



**Town of Cornelius
Land Development Code Advisory Board**

**Agenda
February 24, 2020
5:30 PM
Room 204**

Call To Order

Determination of Quorum

Approval of Minutes

1. January 27, 2020 Minutes

Review And Recommendation On Agenda Items

Old Business

1. Buffers

New Business

1. Major/Minor Subdivisions

Next Meeting

Adjournment

REQUEST FOR BOARD ACTION

 [Print](#)

Date of Meeting: February 24, 2020

To: Chair and LDCAB Members

From: Summer Smigelski, Planning Admin.


Action Requested:

Review and Approve

Manager's Recommendation:

Approval

ATTACHMENTS:

Name:	Description:	Type:
 01272020MinutesLDCAB.docx	January 27, 2020 Minutes	Backup Material

Minutes

TOWN OF CORNELIUS LDCAB

January 27th, 2020

5:30 PM

Members Present

Cheryl Crawford, Chair
Kevin Myers
Bob Bruton
Norris Woody, Vice Chair
Keith Eicher
Laura Pegram
Joe Dean
David Dunn
Michael Miltich (Attended by Phone)
Tricia Sisson

Members Absent

John Hettwer
Karen Tovar

Staff Present

Wayne Herron, Deputy-Manager
Aaron Tucker, Planning Director
Becky Partin, Senior Planner
Summer Smigelski, Planning Admin.

VISITORS

See Sign In Sheet.

DETERMINATION OF QUORUM

Chair Crawford called the meeting to order at 5:29 PM and determined a quorum was present.

APPROVAL OF MINUTES

The Board unanimously approved the September 23rd, 2019 Minutes.

Motion made by Norris Woody. Seconded by Joe Dean. All in favor, motion approved.

In Favor: Ms. Crawford, Mr. Myers, Mr. Dunn, Mr. Woody,
Ms. Pegram, Mr. Bruton, Mr. Dean, Mr. Eicher, Ms. Sisson

Opposed: None

Microbrewery Buffers

Staff introduced Trey Ramsey and his request for the Town to change the buffer requirement for microbreweries.

Ms. Partin presented the current conditions to the board.

BREWERY, LARGE

- A. Outdoor storage of goods and materials used in assembly, fabrication, or processing shall not exceed twenty-five percent (25%) of the gross floor area of all buildings on a lot.
- B. **A Type 'A' screening buffer is required where a large brewery is adjacent to a residentially zoned property.**

BREWERY, MICRO

- A. Production cannot exceed 100,000 barrels of beer per year.
- B. Shall provide a taproom, except if located in IC.
- C. Outdoor storage of goods and materials shall not be permitted in the Neighborhood Mixed Use, Town Center, Village Center Districts, or Waterfront Mixed Use.

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- D. Outdoor storage of goods and materials used in assembly, fabrication, or processing in the Business Campus, Corporate Office, and Highway Commercial Districts shall be screened from view, and shall not exceed twenty-five percent (25%) of the gross floor area of all buildings on a lot.
- E. **A Type 'A' screening buffer is required where a microbrewery is adjacent to a residentially zoned property.**

Type 'A' Buffer

Location & Required Usage:

- Rear and/or side transition yard between existing residential zoning and all proposed uses and developments
- Edge of all yards abutting right-of-way for Interstate 77 (Minimum width: fifty feet (50'))
- Deciduous Trees must be a minimum of two and one-half inches (2 ½") caliper at planting
- Evergreen Trees must be a minimum of eight feet (8') in height at planting
- Shrubbery must be minimum of thirty-six inches (36") in height at planting
- Existing vegetation may be considered. In joint consultation with the applicant and the adjoining property owner, the Planning Director may approve and/or recommend an alternative buffer that includes the existing vegetation.

