

MINUTES
PAGE COUNTY PLANNING COMMISSION
February 9, 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:

Mark Reed
David Reed
Zach Bossenbroek

Call to Order:

Chairman Miller called the February 9 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 7:00 p.m. The Call to Order was followed by the *Pledge of Allegiance* and a *Moment of Silence*.

Chairman Miller pointed out the meeting was a regular meeting and not a work session as indicated on the agenda.

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:

Chairman Miller opened the citizen comment on agenda items at 7:02 p.m.

Mr. Zach Bossenbroek introduced himself as one of the owners of Jellystone Park. He came in from Michigan for this meeting. He thanked the commission for taking the time to consider the laser tag activity and for visiting the site. The Luray Jellystone Park is one of the top destinations in the state which is evidenced by its numerous Jellystone franchise awards and multiple trip advisors awards along with smiling faces that visit from around the country. One of the favorite activities to do is to play laser tag after the sun goes down in the cool night air. Laser tag appeals to all ages and is a huge hit at the Jellystone resorts around the country. The music and lighting played at laser tag makes it a fun experience. Laser tag

wasn't an issue to the neighbor until music was added last year. However, Jellystone is not the only neighbor playing music at night. As you will recall, according to the sound readings taken the music is well within the limits of the noise ordinance. All other residents in the county can play music on their decks and porches until 11 p.m. so why shouldn't the resort be allowed to do the same? It makes more sense in an environment like the resort where people come to vacation and have a good time. Don't we want to encourage music in this context given the tourism and economic benefits? What purpose does a noise ordinance serve if the county is going to indiscriminately apply different standards to different property owners? Is the music Jellystone is playing somehow different than the music played by others on their back porches and decks? Mr. Bossenbroek noted he didn't think it was. It certainly isn't any different than the music played by the campers until 11 p.m. He explained he had a difficult time understanding why laser tag should have a different restrictive level of regulation than the music emanating from the campers boom boxes for the last several decades. We need to be careful not to overreact and hinder any fun recreation activity due to one neighbor, especially when that neighbor has a history of complaining about many things at the campground. It would be unfortunate to adversely affect our campers experience on the account of one disgruntled neighbor. Please know that we can't and won't allow laser tag or any other activity to be a nuisance to our neighbors. What would be a disturbance to our neighbors would also be a disturbance to our campers. Many of the campers have sleeping babies and young children so we have a very strong incentive to maintain peace and solitude after dusk. The last thing we want to do is lose a customer over failure to maintain a tranquil environment within our camping resort.

Chairman Miller closed the public comment on agenda items at 7:05 p.m.

Unfinished Business:

A. Special Use Application, Mountain View Resorts, LLC

Chairman Miller requested that Mr. Atkins and Mr. Middleton report to the commission what their findings were when they visited the campground after the alterations were done. Mr. Atkins began by explaining that the lighting had been changed for the exception of two lights they left for them to see so they could compare the difference. The noise has been turned down nicely to where it was fairly nice inside the confined areas but they also walked over to the property lines and it was not like it was at the first visit with the commission. You could hear it but it was not damaging or overly loud at the line. In fact, you had to listen hard to really hear it. The gate was shut and locked which also helped with the noise. If they leave the noise level where we witnessed it, it would not be a problem. The yellow lights are much softer on the eyes and you can't see them at the property line but he recognized the neighbors' house sits up a little higher. Mr. Atkins stated he felt the applicant had done everything the commission requested of them for the exception of the hours of operation to be discussed. Chairman Miller questioned what the setting of the noise was and if both amplifiers were being used. Mr. Atkins replied that all of the speakers were on and were pointed downward along with the lighting. Mr. Middleton explained that after they set the level of where they would leave it, at the property line it was like the music had been turned off. It was hard to hear. He recommended that staff be accountable for adjusting the music to what can be agreed upon. Because the speakers are pointed downward, the music did not scatter like before. The yellow lighting is soft and similar to the bug lights. He concluded there was much improvement.

