

SALISBURY PLANNING AND ZONING COMMISSION

SPECIAL MEETING MINUTES

December 12th, 2024 7:00PM

Remote Meeting by Live Internet Video Stream and Telephone

1 **Members Present:**

2 Dr. Michael Klemens (Chair)
3 Cathy Shyer (Vice Chair) *arrived 7:09PM*
4 Martin Whalen (Secretary)
5 Allen Cockerline (Regular Member)
6 Bob Riva (Regular Member)

Members Absent:

Dr. Danella Schiffer (Alternate Member)
Beth Wells (Alternate Member)

Staff Present:

Abby Conroy, Land Use Direction (LUD)
Miles Todaro, Land Use Technical Specialist (LUTS)
Attorney Charles Andres

11 **Brief Items and Announcements**

12 1. Call to Order / Establish Quorum

13 Chair Klemens called the meeting to order at 7:00PM. A quorum was established with four regular
14 members present (Dr. Michael Klemens, Martin Whalen, Allen Cockerline, Bob Riva).

16 **Motion:** To approve the agenda.

17 Made by Riva, seconded by Cockerline.

18 Vote: 4-0-0 in favor.

20 **Pending Business**

21 2. #2024-0257 / Wake Robin LLC & Ms. Serena Granbery (ARADEV LLC) / 104 & 106 Sharon Road
22 & 53 Wells Hill Road / Special Permit for Hotel (Section 213.5) / Map 47/ Lot 2 & 2-1 / DOR:
23 08/05/2024 / Hearing Opened 09/03/2024 / *Possible Consideration*

25 Chair Klemens introduced discussion of the Intervenor’s burden. He explained the allegations of the
26 Intervention involved surface and groundwater quality and destruction of natural resources. He also
27 noted that the Intervenor presented on many topics in addition to these covered by the Intervention.
28 Attorney Andres concurred that the two topics covered by the intervention are the topics the
29 Commission should consider when deliberating on the Intervenor’s burden.

31 Chair Klemens mentioned stormwater and groundwater quality was reviewed by the Town Consulting
32 Engineer Tom Grimaldi, the Applicant’s Civil Engineer Todd Ritchie, Intervenor’s expert George Logan,
33 and to some extent Intervenor’s expert Dainius Virbickas. Third party reviewer Tom Grimaldi supported
34 Todd Ritchie’s testimony. Chair Klemens believed the Intervenor did not meet their burden with regards
35 to this topic, Secretary Whalen, Commissioner Riva and Commissioner Cockerline agreed.

37 Vice Chair Shyer joined the Meeting at 7:09PM.

39 Vice Chair Shyer believed the Intervenor met their burden and thought their insight was helpful to
40 identify concerns with stormwater management. Attorney Andres explained the Commission must find
41 whether or not the Intervenor demonstrated that there will be unreasonable pollution of a resource.
42 Attorney Andres further explained that if the Applicant’s responses address the concerns raised by the
43 Intervenor and they are credited, then the Intervenor did not meet their burden. Commissioner
44 Cockerline mentioned that Mr. Logan responded positively to the suggested changes proposed by Mr.
45 Ritchie.

46

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47 Chair Klemens directed the discussion next to the unreasonable destruction of natural resources. He
48 reminded the Commission that the Inland Wetlands & Watercourses Commission (IWWC) granted
49 approval for the application. Attorney Andres explained denial of an application must involve subject
50 matter within the Commission's jurisdiction. He explained protection of threatened and endangered
51 species are not extensively mentioned in Zoning Regulations. LUD Conroy presented the IWWC approval
52 document. Chair Klemens asked if the Applicant's site plan showed the location of rare plants or
53 endangered species. LUD Conroy replied the species are identified on a survey of listed plants submitted
54 as part of the application. Chair Klemens asked the Commission if they felt having the plants identified
55 on a report constitutes mapping on the Site Plan application. Vice Chair Shyer, Commissioner Cockerline
56 and Commissioner Riva replied yes, Secretary Whalen said he was not sure.

