

MINUTES

RANDOLPH COUNTY PLANNING BOARD

June 5, 2007

The Randolph County Planning Board met at 6:30 p.m., on Tuesday, June 5, 2007, in the Commissioners' Meeting Room, Randolph County Office Building, 725 McDowell Road, Asheboro, North Carolina.

1. **Chairman Lynden Craven** called to order the Randolph County Planning Board meeting at 6:30 p.m.
2. **Hal Johnson**, Planning Director, called roll of the members: Lynden Craven, Chairman, present; Jim Rains, Vice Chairman, present; Larry Brown, absent; Phil Ridge, present; Chris McLeod, present; Reid Pell, present; Wayne Joyce, present; and Danny Shaw, Alternate, present (substituting for regular member Brown). Alan Pugh, County Attorney, was not present for this meeting.
3. **McLeod** made the motion, seconded by **Pell**, to **approve** the minutes of the May 8, 2007 Randolph County Planning Board meeting. The motion passed unanimously.
4. **ORDER APPROVING SPECIAL USE PERMIT:**

NORTH CAROLINA

*RANDOLPH COUNTY
PLANNING BOARD*

ORDER APPROVING SPECIAL USE PERMIT

***IN THE MATTER OF THE APPLICATION
FOR SPECIAL USE PERMIT BY
STEPHEN WRIGHT***

THIS MATTER, coming before the Randolph County Planning Board at the May 8, 2007, session of the Randolph County Planning Board on petition of Stephen Wright to grant a Special Use Permit 1 to allow a landscaping business behind residence as per site plan located at 3706 Buffalo Ford Road, on 2.00 acres, Secondary Growth Area, Grant Township, Zoning District RA, Tax ID #77809184911,1 and having heard the sworn evidence presented, and having received into evidence such exhibits as presented by the applicants and opponents of the application, and after affording all

who wished to be heard and sworn the opportunity to testify, examine, and cross-examine witnesses and to make arguments; now based on substantial, relevant and credible evidence, or the absence thereof, said Board makes the following :

FINDINGS OF FACT

- 1. The applicant presented a site plan and agreed to move the new driveway 15 ft. off the property line of Mr. Auman.***
- 2. The applicant agreed to construct a privacy fence, and to maintain a single row of Leyland cypress trees between the drive and the privacy fence.***
- 3. The applicant provided testimony that he was asking for the 5 existing outbuildings to be used to store his equipment, and that he would store 2 pieces of equipment, 2 trucks, and 2 trailers at this location.***
- 4. The applicant stated that he would not install the driveway unless something happened to his father and he does not have access across his father's property.***
- 5. The applicant said that he was now acquiring more property at his current business site, and would use this existing business site to store most of his equipment.***
- 6. Testimony was provided from Mr. Jerry Auman that it was his opinion that location of this driveway would have an adverse impact on Mr. Auman's property because of the expected truck traffic and weekly use by employees going to the applicant's house to receive pay.***
- 7. Testimony was provided from Sara Auman that it was her opinion that Mr. Wright would not have enough room to build a driveway with a 15 ft setback from her property line.***
- 8. The County Planning Director stated that the application was complete and met the requirements of the Ordinance. The property is located in a Residential/Agricultural Zoning District, and a Secondary Growth Area on the County Growth Management Plan.***

BASED ON THE GREATER WEIGHT OF EVIDENCE AND THE FOREGOING FINDINGS OF FACT, AND AS REFLECTED IN THE OFFICIAL MINUTES OF THE PUBLIC HEARING, THE RANDOLPH COUNTY PLANNING BOARD MAKES THE FOLLOWING CONCLUSIONS:

- 1. The proposed use will not materially endanger the public health, or safety if located where proposed and developed according to the plan as submitted and approved. (F.F. 1, 2, 3)***
- 2. The proposed use meets all of the required conditions and specifications. (F.F. 8)***

3. *The proposed use will not substantially injure the value of adjoining or abutting property. (F.F. 1, 2, 3, 5, 8)*
4. *That the location and character of the use, if developed according to the plan as submitted and approved will be in harmony with the area in which it is to be located and in general conformity with the Randolph County Growth Management Plan. (F.F. 1, 2, 3, 5, 8)*

