

MINUTES
YORK COUNTY PLANNING COMMISSION
Regular Meeting
York Hall, 301 Main Street
July 10, 2013

MEMBERS
Glenn A. Brazelton
Melissa S. Magowan
Todd H. Mathes
Timothy D. McCulloch
Richard M. Myer, Jr.
Mark B. Suiter

CALL TO ORDER

Chair Richard M. Myer, Jr. called the meeting to order at 7:00 PM.

ROLL CALL

The roll was called and all members were present with the exception of Mr. Brazelton.

PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA

Chair Myer led the Pledge of Allegiance.

APPROVAL OF MINUTES

Mr. Suiter moved to adopt the minutes of the regular meeting of June 12, 2013, and the motion was approved (5:0).

ELECTION OF OFFICERS FOR FY2013-2014

With County Attorney James E. Barnett, Jr., presiding, Mr. Mathes nominated Mr. Suiter to serve as chair for FY2013-2014, and Mr. Suiter was elected (5:0). Mr. Mathes nominated Ms. Magowan to serve as vice chair for FY2013-2014, and Ms. Magowan was elected (5:0).

REMARKS

Chair Suiter stated that the Code of Virginia requires local governments to have a Planning Commission, the purpose of which is to advise the Board of Supervisors on land use and planning issues affecting the County. The responsibility is exercised through recommendations conveyed by resolutions or other official means and all are matters of public record. He indicated that the Commission is comprised of citizen volunteers, appointed by the Board, representing each voting district and two at-large members.

CITIZEN COMMENTS

There were no citizen comments.

PUBLIC HEARINGS

Application No. UP-827-13, Robert J. Williams: Request for a Special Use Permit, pursuant to Section 24.1-283(b)(1) of the York County Zoning Ordinance, to authorize a firearms repair business as a home occupation with on-site customer/client contact in a single-family detached home located at 220 Bolivar Drive (Route 1252). The 0.44-acre parcel, further identified as Assessor's Parcel No. 24G-3-15, is zoned R20 (Medium-density Single-family Residential) and designated Medium-Density Residential in the Comprehensive Plan.

Amy Parker, Senior Planner, summarized the staff report to the Commission dated July 2, 2013, in which staff recommends that the Commission forward the application to the Board of Supervisors with a recommendation of approval subject to the conditions set forth in proposed Resolution No. PC13-16.

Mr. Mathes asked what type of license is required for the business.

Ms. Parker responded a gunsmith license is required.

Mr. Mathes confirmed with Ms. Parker that no firearms would be sold at the applicant's home.

Mr. Myer expressed concern regarding fire safety, noting that there was a workshop in his neighborhood that caught fire.

Ms. Magowan asked if there had been any change to the floor plan to add the gunsmithing operation.

Ms. Parker responded that it had not.

Chair Suiter opened the public hearing.

Robert J. Williams, Jr., 220 Bolivar Drive, Yorktown, spoke as the applicant. Mr. Williams described his background and his interest in firearms and the history of firearms. With respect to his existing metal-working business, he said all of his "hot work" is done outside except for brazing. He said he would not be selling or buying firearms and that there will be a secure lock-up for all customer belongings. He added that all test firing would be done at the Lafayette Gun Club.

Ms. Magowan asked if any of the neighbors had complained about noise.

Mr. Williams said he had received no complaints about his existing business.

Ms. Magowan asked if there had ever been a fire on the premises.

Mr. Williams said there had never been a fire.

Mr. Myer said the applicant should talk to the neighbors about the business.

Mr. Williams said the majority of his neighbors are aware of his business and have no objection to his home occupation.

Chair Suiter said he was very impressed with the pictures of the applicant's work.

Robert Frailey, 729 Charles Road, said he supports this application and any application that will bring business into the County.

Chair Suiter closed the public hearing.

Mr. Myer asked if there had been any input from the neighbors.

Ms. Parker responded that she had received no comments from the neighbors.

Mr. Mathes said he supports the application.

Mr. McCulloch said Mr. Williams appears to be a fine craftsman and that he supports the application.

Mr. Myer said he is satisfied that all safety concerns have been met.

Ms. Magowan said there appears to be a buffer for the noise and there do not appear to be any environmental concerns. She expressed her support for the application.

Mr. Myer moved adoption of Resolution No. PC13-16.

