do it on five acres? If we are talking about leaving it at five acres, is that fair to those people that have a three acres residential that you can put a commercial use next to them?

Mr. Pinto said no, it is not.

Mr. Dagenhart said we left a caveat in here, that if you have the existing vegetation and can reduce it down to 100. We left that provision in there that you do not always have to do 200. Because if you have ten acres of just fields, there is no buffer, then you need that 200 feet because you have no natural sound buffers. But if you have ten acres and you have 120 feet of 30 foot tall pines, then you have more buffer than you would ever get with 200 feet open.

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Mr. Corley like his point. If I have 100 acres and tuck that sucker in one corner it is the buffer that is going to make all the difference.

Mr. Price said or is it going to make a difference? Because to Ms. Morris' point, you were completely away from the site and you could already hear the sound check. He said with 200 acres you are probably still going to annoy somebody.

Mr. Dagenhart said you can come back and ask for a variance, that is your right. There is nothing that says it has to be ten acres. You could ask for a variance and we could look at it, we could look at the buffers and everything and we could make that determination, just like we did on the case you are referring too. That is just a guideline, it does not mean if it is not ten acres that we are not looking at it; you can still look at it with a variance request.

Mr. Price is not sure if the Board is in much of a position to look at something two dimensional and say it this going to be very annoying to the neighbors, but this one over here is not. We do not know, the one over here may be more annoying than this. A lot plays into it, more than the size of the property that they are operating on. He said no doubt that plays into it, but they may not be the driving force.

Ms. Morris said with the Tucker Place one, everything was to the back of that property. There was a lot of space at the front out near the road but they were to the back of the property and then the neighbors were behind them and then down the road.

Mr. Price said the guy down the road said he could still hear Michael Jackson. He was pretty cool about it and seemed to enjoy it, but not everybody would be that way.

Ms. Morris said the appeal case that we had that did not come in for a permit was 17 acres, they were right next to the neighbors because they were part of a neighborhood.

Mr. Litaker said what if we put it in there somehow to have an engineer do the sound levels in different buffers. We would put that the buffer would have to have a certain decimal level at certain distances from the property.

He saw one Kannapolis and it was doing a private airport. The noise that an airplane would have taking off had to be at a certain level and the buffers for that. But then you get certain buffers and there is not a clearance to land or take off. It ended up being minimum of 34 acres at that place.

So, if we put in something to have an engineer do noise allowances in certain buffers, what it would it be at a half acre away or an acre away. Say that we have to have these variables, at their expense make that decision; this is the buffer this is what it will be. This noise level being down the road at certain areas is not acceptable.

Mr. Dagenhart does not know that we would want to put that in the ordinance, but that could certainly be something that you could present as a fact in your variance request.

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Ms. Morris said we have some of that sprinkled throughout the ordinance, but essentially, it says by the time you get to the property line xyz would need to happen and I better not be able to hear it. She does not know how you go past the property.

We do not have to come to a conclusion this evening. We can continue to have the discussion, but we have to get some direction.

The Chair said the Orchard House; are you saying the standards that are in here now is where the five acres got started is when that was presented? You are saying the historical piece was pulled out but what is the current language was derived at based on that one?

Ms. Morris said the current language, but for the one that came out, is what was adopted. When it was originally adopted. That language has not changed over the years.

The Chair is thinking that we incorporated text based on that particular site. Then to what you said, we started looking at this because of concerns about noise and some of what was coming forward. She feels like that provides for the basis to make some recommendation.

She hears what Ms. Morris is saying that we can do nothing. But back to the neighborhood concern and what we have heard expressed, she sense that we need to do something to respond to that. Getting that to a place, that to your point is balanced, in terms of what they are trying to do and what we are trying to protect. She is not so certain about the threshold on the acreage. She knows how we are correlating the size of the site to mitigating for that noise and she certainly recognized what the vegetation does to hold that in.

Her proposal for this would be, maybe, if our subcommittee bakes on it some more and comes back. After we have heard what the larger membership has said, we can talk about it and come back with some recommendations at another meeting; based on hearing every ones perspective. It would be the Chair, Mr. Dagenhart, Mr. Pinto and Mr. Price going back to look at this.

She cannot remember all of the variances and what we have done, but, she certainly respect where Ms. Morris is saying about looking competent with what we are going forward and not being in direct conflict with what we have done. She does not think she can get there tonight without looking at it through that lens to make sure that we do go forward with what makes sense and defend and to be able to tell the County Commission these are good sound reasons. She feels like they have to work on their story and we do not have it straight right now.