BASED ON THE FOREGOING FINDINGS OF FACT AND CONCLUSIONS, the application for a Special Use Permit is approved by a vote of 7 to 0:

The following special conditions are placed on issuance of the Special Use Permit where, in the judgment of the Board, such conditions will better insure compliance with the CONCLUSIONS #1, #3, AND #4:

- △ *No chemical storage*
- △ *No servicing of equipment at this location*
- △ *No employee parking and no new building for an office*
- △ *5 sheds for storage of 5 pieces of equipment (no outside storage of equipment)*
- △ *no more than 2 trucks with trailers at the designated parking area at the rear of the property*
- △ *plant and maintain 8-10 ft. Leyland cypress now*
- △ *standard 6 ft. privacy fencing before driveway is installed*
- △ *driveway must have a 15 ft. setback from the property line*

Rains made the motion, seconded by **McLeod**, to approve the Order Approving the Special Use Permit for Stephen Wright. The motion passed unanimously.

5. **REQUESTS FOR A SPECIAL USE PERMIT:**

Swearing in of the Witnesses - "Do you swear or affirm that the information you are about to give is the truth, the whole truth, and nothing but the truth, so help you God."

One person took this oath.

- A. **DANNY STALEY**, Seagrove, North Carolina, is requesting a Special Use Permit to allow planned rural development to allow a second residence for a family member as per site plan on Lot #13 of Haywood Acres Subdivision, located at 5736 Hayes Farm Road, on 10.00 acres, Rural Growth Area, Brower Township, Zoning District RA, Tax #8606031881.

Staley was present and explained that he wants to place a second residence on his property for his daughter. Staley said he and his wife would like for his daughter and her husband to live close to them as they are getting older. Staley said that he

maintains the road and tries to keep it in good shape.

There was no one present in opposition to this request.

Pell made the motion, seconded by **Rains**, to **approve** this request for a Special Use Permit. The motion passed unanimously.

6. **REQUESTS FOR PROPERTY REZONING:**

- A. **KEVIN PRITCHARD**, Asheboro, North Carolina, is requesting 4.57 acres out of 18.06 acres located on Fairview Farm Road (off NC Hwy 42), Grant Township, be rezoned from RA to RBO-CD. Secondary Growth Area. Tax ID# 7679848999. The proposed Conditional Zoning District would specifically allow parking and maintenance area for household waste disposal business as per site plan.

• **Technical Review Committee Recommendation**

The Technical Review Committee met and found that this proposal was in compliance with the standards outlined in the Growth Management Plan adopted by the Board of County Commissioners on February 4, 2002. The Technical Review Committee recommends to the County Planning Board that this request be approved with a Level 1 buffer instead of the proposed 25' buffer. Examples of some Growth Management Policies that the Technical Review Committee found supporting this recommendation are:

Policy 4.3 Rural area commercial development should be limited to neighborhood business uses, farm supply stores, and generally accepted rural business establishments.

Policy 4.5 Effective buffering and/or landscaping should be provided where commercial development adjoins existing or planned residential uses.

Policy 4.6 Compatible land uses such as rural neighborhood retail and service establishments located close to general residential areas should be considered during the rezoning process with the general goal of reducing automobile travel distances and promoting better livability in the community.

Pritchard was present and explained his intentions to have his business located on the site of his future residence. Pritchard said that his property was cleared along time ago and he plans to plant evergreen trees for a buffer. Pritchard said that he currently owns 8 garbage trucks and serves 2,400 customers. Pritchard said he has 2 employees that will come to the site to pick up the trucks. Pritchard said they will run their routes, take the garbage to the landfill, and return the empty trucks to the property. **Ridge** asked Pritchard why he is requesting such a large amount of acreage for his business; and **Pritchard** said that he probably only needs about

half this amount of land. Pritchard said that he doesn't plan for his business to grow over the remaining acreage. **Rains** asked Pritchard where he cleans the trucks. **Pritchard** said that they clean the inside of the trucks at the landfill.