A RESOLUTION TO RECOMMEND APPROVAL OF AN APPLICATION TO AUTHORIZE A FIREARMS REPAIR SHOP AS A HOME OCCUPATION WITH ON-PREMISES CUSTOMER/CLIENT CONTACT ON PROPERTY LOCATED AT 220 BOLIVAR DRIVE

WHEREAS, Robert J. Williams, Jr. has submitted Application No. UP-827-13 requesting a Special Use Permit, pursuant to Section 24.1-283(b)(1) of the York County Zoning Ordinance, to authorize a firearms repair business with on-premises customer contact as a home occupation in a single-family detached home located at 220 Bolivar Drive (Route 1252) and further identified as Assessor's Parcel No. Assessor's Parcel No. 24G-3-15 (GPIN R09c-1609-2059); and

WHEREAS, said application has been transmitted to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has carefully considered the public comments with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 12th day of July, 2013, that Application No. UP-827-13 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval to authorize a Special Use Permit, pursuant to Section 24.1-283(b)(1) of the York County Zoning Ordinance, to authorize a firearms repair business with on-premises customer contact as a home occupation in a single-family detached home located at 220 Bolivar Drive (Route 1252) and further identified as Assessor's Parcel No. 24G-3-15 (GPIN R09c-1609-2059), subject to the following conditions:

1. This use permit shall authorize a firearms repair business with on-premises customer contact as a home occupation in a single-family detached home located at 220 Bolivar Drive (Route 1252) and further identified as Assessor's Parcel No. Assessor's Parcel No. 24G-3-15 (GPIN R09c-1609-2059).

.. The home occupation shall be conducted in accordance with the provisions of the York County Zoning Ordinance, Sections 24.1-281 and 24.1-283(b), except as modified herein.

3. Floor area of the home occupation shall not exceed two-hundred sixty (260) square feet, and shall be designed as depicted on the floor plan submitted by the applicant and received by the Planning Division on June 1, 2013, a copy of which shall remain on file in the office of the Planning Division.
4. No person other than individuals residing on the premises shall be engaged in the home occupation.
5. Off-street parking spaces, in accordance with all applicable Zoning Ordinance standards and limitations, shall be provided on the premises (i.e., off-street) to accommodate customers/clients. These spaces shall be in addition to the two (2) spaces that are otherwise required for the single-family residence.
6. The days and hours of operation shall be by appointment only, and shall be limited to Monday through Friday, 9:00 AM to 6:00 PM, and Saturday from 9:00 AM to 1:00 PM. Customer/client contact on the premises shall be limited to no more than one customer appointment at any one time, and not more than four (4) appointments per day. The applicant's appointment book/log shall be made available for review by Zoning and Code Enforcement staff upon request.
7. There shall be no live firing of firearms on the premises.
8. Prior to commencement of the home business use, the portion of the home used for the home business as well as customer/client entrance and parking areas shall conform to minimum standards of the Virginia Uniform Statewide Building Code, subject to the approval of the Building Code Official.
9. The home occupation shall be operated in conformance with all applicable codes and requirements of the York County Fire Prevention Code, the 2009 Virginia Statewide Fire Prevention Code, and the National Fire Protection Association.
10. The home occupation shall be operated in conformance with York County Code Section 16-19, Unnecessary or Excessive Noise.
11. Proof of licensure from the Federal Bureau of Alcohol, Tobacco, Firearms and Explosives for a Federal Firearms Type 01 – Dealer in Firearms Other Than Destructive Devices license shall be submitted to the Department of Fire and Life Safety prior to issuance of a Certificate of Occupancy for the home occupation use.
12. In accordance with Section 24.1-115(b)(7) of the York County Zoning Ordinance, a certified copy of the resolution authorizing this Special Use Permit shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court prior to issuance of a Certificate of Compliance and Occupancy for the home occupation use.

BE IT FURTHER RESOLVED that this Special Use Permit is not severable, and invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

Yea: (5)
Nay: (0)

Mathes, Magowan, McCulloch, Myer, Suiter

Application No. SE-22-13, Lafayette Gun Club of Virginia, Inc: Request for a Special Exception, pursuant to Section 24.1-801(a)(2) of the York County Zoning Ordinance, to authorize the expansion of a nonconforming indoor/outdoor firing range located on a 25.6-acre parcel of land located at 331 Dare Road (Route 621) and further identified as Assessor's Parcel No. 30-19. The property is zoned RC (Resource Conservation) and designated Medium Density Residential in the Comprehensive Plan.

Mr. Mathes stated that he would be recusing himself from participating in the Commission's discussion of and vote on this application, explaining that he was recently elected Vice President of the Lafayette Gun Club.

Timothy Cross, AICP, Principal Planner, summarized the staff report to the Commission dated July 2, 2013, in which staff recommends that the Commission forward the application to the Board of Supervisors with a recommendation of approval subject to the conditions set forth in proposed Resolution No. PC13-15.

