

MINUTES
PAGE COUNTY PLANNING COMMISSION
January 12, 2016 7:00 p.m.

Members Present:

Bernie Miller, Chairman, District 1
Paul Otto, District 1
Steve Atkins, District 2
Donnie Middleton, District 2
James Turner, District 3
Keith Weakley, District 3
James Holsinger, District 4
Joshua Shifflett, District 5

Members Absent:

Jonathan Comer, Vice Chairman, District 5
Vacant, District 4

Staff Present:

Stephanie Lillard
Tracy Clatterbuck

Others Present:

David Reed
Gretchen Bossenbroek

Call to Order:

Chairman Miller called the January 12, 2016, Page County Planning Commission regular meeting to order in the Board of Supervisors room located at the Page County Government Center, 103 South Court Street, Luray, Virginia at 7:02 p.m. The Call to Order was followed by the *Pledge of Allegiance* and a *Moment of Silence*.

Approval of Agenda:

The agenda was approved with a motion by Mr. Otto and seconded by Mr. Shifflett. The motion passed unanimously.

Public Hearings:

None

Citizen Comments on Agenda Items:

Mr. David Reed began by stating he and Gretchen were present on behalf of the applicant, Mountain View Resorts, LLC for the special use permit (SUP) application. They were willing to answer any questions.

Mr. Joseph Vile began by noting he had requested a phone call so that he could be present at the site visit that was held on January 7, 2016, but there was confusion and he never received the call. He was waiting on the other side of the property. According to the zoning laws what they are proposing is completely illegal because they have skipped a step. On July 28, 2015 the applicant was sent a letter stating they were required to cease operation upon receipt of the letter, and if they wished to continue they needed to apply for a SUP, along with the right to appeal. They did not appeal so the decision shall be final. Chapter 125-58 also states a written notice of a zoning violation or a written order of the Zoning Administrator (ZA) that includes such statement sent by registered mail or certified mail to, or posted at, the site meets the requirements of the code. The letter clearly stated they needed to cease activity upon receipt of the letter. They chose to continue the activity until the end of tourism season and then apply for a SUP. They have taken your vote out of the equation. This should not have reached this point because it is not in the Planning Commission (PC) hands. We must follow the county code. He also referenced general provisions which state all departments, officials, and public employees of this jurisdiction which are vested with the duty of authority to issue permits or license shall confirm to the provisions of this chapter. That includes anybody in this room that has anything to do with this at all. Any such permit if issued in

conflict with the provisions of this chapter shall be null and void. He suggested that all of what he had stated was in the county code, which he will be putting into email to his supervisor. Mountain View Resorts needs to prove through their books that they did not continue the activity. There are public reviews on the internet which are dated past July 28th, 2015 when the letter was sent. His whole family could attest that they were open until the end of tourism season. Mr. Vile recommended this issue be looked at by an attorney.

Mr. Miller asked Mrs. Lillard if in fact she were consulting with the county attorney on what Mr. Vile was suggesting. Mrs. Lillard replied that she would be speaking to him after tonight's meeting and was he was prepared to submit a letter of opinion based on the discussion tonight.

Unfinished Business:

A. Special Use Application, Mountain View Resorts, LLC

Mr. Miller explained that on January 7th six out of the nine commissioners met onsite at Yogi Bear Campground to observe music, etc. Upon arrival, the commissioners requested the sound to be turned up to the loudest point and for all lights to be turned on. He noted it was a cold, crispy night; therefore, the noise was very clear. Many of the commissioners walked the property. Mr. Kenneth Boyd with the Page County Sheriff's Office was also present so that a reading could be obtained on the noise decibel level. He observed the levels from multiple locations. All commissioners were provided a copy of Mr. Boyd's report. The lighting is also a complaint from neighbors. You are going to see lights on the side of the mountains which really can't be helped, but the laser lights are different and maybe they could consider shutting them off at night. Mr. Miller requested that each member give their opinion of what they gathered from the site visit. Mr. Weakley explained he had walked close to the property line. The sound readings were below max level but he felt they were definitely audible. He could see where day in and day out the noise would wear on someone. He also noted the white lights stood out unlike the color strobes. Mr. Turner stated he too understood the concerns of the noise being a nuisance. He believes there is a middle ground to this issue and there are things the PC can do to mitigate some of this. He had recommendations to be discussed. Mr. Otto agreed the noise was noticeable; not particularly loud. Through some trees the white lights in particular were definitely noticeable; not so much the colored lights. He too hoped they could come up with some recommendations that both parties could agree on. Mr. Shifflett noted he had never been to the laser tag facility and he thought it was really good thing for the county. The constant base of the music would be a nuisance. It carried a lot more than what he would have thought. He said he understood Mr. Vile's concern for the constant noise. The white lights bothered him more than the colored lights. Mr. Atkins was in agreement with the other commissioners. He hoped they could work out some adjustments that would benefit both property owners. Mr. Miller also agreed with most of the commissioners. The music wasn't bad but day in day out it would be a nuisance. Prior to the lights and music the laser tag wasn't an issue. In the daytime it would not be bad to have music down lower but at night the music carried. If this were a carnival people would fight this issue the same way. He stated he was hoping for some concessions that Yogi's could make to satisfy the neighbors. Mr. Vile's home is visible from the property as they have tried to contain it but noise can go all sorts of ways. Mr. Middleton explained he had done a site visit several days before in which he walked the area. The pole where the strobe lights are located is approximately eleven feet from the ground to the top with a six feet tall fence. So the lights and music are definitely going over. He agrees that the white lights do carry quite a distance.