Type 'A-1' Buffer

- Minimum width: fifty feet (50')
- Berm with minimum height of five feet (5') & maximum slope of 3:1
- Deciduous trees at 2.5/100 linear feet
- Evergreen trees at 5/100 linear feet (Must be on the berm)
- Shrubbery at 20/100 linear feet

Type 'A-2' Buffer

- Minimum width: 30'
- Masonry wall of brick and/or stone with minimum height of 6'
- Masonry wall shall be a minimum of 20' off of any property line
- Deciduous trees at 2.5/100 linear feet
- Evergreen trees at 5/100 linear feet
- Shrubbery at 20/100 linear feet

Type 'A-3' Buffer

- Minimum width: 10'
- To be negotiated with the adjoining property owner and may contain any combination of plant material or fence options that is mutually agreed upon by the applicant and the adjoining property owner. Any agreement must be in writing with the adjoining property owners' signature.

The potential brewery site on Kunkleman Drive at Watermark Drive requires Type 'A' buffer due to residentially zoned properties to the north. A Type 'A-3' buffer would require agreement with watermark condominiums and Sail Pointe apartments.

Staff asked Trey Ramsey to come up and speak to the board.

Mr. Ramsey presented his request to change the buffer requirements to the board.

The vast majority of all microbreweries produce a relatively small amount of beer, and the beer production process is a wholly indoors activity (same as food prep in a restaurant kitchen)

- 92% of all microbreweries produce 5,000 barrels or less per year ⁽¹⁾
- 73% of all microbreweries produce 1,000 barrels or less per year ⁽¹⁾

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- 58% of all microbreweries produce 500 barrels or less per year⁽¹⁾
- According to Harris Poll, the top 3 reasons craft beer drinkers visit microbreweries are (i) sampling, (ii) education, and (iii) exclusivity (beers offered on-site are unavailable elsewhere)
 - Very much the same reasons wine aficionados visit small wineries throughout the U.S.
 - Premium pricing – the average beer price is ~\$6 per pint (16oz.) at a microbrewery
 - Area chain restaurant drink prices⁽²⁾: \$3/pint beer, \$3/well drink, \$4/glass wine, \$5/margarita...all day, every day
 - Microbreweries are not a destination of choice for non-discerning volume/heavy alcohol drinkers
 - Nearly all breweries have food available on-site during peak hours, either through an on-site kitchen or in partnership with local area food trucks
- Microbreweries close earlier than most area restaurants and essentially all bar-type establishments
 - Area microbreweries + Charlotte: close between 10-11PM Mon-Sat & 7-9PM Sun⁽³⁾
 - Popular Cornelius restaurants: close between 10PM-2AM Mon-Sun⁽³⁾
 - Popular Cornelius bars & “retail with bars:” close between 10PM-2AM Sun-Thurs & 12-2AM Fri-Sat⁽³⁾
 - Many existing microbrewery companies are growing by opening 2nd and 3rd location taprooms
 - These additional locations have the same taproom environment and products but are classified as restaurants or retail because 100% of the beer sold is produced at the original location and delivered (no production on-site)

The Land in Village Center & Town Center jurisdictions is limited, more expensive and encouraged by code for high-density development. Microbrewery use case is uniquely constrained to incorporating opaque screening buffers when adjoining (sharing rear and/or side yard) OR adjacent (across public street) from residential property use. This buffer is not required for restaurants, retail with accessory bars, satellite taprooms of existing breweries, or even new retail buildings up to 29,999 square feet in size. We have evaluated 3 properties for a local business with a brewery component in Village Center, all of which have residential adjacent to the commercial property. The 30' buffer requirement (which also requires building a 6' wall) would reduce the available development area of the parcels by between 26% and 34%, compared to that available for all other retail uses. It is unclear what objective hardship beer brewing uniquely places on adjacent residential, if not for the opaque buffer, that in turn justifies the resulting development & financial hardship on such businesses pursuing the same properties as other retail businesses. Additional practical development issues with the code are, Section 9.4.2(A) of LDC, which establishes requirements for Type 'A' buffers, makes no mention of front yard placement. Only rear and/or side transition yard usage is described. Placement of an uninterrupted Type 'A' buffer along the front yard (street frontage), due to residential use across the street, would prevent auto and pedestrian access to business. Furthermore, front yard screen placement materially conflicts with requirements and intent of Section 4.1 (Elements of Architectural Compatibility) and Section 4.2 (Architectural Standards). The proposal is to eliminate paragraph 'f' of LDC section 6.2.8, which requires Type 'A' screening buffers in certain cases for microbreweries, so that businesses operating under a microbrewery use case are not disadvantaged to Restaurants and other similar Retail uses