Ms. Magowan asked if noise, safety, and environmental concerns are outside the Commission's scope in reviewing this application.

Mr. Cross responded that gun clubs and shooting ranges are specifically exempt from the County's noise ordinance. Regarding safety, he stated that the planned cover over the action pistol range would improve safety while the other proposed improvements would have no affect on safety. With regard to environmental concerns, he explained that the Virginia Department of Environmental Quality has indicated that it has no regulatory authority over lead, whether in the soil or in the lake.

Ms. Magowan asked about buffers.

Mr. Cross responded that the applicants had originally proposed to build the multi-purpose building in a location that did not meet the 100-foot buffer requirement set forth in the Zoning Ordinance, so they had to relocate it, which he said was unfortunate since the new location will require additional clearing.

Ms. Magowan asked about the ownership and use of the lake

Mr. Cross clarified that the Brandywine Lakeowners Association owns 17 acres of the 22-acre lake with the gun club owning and remainder and having the right to use the lake.

Mr. Myer noted that the age and size of many of the trees in the area between the outdoor range and Holden Lane appeared to contradict assertions that have been made that the area was once used as a small arms range. He asked if the proposed gravel access drive would be designed to meet the standards for land disturbance within a Chesapeake Bay Resource Protection Area (RPA).

Mr. Cross responded in the affirmative.

Mr. Myer asked if the County has received any formal complaints with regard to small arms shells or bullets falling outside the property

Mr. Cross responded that he is not aware of any formal complaints.

Mr. Myer asked if the lake is natural or man-made and if it was in place at the time the gun club was established.

Mr. Cross responded that it is man-made. **Mr. Carter** added that the lake is the remnant of a former borrow pit that pre-dated the surrounding development and was ultimately incorporated into the Brandywine subdivision design and layout.

Mr. Myer asked **Mr. Cross** if he has received any complaints about people from the gun club parking on School Board property.

Mr. Cross responded that he has not.

Chair Suiter opened the public hearing.

Donald Streater, 108 Paspheghe Run, President of the Lafayette Gun Club, spoke on behalf of the club. He stated that the application is a modest request to allow the club to build some ancillary facilities that would have no adverse impacts on surrounding residents. He introduced the project engineer, **Donald Davis**, to discuss the project details.

Donald Davis, 3630 George Washington Memorial Highway, stated that he and the applicants had met with County and VDOT staff several months ago to discuss the project and the current plan reflects the input they received. He outlined the various planned improvements, including a new multi-purpose building for meetings and classroom training, a picnic pavilion, a new waterline, and a wider entrance road to better accommodate emergency vehicles.

Mr. Myer asked **Mr. Davis** about the stormwater drainage improvements and if any mitigation techniques would be utilized to prevent any lead from getting into the stormwater drainage system, and he noted that he had given him a copy of the Army small arms manual addressing this issue.

Mr. Davis responded that since the property is in a Chesapeake Bay Preservation Area, a Natural Resources Inventory and major water quality impact analysis would be conducted and submitted with the site plan.

Ms. Magowan asked about the entrance road improvements.

Mr. Davis responded that the proposed access road would be designed to accommodate emergency vehicles in accordance with County requirements.

Ms. Magowan asked if the club pays any of the costs of lake maintenance and if members use the lake.

Mr. Streater responded that he does not believe the club pays for any lake maintenance and that there is some use of the lake by club members.

Ms. Magowan asked how many members the club has.

Mr. Streater responded that there are approximately 3,300 dues-paying members and that there are about 300 more that have not yet paid their dues, adding that 32% of the members live in York County.

Ms. Magowan asked if the gun club has any boats or kayaks on the property.

Mr. Streater responded that it does not, that members have to bring their own boats or kayaks if they want to go out on the lake.

Ivan Wayne Dickerson, 109 Holden Lane, stated that he is a Vietnam veteran and is not opposed to guns but that he feels a decision on the application should be delayed until the lake has been tested for lead. He

stated that there has been lead in the lake, and he felt the groundwater should also be tested for lead, noting that there are some private wells in the area.

Alton Culver, 136 Brandywine Drive, recommended that the application be denied and that a full risk assessment of the site and the surrounding area should be performed before any expansion takes place. He stated that the club had only around 800 members when he bought his home but has grown considerably since then. He stated that he has had lead shot in his backyard and that when he spoke to the club's Range Safety Officer about it, they moved the range shooting position over so that now the lead shot does not land on his house but still lands in the lake. He stated that the action pistol range is not safe and should not be allowed to operate without a cover, and he felt that the club should be brought up to the highest safety standards. Lastly, he stated that any Planning Commission members who belong to the club should recuse themselves from participating in this decision.

