

## MEETING #29- September 7

At a Joint Meeting of the Madison County Board of Supervisors and the Madison County Planning Commission on September 7, 2016 at 7:00 p.m. in the Madison County Administrative Center Auditorium located at 414 N. Main Street:

PRESENT: R. Clay Jackson, Vice-Chair  
Jonathon Weakley, Member  
Robert W. Campbell, Member  
Kevin McGhee, Member  
Charlotte Hoffman, Member  
V. R. Shackelford, III, County Attorney  
Daniel J. Campbell, County Administrator  
Betty Grayson, Zoning Administrator

### Planning Commission:

#### Call to Order

#### Pledge of Allegiance & Moment of Silence

#### 1. Determine Presence of a Quorum

Mr. Yowell, Commission Chair, noted that a Quorum was present.

#### 2. Approval of Minutes

The minutes of the August 3, 2016 meeting session were approved as presented.

#### 3. Action Items:

Mr. Yowell provided an overview of tonight's meeting process; representatives were asked to approach the podium to provide their name and any information pertinent to tonight's case; questions will be entertained by the Commission members, the public, and then the case will be recommended onto the Madison County Board of Supervisors either for approval, denial or tabling. In closing, he asked that applicants remain for the Madison County Board of Supervisor's portion of tonight's meeting.

**65-35A**      *a. Case No. SU-09-16-16:* Request by Justin S. or Naomi S. Peachey for an indefinite special use permit to operate a bakery business out of their home with two employees. This property is located at 693 Buggy Lane (Route 712) near Uno and contains 3.839 acres of land, zoned A-1. (Pending a variance for two uses on less than six acres of land)

The Madison County Board of Zoning Appeals will hear the variance request on September 19, 2016.

A letter has been received from VDOT to advise they have no objections to tonight's request based on the information provided. A note has also been received from the Madison Health Department that states 'as of September 2, 2016, the existing sewage disposal system is adequate for the proposed changes.'

Justin Peachey, applicant, was present to answer any questions pertaining to tonight's request. He further stated that the items sold will be done at wholesale and all items manufactured at the property will be taken out to another location for sale; there will be no retail sales from the location.

Questions from the Planning Commission:

- ✓ What are the applicant's plans if the business expands
- ✓ Whether there are plans to hire more than two employees
- ✓ Whether there will be more than two people visiting the property
- ✓ Whether inspectors come review the proposed operation

Mr. Peachey noted that if the operation expands, the wholesale business will be relocated elsewhere, and that he'd have to consider an alternative commercial location. At this time there, there are no plans to hire more than two employees. He also stated that on occasion, there are additional people coming to the property for other reasons, but does not involve a vanpool visiting the property. He further advised that the Building Official did review the proposed operation.

It was also reported that a letter was received from an individual that indicated the property in question is zoned 'residential.'

Mr. Yowell, Chair, referred to a comment by a citizen (i.e. Herbert Putz), and further clarified that the County's existing ordinances already allow the specific use the citizen was questioning. In closing, he advised that moving forward, it's the Commission's intent to have future ordinances clarify whether the County would like to continue allowing specific requests to be allowed by special use permit, or as special uses in the future, and to also make provisions for these items during the review of the comprehensive plan.

In regards to tonight's request, Mr. Peachey, applicant, advised that:

- ✓ A larger entrance was established at the proposed site
- ✓ The existing commercial kitchen wasn't approved by the Building Official, but plumbing receptacles and rough-in items were approved
- ✓ All plumbing and electrical components at the property were already in place

Additional questions from the Planning Commission:

- ✓ *Whether a grease interceptor is in place to separate waste*
- ✓ *Whether an inspection was completed on the interceptor depository location*
- ✓ *Whether the County was aware that baking was being done at the property (before the application)*
- ✓ *If expansion is needed, the special use permit should be denoted as 'limited' and not 'indefinite'*
- ✓ *Whether the County has a process in place to keep up with specific businesses operating within the County*
- ✓ *Whether a time limit should be attached to the special use permit (i.e. two year time frame)*

Mr. Peachey advised that a grease interceptor has been installed; fluid coming from the interceptor is deposited into the septic system. The drain where the grease interceptor deposits into was approved by the Madison Health Department. In closing, he advised that an inspection wasn't done on the grease interceptor depository location, but items in question were inspected by the Department of Agriculture and not the State Health Inspector.