Chairman Miller requested Mrs. Lillard read the response from the County Attorney regarding the complaint that proper procedures had not been followed in regards to applying for the special use permit (SUP) because the operation continued after the applicant received the notice of violation. Mrs. Lillard proceeded with reading the letter which stated there were no provisions in the Page County code which would allow the county to deny the SUP based upon the property owners continued use of the property. She also reviewed the recommendations to be considered.

Mr. Otto explained he had written down the findings to the best of his ability of what the commission had heard in the past, along with options to consider. The handout was provided to the commission and the public. The findings were the laser tag operation was ongoing for a number of years without any complaints until lights and music were added. The complaints generated a violation letter from the Zoning Administrator which specified a SUP was

required to continue the operation. The operation continued until October or November of 2015 without a SUP, but an application was submitted in November. Complaints continued throughout the operation of the laser tag. The Planning Commission (PC) conducted a public hearing and a site visit. It was noted that lights and music and a "back up alarm" was noticeable from a distance and elevation nearest to the closest residence. Music decibels were below the level required by the noise ordinance. The white flood lights were particularly noticeable as was the "back up alarm". Taking all of the above into consideration, the cooperation of Yogi Bear and their contribution to the county, but also giving equal consideration to adjacent landowners rights as well, Mr. Otto introduced the following options that the commission could consider: 1) The PC could deny the SUP entirely which would result in a loss of all revenue and additional investment that has been made by Yogi Bear 2) The PC could recommend approval of the SUP without conditions ignoring the adverse impacts upon the adjacent land owners 3) The PC could recommend the SUP with the condition of relocating the laser tag activity adjacent to US211 which would result in considerable investment by Yogi Bear but they would be able to continue the activity or 4) The PC could recommend SUP approval with the following conditions: No music or "back up alarm" after 5:00 p.m., no white flood lights, no lights at all after 8:00 p.m. daylight time or 7:00 p.m. standard time, no operation of laser tag after 10 p.m., and no changes to the sound or light affects without a new permit. This would result in no additional investment by Yogi Bear, but also consideration for adjacent landowner's peaceful enjoyment of their property.

Chairman Miller requested that all commissioners voice their thoughts or options on the matter. Mr. Weakley began by stating of the four options mentioned he was in favor of option four which was approving the SUP with conditions. Everyone heard what Mr. Atkins and Mr. Middleton observed at the last visit which seem favorable. Maybe we can come up with some modifications or revisions to the items presented to be a middle ground for all parties involved. Mr. Turner agreed with approving the SUP with conditions as well. He suggests a 10:00 p.m. curfew on the laser tag activity. He appreciated Mr. Atkins and Mr. Middleton's comments in regards to the noise but was concerned on how the county would enforce the noise control. He appreciates that it adds to the enhancement of laser tag and perhaps the applicant could consider additional trees for screening. He wants to give equal consideration to the applicant and adjoining landowners. Mr. Holsinger stated he was concerned about adjusting the time if it's not embracing the current noise ordinance. As the applicant pointed out, it seems we are creating inconsistent noise monitoring. Other than that, he supported all discussion thus far. Mr. Shifflett noted he also agreed with approving the SUP with conditions. It seems the music and lighting issues have been resolved. If we can just figure out a way of capping the dial for the noise. He still felt 10:00 p.m. should be the curfew. Mr. Atkins agreed that if they kept the noise down to where he heard it at the second visit, he felt there would be no issue. Figuring out how to ensure that is done by all staff members is key. They want to be good neighbors. He also agreed with the 10:00 p.m. curfew. Mr. Middleton explained he agreed with approving the SUP with conditions. He didn't agree with Mr. Otto's thoughts on no lights after 8:00 p.m. As the year goes on when foliage arrives on the trees, the lights will be seen even less. Chairman Miller stated his initial opinion of the area was a "disco in the woods". Any neighbor would have been alarmed. The applicant has done a lot to try to make it better. We can't do much regarding the noise ordinance. We want to be neighborly in this county. He also agreed with approving the SUP with conditions. We are going to have to come up with some way to control the noise. We do not know what it was set on at the second site visit. We need to ensure a year from now or 25 years from now, this is being complied with and in affect as he stated he felt very concerned about that. Mr. Otto pointed out that the audio effect would be very difficult to enforce or control that is why he was in favor of putting a time limit on the audio. We need to keep in mind that this operation is day in day out. It's not like the neighbors having an occasional party. Chairman Miller pointed out that all commissioners seemed to be in agreeance of the direction they will proceed. Mr. Holsinger once again noted he had concerns with the adjusting hours. The applicant explained that the current hours of operation for laser activity daytime begins at 11 a.m. and runs until 6:00 p.m. and nighttime begins at 7:30 p.m. and ends at 10:45 p.m. It is only weekends in the spring with the exception of spring break week, and Memorial Day through Labor Day. Chairman Miller referenced the festival ordinance regarding special events in which the attorney concluded that did not apply to this case. Mr. Holsinger asked what the level was on the noise during the second visit with the two commissioners in which Yogi Staff replied it was 60%. They also noted they were willing to put

