

MINUTES  
HAMPTON PLANNING & ZONING COMMISSION  
JANUARY 14, 2008

Present: Chairman Bob Inman, Everett Hyde (arrived 7:39 pm), Gary DeCesare, Wayne DeCarli, Kevin Grindle; Alternate members Bob Burgoyne and Randy Thompson  
Absent: None  
Staff: Martha Fraenkel, ZEO/Recording Clerk

PUBLIC HEARING

1. Application for an amendment of the Hampton Zoning Regulations to allow certain limited retail and food service operations with beer and wine sales on Route 6, by special permit, in the RA-80 Zone; Edythe Roxburgh, applicant.

Chairman Inman called the public hearing to order at 7:35pm. The public hearing was continued from 12/17/07.

Inman read comments from Windham Regional Planning Agency, dated 1/9/08, into the record, noting comments are advisory. The report stated that the proposal is inconsistent with the Windham Regional Plan by proposing business development in a linear, non-nodal pattern, outside of the designated Business Zones. It also noted that the Hampton POCD recommends evaluation of the potential for expansion of existing business zones on the Route 6.

(Hyde arrived at 7:39pm.)

Attorney Julie Blake, speaking for applicant, said that the Commission could legally make minor revisions to the submitted proposal.

Steve Putney, manager of the applicant's farm on Route 6, spoke for the applicant. He recognized the community's concern about the appearance of Route 6. He suggested some changes to the proposed draft regulations that would yield greater control over development. He suggested a revision to the definition of agriculture; instead of the statutory definition, regulations could require that the applicant demonstrate agricultural status by a record of filing as a farm under IRS Schedule F. He suggested that beer and wine sales could be struck from the proposed regulations.

Bruce Hoben, Planimetrics, spoke for the applicant. He recognized the Town's concern about overdevelopment on Route 6. He proposed to limit the qualified properties to those that have secondary access onto a Town road. He said that beer and wine sales and restaurants may be too big a change; they could be removed from the proposed amendment. He recommended that a definition of food services be added.

Hyde questioned Hoben on IRS schedule F and requested additional means for identification of agricultural use.

Inman asked what would happen if the agricultural use ceases and the business use continues operating. Putney responded that no provisions have been made for this scenario.

Burgoyne expressed concern that the applicant is trying to establish business activities through special permit in a residential-agricultural zone instead of by assignment of a different zoning designation.

Putney responded that he isn't suggesting that the business should have to be tied to the farm activities but would simply provide another income stream to support the farm during difficult economic times. He said they arrived at the proposed amendment as a simpler means of allowing the proposed uses than a rezone. He said that they want to create a multifaceted compound on their 90 plus acres with retail, Bed and Breakfast operation, and alpaca farm together.

Hoben said that siting the new uses by a zone change is not necessarily the best tactic; the proposal as submitted gives more control than a permitted use in a business zone.

Putney said that the current farm products are alpaca fleece, breeding and sale of the alpaca animals. He said he would need about 10,000 animals to make a living solely from the alpacas. The applicant's farm has been operating since 2001.

Grindle said that a linear commercial pattern along Route 6 is a likely consequence of the proposed amendment and this is to be avoided. The suggested amendment to the proposal to require frontage on a secondary road as well as Rt. 6 is not a good way of limiting eligible parcels.

Putney said that the Commission could amend the proposal to limit the number of eligible properties by other measures. He said that the Commission could repeal the amendment in the future. He said that Route 6 presents an opportunity for the community.

Ed Burchfield offered comments on the proposal. He said that farmers can maximize use of their land for gain and get special treatment for taxation. He expressed concern about the special position of the applicant, who is writing the rules and questioned whether others would have the same opportunity. He asked why the PZC would consider an application when the applicant is in violation of the law (by selling products not made on the premises).

Inman responded that the Commission had determined that the objects for sale were related to the agricultural operation.

Ron Gluck, farm owner on Rt. 6, stated that he owns the farm across the street, and that there is a ready market for converting farm land to residential development.

Tim Huchthausen, Route 6, stated that he owns property that would qualify for development under the proposed amendment, but he didn't move to Hampton to live near strip development, which this could become. He feels that the proposal is a dodge around the rules and additional population will not help reduce property taxes. He noted that there is already a store on the applicant's property. He said that he was not comfortable with this application.