Betty Grayson, Zoning Administrator, advised that the applicant has the option to apply for a two year, a five year, or an indefinite special use permit, and that Mr. Peachey opted to apply for an indefinite special use permit. She further advised that the Madison County Planning Commission has the option to attach conditions to the indefinite special use permit, which will call for the applicant to be notified when the permit comes up for renewal, and the applicant can elect to renew the permit at that time. She also clarified that the applicant hasn't been in violation unless he already has two employees on site, and that 'by right', the applicant can have a home occupation with no employees or customer traffic.

Mr. Yowell, Chair, advised that he wasn't opposed to having the permit being an indefinite special use permit, but feels the permit should go with the applicant and not the location, in case the applicant decides to sell his home or move from the property.

Mr. Peachey noted that he would not have any complaints if the indefinite special use permit was attached to 'him' and not to the property.

Additional comments from the Commission focused on:

- ✓ The Small Business Administration encourages home based businesses
- ✓ About 40% of households host some type of business activity
- ✓ Whether a commercial vehicle will be on site
- ✓ The terms to be included in the indefinite special use permit

Mr. Peachey indicated that a commercial vehicle will not be on site.

Betty Grayson, Zoning Administrator, advised that the Madison County Planning Commission has the authority to recommend any type of conditions; however, there would be a definition of a 'home occupation' and 'two employees' should be noted, along with any additional items deemed necessary by the Planning Commission.

The County Attorney noted that if the decision is for the permit to go with the applicant and not the land, this condition will need to be included.

Mr. Yowell, Chair, referred to a special use permit issued to a citizen in Shelby, who desired for the permit to go with the property; in the event the citizen sold the property, the special use permit would allow a future owner to continue operation of the same type of business. In closing, he advised that tonight's request is the applicant's business, and suggested the permit go with the applicant.

Additional concerns from the Commission focused on:

- ✓ Sell of the property would provide a new owner with a kitchen suitable for baking
- ✓ The County's desire to maintain agricultural zones by 80%
- ✓ The lack of requiring a business license is detrimental (to the County)

- ✓ Many businesses in place prior to 1974 were 'grandfathered' and do not have a special use permit in place

After discussion, the Madison County Planning Commission recommended that Case No. SU-09-16-16 be presented to the Madison County Board of Supervisors for approval with the conditions that:

- The indefinite special use permit will go with the occupant (and not with the property)
- Pending approval of the zoning variance being requested by the Madison Board of Zoning Appeals scheduled for September 16, 2016

Mr. Yowell, Chair, advised that the next workshop will be scheduled for September 20<sup>th</sup> at 7:00 p.m. The Madison County Planning Commission will be reviewing the size of the shooting range draft ordinance, and will discuss the comprehensive plan.

The Zoning Administrator advised that there will be three cases for review/consideration.

#### 4. Adjournment

With no further action being required, Mr. Yowell, Chair, adjourned the Madison County Planning Commission's portion of tonight's session.

#### Board of Supervisors

##### Call to Order

Chairman Jackson called the Board's portion of tonight's meeting to order; a quorum was established.

##### 1. Determine Presence of a Quorum

##### 2. Adoption of Agenda

Supervisor Campbell moved to adopt the Agenda as presented, seconded by Supervisor Weakley. *Ayes: Jackson, Weakley, McGhee, Campbell, Hoffman. Nays: (0).*

##### 3. Action Items:

- a. *Case No. SU-09-16-16: Request by Justin S. or Naomi S. Peachey.....*

#### Comments from the Board:

- ✓ *Supervisor Campbell: Referred to comments from citizens regarding the 'needs and wants' for the County [which (in his opinion) causes the County to 'stifle' citizens who desire to move forward]; advised of disfavor of having the applicant go before the Madison Board of Zoning Appeals (to attain a variance); verbalized support of the applicant's business proposal*
- *Supervisor Weakley: Questioned procedures and process, and whether the Madison Board of Zoning Appeals ever heard any of the proposed cases (discussed by the Madison County Board of Supervisors and the Madison County Planning Commission); also questioned whether the Madison Board of Zoning Appeals would 'override' a recommendation (made by the Madison County Board of Supervisors)*

Betty Grayson, Zoning Administrator, explained that in the past, a clause was established by the Madison County Board of Supervisors to require that:

- ✓ All cases would first be heard by the Madison County Board of Supervisors
- ✓ The Madison County Board of Supervisors would vote first on all cases
- ✓ A recommendation would be presented by the Madison County Board of Supervisors to the Madison Board of Zoning Appeals

She further advised that the Madison Board of Zoning Appeals will be looking at two uses on three acres, and will not do anything regarding the conditions established by the Madison County Board of Supervisors.