Mr. Litaker said let's look at elevations. Because if you are down in the bottom it is going to be a totally different noise level than if you were on top.

The Chair is kind of with Mr. Dagenhart on that a little bit; where we just set the base. Like for a variance, what is unique about your parcel is that it is down in a hole. That is a mitigating circumstance that we are just trying to get to the base. Every one of these that have some unique feature, can defend that that uniqueness is what gives them the ability to seek the variance.

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In her opinion, she does not think that we could possibly incorporate so many conditions that we can anticipate that this is going to happen, this is going to happen and be that inclusive. She said where we just get the minimums right, then the exceptions will have something that they can point too to say this is why I differ.

Ms. Morris said again, this was intended to be a discussion and she is not looking for recommendations this evening. To try to check in and see where we are at this point; we can regroup. The Text Amendment Committee can go back and do like a little summary of here is what we have had, here is the lot size and here is what they asked for.

Ms. Morris said there is one more on this which was related to the tents. The group was proposing that temporary tents would be allowed to be used for no longer than 180 consecutive days. At this point we know that we can change that to the 180 days within calendar year for clarification.

If the rest of the group feels like the tents should be allowed by right, which is what this would do, then they would not have to ask for variances to use that. But it is intended as an accessory use, not really a primary. She guesses if it were a primary, then maybe they would have to ask for a variance; she does not know. She said the Rockwell one was a primary.

Mr. Dagenhart said they had a permanent structure but it was not a structure that they were using. They had the barn but it was just aesthetics.

Ms. Morris said Tucker Place was building a picnic shelter for their structure but still wanted to use tents. Newton had the barn and that other lodge that they used for some things, but had the tent. So in that case, the tent was more functioning as an accessory if someone wanted a tent instead of the barn.

She asked the Board how they feel about the tents at this point. Should they be allowed as a primary structure? Should we take the Appendix B out of those standards and say they can have whatever they want? Do we keep that in there for new construction, but existing buildings can be used if they are in compliance with the building code?

Mr. Dagenhart said the issue he sees with making it a primary structure is what architectural standards do you hold it too? How do you have architectural standards for a tent? Because then that requires sides and then you get into the fire code and have to have exit doors and signage. It truly becomes a structure. If you do not do it as a temporary use, then you end up with an Orchard House where it has been sitting there for years. At least if it is temporary, it comes down and it may go back up when they can within their permitted time, but at least it is not sitting there. They will keep it clean, it will not sit there and change colors because of the seasons.

Mr. Corley said walk me through; if I have a small permanent bathroom facility that meets all the architectural guidelines and I want an exclusively outdoor venue. But if the Wednesday before my event, it is going to be raining all weekend and I need a tent; how do they do that?

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Ms. Morris said if they just wanted to put up a tent, they could probably just get a permit from the Fire Marshal's office. It gets into the assembly and all of that kind of stuff and what they have to do.

The tents that these people have been putting up are more like the tents you see at the Speedway for events. They have the plastic sides, they are not just going out there under a canopy. It is a tent. With Orchard House, there was a concrete slab that was poured for that.

We did have one on Coddle Creek Reservoir that was shut down because you cannot have a business in the watershed. But it was the same thing, they had poured a slab and up came the permanent tent.

The Chair said the slab is just being done to have something hard under a tent; not for a foundation for anything structural. It is not temporary at all.

Ms. Morris said it is for the dance floor.

Mr. Dagenhart said they could pour a slab and put a permanent structure that is opened aired; which would serve the purpose of a tent but still give the outdoor feel.

Ms. Morris said which is what Tucker Place did. They wanted to use the tent but they did the permanent structure as well.

It may be that we need to go back and do a little more defining, as far as, primary structure versus accessory structure. It sounds like, what she is hearing is, that you do not necessarily want them to use a tent as the primary structure. But, that is what the people on Rockwell Road were doing.

Mr. Steve Wise said if someone left it up for 180 consecutive days and took it down for one day would the 180 days start over again?

Mr. Dagenhart said it is only 180 days out of 365 days.

Ms. Morris said since we have worked on this, we have received the clarification from the Fire Marshal's office that it is 180 days within a calendar year, not consecutive. At first, the comments we were getting back were consecutive, but when they got the interpretation from the Department of Insurance it was 180 days within a calendar year.