57
58 Chair Klemens asked the Commission if the Intervenors met their burden of proving unreasonable
59 destruction of resources. Vice Chair Shyer replied yes. Secretary Whalen believed Intervenor's expert
60 Sigrun Gadwa assumed the applicant did not look extensively for plant species, but was unable to prove
61 this. Chair Klemens noted that conclusively proving a presence of species is easy but proving an absence
62 is difficult. Commissioner Cockerline leaned in favor of the Applicant but wished to defer to Chair
63 Klemens' expertise. Commissioner Cockerline also wondered why the Intervenor did not ask to have
64 access to the property. Commissioner Riva agreed with Commissioner Cockerline.

65
66 LUD Conroy asked if the Intervenor demonstrated unreasonable harm to rare or endangered plant
67 species. Attorney Andres explained the Intervenor has the burden of proof, as their burden claims that
68 the Applicant's expert did not perform a thorough search, and the Applicant disagreed. Chair Klemens
69 and Vice Chair Shyer believed the Intervenor had shown their burden. Secretary Whalen, Commissioner
70 Cockerline and Commissioner Riva believed the Intervenor did not meet the standard. Chair Klemens
71 concluded that this means the Commission finds that the Intervenor did not meet their burden on either
72 count. Attorney Andres advised including this finding as part of a resolution.

73
74 LUD Conroy presented Zoning Regulations Section 213.5 "Hotels in Residential Zones. The Commission
75 had no questions.

76
77 LUD Conroy presented Zoning Regulations Section 800. Chair Klemens provided suggested topics to be
78 discussed including noise, traffic, parking, engineering design, stormwater, tree cover, species
79 protection, lighting, property values, and compatibility with the surrounding neighborhood.
80 Commissioner Cockerline asked if the Wake Robin Inn structure was in the historic district. LUD Conroy
81 confirmed it is not.

82
83 Chair Klemens asked if the application complied with Section 801.2 Relation of Buildings to Environment.
84 Commissioner Cockerline commented that the building's relationship with the environment was
85 subjective and does not object to the proposed additions. Chair Klemens believed the Event Barn and
86 cottages respected the existing terrain. Vice Chair Shyer believed the main structure and styling of
87 cottages and Event Barn was appropriate. However, she was not sure about the size and number of the
88 buildings. Chair Klemens commented that the size and intensity of the design is more relevant to section
89 803.2 of the Zoning Regulations. Secretary Whalen explained he was not concerned with the proposed
90 architecture and believed the application complied. Commissioner Riva believed the Applicant softened
91 presentation of the buildings to fit within the environment. Vice Chair Shyer reiterated that she believes
92 the size of the proposed redevelopment does not match the environment and found difficulty visualizing

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93 the project.

94

95 Chair Klemens asked if the application complied with Section 801.3 Landscape and Buffer Areas. The
96 Commission agreed that the Applicant presented a comprehensive landscaping plan which complied
97 with 801.3.

98

99 Chair Klemens asked if the application complied with Section 801.4 Circulation. Commissioner Cockerline
100 believed proper circulation was presented. Vice Chair Shyer expressed concern with accessibility of
101 emergency vehicles throughout the property. Commissioner Cockerline suggested this topic may more in
102 the domain of the Fire Marshal. Chair Klemens mentioned a submitted letter from the Fire Marshal,
103 which the Commission then reviewed. Commissioner Riva expressed he was comfortable with the
104 property's layout. Secretary Whalen believed emergency accessibility to all buildings would be sufficient.
105 Chair Klemens suggested a condition of approval could be added that required any modifications
106 recommended by the Fire Marshal.

107

108 Chair Klemens asked if the application complied with Section 801.5 Storm Water Drainage.
109 Commissioner Cockerline commented that the proposed stormwater plans were extensive. All
110 Commissioners agreed.

111

112 Chair Klemens asked if the application complied with Section 801.6 Preservation of Water Quality and
113 Quantity. All Commissioners agreed.

114

115 The Commission agreed Section 801.7 Utilities and 801.8 Other Site Features were not of concern.

116

117 Chair Klemens asked if the application complied with Section 801.9 Safety. Chair Klemens believed this
118 concern would be addressed by the Fire Marshal. Commissioner Cockerline agreed.