something on it so that it could not be changed. Mr. Weakley stated there was really only two options: specify make and model with percentage or specify decibel reading in a certain place. Mr. Reed requested the commission consider their conditions submitted. He proceeded to review the handout of proposed conditions with the commission. Mr. Weakley questioned what the reading was at the first site visit. He noted that particular proposed condition would be no improvement in the sound. Mr. Reed stated his client was willing to keep it at 60%, and a reading could be done to determine the maximum. Mr. Turner stated he felt 10:00 p.m. was a reasonable compromise. Chairman Miller asked Mr. Vile if he had any comments on the discussion. Mr. Vile stated he had nothing that was going to help the situation. The flashing lights are also a problem as it appears there is a circus going on all the time. He had as much problem with them as he did the white lights. Chairman Miller asked if the applicant had any response to Mr. Vile's concern. Mr. Atkins stated they did not see a problem at the property line with that but Mr. Vile's house sits up higher. Mr. Weakley stated there should be a way to reasonable conceal the flashing lights so they are directed within the confined area. Zach noted they were under the roof structures which are gabled caps. Mr. Vile expressed thus far no one had been to his house to look at this. It was his understanding that Mr. Atkins and Mr. Middleton were coming to his house to see this. Going up and down his road it appears a circus is going on. Chairman Miller pointed out he felt the property line was the best place to get the loudest noise. It's not going to be as noisy at Mr. Vile's house as it will be at the property line. Mr. Vile responded that his house is where it bothered him. He didn't have to walk over to the property line to see it as, it is seen from his home. Mr. Shifflett and Mr. Turner stated Mr. Vile's comments had not changed their opinions. Chairman Miller asked for clarification on the specific lights Mr. Vile mentioned. Staff explained that they had a few different colored lights along with one that flashed along to the music, but it's only on two of the poles that are in the middle which are directed toward the ground. Zach noted there was 800 feet of distance between the laser tag area and Mr. Vile's home, plus foliage so he didn't see how it could get though that. Mrs. Lillard recommended that if all commissioners agreed then they should make their recommendation to the Board of Supervisors (BOS) and she would reach out to the District 2 supervisor to conduct a visit at Mr. Vile's property. Mr. Middleton volunteered to attend as well. Mr. Vile questioned if the commission was trying to rush it through and Chairman Miller replied that what he had stated was not going to change any of their votes. Chairman Miller restated that the plan was to set the level to 60% and take a reading and that would be a condition of the SUP. Mr. Weakley suggested specifying in particular the location of the reading rather than just saying the property line. It was decided amongst the commission the reading would be done at the entrance to the laser tag facility. The commission agreed that the course shall be cleared by 10:00 p.m. Mr. Turner suggested adding all lighting be pointed downward and inward. Yogi staff had concerns with all lighting being inward for safety concerns for the participants. Mr. Reed suggested adding downward and inward facing within the fenced area. Mr. Holsinger made a motion to approve the SUP with the following conditions: 1) the special use permit is transferable, it will meet the requirements in and have privileges provided for in the Page County Zoning Ordinance and any ordinance amendments for the period set forth within the parameters in this special use permit. The special use permit shall remain with the property for a period of 30 years 2) the business shall be in compliance with all county and state agency regulations 3) Business uses outside commercial recreational activities is prohibited 4) Any change of use will require another special use permit 5) The current laser tag area and any expansions shall be surrounded by a privacy fence of existing height of seven feet and/or gates of at least four feet in height, with only one unfenced entrance area 6) All flood lights within the laser tag area shall be yellow in color and shall be downward facing and facing within the fenced area 7) All speakers within the laser tag area shall be downward facing 8) All towers within the laser tag area shall have a roof or cap at the top. No speakers or lights shall be mounted on or above these tower roofs or caps. No tower shall exceed 12 feet in total height as measured from the ground level at the base of the tower 9) Laser tag activity shall only be conducted between the hours of 9:00 a.m. to 10:00 p.m. 10) The sound levels generated by commercial recreational activities permitted under this SUP shall not exceed ____decibels, at 60% of the speaker level and the reading shall occur at the entrance gate to the laser tag area 11) Any building or facilities constructed within the laser tag area shall comply with the Page County Building Code in existence at the time of the construction and 12) Any size of the area or enhancement of the use would require a new SUP. The motion was seconded by Mr. Weakley. The motion passed unanimously.