Mr. Wise said if it is left up longer, is that enforced by the Fire Marshal?

Ms. Morris said yes. It is a Fire Marshal thing not a zoning thing, because they are the ones issuing the permits for the tents to go up and down.

Mr. Corley thinks his thoughts agree with separating that primary from accessory structure is very important. It is the primary structure he thinks we need to beef up as much as we can.

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Mr. Price does not know that he has problem with it being the primary structure. He has a problem with it being the only structure there. If they have other buildings there maybe they are not using them for part of the event, maybe it is just for the bucolic feel of being out there on the farm. He is kind okay with that, but if it is nothing but a cow pasture with a tent in it he probably has a problem with that.

Ms. Morris asked how many of the Board members thinks that to have this type of facility, it should be permanent structure. I am having my wedding in a permanent structure not in a tent.

Mr. Litaker said the tent being the permanent structure or not?

Ms. Morris said no, that they should have real buildings with real bathrooms and that is what this should be intended to do.

The majority of the Board agreed (by show of hands).

Ms. Morris asked how many Board members think it is okay to have the open field and put a tent up and call it a reception facility.

There was no response.

Ms. Morris said we know where we are headed with that one. She asked if there was anything else to be added as far as the reception facility standards, based on what has been coming at them.

Mr. Corley asked if there is an existing facility out there operating “illegally” that we do not know about yet, if we change this they will be judged by that current standard correct?

Ms. Morris said correct. It will be whenever they submit an application to us.

We had one, they were on a two acre tract. We told them that they really could not do this because they did not have the five acres; they shut down. Different people take different stances on it as far as what they are doing and not doing; how far they are going to push the envelope.

Ms. Morris thinks they can come to a happy medium but we need to figure it out in light of all of the different actions that the Board has taken.

Ms. Morris said the next item is Bed and Breakfast. This one did make its way to the County Commissioners and they sent it back. They wanted to know why we are changing it to ten acres and what was wrong with five acres?

So, we had a big discussion about what is a bed and breakfast. She told them that when these bed and breakfast have receptions, there is going to be music outside and it is going to be loud and that we think that it should be bumped up some.

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They did not agree with that and want us to come back and talk about it a little more and have some better reasoning about it. They thought that the way it could be fixed, (which Ms. Morris offered to do at the meeting, which they did not want to do) was if we put it back to five acres instead of ten acres. That we would amend the definition to say that if you are a bed and breakfast, it could not operate as a reception facility.

The Text Amendment Committee talked about changing the setback for the reception facility to the 200 feet. She had also proposed that this would be changed to the 200 feet for any of those outdoor type areas.

Ms. Morris said at this point with the direction on the other discussion, we can take this back to the Text Amendment Committee to see where those setbacks land and then try to keep it consistent. Take it back to the five acres or we present everything as ten acres or however that shakes out.

She asked if the Board had any comments or suggestions that they wanted to make. We have had people who have said that they want to do a reception facility and they also wanted to be a bed and breakfast.

Mr. Dagenhart thinks that is where the discussion for the ten acres came from. We had that one case where they had a bed and breakfast with a reception facility. He thinks that is what they were thinking. But, if you are going to take out that you cannot do any outdoor receptions, then five acres should be fine.

He said the increased buffers are based upon the volume of people that are there. So, if it is a bed and breakfast, they are not going to generate the noise, as opposed to a place with outdoor reception. He thinks they could go back to five and 100.

Mr. Price asked if they could legally regulate amplified noise. Can we say you cannot have amplified whatever; DJ, band, whatever it is?

Mr. Richard Koch, County Attorney, does not think you can prohibit it completely, but he thinks you could regulate where it would be and under what circumstances. One thing that you could say is that you cannot have it outside. It has to be in an enclosed structure.

Mr. Price and his wife have a favorite bed and breakfast that they like to visit. They have a reception facility right across the street. The local historical society was giving up a building and they took it and converted it into meeting space for small corporate meetings. They also have a back garden where they have weddings. They do not have bands and DJ's and all of that; it is very dignified. They have things more along the lines of a proper tea. They have a very pretty garden there and that is the kind of reception that they have.

It is in Newbern, North Carolina. If that was here, he would hate to say that they could not do that. That is what they are doing, they have weddings there and they are very small. They do not

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have enough parking to handle anything. But he would hate for someone not to be able to have something like that because it is very nice the way that they do it. They want to go to bed at night, so at 5 o'clock they are done in the afternoon.