119

120 Attorney Andres clarified that the "purpose" section in section 802 gives context to the standards set in
121 section 803. He further clarified that decisions should be largely based on the standards rather than the
122 purpose section. The Commission moved forward to section 803, and Chair Klemens asked if the
123 application complied with Section 803.3 Neighboring Properties. Chair Klemens believed the application
124 would create a nuisance for neighboring properties by noise and lighting. Vice Chair Shyer agreed.
125 Secretary Whalen agreed that noise may create a nuisance, but commented that noise complaints are
126 rare in Town regarding other commercial sites. LUD Conroy asked if noise only presents a concern at
127 certain hours of day or night. Commissioner Cockerline believed the application was lacking a baseline of
128 noise level and accurate projection of what noise impact will be using modeling available. He
129 commented that an event facility could be designed with strict noise containment, but that was not
130 presented. Vice Chair Shyer believed noise could be a nuisance regardless of time of day. Chair Klemens
131 believed noise pollution at night was a greater concern. Chair Klemens added a different standard should
132 be applied considering the size of the property and commented ten acres within a residential area is
133 relatively a small space. Commissioner Riva thought the applicant was agreeable to making the Event
134 Barn sound proof but had time constraints with design. Vice Chair Shyer disagreed. Commissioner
135 Cockerline said the application did not come forward with solid information regarding noise mitigation
136 and believed the application was incomplete. Chair Klemens believed the size of the proposed Inn is out
137 of character with the surrounding area. Vice Chair Shyer agreed. All Commissioners agreed nuisance
138 noise could diminish neighboring property value.

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140 Chair Klemens believed property values would not decrease as a result of the application. Vice Chair
141 Shyer explained traffic concerns on Sharon Road and Wells Hill Road could escalate with the large scale
142 of the development. Commissioner Riva believed traffic on Sharon Road was already increasing and
143 devaluation was uncontrollable. Commissioner Cockerline believed devaluation of property was
144 subjective and can't be easily quantified. Vice Chair Shyer believed property values would be diminished.
145 Chair Klemens, Secretary Whalen, Commissioner Riva and Commissioner Cockerline disagreed.

146

147 LUD Conroy asked if the application complied with Section 803.4 Adequacy of Proposed Methods,
148 Measures and Plans. Attorney Andres mentioned existing water and question of the sewer facilities
149 meeting the needs of the proposed use could be a potential reason to deny the application, or it could
150 be handled as a condition of approval. LUD Conroy commented that the Fire Marshal expressed that
151 water was unlikely to be an issue, but sewer capacity could be. She also commented that the record
152 shows the Applicant has been in communication with the Sewer Commission since March 2024. Chair
153 Klemens believed a lack of response from the WPCA is to no fault of the Applicant and should not be a
154 condition for denial. Attorney Andres believed it could be added as a reason for denial based on sections
155 800.3.J. and 803.4. Commissioner Cockerline suggested the Applicant could withdraw and reapply.

156

157 Chair Klemens believed tree cover and preservation was adequately acknowledged by the Applicant.

158

159 Chair Klemens asked if the application complied with Section 804.2 Pre application Reviews. All
160 Commissioners agreed.

161

162 Chair Klemens asked the Commission for their opinion on whether they were leaning towards an
163 approval or denial. Chair Klemens, Vice Chair Shyer and Commissioner Riva replied denial. Commissioner
164 Cockerline leaned towards denial and Secretary Whalen leaned towards approval. The Commission
165 reviewed conditions suggestions submitted by the Applicant.

166

167 Chair Klemens said further discussion followed by a vote on this application would occur at the special
168 meeting scheduled for December 18, 2024 at 5:00PM via Zoom.

169

170

171 **Adjournment**

172

173 **Motion:** To adjourn the Meeting at 9:41PM.

174 Made by Riva, seconded by Cockerline.

175 Vote: 5-0-0 in favor.

176

177

178 Respectfully Submitted,

179 Erika Spino

180 Secretary of Minutes