The County Attorney further explained that if the Madison County Board of Supervisors and the Madison County Planning Commission plan to deny the zoning request (for tonight's case), the Madison Board of Zoning Appeals would not consider reviewing the variance request; therefore, it's logical to bring the request before the Madison County Board of Supervisors first and then onto the Madison Board of Zoning Appeals.

Ms. Grayson noted that despite tonight's recommendation, the Madison Board of Zoning Appeals could still decide to deny the variance request, if deemed appropriate.

The County Attorney advised that the Madison Board of Zoning Appeals wants to hear what the Madison County Board of Supervisors has to say (about tonight's request), which also factors into their decision; however, he also reiterated the fact that the Madison Board of Zoning Appeals does have the legal authority to deny a case even though the Madison County Board of Supervisors may approve the request, as they are a separate body established under the Code of Virginia.

- *Supervisor McGhee: Verbalized concerns regarding the County’s Ordinance acreage requirement; feels the requirements are inconsistent; verbalized approval of tonight’s special use permit request; appreciates the questions presented by the Commission and Board; doesn’t feel the special use permit will be in jeopardy regardless based on tonight’s discussion; expressed appreciation of methods to help the County grow (i.e. new business)*
- *Supervisor Hoffman: Expressed favor of tonight’s proposal; feels some of the questions/concerns (presented by the Commission) should be expressed during the commission’s workshop rather than subjecting the applicant to all the discussion during the joint meeting session*
- *Supervisor Campbell: Verbalized disfavor of eliminating the intense discussion due to the Madison County Board of Supervisors’ not being present during the Commission’s workshop sessions; also questioned legality regarding the proposed variance vs. the County approving tonight’s case; questioned requirements and the need to cause home business owners additional costs folks to fund additional costs to do specific things on their property*

The County Attorney explained that the issue pertaining to the variance is due to the total acreage not being within the scope of the County’s approval. In closing, he noted that in order to approve the acreage issue, an amendment would be required to the County’s ordinance, and can’t be done on an individual basis.

The County Attorney further explained that some would argue that in an A-1 zone, three (3) acres is too small for a usage, but was seen as the bare minimum in an A-1 zone at the time the original ordinance was adopted.

Supervisor Weakley moved the Board approve Case No. SU-09-16-16, as recommended by the Madison County Planning Commission, seconded by Supervisor Campbell. *Ayes: Jackson, Weakley, Campbell, McGhee, Hoffman. Nays: (0).*

**4. Information/Correspondence- None**

**5. Adjournment**

With no further action being required, on motion of Supervisor Weakley, seconded by Supervisor Hoffman, Chairman Jackson adjourned the meeting. *Ayes: Jackson, Weakley, Campbell, McGhee, Hoffman. Nays: (0).*

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R. Clay Jackson, Chairman  
Madison County Board of Supervisors

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Clerk of the Board of the Madison County Board of Supervisors  
Adopted on: September 13, 2016  
Copies: Board of Supervisors, County Attorney & Constitutional Officers

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**Agenda**  
**Joint Meeting and Public Hearing**  
**Madison County Board of Supervisors**  
**Wednesday, September 7, 2016 at 7:00 p.m.**  
**Madison County Administration Building, Auditorium**  
**414 N Main Street, Madison, Virginia 22727**



**Planning Commission**

Call to Order

***Pledge of Allegiance & Moment of Silence***

1. Determine Presence of a Quorum
2. Approval of Minutes
3. Action Items

64-35A a. *Case No. SU-09-16-16: Request by Justin S. or Naomi S. Peachey for an indefinite special use permit to operate a bakery business out of their home with two employees. This property is located at 593 Buddy Lane (Route 712) near Uno and contains 3.839 acres of land, zoned A-1. (Pending a variance for two uses on less than six acres of land)*

4. Adjournment

**Board of Supervisors**

Call to Order

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2. Adoption of Agenda
3. Action Items:

64-35A a. *Case No. SU-09-16-16: Request by Justin S. or Naomi S. Peachey .....*

4. Information/Correspondence (if any)
6. Adjournment