Mr. Dagenhart thinks the only way you could work back in what you are talking about is if there were limitations. When you have a business or restaurant, the number of seats is based upon your square footage. Somehow you come up with, okay, you cannot have an event with more than this number of people, based upon the square footage of the primary structure or something like that.

We would have to figure out a way to make it where it has to be a small event, if we want to consider adding that use. We would have to make sure that there were provisions for ample parking based upon the event size. He thinks that is going to be the thing that makes it the smallest, because they have to have ample parking.

Ms. Morris said what the commissioners said was to make it happen at five acres. What she offered up was that we could amend the definition to say that if you are a bed and breakfast you cannot operate as a reception facility. Somehow we are going to have to differentiate between the two.

The Chair said we have to get to if you are a bed and breakfast and you want to operate as a reception facility, what are those standards.

Ms. Morris thinks that you would do both and you would have to go with whichever one is more restrictive.

Mr. Wise asked if there were a lot of bed and breakfast facilities in Cabarrus County.

Ms. Morris said in unincorporated County we do not have any that she is aware of. A couple of times people have tried to have one on Union Street. Troy Barnhardt has one in Mt. Pleasant.

Mr. Dagenhart said there are the RBO's and Air B & B's.

Ms. Morris said that is something completely different

Mr. Dagenhart said you may end up with people trying to take a piece of property with an existing house and trying to combine the two uses. Because obviously, the reception facility is the hot thing. If you go to the internet and look up wedding facilities, you would be amazed at how many are within a 50 mile radius of here.

Ms. Morris said the Text Amendment Committee talked about the one in Monroe, Champagne Manor. The folks in Harrisburg that were talking about doing something liked that annexed into Harrisburg. If that product type come to Cabarrus County, it is going to be a very different product type from what is out there now and probably things would start shifting that way. But, to do what they are talking about doing, you have to have utilities.

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What we are seeing, are the ones that can actually work on well and septic or they have gotten the variances to use the temporary bathrooms because it does not perc. She said if I am a bride and I paid \$5,000 for my dress, do I really want that kind of facility or do I want a nice air conditioned inside facility with a nice restroom? It is a different product type and eventually it may shift.

Ms. Morris said the next item is visibility at intersections. When we updated this chapter we left out our site triangle diagram. There is one little change that we need to make there.

The other proposal would be that if it is a stand-alone mounted solar panel, then we would treat it as an accessory use, just so that it gets codified, because that is actually what we do in practice; if they wanted to do ground mounted solar and not solar on the roof. For solar on the roof they do not need to get a zoning permit, they just go through building and they do third party inspections. If it is standalone mounted then we would want them to meet the accessory setbacks.

Ms. Morris said the last item to talk about is a brand new use that would be added to the Ordinance. This is intended to accommodate temporary uses. Those of you that are familiar with Metrolina, they are no longer holding events there; it was smaller events.

If you noticed, over the summer there was a big purple tent on the Little property. Some of their activity there has increased besides what they do at the races. What we were approached about is, could there be a way to look at the Ordinance and come up with something where if people wanted to have events that were more transient in nature, that they could do a zoning permit, a site plan review and approval one time and not have to continue to get the temporary use permits.

If the Board remembers, our temporary use permits are supposed to have a 30 day hiatus in between those permits being issued. Is there a way that we could add something to the ordinance where we might be able to get to that point?

She said this is some language that we worked on at a staff level. It has been to the Text Amendment Committee as well. The minimum site would be ten acres. It does not have to stay ten acres. She would suggest that whenever we take these three items to the Board of Commissioners that it be a consistent acreage. Right now they are proposed as ten acres. If we change it to five then maybe they are proposed at five or maybe this one stays at ten.

They have to be located off of a major or minor thoroughfare. So somebody cannot go back into the middle of nowhere and put this site in. Try to keep it more towards where the populated areas would be and maybe where you would expect some noise.

They would have to have at least one permanent building that support a typical and customary uses on the site. So, that would be enclosed event space, a catering kitchen, a snack bar or pavilion. They would need restrooms located in that building. If they needed to have additional or temporary restrooms they could have those but, on a day to day basis they are going to have permanent facilities.

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Parking would have to be ADA accessible. If it is not used on a weekly basis we would allow them to use the turf parking like we do for some of the other uses; overflow parking where it is not used on a daily basis. Our Ordinance requires that anything over four spaces is required to be paved. This would allow some flexibility with the site to be used in different ways.