Roy Everett Garner, Jr, 2392 Fairview Farm Road, said he lives two parcels down from this site. Garner said he is not against the business, but he wanted to know how big the business could grow. **Johnson** explained that this is a Conditional Zoning and he is asking for specifically what he has explained to the Board. Johnson said that in order for the business to grow he would be required to come back to the Board. **Garner** asked if Pritchard could get more trucks; and **Johnson** answered that he would have to come back to the Board to amend his Conditional Zoning to have additional trucks.

Rains asked if the request is tied to the specific number of trucks; and **Johnson** answered yes.

Ridge asked Johnson if the Planning Staff will work with Pritchard on the buffer. **Johnson** answered yes.

McLeod made the motion, seconded by **Ridge**, to recommend to the Commissioners that this request be **approved** as consistent with the Growth Management Plan for this area. The motion passed unanimously.

- B. JAMES SMITH**, Greensboro, North Carolina, is requesting 14.2 acres located at 6788 Willard Road, Liberty Township, be rezoned from HI-CU to HI-CD. Primary Growth Area, Rocky River Watershed. Tax ID# 8725675147. The proposed Conditional Zoning District would be to amend existing conditions to allow flexibility in operating hours based on event schedule.

- **Technical Review Committee Recommendation**

The Technical Review Committee met and found that this proposal was in compliance with the standards outlined in the Growth Management Plan adopted by the Board of County Commissioners on February 4, 2002. The Technical Review Committee recommends to the County Planning Board that this request be approved.

Examples of some Growth Management Policies that the Technical Review Committee found supporting this recommendation are:

Policy 1.2 *The benefits of economic development should be balanced against the possible detrimental effects such development may have on the quality of life enjoyed by area residents.*

Policy 1.6 *Planning and development decisions should be based on the principal of promoting investment in Randolph County to expand employment opportunities while preserving and improving the*

quality of life for all county residents.

Policy 4.5 *Effective buffering and/or landscaping should be provided where commercial development adjoins existing or planned residential uses.*

Johnson reviewed the current conditions on the property.

- Days/Times - Total of 45 operating days per year (43 Fridays or Saturdays / 2 Sundays)
- Trash - All trash must be picked up and disposed of within 48 hours after event (No burning trash on-site, must have adequate trash containment)
- Fencing - 8 ft. fence around entire facility (except along Willard Road - current fencing permitted)
- Buffers - Trees planted as per site plan (leyland cypress trees spaced 10 ft. apart / no less than 3 gallon size)
- Grounds, Facilities, and operations must comply with site plan

Smith was present and explained his intentions to have more flexible hours of operation. Smith said he has operated here for 7 ½ years and this has become a very good business. Smith said that he has purchased more property to build his residence near the track. Smith said he has 3 full-time employees and 16 part-time employees. Smith said that he has only used Friday nights for parking and Sundays for practice. The races have only been held on Saturdays. Smith said that this is the number one facility on the entire East Coast. Smith said that they brought 22,000 people to Randolph County with their racing events and filled up all the motels in the area seven times. Smith said he supports the Sheriff's Office and the Emergency Services for Randolph County. Smith said that they had a power line fall last year during an event and there were people in attendance from 27 states. Smith said that sometimes his business is delayed by rain and if he called off a large event because it runs passed 11 p.m. he will be out of business. Smith said this is not a seven day operation, but he is asking to be able to run his business. Smith said that he is looking for flexibility to operate. **Johnson** asked Smith how many times he has run passed his 11 p.m. curfew. **Smith** said that he has never run over more 3 times. Smith said this past weekend his races ended at 7:45 p.m. Smith said most of the time his races end by 10:30 p.m. **Johnson** asked what was the most people he has had at the facility. **Smith** answered 2,700 people. **Johnson** told Smith that all the trees along the road front had died and it didn't look like any attention was given to them. Johnson added that he also noticed that a portion of the fence was down. **Smith** said that the fence has been repaired. **Johnson** said that he saw where people had taken their garbage and tossed it over the fence onto the neighboring property. **Smith** said he has hired Charlie's Lawn Care to come out and spray to kill all the briars so they can get to the fence. Smith said he has a kid walk the fence to pick-up the garbage. Smith said that he doesn't deny there could be some trash still there, but they do try to maintain the property. Smith said that he doesn't allow any drinking at the facility and he has had some people arrested. Smith said that when they started repairing the fence that was

taken down by the storm, they noticed that someone was dumping trash on both his property and the Wall property. Smith said that they even mow property that NCDOT doesn't mow. **Johnson** asked Smith what specifically he was requesting.

