

At 6:00 PM, Mr. Griffin welcomed those in attendance for tonight's Planning Commission meeting. He introduced Staff and Planning Commission members, and then read the procedures for the public hearings.

Mr. Kidd motioned to reconvene, then adjourn the July 14, 2014 meeting. Mr. Nicely seconded the motion, which was approved 5:0:0:0 with the following recorded vote:

YES: Mr. Thurman, Mr. Nicely, Mr. Griffin, Mr. Kidd, Mr. Foster  
NO: None  
ABSTAIN: None  
ABSENT: None

Mr. Griffin called the August 11, 2014 meeting of the Botetourt County Planning Commission to order in Meeting Room 102 of the Old District Courthouse in Fincastle, Virginia.

PRESENT: Mr. John Griffin, Chairman  
Mr. Hiawatha Nicely, Jr., Vice-Chairman  
Mr. Steven L. Kidd, Member  
Mr. Sam Foster, Member  
Mr. William Thurman, Member  
Dr. Mac Scothorn, Ex-Officio Member  
Mrs. Theresa Fontana, County Attorney  
Mrs. Nicole Pendleton, Planning Manager/Zoning Administrator  
Mr. Jeffrey Busby, Planner  
Mrs. Laura Goad, Administrative Assistant  
OTHERS PRESENT: Mr. Cody Sexton  
ABSENT: None

Mr. Griffin asked if there were any discussions regarding the July 14, 2014 minutes and requested a motion.

Mr. Nicely mentioned that his version of the minutes showed Mr. Thurman present for a vote, although he was absent.

Mr. Kidd motioned to approve the July 14, 2014 Planning Commission minutes as corrected. Mr. Nicely seconded the motion, which was approved 5:0:0:0 with the following recorded vote:

YES: Mr. Thurman, Mr. Nicely, Mr. Griffin, Mr. Kidd, Mr. Foster  
NO: None  
ABSTAIN: None  
ABSENT: None

Mr. Griffin stated noted the Planning Commission would meet in the Kroger parking lot for the field review on Thursday, September 5, 2014 at 3:15 PM.

## Public hearings

**Valley Magisterial District: First Citizens Bank and Trust Co. (Mainstream Mental Health Services, contractual purchaser) requests a Change of Proffers in a Business (B-1) Use District to operate an adult daycare center located at 7211 Cloverdale Road, Roanoke (Alt. U. S. Route 220). This 1.66-acre lot is located approximately 0.10 miles north of the Cloverdale Road/Summerfield Road (State Route 1117) intersection and is identified on the Real Property Identification Maps of Botetourt County as Section 107, Parcel 198.**

Mrs. Pendleton read the request aloud as she displayed the zoning map on PowerPoint. She stated that on July 26, 2005, the Board of Supervisors approved a request to rezone 1.66 acres from an Agricultural, A-1 Use District to a Business, B-1 Use District, and a Special Exceptions Permit to convert a residence to an insurance office. She further stated that in March 2006, a site plan meeting parking and landscaping requirements was approved for a Nationwide Insurance Office, although the parking was not installed as approved on the site plan, nor was the landscaping installed. Mrs. Pendleton stated that Mainstream planned to have a maximum of 35-45 clients per day, with no overnight guests and that Staff requested the Health Department to confirm the septic system would be adequate for the proposal. She pointed out the Zoning Ordinance requires a site plan be submitted and approved due to the change in use. Future land use shows this area as being commercial. This site is adjacent to Old Dominion Cemetery and the Dale Ridge Church of Christ. Mrs. Pendleton said the concept plan showed 19 parking spaces, no new construction, and that the gravel lot will not be utilized. Six employees will work with the clients, and the applicants appeared to have adequate parking spaces.

Mrs. Pendleton read the following existing conditions aloud:

1. The existing swimming pool must be filled in.
2. The rezoning is for the permitted use of offices in a B-1 Use District to the exclusion of all other B-1 uses.
3. The property shall be constructed in substantial conformity with the concept plan dated May 16, 2005, as well as all applicable building/zoning requirements.
4. A landscape plan will be submitted to the Zoning Administrator for approval in accordance with the County's Comprehensive Plan.

She commented that the applicant requested to remove condition #2, and remove other conditions, stating they had been met. She further commented that regarding #3, parking lot was not identical to the May 16, 2005 concept plan, and that the landscaping plan had been approved, but was not installed. Mrs. Pendleton noted that the conditions are tied not to rezoning, but to the Special Exceptions Permit.