Fraenkel offered comments on the proposal. She said that the requirement that the proposed commercial activities would be supplemental seemed to be an impossibility when the parcel could be as small as 4 acres. She questioned the requirement for an architect, because siting is more important than building style, especially on Route 6. She questioned the authorization of a store as large as 5000 square feet and beer and wine sales in a residential-agricultural zone, even on Route

6. The proposal allows a potential for commercial activities very close together, and the requirement for frontage on a secondary road is a poor way to control the number of eligible properties. She also commented that it is more difficult to turn down a special permit application than a zone change application.

Hoben responded that the applicant has far more than 4 acres that sustain an agricultural use, that the use of special permit to authorize the proposed commercial uses is a moderate approach to their authorization, and that the alcohol use could be removed from the proposed text.

With no further comments, the public hearing was closed at 8:45pm.

### **SPECIAL MEETING**

Chairman Inman called the special meeting to order at 9:00pm.

Seated: Inman, Hyde, Grindle, Thompson, Burgoyne. (DeCarli and DeCesare recused themselves.)

#### **Old Business:**

1. Application for an amendment of the Hampton Zoning Regulations to allow certain limited retail and food service operations with beer and wine sales on Route 6, by special permit, in the RA-80 Zone; Edythe Roxburgh, applicant.

Hyde moved to approve the submitted application. Grindle seconded.

Thompson said that even with the proposed additional limitation on the number of eligible parcels, too much of Route 6 is still included. He wondered how the "supplemental status" could be tracked?

Inman said that an existing agricultural use would have to be shown at time of application.

Burgoyne said that special permits are intended to be applied within zones for uses generally consistent with that zone, but this proposal would allow commercial uses in an RA-80 Zone that effectively duplicate what would be allowed in a Business Zone. The proposed uses should be authorized by rezone, not by special permit, and this is the most serious issue with the application. Centralization of commercial activities is related to nodal development, which is the goal expressed in the regional POCD. This proposal would decentralize and counter nodal development. Burgoyne further commented that the application is tailored closely to the activities proposed by the applicant for her property.

Thompson was concerned about the broad applicability of the proposal that would result in linear commercial development on Rt. 6.

Hyde commented that the proposal isn't sufficiently connected to the use of the land. The meaning of the supplemental status is weakly defined. Agriculture is under-defined for the purpose and the connection between the agriculture and supplemental activity is too weak.

Grindle stated that the connection of agriculture to the proposed new uses is a concern. He noted that the proposed activities could be conducted on every 4 acre parcel with a secondary road access. Regarding the Windham Regional Planning comments, he couldn't conclude that this

proposal would genuinely support and sustain agriculture, even though applicant explained that the revenue stream would support the agriculture. He commented further that the proposal doesn't mesh with our goals in the POCD nor the regional Plan of Conservation and Development regarding support for agriculture.

Burgoyne said that the proposal will open the door to nonagricultural activities that will ultimately supplant the primary agricultural use. He felt that there are too many unknowns, too many inconsistencies and ambiguities in the proposal that could cause it to diverge from original intent.

Inman said that he feared that 1) the supplemental activity will supplant the primary agriculture and 2) there will be too much commercial activity on Route 6.

Burgoyne stated that the intent of the state, regional and local plans of conservation and development is to group like activities together, with nodal commercial development. This proposal does not promote nodal commercial development, and that is an inconsistency with our local, regional and state plans. Our POCD puts emphasis on the existing commercial zone for further expansion.

Hyde said that he wouldn't consider the proposed activities commercial activities if they were genuinely linked to the agricultural activities; *if they were*, they would not be inconsistent with the POCD.

Chairman Inman called the vote, there being no further comments. Members agreed that the proposal was inconsistent with the local and regional Plans as stated in the Windham Regional Planning Commission's report.

Motion to approve the proposed regulations amendment: none in favor, unanimously opposed.  
Motion to approve is defeated unanimously,

Burgoyne moved to deny the application for a regulations change. Grindle seconded.  
Unanimously in favor of motion, none opposed.  
Motion to deny is unanimously approved.  
THE APPLICATION WAS DENIED.

The meeting was adjourned at 9:31PM.

Respectfully submitted,

Martha Fraenkel, acting recording clerk