Smith said that he is not asking for a blank check, but he is asking for time extensions when unforeseen circumstances arise. Smith said he would be glad to report the incidences to the Planning Department. **Johnson** asked if can he meet the 11 p.m. curfew when everything is within his control; and **Smith** answered yes.

Rains asked how many races he had last year; and **Smith** answered 44 races.

Craven asked how long did he run over his curfew when the power line fell.

Smith answered that it took the power company 3 ½ hours to fix the power line and the event only ran over 1 hour and 14 minutes. Smith said he didn't want to cause any problems, but he just wants to be able to operate his business. **Ridge**

asked Smith what he does during an all day rain. **Smith** said he calls the big events off early in the week and a small local race would be called later in the week. Smith said if qualifying is over before the rain begins the race is over.

Ridge asked how many large events are held at Liberty Raceway; and **Smith** said he currently has 12 large events. **Rains** asked what type of development would be on the additional tract of land. **Smith** said that his son lives on the raceway property and he plans to build his home on the additional tract of land. Smith said that he has been in trucking for 29 years and he plans to build his home and retire here. Smith said he is not here to hurt Randolph County. Smith said that he sent 11,000 people to the Zoo this year. He said he knows this because he paid half the admission. Smith said he is not asking for any additional days of operation. Smith said he conducts his business well. Smith said he has corrected all the problems he had in the beginning with the exception of replacing 12 trees that died due to drought.

Marvin Wall, 6911 Sandy Creek Church Road, said that all of this sounds good but only part of it is true. Wall said that last Saturday he went to the chicken houses early in the morning and he went back to his hay fields at 9 p.m. and the races were finished. Wall said that most of the time this is not how it happens. Wall said Smith wants to start his races too late. Wall said that the National Anthem is sung around 6 or 6:30 p.m. and the races don't get started until after 7 p.m. Wall said that he goes to his chicken houses every time there is a race. Wall said if the races run passed 11 p.m. he calls 911. Wall said that his parents live 300 to 400 ft. from the track. Wall said that when the big go-karts run you can't even hear the TV inside their home. Wall said if Smith would start the races earlier he could end the races by the time curfew. Wall said the races don't even start before 11 a.m. or 12 p.m. Wall asked how many years has the County been trying to get him to plant the trees. **Johnson** answered a long time. **Wall** said he was suppose to plant the trees in 2002 and they weren't planted until last fall. Wall said that Smith doesn't pick up the trash on his side of the fence. Wall said that he can verify that trash was laying there Monday morning. Wall said his parents are in their 80's and they don't need the additional stress that this extra time will bring. Wall said that Smith works at the track at least 4 to 5 nights a week and the lights are on until 10:30 or 12 p.m. Wall said his parents have lived here for more than 60 years. Wall said that Smith can manage his business within