Trash facilities; back 100 feet from the site. Signage, since it is proposed in GC only requires a 10,000 square foot lot to have an actual GC lot. Since we were bumping it up to ten acres, we are proposing to allow them to have some additional signage as a tradeoff. It would be in accordance with combined development standards, which gets them about 64 square feet in signage.

She said not like what you see on Speedway Boulevard. This would be more like if you put two pieces of plywood together. One sheet of plywood for the coming subdivision and different things; 32 square feet.

Temporary tents would be allowed, but would have to be inspected by the Fire Marshal and Construction Standards.

Reiterating that alcohol sales is prohibited because Cabarrus is a dry county. There are some exceptions out there for that; that is why the piece, otherwise permitted by State Law. For example, these reception facilities cannot sell alcohol, but if a caterer came on site and they get the one-time, special event permit, they can distribute. The same thing happens with the Spartan race and the Tough Mudder. They get a beer at the end but they cannot sell it; it is part of the ticket.

On site emergency personnel maybe required; some of the standards from the temporary use stuff had to carry over to this because these are more temporary type events. The only piece that goes away is them having to get the temporary use; zoning temporary use permit. They still have to get the tent permits from the Fire Marshal's office, they have to get the inspections and the stage would have to be inspected by the Fire Marshal's Office and Construction Standards. If they would have any food vendors, food trucks, TFE's, they would all have to be inspected, permitted and be in compliance with the Health Alliance.

Ms. Morris asked the Board to think about this and we will bring it back to the Text Amendment Committee.

She said landscape would be in accordance with the landscape, just like any other commercial site; pretty standard stuff. It would be a little bit different because it is intended to be more like a Metrolina or the Arena; a more outdoor type of facility. The things you would customarily see outdoors like a car show or an RV show or a big circus or carnival, concerts and festivals that kind of stuff. But it would also be allowed anywhere else in the County where it is GC or if someone wanted to ask for GC.

Mr. Corley said they would get approval of a layout that they could use and be in compliance or as long as their layout met those requirements they are good? So, whether it was a RV show or a circus or a craft fair, as long as it met the criteria?

Ms. Morris said from a zoning stand point, once they get an overall site plan approved, showing that they have met the buffers and that they have the ADA access and where that permitted facility is going. Then like the fire Marshal's office, they request that if they are going out there with multiple tents, they have to give them a site diagram with the tents numbered so that they know who is where and what is going on.

She said for zoning purposes, it is the exterior buffers and building placement on the site. If someone called us and said there were port a johns stacked up right here and they haven't cleaned them for a month and they were in that 100 foot setback or in the regular setbacks that they are required to maintain, then that would be a violation.

Mr. Corley said regardless of what that internal configuration would be for that event, it would still be good as long as they complied with the overall?

Ms. Morris said right, once that site plan complies and they show us they can meet the setbacks. As the events happen, they need to be out of those setbacks, landscape is there to allow interior flexibility, depending on what kind of event is coming

Ms. Morris asked if there were any comments or questions. She asked if the Text Amendment Committee or the Board needed to look at anything or leave it as it is.

It was the consensus of the Board to leave it as it is.

Directors Report

Ms. Morris said we are still looking for someone for Kannapolis and for Harrisburg to sit on the Board.

The Board will probably get the Morehead Road plan in March or April to make a recommendation to the Board of Commissioners. Shortly after that we will get started with the overall update to the Harrisburg Land Use Plan.

Legal Update

Mr. Koch said we had filed a Motion for Contempt on the Little case. That is the tractor trailer off of Concord Parkway. It has been continued until March 20, 2017.

We filed a Motion on the DeComo's, the house off of Old Charlotte Road with the RV they are living in. They are making some progress, but it is slow.

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Mr. Dagenhart said he had not seen any progress since the last meeting.

Mr. Koch said Mr. Jay Lowe, Zoning Officer, was out there and took some pictures and sent them to Mr. Koch. There was more siding up then there was from the last time he was out there, but it still was not complete. He decided to file and light a fire under them; that case is on for March 20th as well.

Mr. Koch said the Shelly case is on appeal. The record on appeal has been sent to the Court of Appeals. We are going to file a motion to dismiss because there is no jurisdiction for that appeal. It is one of those things that we have to do things in a certain order. Once they appeal it to the Court of Appeals we have to go ahead and get the record put together. That is a collaborative thing between both parties. That has all been done and filed.