Sandra Culver, 136 Brandywine Drive, stated that the club had 873 members when she bought her home in 1995 and now has over 3,000 members. She noted that the Brandywine Lakeowners Association pays to maintain the lake and carries insurance. She stated that she has had lead shot land on her shed, and she expressed concern about the safety of the action pistol range and that she has seen men urinating on the back side of the building in view of her home. Ms. Culver stated that as a member of the club, the Board of Supervisors member from District 4 should recuse himself from considering this application. She recommended that a committee be formed to study the gun club to study the risks and develop a plan to address current and future safety concerns.

Erin Tapajna, 204 Henry Lee Lane, requested that the Commission table the application. She cited the gun club's tax returns, which indicate a clear growth pattern over the years. She stated that the club has about 300 law enforcement officers who do not pay dues, so the membership total is closer to 4,000, which is beyond the capabilities of club volunteers to properly monitor the facility. She stated that boat users on the lake are a nuisance and added that the club is going to start charging Boy Scouts \$5.00 apiece to camp on the property.

Brian Tapajna, 204 Henry Lee Lane, stated that the lakeowners association carries liability insurance on the lake and that he hopes the club does as well. He agreed that the club does need a new building, but he expressed concern that it and the other improvements will increase the use of the property. He stated that the County is responsible for the residents' safety since it approved the housing around the gun club.

Martha Dodd-Slippy, 5454 Dry Bread Road, Emporia, Virginia, stated that the gun club is needed so people can learn to protect themselves. She stated that homeowners should work with the club to resolve any conflicts.

Chair Suiter declared a recess.

Jeff Allen, 138 Brandywine Drive, requested that the Commission table the application. He noted that the Zoning Ordinance section dealing with expansion of nonconforming uses specifically refers to building floor area and not land coverage, and he felt that having built an illegal building that has since been demolished, the club has forfeited any "grandfathering" rights it had. He stated that the open air action pistol range is in violation of safety standards and also poses a danger to air traffic. Citing the Virginia Declaration of Rights, he stated that the club's operations should be investigated to ensure it meets the highest safety standards.

Linda Allen, 138 Brandywine Drive, noted that the Code of Virginia states that one of the purposes and objectives of zoning is to promote the health, safety, morals and general welfare of the community to protect and conserve the value of buildings, encourage the most appropriate use of the land, to improve the

safety, convenience, welfare of its citizens and provide residential areas with healthy surroundings for family life. She stated that the 50% limit on expansion of the nonconforming use should be based on building area rather than land coverage, as specified in the Zoning Ordinance. She stated that shooting occurs in the indoor range at night when the doors are open for ventilation, and she expressed concern about allowing Boy Scouts to camp out on lead-contaminated land. She requested that the application be tabled to allow further investigation.

Danny Diggs, 113 Goose Creek Road, stated that he is not a member of the club but was speaking as both a citizen and as the York-Poquoson Sheriff. He stated that several law enforcement agencies use the club, as do the Boy Scouts and other civic groups. He noted that the club is not proposing to add or expand any ranges, and that this application is just a matter of a property owner wanting to put an additional building on their land. In addition, he stated that the increase in membership is a result of the current political climate, which he feels has led to citizens' concerns about the preservation of their second amendment rights.

Steven Roane, 307 Fielding Lewis Drive, stated that he is a club member and that he considers himself lucky to live near the club property. He stated that it is an exceptional facility and he recommended that the application be approved.

Wes Thomas, 111 Bethany Terrace, stated that he is a 1986 graduate of Tabb High School who received letters for both football and the ROTC rifle team. He noted that the club is used by Boy Scouts, law enforcement, and other groups and that the members police themselves effectively. He stated that the sound of gunfire is the sound of freedom.

Frank Causey, 120 Brandywine Drive, stated that he is President of the Brandywine Lakeowners Association and that he shares the concerns expressed by other lakefront property owners. He expressed concern that construction activities could cause runoff of lead into the lake and that he would like the Virginia Department of Environmental Quality to conduct a study of the site to determine if there is lead in the soil. He stated that he would like to work with the club on noise attenuation, and he asked who would be liable if a Boy Scout were to drown in the lake.

Bonita Causey, 120 Brandywine Drive, said that she understands that the gun club operations are grandfathered but felt that adding facilities would increase the amount of shooting. She cited a recent incident in Richmond involving a child who was killed by a stray bullet fired into the air that could have been fired from as far as two miles away. She requested that the public hearing be continued until the gun club submits a plan addressing the issues raised by neighboring residents.