Mr. Jay Kilby of Daleville, and Mr. Rory Benson, of Fincastle were present to discuss their request. Mr. Benson stated this business, known as adult day care, provided a variety of activities for adults with special needs, there was currently nothing in Botetourt County to service these individuals. He further stated they would do independent living skills for adults, teach hygiene other things to make them more independent, and the majority would come from Botetourt County and the surrounding areas.

Mr. Foster asked what controlled their number of clients.

Mr. Benson said they picked a random number of where they would foresee business for future.

Mr. Thurman asked if their clients would drive to this location, and their business hours.

Mr. Benson responded that a van would transport their clients. He said they would operate from 9:00 AM until 5:00 PM, Monday, through Friday, and not on Sunday, noting the proximity of the adjacent church.

Mr. Nicely asked about mental health overlay.

Mr. Benson replied they did not do that; instead, they would receive referrals from social services.

Mr. Benson said it was a reasonable projected maximum number for the near future.

Mr. Griffin asked if most would not be there all day, inquiring about activities and field trips.

Mr. Benson said they would take their clients places, their clients would have goals, that whatever their clients' goal, they would assist with that goal, plus social skills, common skills, arts, crafts, simple meals to help them maintain their independence.

Mr. Griffin wanted to know if they understood the site plan requirements and confirmed their septic system would need to be approved by the Health Department for operation.

Mr. Benson said, "Yes."

Dr. Scothorn asked about the possibility of any outside activities for individuals, the number of rooms and square footage.

Mr. Benson said outside activities could include having a vegetable garden as therapy, although 95% of their activities would be inside the building, and that the square footage was adequate, although they would need to do some interior construction.

Dr. Scothorn asked if Mr. Benson if he currently had a plan for construction, if the property would be fenced, and the number of clients in the beginning.

Mr. Benson replied that he currently did not have a building plan, and he anticipated approximately 10-20 people for the first month.

Mr. Griffin verified with Mr. Benson that not all of the clients would come from Social Services.

Mr. Benson said that with Medicaid funding, clients would come from a variety of different agencies, plus school systems with students aging out. He said this location would cater to adults 21 years of age and older.

***There being no one else to speak, Mr. Griffin closed the public hearing.***

Mr. Thurman said all of his questions had been answered.

Mr. Nicely stated this was needed service; he then asked if the six employees would be the amount to start with or the maximum number of employees.

Mr. Benson replied, "Both."

Mr. Kidd stated that he liked idea of the project, but he had concerns with 54 people in house. He asked about the number of bathrooms, and additional construction, as he noted the Health Department approval was required.

Mr. Kilby said they had filed a FOIA request, and had not been able to find the septic permit for what they believe is a three-bedroom, 1000-gallon tank. He estimated that approximate use at 10 gallons per person, saying they wouldn't be at full capacity, although they had not yet gotten full report.

Mr. Kidd asked about their calculations.

Mr. Kilby said they used 50 people to include employees.

Mr. Foster stated this was a needed service, he had no problems with adult day care center and this was a good project.

Mr. Griffin stated he had no problem with this request, as he noted the applicants would have to have a permit from the Health Department, a site plan, and landscaping.

As Mr. Griffin began his motion, he requested information from Mrs. Pendleton.

Mrs. Pendleton mentioned the option of removing all conditions, removing some of the conditions because they were no longer applicable, or they could add a condition requiring substantial conformance with the attached concept plan dated June 30, 2014, or they could deny this request.

Mr. Griffin motioned to remove the conditions and forward to the Board of Supervisors on the basis that the requirements of Section 25-583 of the Zoning Ordinance have been satisfied, and that the proposal would serve the public necessity, convenience, general welfare, and good zoning practice, with the conditions of :

1. The adult day care shall be in substantial conformance with the attached concept plan, dated June 30, 2014. A landscaping plan and site plan will be submitted.