The next step is to file the motion to dismiss, telling the Court of Appeals they do not have any jurisdiction to hear the appeal. The reason for that is because it is an interlocutory appeal and they do not entertain those except under very limited circumstances; which do not apply in this case. He said that should be filed within the next 30 days.

Mr. Koch said we have the appeal on the Porter case with the reception facility. We are waiting for the Superior Court to schedule that.

There being no further discussion, Ms. Mary Blakeney, **MOTIONED, SECONDED** by Mr. James Litaker to Adjourn the meeting. The vote was unanimous. The official meeting ended at 8:11


After the meeting adjourned, the Board was shown a training video from the School of Government on the Planning Board and Board of Adjustment.

APPROVED BY:



Ms. Shannon Frye, Chair

SUBMITTED BY:



Arlena B. Roberts

ATTEST BY:



Susie Morris, Planning and Zoning Manager

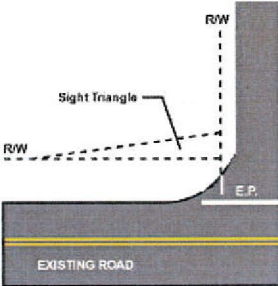
Memo

To: Cabarrus County Planning and Zoning Commission
From: Susie Morris, AICP, CZO, Planning and Zoning Manager
CC: File
Date: 2/10/2017
Re: Proposed Text Amendment Discussion

- Attached you will find proposed text changes to the Cabarrus County Development Ordinance. The proposed changes relate to the following:
 - Chapter 6, General Requirements, Exceptions and Modifications
 - Add standalone solar panel as accessory use
 - Add site triangle figure
 - Chapter 7, Bed and Breakfast
 - Proposed modifications to standards
 - Chapter 7, Permanent Temporary Event Facility (Open Air)
 - Proposed new use to be added to ordinance
 - Chapter 8, Reception Facilities
 - Proposed changes to standards
- Deletions are in strikethrough text. Additions and corrections are in red text.
- Please be prepared to discuss the proposed changes.

Sections 6-8 Visibility at intersections

Add figure for further clarification



Section 6-17 Standalone Mounted Solar Panels to be treated as accessory use

Standalone Mounted Solar Panels are subject to the same placement requirements as accessory uses within each zoning district as set forth in Chapter Five of this Ordinance.

4. Bed and Breakfast

Agricultural/Open, Countryside Residential, Low Density Residential, Medium Density Residential, High Density Residential/Mixed Use, Office/Limited Commercial districts

- a. The site must contain at least 10 acres.
- b. Any area to be used ~~as a party, for guest receptions or garden,~~ for parking or other guest amenity areas ~~such as gardens, patios or outdoor guest reception areas~~ shall be located a minimum of ~~100~~ 200 feet from the property line of any residentially zoned or used property.
- c. Must provide at a minimum one parking space per guest bedroom and one parking space for each two employees.
- d. The facility must provide a level three buffer yard as described in Chapter Nine, Landscaping & Buffer Requirements on all sides of the parking lot which abut public rights-of-way.

Proposed Text

Permanent Temporary Event Facility (Open Air)

A permanent site intended to accommodate uses that are typically held outdoors and temporary in nature, such as festivals, car shows, RV shows, circuses, fairs, craft fairs, concerts, fund raising events, etc. and includes customary and incidental uses related thereto.

Zoning Districts

General Commercial

Permitted Based on Standards:

1. The site must be a minimum of 10 acres.
2. The site must be located off of, and have direct access to, a major or minor thoroughfare.
3. The site must have at least one permanent building that supports typical and customary uses accommodated on the site. Examples include enclosed event space, a catering kitchen, snack bar or pavilion. Permanent restroom facilities shall be incorporated into this building.
4. Minimum parking requirements for ADA parking on the site shall be met and shall include walkways for patrons to access the event site.
 - a. These parking spaces and walkways may be surfaced with asphalt, concrete, brick, pavers, crushed stone, compacted earth or an equivalent material, such as a stabilizer solution that can be mixed with crushed aggregate that is considered acceptable for pedestrian and ADA access. All surfaces should be firm and stable.
 - b. To the greatest extent possible, the site shall comply with the Americans with Disabilities Act as it relates to outdoor developed Areas.
5. If the site will not be used on a weekly basis, the required number of parking spaces, not including the required Handicapped Parking Spaces, may be turf. Perimeter and interior parking lot landscape requirements and parking requirements as outlined in the Commercial Design Standards related to parking areas, shall not apply to turf parking areas.
6. All trash facilities, dumpsters and/or bathroom facilities shall be located at least 100 feet from any property line. This includes any additional dumpsters or temporary bathroom facilities used for events.
7. Signage shall be permitted in accordance with Chapter 11, Table 11-1, Standards for Permanent Signage in the GC district, Combined Development standards.
8. Temporary tents, stages and other temporary structures may be used on the site for events and vendors. Required permits and inspections must be secured from the Cabarrus County Fire Marshal's office and/or Construction Standards.
9. Alcohol sales is prohibited unless otherwise permitted by state law.
10. On site emergency personnel may be required as determined by the Fire Code for Special Events.