Anthony Bavuso, 114 Creek Circle, noted that the gun club was there before the surrounding residents and wondered why it is considered to be a nonconforming use rather than the homes, which he felt should not have been permitted. He stated that the gun club property should be zoned for a gun club. He also felt that the gravel access drive should be allowed to extend to the lake as originally proposed by the applicant.

Ray Novey, 117 Holden Lane, suggested that a noise analysis be conducted by an independent agency to determine the baseline noise levels generated by the club. He also recommended that the multi-purpose building be moved to the location originally planned by the club so as to minimize the amount of clearing and provide better noise abatement for the community. He noted that the Boy Scouts have pit fires on the property and stated that the Department of Fire and Life Safety should perform an evaluation to determine if the existing and proposed fire hydrant locations will allow it to properly respond to fires in the area. In addition, he suggested that a hotline be established for complaints related to the gun club. Lastly, he stated that any gun club members on the Commission should recuse themselves from considering the application.

Philip VanCleave, 5509 West Bay Court, Midlothian, stated that he is President of the Virginia Citizens Defense League and a certified instructor who has taught a course at the gun club. He stated that this is a private property issue and that the gun club needs the additional space, noting that there are not enough gun clubs in Virginia. He added that club membership has grown because of the political climate and a growing recognition that citizens need to be able to protect themselves.

Cara Davis, 105 Holden Lane, stated that she is a Navy veteran and gun owner who has lived in Brandywine for seventeen years. She stated that objections to the gun club's expansion have nothing to do with the second amendment. She felt that the membership has increased beyond the originally grandfathered use. She stated that noise has gotten louder and more persistent. She said she appreciates the club's efforts to be a good neighbor by making safety improvements and limiting the hours of operation but that there is very real safety concerns. She added that the total value of homes within 500 feet of the club is \$30 million. She requested that the Commission table the application.

Carla Switzer, 287 Colony Road, Newport News, stated that she is Junior Program Chair at the gun club and she detailed the club's youth programs and activities. She added that the club sponsors about forty local Boy Scout troops.

Mark Lawrence, 107 Holden Lane, stated that he has lived in Brandywine for 24 years and that he was aware of the gun club's presence and history when he purchased his home. He said that while he does not oppose the existence of the club, there are serious safety concerns as membership has increased over the years. He attributed the absence of formal complaints to the fact that residents previously did not know to whom they should report complaints. He noted the lack of a thorough surveillance system covering the entire property to allow monitoring of any incidents that occur.

Bob Pride, 11 Rivercrest Drive, Poquoson, stated that he is a member of the gun club and that complaints about bullets, lead etc. have nothing to do with the application, which is for a clubhouse. He asked the Commission to approve the application.

Nancy Gruttmen-Tyler, 307 Beauregard Heights, stated that the issues that have been raised during the meeting have nothing to do with the proposed building. She noted that even though there are 3,000 to 4,000 members, they are not all there at once. She noted that members are required to sign in and that based on club records there have been 140 people using the club per week, on average, or an average of twenty per day, since January. With regard to concerns about lead contamination, she stated that as a 31-year Army veteran, an NRA instructor, and a Virginia Department of Justice and Criminal Services law enforcement instructor, she regularly has her blood tested for lead and is well within the normal range. She also disagreed with one of the previous speakers who stated that the lake drains into the York River.

Nick Sorokos, 149 Brandywine Drive, expressed concerns about safety, noise, and the lack of on-site supervision at the club. He stated that canoes and kayaks launched from the gun club property trespass into the Brandywine portion of the lake and that members have shot at the inside of the clubhouse/indoor range building. He cited a court case where the court denied a gun club expansion because it was a nonconforming use. He requested that the application be tabled.

Bradford Powell, 201 Gaines Way, stated that he is a member of the lakeowners association. He stated that the focus of the discussion should be on the buildings, and he stated that it is difficult to corral young boys in a small clubhouse where shooting is taking place. He stated that homeowners' concerns are based on perceptions rather than reality and that this application is about a building.

Joe Sable, 4A Sir Ralph Lane, Poquoson, stated that he joined the gun club so his children and grandchildren could learn about safe and responsible gun use. He stated that the expansion is an opportunity to enhance the coexistence that already exists between the club and citizens.

Bob Frailey, 729 Charles Road, stated that residents who purchased homes near the gun club appeared to be under the false impression that the club would never change. He also expressed concern about the use of taxpayer money to pay for all of the studies being requested by neighboring residents.