Mr. Nicely seconded, which was unanimously approved 5:0:0:0 with the following recorded vote:

YES: Mr. Thurman, Mr. Nicely, Mr. Griffin, Mr. Kidd, Mr. Foster  
NO: None

ABSTAIN: None  
ABSENT: None

**Fincastle Magisterial District: Jeanette D. and Laurence Westley Miller request a Special Exception Permit in an Agricultural (A-1) Use District for the operation of a commercial kennel for dog boarding and daycare for up to sixteen (16) dogs on 3,069 square feet of a 7.487 acre parcel. This parcel is located at 5370 Botetourt Road, approximately .57 miles north of the West Wind Road (State Route 635) intersection, and is identified on the Real Property Identification Maps of Botetourt County as Section 48, Parcel 125.**

Mr. Busby read the request aloud as he displayed the zoning map on PowerPoint. He stated the property had an existing single family dwelling, chicken coops, four dogs on site, and was accessed through an easement from the property of Mr. and Mrs. Douglas Corbett. He further stated the applicants requested permission for a commercial dog kennel for up to 16 dogs, not including their personal dogs, for boarding and daycare. Mr. Busby said the proposed 32' x15' stick built structure contained six larger kennels for clients who had two dogs and four smaller ones for individual kennels for one dog. He pointed out the Agriculture, A1 and Agricultural/Rural Residential zoned areas. Regarding the entrance, Mr. Busby noted that VDOT wanted 495' sight distance verification, which the applicants had not had a chance to do. He noted they did not want to pay engineering costs prior to any approvals, but there would be a possible entrance upgrade and to date, there was no word from VDOT on the extent of improvements. He said that traffic counts are estimated at 6,400 vehicles per day based on 2012 traffic data and one parking space would be required, based on zoning ordinance requirements. Mr. Busby brought up surrounding property owners' concerns. He said Mr. Corbett had called with a concern about coyotes that would be frequenting the property; Mr. Bob Frydrych had concerns that this was not in conformance with Comprehensive Plan; Mr. Ronald Young, Jr. said the site and location would be noisy to surrounding owners. Mr. Busby indicated the applicants' intent to put a soundproof barrier around structure as he displayed their concept plan showing the existing septic system, noting their intent to get Health Department approval. He also stated the structure would have heating and cooling for dogs.

Mr. Busby then referenced a printout showing previous land use applications for kennels, highlighting the total number of approved dogs. He noted the approvals ranged from five to a maximum of fifteen.

Mr. Laurence Miller with his wife, Mrs. Jeannette Miller of Fincastle was present and they spoke on their own behalf. Mr. Miller stated the noise would not be an issue, the dogs would have a supervised play area and the dogs would be inside at night.

Mr. Griffin asked how the building would be soundproofed.

Mrs. Miller mentioned a type of material that would go in between studs, also serving as insulation and drywall installation would also contribute to muting the sound.

Mr. Griffin asked about waste disposal.

Mrs. Miller said that on the inside of the building, they would have an industrial hopper type toilet and the waste would go in the separate septic system currently not being used.

Mr. Kidd asked about their plan for a bark problem.

Mrs. Miller replied that an excessive barker would have limited time outside, and Mr. Miller said that would be the dog's last visit. He said they had four dogs at home that do not bark.

Mr. Kidd asked the Millers if they had read the VDOT letter, and if they were aware of the expense of a turning lane.

Mr. Miller said a turning lane would be cost prohibitive, but he was willing to cut branches or move mailboxes.

Mr. Kidd wanted to know if the Millers had received a decision from Mr. Gary Thomas of the Health Department.

Mrs. Miller said the Health Department was looking for previous owners, but Mr. Thomas would be on vacation until August 18. Mr. Miller said the septic would be subject to inspection and a perk test.

Mr. Kidd asked the Millers their intention of signage and lighting, if approved.

Mrs. Miller said she had not done any research, but she wanted to put a sign by the road. She said they would have porch lighting, a spotlight to the kennel, and a light to the parking area.

Mr. Foster noted that lighting was not discussed at the field visit.

Mr. Miller responded they would have basic outdoor lighting for people to walk, lighting into the play area, whatever his wife would need.

After questioning from Mr. Foster, Mr. Busby stated that most of the county's lighting requirements would be shoebox style if over 50 watts, noting that it would have to be shielded and full cutoff, with no light emitted upward. Mr. Busby commented that the Planning Commission could ask the Millers to submit a lighting plan prior to operating the kennel.

When Mr. Nicely observed that the schematic showed one at the porch, Mr. Busby mentioned a porch in the play area that was probably not on plan. Mr. Busby said the plan indicated a post light on the walkway and one on either end of building.

Mr. Nicely wanted to know when they would have septic system information.

