

At a special meeting of the Board of Supervisors of Warren County held in the Warren County Government Center on February 22, 2022 at 7:30 PM.

Present: Cheryl L. Cullers, Chair (South River District); Delores R. Oates, Vice Chair (North River District); Vicky L. Cook (Fork District); Jerome K. Butler (Happy Creek District); and Walter J. Mabe (Shenandoah District); also present Edwin C. Daley, County Administrator; Jason Botkins, Legal Counsel; Joe Petty, Director of Economic Development/Interim Planning Director; Emily Ciarrocchi, Deputy Clerk of the Board; and Roger Bianchini, Royal Examiner

Call to Order and the Pledge of Allegiance of the United States of America

Public Hearing – Conditional Use Permit 2021-10-02, Travis Dodson for a Commercial Outdoor Recreation Operation Located at 650 Water Plant Road and Identified on Tax Map 1, as Lots 3, 3A, and 3AA – Joe Petty

Joe Petty, Director of Economic Development/Interim Planning Director, reported the applicant is requesting a conditional use permit for a Commercial Outdoor Recreation Operation, which would consist of a private outdoor gun training facility and classroom. The owner/applicant currently owns and operated a well-established gun shop in Middletown, Virginia, and understands the need for a safe place to provide firearms training and education for both citizens and law enforcement officers. The business would operate year-round and is only available to those who have made reservations for private classes or appointments. The facility is not a public gun range for citizens and customers.

The Planning Commission forwarded this application to the Board recommending approval with the following conditions:

1. The applicant shall comply with all Virginia Department of Transportation (VDOT), Warren County Building Inspections, Warren County Health Department, Warren County Sheriff's Office and applicable environmental regulations and requirements.
2. A site plan shall be prepared and approved by the Warren County Planning Department prior to the issuance of a Certificate of Zoning, showing the buildings, parking area, outdoor lighting, trash receptacles, signage, outdoor firing range, and other applicable zoning requirements.
3. All light fixtures shall be full cut-off fixtures and comply with the Zoning Ordinance requirements.
4. Activities associated with the commercial operation shall not produce sound levels which exceed 60 decibels during hours of operation at the nearest property line.
5. Activities associated with the commercial operation shall be by appointment or reservation only. Such activities shall only take place during the following hours:
 - a. Classroom Instruction: Monday through Saturday 8:00 AM to 7:00 PM, and Sunday 10:00 AM to 5:00 PM.

- b. Outdoor discharge of firearms: Monday through Saturday 9:00 AM to 6:00 PM/or sunset, and Sunday 12:00 PM to 4:00 PM.
6. The maximum number of occupants per class shall not exceed twenty-five students and five instructors or as determined by the Warren County Health Department.
7. Special events which exceed the occupants listed in Condition #6, shall be limited to no more than ten events per calendar year with no more than seventy-five people per event. Such events shall meet Warren County Building Inspections and Warren County Health Department requirements.
8. The applicants shall have the well/drinking water tested annually for lead contamination and a copy of the results shall be submitted to the Planning Departments.

Since the Planning Commission public hearing on November 10, 2021, Mr. Petty has been in contact with the applicant and other individuals with comments in support of or opposition to the application. The following are points from staff that have been crafted from these discussions as well as the proposed edits to the conditions as recommended by the Planning Commission:

- Possible installation of evergreen landscaping around the berm and shooting area to provide additional buffering.
- Regarding the noise produced by the discharge of firearms. The property could be monitored from points around the property boundaries and reviewed and approved by a certified third party for compliance. The results from the sound study may require the need for baffles, buffering, or other improvements to reduce sounds levels.

Condition #4: "Activities associated with the commercial operation shall not produce sound levels which exceed 60 decibels during hours of operation at the nearest property line. **A study shall be conducted, and results shall be provided to the Planning Department prior to conducting the commercial operation.**"

- Regarding the time one should expect to hear the discharge of firearms. By amending the hours of operation, it would reduce the times for outdoor discharge of firearms.

Condition #5(b): "Outdoor discharge of firearms: Monday through Saturday ~~9:00~~ **10:00** AM to 6:00 PM/~~or sunset~~, and Sunday 12:00 PM to 4:00 PM.

Condition #6: "The maximum number of occupants per class shall not exceed twenty-five students and five instructors ~~or as determined by the Warren County Health Department.~~"

Condition #7: "Special events which exceed the occupants listed in Condition #6, shall be limited to no more than ten events per calendar year with no more than seventy-five people per event. ~~Such events shall meet Warren County Building Inspections and Warren County Health Department requirements.~~ **A Warren County special entertainment permit shall be issued for each event.**"

- Regarding the safety of the areas outside of the property boundaries. The outdoor firing range should be inspected and approved by a certified third party for compliance. In order to obtain compliance, the site plan requirements may include the need for baffles, buffering, or other improvements.

Condition #9: **“The applicant shall have approval by a qualified organization/individual to certify that the live-fire range is a safe operation; designed to prevent injury to personnel and to prevent property damage outside the range from the misdirected or accidental firing and ricochets prior to conducting the commercial operation.”**

Mr. Mabe asked about septic system testing, and Mr. Petty referred to the comments submitted by the Warren County Health Department. The original proposal by Mr. Dodson was for a portable restroom facility, and the applicant will be working with the Health Department to provide facilities to accommodate the number of individuals coming to the facility.