Bryan Nicely, 105 Madeira Drive, stated that he is a club member who grew up in York County and likes target shooting. He stated that the gun club is a safe facility and an asset to the County.

Nancy Crockett, 210 Henry Lee Lane, stated that she is an NRA member who supports the gun club and enjoys boating on the lake. She stated that while kayaking recently she observed buckshot raining down on the lake. Stating that the relevant issue is safety and not the second amendment, she requested that the Commission table the application.

Tom McFadzean, 107 Willoughby Drive, Williamsburg, stated that he is club member. He stated that the proposal is to build a new building and that the County should allow the club to build a facility to teach both children and adults about proper gun use. He stated that the concerns that have been expressed have nothing to do with the application.

David Wolfe, 308 Peachtree Lane, stated that he is a member of the gun club and a range safety officer. He said there are video cameras at every firing lane. He said the gun club has an excellent Board of Directors and that the homeowners need to talk to the Board members to try to resolve some of their problems. He also stated that safety is the paramount to the Board.

Mike Salka, 327 Blake Circle, Hampton, stated that he has a membership at the gun club. He stated that one of his sons has earned shooting badges from the gun club. Mr. Salka stated that he used to be an environmental construction consultant specializing in asbestos and lead contamination. He stated that the proposal before the Commission has nothing to do with the firing ranges and the upgrades to the club will provide better safety training.

Keith Sadler, 9929 Mountain Berry Court, Toano, stated that the gun club has been at its current location for a long time and if the residents did not like the location of the gun club then they should not have moved so close to it. He stated that the complaints tonight are not relevant and that the expansion should be allowed.

Al Motley, 8 Wood Creek Court, Hampton, expressed his appreciation for the gun club working with the Boy Scouts and many other youth groups. He stated that gun club volunteers helped with the training, coaching, and directly supervising the scouts while on the overnight visits.

Doug Peterson, 5 Quail Place, stated that he is a member of the gun club and that the club does many good things for the community. He opined that any lake contamination is attributable to the former construction and debris landfill nearby and should be tested.

Kristen Allen, 108 Brandywine Drive, stated that she owns a gun and loves the gun club but she does have some concerns regarding safety. She stated that when she was younger she was able to sneak onto the property undetected and walk around.

Jorlean Dressure, 134 Brandywine Drive, stated that she lives directly across from the open range. She stated that what the club has done in the community has been exemplary. She stated that she received a

letter that outlined several improvements proposed by the gun club and that she was invited to a town hall meeting last week at which all of these improvements were discussed. She asked why tonight's discussion is only about a building and not the other projects that were discussed at the town hall meeting.

Kathy Perdue, 1053 Willow Green Circle, Newport News, stated that she taught her daughter how to use a gun at the gun club and is thankful to the club for providing her this opportunity. She stated that the gun club is the only range in the area.

Eugene Motley III, 122 Salt Pond Road, Hampton, stated that a person can not enter the gun club without a card and a computer sign in. He acknowledged that the gun club has some problems and those are being addressed.

Caroline Sorokos, 149 Brandywine Drive, stated that the gun club should use the existing building and address the space deficiency through better time management and scheduling for the training and events. She stated that the gun club should be limited to its original plan because the area has changed.

Jerold Ames, 113 Mill Road, related an incident involving a friend's son who was accidentally shot and killed by someone who had not been taught how to handle a gun. He stressed the importance of gun safety education for children, and he stated that he is closely monitored when he goes to the gun club to shoot.

Dennis Cook, 118 Brandywine Drive, stated that he is Treasurer of the lakeowners association and that the lake is in pristine condition because over \$45,000 has been collected from the lakefront residents to treat the lake. He stated that the gun club brought up the issue with safety within this proposal. He stated that the reason the gun club is putting a cover over the action pistol range is because what the current activities are not safe. He would like the gun club to provide maximum safety at the range by having no blue sky anywhere.

Michael Faulkenny, 815 Weymouth Drive, Newport News, stated that he is a gun club member. He stated that there has been some good discussion at the meeting but that this meeting probably is not the right forum for some of the issues raised. He stated that there had been a lot of discussion about safety and he stated that the best way to achieve safety is with facilities and training.

Chair Suiter closed the public hearing.

Ms. Magowan asked if the lakefront homeowners are paying for all of the maintenance of the lake and if they have any legal right to keep the gun club from using the lake.

Mr. Barnett, County Attorney, responded that if the water abuts the property of the gun club then the gun club has the right to use the lake.

Mr. Myer asked if the lake was deeded to the lakeowners association by the County.