Mr. Busby responded that the Health Department would require AOSE, that the applicants could have done this before, but an engineer needed to make sure the septic was appropriate for the size of operation. Mr. Busby mentioned that the Planning Commission could require this as a condition.

Mr. Nicely asked about boarding days.

Mrs. Miller said she planned to start on weekends, but if the business took off well, she would do it full time.

Mr. Thurman how the waste would get from the hopper toilet to the septic system.

Mrs. Miller said she would pick up the waste manually, disinfect the area with a mop, and there would be no drains in the floors.

Mr. Thurman asked about pen sizes and if they would be built to AKC specifications.

Mrs. Miller said this was something her husband had thought of, that they thought little rooms would be better, the dogs would not stay in crates, and dogs should have enough room for dogs to sit and turn around.

Referring to the recent site visit, Mr. Thurman at site visit asked about the play area size, the number of dogs out at one time.

Mrs. Miller said she would be there the whole time and have small groups of dogs.

Dr. Scothorn commented that Mrs. Miller would be out every 15 minutes. He questioned Mrs. Miller if that was an AKC requirement, and her amount of experience.

Mrs. Miller said she didn't check AKC requirements, and her experience was from having her own dogs.

Dr. Scothorn mentioned that while looking at plan, the building showed 32' x12', and did not leave much of a walk area. He asked the builders on the Planning Commission about requirements for an aisle or walkway.

Both Mr. Kidd and Mr. Griffin responded "three feet."

Mr. Miller replied that he knew the sizing was subject to the building inspector.

Mr. Griffin asked if a drain field was attached to this separate septic tank and Mr. Miller replied, "Yes."

Mr. Griffin pointed out that when keeping others' dogs, when one started barking, the others would follow through. He asked the Millers how they would calm the dogs.

Mrs. Miller said she would play music and to keep them distracted, that they played music in their barn for animals and it calmed them. Mr. Miller said they would have a camera and sound monitoring system, and if an issue arose, that they would have to attend to it.

When Mr. Griffin gave the applicants the list of kennels, Mr. Miller said that dogs, cows and shooting ranges all made noise.

Mr. Ronald Young Sr., of Fincastle pointed out his home on the PowerPoint aerial map display.

He stated his objection to a commercial kennel in this area. He further stated that this area was known as the beginning of Timber Ridge Valley, where sounds modify and get much greater. He referred to a time when he called police because of loud engine work at Groggins Plastics that went through his 6" walls of his home. He discussed the nature of dogs to bark, the problems that others already have with coyotes in the area, including a cow that had been run to death within the past year. Mr. Young urged the Planning Commission to please turn this down, that he wished the Millers well, but this was just not the place for it and that the kennel on Grove Hill Road had 70 acres around it.

Mr. Alexander Camwell, of Fincastle stated that he used to raise, breed and show dogs. He noted it would be quite upsetting for the current four dogs to be introduced to 16 new dogs. He referred to an area animal shelter with nonstop barking and horrendous noise. He further noted that he lived down in the valley slightly north of Millers, and said on many occasions he could hear a dog near Groggins Plastics, but Millers were located very close to his property. He wondered about the size of dogs, and said that larger dogs have larger voices, like Dobermans. Mr. Camwell said he had lost a calf to coyotes and the scent of 16 dogs would attract more coyotes and there was no way to control them. Mr. Camwell questioned how the barking would be controlled in the supervised play area, who would take care of the dogs if she was ill or unable to take care of them, as he noted that everyone would be off from work if she started this on the weekend Mr. Camwell further questioned how long a dog would be allowed to bark before it became a nuisance.

Mrs. Alexander Camwell, of Fincastle noted a study, which showed 164 decibels for barking dogs, and that 61 decibels was the level that began to annoy humans.

Ms. Carlene Cecil declined to speak.

Mrs. Leslie Crowder stated that she owned properties adjacent to Millers' property. Mrs. Crowder objected to this request, citing concerns of noise; coyotes; dogs fighting; the inability of one person controlling a group of dogs; whether or not the dogs would be up to date on vaccinations; loose dogs in an area with deer, raccoons; the noise of 20 dogs; hours of operation and their definition of daytime. Mrs. Crowder said that as farmers, their day started at 5 AM. Mrs. Crowder questioned if the septic would be inspected routinely, if the business would be monitored, how Mrs. Miller would receive an incoming dog if she were outside supervising others in the pen. Regarding noise, Mrs. Crowder said her cattle did not make noise all day, that she lived here on purpose and did not want to hear dogs barking all day.