Mr. Reed stated at this point they didn't have anything to offer but welcomed any recommendations as they would be considered. Mr. Weakley asked Mr. Reed if they continued the activity after receiving the notice. Gretchen replied she couldn't remember the date but the letter was misinforming because it stated laser tag was a new amenity but it was not. Mrs. Lillard clarified that the letter stated laser tag had been added. Gretchen pointed out that it hadn't been added as it had been there for a while. Mr. Weakley asked again if activity continued and Gretchen confirmed that it had went until the end of the season but they had been in touch with the office. Mr. Miller explained that was what the county attorney would be looking into. Mr. Reed reminded them they were present today for the SUP application. Gretchen asked how loud the music was at the site visit and Mrs. Lillard pointed out that the attorney had also received a copy of the report. Gretchen reminded them again that it was above normal volume during the site visit. She questioned if anyone went to Mr. Vile's home to measure the levels. Mr. Miller replied the reading took place at the property lines.

Mr. Miller clarified that the commission would not be voting at the meeting tonight but asked the commissioners if there were any recommendations for the applicant to consider. Mr. Turner replied with the following: 1) Eliminate the music all together 2) Turn the laser countdown off 3) In regards to the hours of operation, back it up one hour to have course cleared by 10 p.m. Mr. Weakley expressed that the color strobe lights seemed fine but the bright white lights needed to be toned down. Maybe they could do more string lights on the poles, lower wattage, or some other color. Something needed to be done to mitigate the piercing white light. Mr. Atkins suggested they put evergreens along the fence line to help with sound and lighting. Mr. Shifflett agreed something needed to be done with the sound before he would consider anything. He recommended turning the volume down, elimination/relocation of the speakers, or putting a max level on the volume. Mr. Holsinger explained that in 1972 they were operating and laser tag of some form has always been a part of the facility. Mr. Vile is not concerned about mitigation but elimination. He hopes that Mr. Vile would realize the commission is likely to explore all possibilities. Mr. Miller suggested a taller fence or lowering of the speakers.

Mr. Middleton stated he recalled Mr. Vile wanted the commissioners to come to his house when the readings were done. Mrs. Lillard explained that she had spoken to Mr. Vile on January 5th and 7th, 2016. Mr. Vile was advised they would be meeting on January 7th at 5 p.m. at the main entrance. The deputy was scheduled to be there as well. Per code, the measurements needed to be taken within the home, 4 foot setback from the wall in which direction the sound travels with windows down and doors closed. Mr. Vile stated he felt it was unnecessary to dispatch the deputy because the level would come in under the max level so he suggested she save the county money. She explained she would leave it up to the chairman but they planned to move forward. There was discussion about making a call to Mr. Vile after they walked the grounds. Mr. Vile stated there was no need for him to visit Yogi's he would be on the backside of his property. Mr. Vile even offered to drive her in his vehicle but she had a prior commitment so she had to leave early. After walking the grounds when the deputy was ready she would make the call but Mr. Vile did not want the deputy at his house so there was no reason to call. She had commented to several commissioners that Mr. Vile was going to be on the backside of the property line. The public notice was put out on record. She apologized for any confusion. The letter did say cease operation upon receipt of the letter. They did respond to the letter by applying for the SUP. It is necessary to recognize they continued to operate. Mr. Reed noted that the application requires all agency comments before the application can be submitted to the office. VDOT took a lengthy time and the application was delayed because of this. VDOT signed off on 11/5/15 and the application was signed by applicant on 11/6/15. Mr. Holsinger questioned when the last laser tag activity was held and Gretchen replied November 8th.