Mr. J. Mark Carter, Assistant County Administrator, responded that when the last section of Brandywine was platted in 1993, the tract that was subdivided included part of the former borrow pit that had filled with water. Subdivision Ordinance provisions required that a formal property owners association be created to assume ownership of the lake portion of the Brandywine parent tract. The developer created an arrangement to include both the newest section (Section 7) and the lake front properties located on Holden Lane, which had been platted as part of Brandywine section 6. If there was a deed it would have been from the developer to the Lakeowners Association.

Mr. Myer asked Sheriff Diggs what the procedure is for citizens to notify the County if bullets are straying from the gun club.

Sheriff Diggs responded that the citizens should call the Sheriff's Office and a deputy would come to the resident and take a report. He stated that if it was not appropriate for the Sheriff's Office to take action then the report would be referred to the appropriate County department.

Chair Suiter asked about the construction of the buildings and the stormwater runoff from clearing land for construction. He stated that his understanding is that under federal law all construction has to be monitored, and he asked what standard procedures the County has in place for monitoring stormwater runoff during construction periods.

Mr. Cross responded that the County has erosion and sediment control standards in place and staff who review plans and monitor erosion. He stated that there are state stormwater management regulations that have to be followed and County staff who enforces those regulations. He stated that it is a fairly rigorous review and inspection process, even more so on this site since it lies entirely within either the Resource Protection Area or Resource Management Area for the Chesapeake Bay, which involves special performance standards.

Chair Suiter noted that the Zoning Ordinance specifies that a non-conforming use can be permitted to expand by no more than 50% of its size on the day it became non-conforming, and he asked if the County knows what the square footage of the buildings was on the day the firing range became non-conforming. He asked why the 50% threshold for expansion is based on land coverage rather than just building floor area.

Mr. Cross responded that the property became non-conforming on March 1, 1957, which is when the County's first Zoning Ordinance was adopted. He explained that the firing range includes the land dedicated to the ranges and not just the buildings. He stated that for some time the total square footage of both the ranges and the buildings has been used to determine the total square footage of the nonconforming use.

Ms. Magowan asked about the width of vegetative buffer between the homes and the lake.

Mr. Cross responded that the distance between the proposed multi-purpose building and the nearest residential property is 107 feet.

Ms. Magowan asked if there are trees in that buffer area.

Mr. Cross responded that there are trees in the buffer and that some of them will have to be removed during construction. Mr. Carter added that the gun club will be required to maintain a 100-foot wooded buffer.

Ms. Magowan asked is there a heavily wooded buffer between the homes and the range.

Mr. Cross stated the distance from the proposed building is greater than the distance from the current building.

Ms. Magowan stated that there would not be firing from the proposed building and asked what the distance is between the buildings where members shoot firearms and the lake.

Mr. Cross stated that he did not know.

Mr. McCulloch stated that both the gun club members and the homeowners have stated there are some issues with safety concerning the club but these issues will be resolved over time. He also stated that the other big issue seems to be the use of the lake, and he felt that there needs to be better communication between the gun club and the homeowners. He stated that what the Planning Commission needs to review is the application. Mr. McCulloch expressed support for the application.

Mr. Myer stated that these issues have many facets but the focus of the Planning Commission is on land use rights. He stated that the Commission will forward its recommendation on to the Board of Supervisors, which has a broader focus than the Commission. Mr. Myer stated that he agrees with Mr. McCulloch that the biggest issue is communication between the two parties.

Ms. Magowan stated that the conflict between the homeowners and the gun club is the inevitable result of the simultaneous growth of both the club and the surrounding neighborhoods. She expressed concern that adding buildings would draw more people to the gun club which will add to the problem and create a safety problem. She stated that she supports the proposal but believes the Commission should also try to mitigate the safety problem before moving forward.

Chair Suiter stated that the issue before the Planning Commission is whether to recommend approval of two buildings and a road. He said that the environmental issues relating to the construction of the buildings will be monitored. He stated that the construction of the buildings would not make the gun club less safe and that he felt it would likely improve safety. He stated that any homeowners who do not feel safe in their neighborhood should speak with the Board of Supervisors. Chair Suiter expressed his support for the application.

Mr. Myer asked if the County can require the gun club to follow a sequencing schedule of planned improvements as a condition of approval to ensure that certain improvements are made before others.

Mr. Barnett responded that a permit condition has to have a logical connection to what is being requested and that the question to ask is whether or not the proposed development is giving rise to the need for whatever condition is being imposed. If so, then a condition would be considered reasonable.

Mr. Myer said that the gravel driveway going to serve the action pistol range and the proposed cover over the action pistol range might be considered a logical connection.