Dr. Scothorn commented that the Botetourt County Noise Ordinance did not apply to farm animals, but dogs that barked at least once per minute for ten consecutive minutes would be considered "noise" in the noise ordinance.

Mr. Edward Nelson, Jr., of Fincastle voiced his opposition to the proposed kennel. Mr. Nelson stated that he did shift work and was worried about daytime noise. He further stated that he grew up in Highland County and there would be coyotes. Mr. Nelson brought up the difficulties in trying to break up a dog fight, the noise of constant barking, and loss of property values as concerns.

Mrs. Camellia Crowder of Fincastle and an adjoining property owner, spoke of her concerns.

Mrs. Crowder mentioned her farm in Craig County, where an adjacent farm has an eight dog kennel. She said her church was one mile away from the kennel, and the barking was heard all the time. Mrs. Crowder stated she did not want her grandchild to have problems if the dogs got loose.

Mr. Colby Trammel, of Fincastle, said he had not spoken to the Millers before tonight, and that Mr. Griffin had already helped with the number of animals. Mr. Trammel stated that he thought this number was pretty high. He further stated the Millers had helped with another question of physical location. He said the kennel was below the house and closer to Catawba Creek. Mr. Trammel stressed the Millers needed the cooperation of neighbors, as he noted the noise that people hear is at one level, but the kennel of dogs across Catawba Creek hear at a different level. Noting that he also trained dogs, he said his concerns were legitimate, even with 20 years of experience. Mr. Trammel asked if the right-of-way crossed one or two properties.

Mr. Busby responded that the plat showed one piece, that had been purchased a few years ago; that the easement crossed the Corbett property, and it appeared to cross only one neighbor's property, based on this map.

Mr. Trammel said he had not heard anything about their experience.

Mr. Griffin stated that Mrs. Miller indicated this was her first experience at running a kennel.

Mr. Griffin asked Mr. and Mrs. Miller if they wanted to address these concerns.

Mr. Miller replied that they did not wish to respond to the concerns.

Mr. Camwell cited an additional concern about the negative impact on properties.

***There being no one else to speak, Mr. Griffin closed the public hearing.***

Mr. Griffin said this was very tough. He stated that he thought the Millers were sincere, but he did not think this would be the right place for a kennel.

Mr. Kidd said he had no additional comments, but with the neighbors' comments, if it were approved, the Millers would have a very long row to hoe.

Dr. Scothorn then read the new noise ordinance. He stated that for an individual, it was not a tough ordinance, but for a kennel with dogs belonging to someone else, and with their dogs too, he saw this as problematic. He further stated that they had the right to do what they wanted with their property, but in this case, it would be a long row to hoe for it to work out.

Mr. Miller said he did not want to be a bad neighbor, that they understand their neighbors' concerns and it was more important to be a good neighbor, and the kennel was an idea.

Mr. Foster said he appreciated what the Millers did and that they explained their project. He said he had a concern about the community itself and that Mr. Kidd was right about needing to be a good neighbor.

Mr. Miller said he did not realize there would be this much concern about the barking.

Mr. Griffin asked Mrs. Fontana if the Millers could withdraw their application.

Mrs. Fontana answered that withdrawing would give them an opportunity to resubmit.

Dr. Scothorn and Mr. Griffin then explained the process to Mr. and Mrs. Miller.

At this point, Mr. Miller asked to withdraw their request.

Mr. Griffin motioned for the Planning Commission to accept Mr. and Miller's request to withdraw their commercial kennel request. Mr. Kidd seconded the motion, which was unanimously approved 5:0:0:0 with the following recorded vote:

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|----------|--|
| YES:     | Mr. Thurman, Mr. Nicely, Mr. Griffin, Mr. Kidd, Mr. Foster |
| NO:      | None   |
| ABSTAIN: | None   |
| ABSENT:  | None   |

There being no other business, on motion by Mr. Griffin at 7:28 PM, and seconded by Mr. Foster, the Planning Commission adjourned with the following recorded vote:

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|----------|--|
| YES:     | Mr. Thurman, Mr. Nicely, Mr. Griffin, Mr. Kidd, Mr. Foster |
| NO:      | None   |
| ABSTAIN: | None   |
| ABSENT:  | None   |