



SOUTH KINGSTOWN PLANNING DEPARTMENT
PROJECT REVIEW MEMO
Lavender Waves Farm
Development Plan Review
August 25, 2020

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| Project Type: | Development Plan Review | | |
| Review Stage: | N/A | | |
| Address: | 3814 Commodore Oliver Hazard Perry Highway | | |
| Plat: | 78-3 | Lot: | 7 |
| Parcel Size: | 13.6 acres | Zoning District: | R200 |
| Applicant: | Lavender Waves Farm c/o Henry Cabrera | Owner: | Henry Cabrera |
| Current Plan Set: | <i>Event Location Plan, A.P. 78-3, Lot 7, 3812 Commodore Oliver Hazard Perry Highway, South Kingstown, Rhode Island, dated January 24, 2020 with revisions through June 8, 2020, Prepared For: Henry Cabrera, Prepared By Michael A. Fontaine, PLS, 593 Green Hill Beach Road, South Kingstown, RI 02879.</i> | | |

Property Characteristics

The property is approximately 13.6 acres in total area located on the south/east side of U.S. Rte. 1. (*Note: Zech Drive, which appears in between the property and the highway is an access road located in the Rte. 1 right-of-way.*). The parcel is located in the R200 zoning district and is improved with a single-family home, barn, garage and gravel drives, and is currently operated as “Lavender Waves Farm”, a private luxury lavender farm that is not open to the general public.

Although the parcel has 156 feet of frontage on U.S. Rte. 1, the existing driveway access to the property is via a 16-foot right-of-way (ROW) located on the abutting property to the east (3804 Commodore Oliver Hazard Perry Highway).

The property is abutted to the east by several large, 3 to 5 acre residential estates and to the south and west by large farmsteads. All of these abutting parcels are similarly zoned R200. However, in contrast to the surrounding R200 properties, a 4-lot residential subdivision of one-acre lots has been developed on the northwest corner of the parcel, which lots are disparately zoned as R80.

Project Description

The applicant proposes to make designated areas of his farm field available for accessory farm events in accordance with §503.7 G. of the Zoning Ordinance. The project narrative proposes to hold farm events which include fundraisers for nonprofit entities, weddings and other personal recognition special events. The events would mostly be held on weekends from May 1 to November 1 and there would be no more than 15 events in any one year. The events would be limited to 150 people per event and the applicant is proposing that all events end by 9:00 PM at the latest and that all event staff are off the property by 10:00 PM at the latest.

Per a revised site plan submitted on August 17, 2020, the applicant is proposing a new driveway access to the property from Zech Drive to a new 50-space parking area at the far northern end of the parcel adjacent

to the highway right-of-way and A.P. 78-3, Lot 6. As Zech Drive falls within the state road right-of-way for Route 1 a physical alteration permit will likely be required from RIDOT.

All event-related equipment (tents, tables & chairs, port-a-johns, cooking, lights, sound equipment ... etc.) would be provided by the parties renting the event space. There is no proposal for new event-related structures or for on-site storage of event-related equipment.

Parking & Circulation

The only zoning requirement in § 503.7 G. is that all parking conform to the requirements of Article 7 of the Zoning Ordinance. Section 703 of the Ordinance requires that all parking areas be paved with “impervious material” *unless* the Planning Board approves the use of an alternative “porous paving material” at the time of Development Plan Review. In this case the applicant proposes to park all guest vehicles on grass, which while “porous” is not a “paving material” as required by § 703. The supplemental materials submitted by the applicant on August 18, 2020 include a copy of a 59-page EPA guidance document from 2008 entitled “Green Parking Lot Resource Guide,” (*supplement 5*) and an undated University of Tennessee, Institute of Agriculture document on estimating the number of parking spaces for on-farm agribusiness ventures (*supplement 6*). However, neither the supplemental materials nor the revised site plan indicate what, if any, paving material is proposed for the driveway or parking area.

The 50 parking spaces proposed on the site plan satisfies the parking standards with Section 703 of the zoning ordinance requiring one parking space for every three (3) guests. The configuration of 10’x18’ parking stalls around 24’ wide aisles also appears to be in keeping with town practices.

The applicant’s original proposal indicated that all access for events would be via the existing 16’ right-of-way on A.P. 78-3, Lots 8 and 9. With the creation of the new driveway and parking area in the revised site plan it is clear that at least event guests will no longer use the right-of-way. The supplemental materials do not specify whether the applicant still proposes to use the right-of-way to support access for event contractors (e.g. caterers, tent suppliers, port-a-john contractors ... etc.). Questions and concerns that have been raised by neighbors as to the legality of use of this right-of-way for (commercial) event purposes. The applicant has responded to these objections in his supplemental materials with a legal opinion written by his attorney, John Kenyon. (*Supplement 8.*) Attorney Kenyon opines that the language of the existing right-of-way allowing passage by “foot and with all manner of vehicles to and from the [applicant’s] premises” includes the commercial uses proposed by the applicant.