Travis Dodson introduced himself as the applicant who, along with his wife Ashley Dodson, bought the property in 2020 with the goal to create a recreational facility that included a range. The range would not be open to the general public or by membership, and the naturally occurring berms on the property have been reinforced with rubber tires. They will not be storing or housing ammunition or firearms at this location, only providing firearms training. They have not been informed of any formal noise complaints coming from the facility by the Sheriff's Office, and they plan to work together with the nearby park to coordinate for future events to avoid discontent regarding noise. Mrs. Dodson and Jim Baker, one of the instructors, spoke briefly about the decibel readings taken on the property in October 2021 during a four-hour period when they expended more than 3,000 rounds. They spoke about the results of the readings and the distances between this property and the nearby Cedar Creek and Belle Grove National Historical Park.

Mr. Butler wanted to know if there were going to be any caliber restrictions for the training, and Mr. Baker responded the vast majority of the training is with handguns.

Mrs. Cullers voiced concerns about potential groundwater contamination and runoff stemming from the shell casings, and Mr. Petty referred to the recommendations given by the Department of Environmental Quality. Because there is a well on the site, DEQ would be able to test and address the pH levels in the water, if needed. Mr. Dodson noted they teach their students to pick up their brass, which is what everyone is supposed to do at every range.

Mrs. Cullers also brought up a screenshot she had received of a comment on a Facebook regarding Mr. Dodson's future plans of making this a public range, and Mr. Dodson replied that this comment was taken out of context and was actually about his far-future plans involving the potential for an indoor range.

Mrs. Cullers opened the public hearing.

The following individuals appeared in person or submitted comments in support of Mr. Dodson's conditional use permit application:

- Gillian Roseberry, Junction Armory
- Richard Harsell
- Buz Grover
- Jan Boru
- Nancy Jo and Shawn Carrico
- Dusty Drummond
- Gary Finniff
- Sherry Jo McBrayer
- Cathy Schucker
- Eric Sine
- Katya Smith
- Brian Smith
- Corey Szwydek
- Suzi and Mike Wilt
- Chief Bill Copp, Stephens City Police
- Mayor Charles Harbaugh, Town of Middletown
- Sheriff Lenny Millholland, Frederick County Sheriff's Office
- Daniel Morgan
- Daniel Beasley
- Ken Logan
- Bradley Long
- Tommy Johnson
- Dan Arico
- Miles Adkins
- Bob Ryan
- Lorne Cooper
- William Burke
- Adam Luthi
- Brian Adams
- Nicholas Ault
- Anthony Bencivenga
- Russell Kuhn
- Jayson Vance
- Paul Hitchcock
- Franklin Martin
- Ian Berry
- Lucas Cook

The following individuals appeared in person or submitted comments in opposition to Mr. Dodson's conditional use permit application:

- Kristen Laise, Belle Grove
- Ross Bradford, National Trust for Historic Preservation (NTHP)
- Dan Downey
- Robin Young
- Virginia Pasquet
- Anne and Bill Mahoney
- Mary Ryan
- Fred Andreae
- Dave Blount
- Byron Brill and Kathleen Kanter
- Ashley Sonntag
- Lee Meyer
- Larry Andrick
- Katherine Malone-France, NTHP
- Keven Walker, Shenandoah Valley Battlefield Foundation
- Roy Downey
- Monty Loving
- Carol Polkinghorne
- Mike Sipes
- Karen Beck-Herzog

There being no further comments from the public, Mrs. Cullers closed the public hearing.

Mr. Butler asked the Dodsons to elaborate on the situation that occurred with the range they attempted to previously open in Frederick County. Mrs. Dodson responded that

three years ago, they had a contingent sale on a property in Frederick County, but their request for a range did not make it past the Planning Commission. She said that they purchased the property here in Warren County after that and opened a private range, which since it was not public, they did not think there would be an issue. However, as soon as they received the violation letter from the Planning Department, they ceased operations and began the application process.

Mr. Petty reviewed the conditions that were approved by the Planning Commission as well as the proposed modifications recommended by staff. There was discussion among the Board members and staff regarding noise mitigation, decibel readings, and whether to include any of the proposed condition modifications recommended by staff. The consensus of the Board was to accept the modifications to conditions 5, 6, and 7.

On a motion by Mrs. Cook, seconded by Mrs. Oates, and by the following vote, the Board of Supervisors, finding that the requested conditional use is consistent with the Warren County Zoning Ordinance, approved the conditional use permit request of Travis Dodson for a Commercial Outdoor Recreation Operation with the conditions as recommended by the Planning Commission and staff, as amended and listed below:

Mabe, Aye; Cook, Aye; Cullers, Aye; Oates, Aye; Butler, No

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8. The applicants shall have the well/drinking water tested annually for lead contamination and a copy of the results shall be submitted to the Planning Departments.

Adjournment

Mrs. Cullers adjourned the meeting at 11:12 PM.