B. Comp Plan Committee Report

Mr. Otto noted he had missed the last scheduled meeting. There was nothing discussed regarding the Comp Plan at that meeting. Mrs. Lillard explained as of 1/28/16, Ms. Zuckerman was supposed to be preparing exhibits to send, however, she had not received anything yet. The next meeting was scheduled for February 24, 2016 at 4:00 p.m.

C. Subdivision Committee Report

Mr. Weakley stated they were scheduled to meet at the last PC work session; however, it was cancelled due to inclement weather. They will be discussing what the plan is moving forward and what they would like to change in Page County. Mr. Holsinger recommended that Mr. Weakley give a presentation to the BOS.

D. Zoning Committee Report

Mr. Holsinger requested a meeting with Mrs. Lillard so they could make suggestions to modifications to the current zoning. He also requested Mrs. Lillard get with Michelle Somers so that a date can be discussed that will work for her well. He requested a magnetic copy so they could make adjustments rather than retyping the entire area.

New Business:

A. Approval of Minutes- January 12, 2016

Mr. Otto made a motion to approve the minutes of January 13, 2016. The motion was seconded by Mr. Holsinger. The motion passed unanimously.

Open Citizen Comment Period:

None

Chairman's Report:

Chairman Miller attended the Economic Meeting held at the Mimslyn the other week. It was a good meeting and it doesn't end at that meeting. There are upcoming meetings and discussions to further this topic.

Clerk's Report:

Mrs. Lillard reviewed the email received 1/13/16 regarding Jeremy Baldwin's campground. The Health Department is not approving the waiver request at this time due to numerous items that need to be addressed. Mrs. Lillard contacted Mr. Baldwin via email to see if he planned on following the guidelines outlined by the Health Department, but has yet to receive a response. There was discussion amongst the commission regarding timeline requirements of the application, and timeline requirements in which the PC had to act. It was decided that Mr. Baldwin would be sent a letter requesting feedback on if he plans to proceed with the SUP application or not. Going forward in the future It was decided SUP applications would not come to the PC until all comments had been received by all required agencies. Chairman Miller requested the commission be in the loop of potential items coming down the pipeline through the clerk report.

Adjourn:

Chairman Miller adjourned the meeting at 9:20 p.m.


Bernie Miller, Chairman