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After discussion, the board directed staff to draft language to take out Type 'A' buffers.

Motion made by Norris Woody. Seconded by Keith Eicher. All in favor, motion approved.

In Favor: Ms. Crawford, Mr. Myers, Mr. Dunn, Mr. Woody,
Ms. Pegram, Mr. Bruton, Mr. Dean, Mr. Eicher, Ms. Sisson

Opposed: None

Transient Occupancy Update

Mr. Herron briefly updated the Board on past discussions regarding short term rentals.

Ms. Partin presented the following information to the board: Staff was asked to provide information on Transient Occupancy given the upcoming Republican National Convention (Monday, August 24 – Thursday, August 27). Vacation rentals/transient occupancy is a nationwide issue – it is not limited to Cornelius. About 14 transient occupancy permits issued per year over the last 10 years. Cornelius has 413 hotel rooms to offer visitors. The reasons to why we regulate are: Protect Quality of Life for Year-Round Residents. Preserve Neighborhood Character. Safeguard Housing Availability & Affordability. Promote Economic Development & Fairness. Resolve Community Tension. Challenges with vacation rentals is that Most people (anywhere-not limited to Cornelius) do not know zoning regulations exist for short-term rentals. Zoning must be fair and equal, regardless of ownership. Zoning must be based on the Use and property upkeep. Most frequent types of complaints: Noise, Parking, Trash, Ignorance of local rules (i.e., leash laws, no swimming in specific areas, etc.), and Can create community tension among property owners, neighbors, realtors, hotels.

Ms. Partin provided background information to the board:
Residential Vacation Rental Use was initially added to the Land Development Code on April 21, 2003 as a result of neighbor complaints. Positive aspects of vacation rentals identified by staff: Provide a positive economic impact to the Town by allowing Cornelius to become a vacation destination, Vacation rentals used for short-term residential use do not have a greater negative tax impact on the community than any ordinary single-family home, Vacation Rentals bring people into the Town who will spend money in restaurants and retail stores, Adverse impacts identified by staff are: Noise, Overcrowding and a transient population, A decrease in property value, Parking, Disrespect of neighborhood properties, and Garbage pickup. An open house and workshop were held, as well as conducting a survey which showed a majority of respondents believed the following: Short-term vacation rentals are an issue that needed to be addressed by the Town. Attendees were in favor of short-term vacation rentals and would like to retain the option to rent their home as a vacation rental. Stricter zoning requirements should be imposed upon vacation rentals. An occupancy tax should be imposed upon vacation rentals. Vacation rentals would provide an economic benefit to the Town. Vacation rentals would not decrease property values. The Town should pass text amendments regulating vacation rentals. The intent of the proposed text amendment was to allow the property owner the right to use the home as a Residential Vacation Rental while protecting neighbors from adverse impacts. Residential Vacation Rental Use was allowed in all residential districts with conditions (RP had no conditions): Permit required & may not be transferred from one Owner to another or one residence to another. Shall not exceed one individual tenancy within a 7-consecutive calendar day period whether the residence is occupied or not. May only be used for that purpose during the occupancy. No other use (i.e. home occupation, temporary event) shall be permitted. Shall not change the residential character of the dwelling or constitute or create a public nuisance as defined within the Code of Ordinances. Exterior signage not permitted. Parking shall occur in the garage, driveway, or designated parking space. Trash containers shall be