Decision Deadline

Pursuant to the Zoning Ordinance and Subdivision and Land Development Regulations, there is no deadline for Planning Board decisions on Development Plan Review applications.

Regulatory Considerations

Zoning Ordinance – Article 12: Definitions

(50.3) *Farm enterprise.* An agricultural or silvicultural-based process, activity or use of a farm that is subordinate to and conducted in conjunction with an ongoing bona fide agricultural, horticultural or silvicultural operation. Activities of a farm enterprise may include, but are not limited to the following uses: farm tours, classes and/or conferences related to agricultural production and skills, petting, feeding and viewing of farm animals, hayrides, annual festivals, crop mazes, animal walks, and horse and pony rides.

(50.4) *Farm events.* In addition to allowable farm enterprise uses (definition 50.3) farms may, as an accessory use, host events that are not agricultural in nature but provide a means to promote and/or increase the exposure of the agricultural operation. Such events are classified into the following categories: educational conferences, fundraisers for nonprofit entities, weddings and other personal recognition special events.

Zoning Ordinance – Article 5, Section 503.7: Farm Retail Sales Activity (Farm Accessory Uses)

- F. Farm *enterprise uses*. Subject to development plan review approval farm structures and grounds may be utilized for farm enterprise uses (parking must be provided in accord with the requirements of Article 7, see also definition 50.3, Farm enterprise). Such uses shall not be counted toward the allowable square footage in a farm retail sales building.
- G. Farm events. Subject to Development Plan Review (DPR) approval, for each category of event, farm structures and grounds may be used to host farm events as an accessory use to the principal use of the premises for agricultural purposes. Parking must be provided in accordance with the requirements of Article 7 (see also definition 50.4 "farm events"). Such uses shall comply with all applicable state or local licensing requirements and shall not be counted toward the allowable square footage in a farm retail sales building. Prior to DPR consideration of any proposed farm event use or uses, the application shall be reviewed by the town's traffic and transportation review committee (T2RC). The T2RC shall provide advisory recommendations to the planning board to assist its formal review. The applicant shall provide postcard notice to property owners within 200 feet of the area that is proposed for the activity and parking facility to support the farm events. Said notice shall be mailed not less than seven (7) days prior to the planning board's development plan review consideration.

Zoning Ordinance – Article 7: Standards for Parking Lots and Loading Facilities

Sec. 703. - Paving

All parking and loading facilities required under the terms of this Ordinance, together with driveways, aisles, and other circulation areas, shall be paved with an impervious material to provide a durable and dust-free surface, to be applied over no less than 12 inches of compacted gravel. Notwithstanding the foregoing, the use of porous paving material may be allowed as follows:

1. By the Planning Board at the time of development plan review; or
2. Where development plan review is not required, by the Zoning Board of Review as a special use permit under the provisions of Article 9 of this Ordinance.

Sec. 704 - Lighting

Any lights used to illuminate a parking lot shall be so designed as to reflect the light away from adjoining property and away from streets. The Planning Board may, at the time of development plan review, require off-street parking lots to be illuminated during non-daylight hours if necessary for reasons of public safety or efficient traffic circulation.

Sec. 705 – Drainage

All parking and loading areas shall provide for proper drainage of surface water. The Planning Board may, at the time of development plan review, require stormwater drainage facilities for off-street parking and loading facilities to be constructed to the standards set forth in the Subdivision and Land Development Regulations.

Sec. 706 – Required Trash Areas

All commercial, industrial and multi-household residential uses that provide trash and/or garbage collection areas shall enclose such areas on at least three sides by a solid wall, opaque fence or compact planting screen of at least five feet in height if such area is not within an enclosed building or structure. If trash compactors are used, holding tanks for compacted waste must be provided. Provisions for adequate vehicular access to and from such area or areas for collection of trash and/or garbage shall be required.

Sec. 707 – Wheel Blocks

Whenever a parking lot extends to a property line, wheel blocks or other suitable devices shall be installed to prevent any part of a parked vehicle from extending beyond the parking facility.

Sec. 708 – Width of Access Driveways

Access driveways serving any required parking lots as a direct access drive from a street shall not be less than 12 feet [wide] for one-way only traffic and not less than 24 feet [wide] for two-way traffic.

Review to Date

05/13/2020 TRC Review of the Development Plan

Discussion at the TRC meeting on May 13, 2020 focused on the number of proposed events compared to what has been permitted elsewhere in town; noise; parking; event scheduling & logistics and the lack of detail pertaining to the layout of the event locations. The TRC requested that the applicant update its plan to show revised/reduced parking, and provide more details on the size and layout of the event areas, and the operational logistics for the events (e.g. hours of operation, noise limits & noise monitoring ... etc.) Given the proximity of the 4-lot subdivision on the northwest corner of the property, the Board may wish to consider the merits of a perimeter landscaping buffer at these property boundaries pursuant to Article IV.G.3. of the Subdivision & Land Development Regulations to screen these residential lots from the visual and auditory impacts of the parking area and noise associated with the events.