the times that have already been granted. Wall said he has not called 911 because of all the noise, but he has called when Smith has run passed his curfew. **Ridge** asked Wall how many times he has called 911. **Wall** said he has called maybe twice in 2007. **Ridge** asked how far passed the curfew has the races ran, and **Wall** answered 45 minutes to 1 hour. Wall said he doesn't want Smith to be given the blank check of "run when you want to." **Craven** said that Smith is not asking to run all the time. Craven said he is only asking for extra time when something unforeseen happens. Wall said that he understood this, but Smith will then start to push for more. Wall asked what if this starts happening every week, and **Craven** said that is when you call 911. **McLeod** said what if the Board gives him only a certain number of races that he can run over. **Wall** said this would make sense if it had any "bite" to it. Wall said it took Smith over 4 years to plant the buffer that was required. **Johnson** asked if the trees were planted behind the fence instead of in front of the fence originally. **Smith** answered yes, the trees were planted on the wrong side of the fence in 2000 by Charlie's Lawn Care. Smith said that it didn't take him 4 years to comply. Smith said he corrected the errors. **Wall** said that he has a 6 to 8 ft. opening in his fence for Smith to use to remove the trash and he hasn't used it yet. **Pell** asked if there was a time limit on when the lights must be turned out. **Johnson** answered no. **Rains** asked if the Board could change all or any of these conditions now, and **Johnson** answered yes. **Rains** asked Wall if there were any conditions he would like to see changed. **Wall** said that he would like the trash on both sides of the fence to be picked up within 48 hours after the race. Wall said that if Smith is not having a race he feels that the track should be shut down and not allowed to run on Sundays. **Rains** said that the problem seems to be that there is no one to police "unforeseen circumstances." Rains said that he felt it was fair during a situation of a power line going down to allow the extra time. Rains said he didn't feel it should be allowed just for rain. Rains asked if a big crash would be considered an unforeseen circumstance. **Craven** said that a crash would be an unforeseen circumstance. **Rains** said its racing is it really unforeseen. Rains said that it appears that Smith has spent 5 years not following these conditions and he should be required to follow these conditions for 5 years before he is given any flexibility in the conditions. **McLeod** asked Johnson how many times he has gotten complaints. **Johnson** said that Wall normally calls 911. **Rains** advised Wall to get the exact paper to determine what times of operation means. **Shaw** asked if there was a concession stand at the track, and **Wall** answered yes. **Shaw** asked if there were dumpsters on site, and **Wall** said there are several barrels for trash on the property.

Smith said that he cannot start racing every race at 8 a.m. Smith said that when a person gets hurt on the track he stops the race. Smith said that he opens the gates at 9 a.m. and it takes 3 hours to prepare the track for racing. Smith said the first race is at 1 p.m. Smith said Wall called 0 times in 2007 and 3 times in 2006. Smith said if he has 5,000 people on the site and it rains for 2 hours, he has to run his business. Smith said he provides dumpsters on site for the trash. Smith said he has a legitimate business and he wants to operate his business 45 days a year. Smith said this is a professional operation. Smith said he is not here to make any problems with Mr. Wall. Smith said if he needs a sheriff on the property at every

event he will arrange this.

McLeod said that Smith is asking for additional time when circumstances occur out of his control. **Craven** said he felt this was a reasonable request. Craven said he lives within 1/4 mile of Coleridge Raceway. Craven said they had their first motorcycle race there 3 weeks ago and he didn't hear any noise from that operation. **Joyce** asked Smith how many major events he has per year, and **Smith** answered 12 events. **Joyce** said he didn't feel there would be a problem with giving Smith extra time for unforeseen circumstances for 7 or 8 events per year. **Craven** said if he has 12 large events each year, why not give him 12 races per year. **Pell** agreed with Craven. **Ridge** said he didn't feel the Board could leave it open to all 12 events. **Pell** said that he would still be required to have an unforeseen circumstance to run beyond the 11 p.m. curfew. **Johnson** said that we are currently working proposed regulations to give code enforcement officers the ability to issue citations. Johnson said currently we have to give a code violator 30 days to come into compliance. Johnson said this handicaps us. Johnson said that if we could issue citations it would be a more effective way to police these type of problems. Johnson said we hope to have some recommendations for the Board to consider soon. **McLeod** said he felt the citations would definitely be needed to enforce these types of conditions. The Board members agreed with McLeod.

Ridge said he felt the Board should only give Smith a certain number of races.

McLeod made the motion to **approve** time extensions for 7 racing events with an unforeseen circumstance per calendar year and must provide documentation of the event and the circumstances to the Planning Department. **Pell** seconded the motion and the motion passed by a vote of 6 to 1, **Rains** voted against the motion. The Board also requested the Planning Director look into proposing and ordinance amendment that would allow Code Enforcement Citations to be issued. This would be a new mechanism within the Code Enforcement program to better enforce these type of conditions.

7. The meeting adjourned at 8:12 p.m. There were 15 people present for this meeting.

NORTH CAROLINA
RANDOLPH COUNTY

HAL JOHNSON

Planning Director

JILL WOOD

Date

Clerk/Secretary