Mr. Miller concluded discussion on the SUP application. The application will be discussed in two weeks after answers from the attorney are received. Mrs. Lillard stated she would speak on the PC behalf but required clarity on what was being taken to him. Mr. Miller responded the issue Mr. Vile raised with the activity continuing. He wants to make sure legal it is to extend permit process after admitting the activity continued. Mr. Holsinger noted that Mr. Vile was taking a direct reading making assumption no action was taken; therefore, it is now not allowed. Mrs. Lillard explained that by the applicant applying for a SUP action was taken but noted Mr. Vile isn't feeling that. She proceeded to read the letter dated July 28th, 2015. The ZA clearly lays out two options. It is alarming that the activity continued which seems to be the frustration from Mr. Vile. They did follow the direction of the letter. Mr. Reed stated he felt the commission was trying to punish past action instead of looking at the SUP application before them. The client chose to apply for the permit. Had the other agencies responded sooner, the application would have been submitted earlier. Discussion with the county was ongoing during this process. He suggested the commission come up with recommendations to be discussed with the applicant. Mr. Holsinger explained that very often the applicant will make offer on what they are willing to do. Mr. Vile's concern does need to be addressed with the county attorney. Laser tag has been ongoing for many years in some form and it seems excessive to eliminate it completely. Gretchen clarified that they are open to making changes. The challenge is there are a lot of different suggestions going around. What if we try these suggestions to test them and it doesn't work? How much flexibility are we going to have for trial and error? Mr. Miller pointed out that that they were only making recommendations, and they would not be on the SUP unless they decide they should be conditions passed to the Board of Supervisors (BOS). Mr. Reed noted that the open date for the facility is March 25th. He is concerned with the timeframe they are under as it still had to be voted on by the PC and BOS. The goal of the applicant is to have this in place by the time the season begins.

Mr. Miller stated that if the issues could not be modified to a better situation they would recommend that music be completely eliminated. Mr. Turner questioned what the applicants thoughts were on elimination of the music and countdown. After discussion with his client, Mr. Reed confirmed the applicant was willing to look at speaker locations, adjusting countdown, etc. They are not willing to eliminate the music all together. Mr. Turner questioned if they would consider the hours of operation and Mr. Reed stated he would have to discuss that with his client. Gretchen explained that she felt the reasonable place to start would be turning the sound down. She will have maintenance look at the flood lights. Mr. Miller suggested consideration of setting the max decibel level. Mr. Reed stated he was concerned with setting a max decibel level as that would probably cause dispatch to be called out on a regular basis.

Mr. Holsinger suggested Mr. Atkins and Mr. Middleton go check the site after modifications are in place as three or more commissioners would require public notification. Mr. Reed expressed the applicant was happy to allow staff and/or citizens within reasonable notice. Mr. Miller suggested the applicant call Mrs. Lillard when modifications were in place, and then she could notify the selected commissioners to do a site visit. Then, maybe at the next meeting a vote could be made. Mr. Turner noted that they did not want to put something in place that would be a nightmare to enforce.

B. Comp Plan Committee Report

Mr. Otto scheduled the next meeting for January 20th, 2016 at 4:00 p.m. in the breakroom.

C. Subdivision Committee Report

Mr. Weakley scheduled the next meeting for January 26th, 2016 after the PC meeting.

D. Zoning Committee Report

Mr. Holsinger scheduled the next meeting for January 26th, 2016 after the PC meeting as well. He requested Mrs. Lillard be present for that meeting.

New Business:

A. Approval of Minutes- October 27th, 2015 & December 8th, 2015

Mr. Holsinger made a motion to approve the minutes of October 27, 2015 and December 8, 2015. The motion was seconded by Mr. Atkins. The vote was unanimous.

Open Citizen Comment Period:

Mr. Reed restated after modifications were complete they would notify Mrs. Lillard who could notify the commissioners that would be coming out.

Chairman's Report:

Mr. Miller stated he had nothing to report.

Clerk's Report:

Mrs. Lillard stated she would be in Richmond on Thursday and would report back information on the Farm Bill. Tracy Clatterbuck will be your new clerk. She will be in training at the next meeting but after that she will attend the meetings. Mrs. Lillard will be present as needed during SUP applications or other business is submitted.

Mr. Miller questioned whether the county planned on getting a new Zoning Administrator. Mrs. Lillard replied that Michelle Somers would continue in the position. Mr. Miller suggested passing onto the County Administrator that the commission really needed a professional. Mrs. Lillard pointed out that she had took the request to Mrs. Moler. She had recently completed the planning budget which did not include a salary for that position.

Adjourn:

Chairman Miller adjourned the meeting at 8:18 p.m.

Bernie Miller, Chairman