Ms. Magowan asked if the classroom training could be linked with the cover over the action pistol range.

Mr. Carter responded that the issue to look at is whether or not the capacity of the ranges is being increased as a result of the construction of a picnic pavilion and a classroom building, and he felt that it is not. He said that all of the proposed improvements would likely be shown on a single site plan and that when County staff inspects the property, they will check to see if everything shown on the site plan has been implemented.

Mr. McCulloch moved adoption of Resolution No. PC13-15.

A RESOLUTION TO RECOMMEND APPROVAL OF A SPECIAL EXCEPTION TO
AUTHORIZE THE CONSTRUCTION OF VARIOUS FACILITIES ON THE PROPERTY
OF A NONCONFORMING INDOOR/OUTDOOR FIRING RANGE AT 331 DARE
ROAD

WHEREAS, the Lafayette Gun Club of Virginia, Inc. has submitted Application No. SE-22-13 requesting a Special Exception, pursuant to section 24.1-801(a)(2) of the York County Zoning Ordinance, to authorize the construction of various ancillary facilities on the site of its nonconforming indoor/outdoor firing range located on a 25.6-acre parcel of land located at 331 Dare Road (Route 621) and further identified as Assessor's Parcel No. 30-19 (GPIN S06b-4802-3797), thus constituting an expansion under the terms of the Zoning Ordinance; and

WHEREAS, said application has been forwarded to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has carefully considered the public comments with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 10th day of July, 2013, that Application No. SE-22-13 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval to authorize the construction of various ancillary facilities on the site of the existing nonconforming indoor/outdoor firing range located on a 25.6-acre parcel of land located at 331 Dare Road (Route 621) and further identified as Assessor's Parcel No. 30-19 (GPIN S06b-4802-3797) subject to the following conditions:

1. This Special Exception shall authorize the construction of various ancillary facilities, thus constituting an expansion under the terms of the Zoning Ordinance, on the site of an existing nonconforming indoor/outdoor firing range located on a 25.6-acre parcel of land located at 331 Dare Road (Route 621) and further identified as Assessor's Parcel No. 30-19 (GPIN S06b-4802-3797).
2. A site plan prepared in accordance with the provisions of Article V of the Zoning Ordinance shall be submitted to and approved by the York County Department of Environmental and Development Services, Division of Development and Compliance, prior to the commencement of any land clearing or development activities on the site related to the expansion. Said site plan shall be in substantial conformance with the sketch plan titled "Site Development Plan, Site Entrance Improvement Plan Building 'A' & Building 'B' of Lafayette Gun Club of Virginia, Inc." prepared by Davis & Associates, P.C., dated May 27, 2008 and revised May 1, 2013, except as modified herein.
3. The proposed gravel drive along the western side of the property shall extend no further than fifty feet (50') beyond the location of the proposed 84-inch corrugated pipe and access walkway through the firing range berm as depicted on the referenced plan.
4. Any demand for overflow parking shall be accommodated in the open area between the existing indoor range building and the paved entrance drive and no closer than seventy-five feet (75') to the boundary of any residential property on Holden Lane.
5. Nothing in this approval action shall be deemed to constitute authorization for additional indoor or outdoor firing ranges.
6. A certified copy of the resolution authorizing this Special Exception shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court prior to application for site plan approval.

BE IT FURTHER RESOLVED that this Special Exception is not severable and invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

Yea: (4) McCullough, Suiter, Magowan, Myer
Nay: (0)

OLD BUSINESS

There was no old business.

NEW BUSINESS

There was no new business.

STAFF REPORTS

Mr. Carter referred to the Development Activity Report dated July 10, 2013, and offered to answer any questions. He stated that the Board of Supervisors has scheduled a public hearing on August 20 to receive public comment on the draft updated Comprehensive Plan. In addition, he stated that there will be a joint work session with the Board on August 6 to discuss the draft updated Comprehensive Plan.

COMMITTEE REPORTS

There were no committee reports.

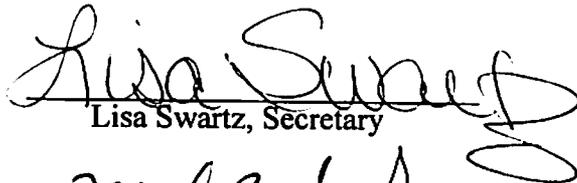
COMMISSION REPORTS AND REQUESTS

There were no Commission reports and requests.

ADJOURN

The meeting was adjourned at 10:35 P.M.

SUBMITTED:


Lisa Swartz, Secretary

APPROVED:


Mark B. Suiter, Chair

DATE:

July 14, 2013