2. Reception Facilities

Agricultural Open and Countryside Residential districts

- a. A complete description of the facility including but not limited to:
 1. Types of events, days and hours of operation
 2. Projected number of users per weekday and weekend days, with the maximum number expected at any one event
 3. Total number of seats
 4. Types of accessory uses, if any, envisioned on the site (includes any accessory structures)
 5. Total number of employees, both full-time and part-time.
 6. Any and all other relevant information that will help describe the facility
 7. Building elevations
- b. The site shall contain at least ~~five~~-ten acres.
- c. A residential structure that is used for a reception facility shall not be altered in any way that changes its general residential appearance. Building height and other dimensional requirements for new construction shall be governed by the zoning district in which the property is located. New construction must meet commercial design standards.
- d. All structures, viewing areas, and seating areas shall be set back at least one ~~two~~ hundred (~~100~~ 200) feet from any street or property line.
 - a. When a site contains existing vegetation that will remain undisturbed and creates complete visual separation and serves to abate noise levels, the Board of Adjustment may reduce the required setbacks of 200 feet to no less than 100 feet.
 - i. If the applicant proposes to use this provision, following shall be provided as part of the application:
 1. Tree survey showing existing vegetation
 2. Landscape plan that provides supplemental plantings as needed to fill gaps that may exist
 - b. When the applicant demonstrates to the Board of Adjustment that the existing vegetation meets the intent of the buffer requirement this area may be used to satisfy the buffer requirement of standard "h" of this section.
- e. Where waterbodies exist on or near the property, additional setbacks may be required. See Chapter 4, Waterbody Buffer Zone.
- f. Outdoor lights must be shielded to direct light and glare only onto the facilities' premises but may be of sufficient intensity to discourage vandalism and theft. Lighting and glare must be deflected, shaded and focused away from any adjoining properties.
- g. Maximum permitted noise levels may be established in order to protect adjacent properties. Any such requirement will be made a part of the conditional use permit which may also specify the measures to be taken to control noise, including but not limited to muting, special landscape treatment and berms.
- h. In the event the facility abuts residentially used or zoned property, Level Two buffering must be implemented. See Chapter 9, Landscaping and Buffer Requirements.
- i. The parcel must have frontage on, or have direct access to, a NCDOT maintained road or a privately maintained paved street. Proposed access points on NCDOT roads must be approved by NCDOT. In the event that a privately maintained street is used to gain entry to the site, the applicant shall provide documentation from the private road owner(s) that access to the site for events is permitted.

- j. The facility must provide two parking spaces for the owner/operator, plus one for every four persons in attendance at events. Service providers (staff, caterers, etc.) should be included in this calculation at a rate of one for each employee or contracted staff member. The parking area shall remain grassed (no impervious coverage). However, handicap accessible parking is required to be an improved/hard, stable surface and to meet requirements of the North Carolina State Accessibility Code and Section 10-5.3 of this Ordinance. No on-street parking is permitted.
- k. Other than as part of the reception events, no meals shall be served to the general public on the site.
- l. The following accessory uses may be permitted as incidental to the facility and limited to the patrons of the principal use:
 - o Playground
 - o Bathroom facilities
 - o Aesthetic (gazebo, barn, etc.) features
 - o Amenity areas, gardens
 - o Temporary tents, allowed for no longer than 180 consecutive days. Tents may not exceed the square footage of the primary structure and must be shown on the site plan. Must procure all necessary permits from Cabarrus County Fire Marshal's Office.
- m. Signs for Reception Facilities shall meet the requirements of Chapter 11 (Standards for Permanent Signage in Residential Districts) of the Cabarrus County Zoning Ordinance