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maintained in the side or rear yard and shall be screened from street view. The Owner/Operator shall ensure that trash pickup occurs at least once a week at the residence and as otherwise needed for additional trash. Units shall not have more than a total number of persons calculated by three (3) persons per bedroom on the premises at a time. All Owner/Operators shall designate a local contact person who shall be available twenty-four (24) hours a day to respond to occupants, neighbor and Town concerns or complaints. Shall comply with Section 92.25 Noise of the Town of Cornelius, Code of Ordinances. Background from 2009 to present: Session Law 2014-91 (SB 859): An Act Relating to Municipal Regulation of Vacation Rentals and Other Transient Occupancies was adopted on July 31, 2014. Specifically grants Cornelius the authority to regulate vacation rentals. Expires December 31, 2021. Enforcement is complaint based. Enforcement is challenging and time consuming. Difficult to identify and prove rental situation. The Town bears the burden of proof to determine if a violation exists; advertising on websites, like VRBO, is a piece of evidence, but is not proof. Complaints average 1-2/year. Most complaints relate to a renter creating a nuisance to the neighbors, usually noise or parking. Haimbaugh case: Initially a legal rental as vacation rentals were allowed in GR until 2009; 3-year amortization ended on 2-12-2012. Enforcement actions started in 2012. Case went to Superior Court and the court ruled in the Town's favor in early 2016. Enforcement actions ceased when the Haimbaugh's sold the property on 5-12-2016. Other considerations are short term rentals are an attractive model for investors looking for substantial cash flows and ROI. This could result in a shortage of available permanent housing for the employed, retired, etc. More than 125 vacation rental platforms – not just VRBO, Airbnb, HomeAway. More people visit Airbnb than any hotel or travel booking website. ~25% of travelling population in the U.S. has now stayed at a short-term rental (for business or leisure). The Airbnb market value is now higher than the value of any hotel chain. Complete short-term rental bans have proven to be ineffective & expensive to enforce – people tend to not follow the rules, so you don't get the expected result. Closing thoughts: Cornelius may have 2-3 sites conducive to potential hotel development in the future. In 2019 a bill, backed by Airbnb, was introduced that would prohibit local government from regulating short-term rentals. The bill did not make it out of committee. North Carolina 2020 legislative session starts April 28.

Staff recommends waiting until after the Legislative meets in April before discussing.

Mr. Bruton asked staff to look at what can be done to regulate issues other than noise.

Next Meeting

Monday, February 24th, 2020

Adjournment

Norris Woody made a motion to adjourn the meeting at 7:07 pm. Mr. Bruton seconded. All in favor and motion approved.

In Favor: Ms. Crawford, Mr. Myers, Mr. Dunn, Mr. Woody,
Ms. Pegram, Mr. Bruton, Mr. Dean, Mr. Eicher, Ms. Sisson

Opposed: None

REQUEST FOR BOARD ACTION

 [Print](#)

Date of Meeting: February 24, 2020

To: LDCAB Members

From: Becky Partin

Senior Planner

Action Requested:

At last month's LDCAB meeting Mr. Knox (Trey) Ramsey asked the Town to consider changing buffer requirements, particularly for microbreweries. Staff was directed to draft changes for consideration.

Manager's Recommendation:

Review proposed changes and provide feedback.

ATTACHMENTS:

Name:	Description:	Type:
No Attachments Available		

REQUEST FOR BOARD ACTION

 [Print](#)

Date of Meeting: February 24, 2020

To: LDCAB Members

From: Becky Partin

Senior Planner

Action Requested:

Staff was asked to provide options regarding the definition and process for major subdivisions.

Manager's Recommendation:

Hear presentation and make recommendation.

ATTACHMENTS:

Name:	Description:	Type:
No Attachments Available		