One particular concern expressed by the TRC involved the existing access to the property, which is via a ROW on an adjacent lot. A copy of the written easement for the ROW was not included in the applicant’s materials and it was unclear whether the terms of that easement allow use of the ROW for commercial events such as those being proposed in the application.

Ms. Rubinoff requested more detail on the plans regarding the proposed location/layout of tents, food service, sanitary facilities ... etc. and Mr. Flanders asked for the plans to show the actual square-footage of the event areas. Ms. Gray requested that the applicant include the layout and orientation of sound equipment and event hours. Ms. Rubinoff stressed that the hours of operation should give adequate consideration the time required to set up the event, for guests to depart and breaking down event equipment.

Finally, the applicant was asked if there had been any efforts made to communicate with neighbors about the plan to run event activities at this location. Attorney Kenyon said that efforts had been made, but that he was unaware whether any feedback had been received or what it might be.

| Item/Issue Discussed | Recommendation | Status |
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| Number of events | The TRC recommends that the number of events per year be restricted to what is allowed at other similar venues in town. | To be discussed and/or required to be submitted in the application to the Zoning Board of Review. |
| Parking | The TRC recommends a reduction in parking. 150 parking spaces are proposed, but only 50 spaces are required by ordinance. The applicant should consider removing parking spaces from the areas adjacent to the wetlands. The application proposes that most event parking – up to 150 guest vehicles – will be on grass. Per Article 7, § 703 and Article 5, § 503.7(F and G) of the Zoning Ordinance parking for farm enterprise uses and events must be provided on an impervious surface, <i>unless</i> the Planning Board approves the use of a “porous paving material” | To be discussed with the Planning Board. |

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| | during Development Plan Review per § 703(1). Thus, in order for the plan to be approved: <ul style="list-style-type: none"> • The applicant must amend the plan to propose an acceptable porous paving material in its parking areas; or • The applicant must obtain a variance to the above referenced paving requirements from the Zoning Board; or • The Planning Board must make a finding that unimproved grass/dirt areas constitute an acceptable “porous paving material” per Article 7. | |
| Circulation | The terms of the ROW easement should be provided to confirm that the ROW can be used for commercial events. | To be discussed with the Planning Board. |
| Noise | The applicant should provide a plan for monitoring and managing noise levels at the property boundaries. Noise management should include details on the layout and orientation of amplified sound equipment. | To be discussed with the Planning Board. |
| Event Operations | More detail needs to be provided on the size/area and layout of the event spaces for guest-tent, food-prep and sanitary facilities. Applicant must provide proposed hours of operation that detail event hours and set-up/break-down times. | To be discussed with the Planning Board. |

The TRC voted unanimously to forward this application to the Planning Board with a favorable recommendation, subject to review of the revised plans by staff. As of the date of this report, the staff has not received any revised plans for review.

06/23/2020 Planning Board Review of the Development Plan

This application was continued to the July 28th, 2020 Regular Session upon request of the applicant.

07/28/2020 Planning Board Review of the Development Plan

The application was reviewed by the Planning Board and public comment was received. The application was continued to the August 25th, 2020 Regular Session. Public comment was not closed and is scheduled to resume at the August 25 meeting.

Required Findings

As a reminder, in accordance with Article IV.F(3) of the Subdivision & Land Development Regulations, prior to granting Development Plan Review approval the Planning Board shall find that:

- a) The granting of approval will not result in conditions inimical to the public health, safety, and welfare;
- b) The granting of such approval will not substantially or permanently injure the appropriate use of the property in the surrounding area or zoning district;
- c) The plans for such project comply with all the requirements of the Zoning Ordinance and the Subdivision & Land Development Regulations;
- d) The plans for such project are consistent with the Comprehensive Plan; and,

- e) Any conditions or restrictions that are necessary to ensure that these guidelines have been met have been incorporated into the written approval.

Draft Motion

“The South Kingstown Planning Board hereby grants Development Plan approval for the Lavender Waves Farm application located at 3814 Commodore Oliver Hazard Perry Highway, for proposed farm-event use with associated minor site improvements on Assessor’s Plat 78-3, Lot 7, Henry Cabrera, *applicant/owner*. Development Plan approval for this bed and breakfast use is based upon the Event Location Plan, A.P. 78-3, Lot 7, 3812 Commodore Oliver Hazard Perry Highway, South Kingstown, Rhode Island, dated January 24, 2020 with revisions through March 19, 2020, Prepared By Michael A. Fontaine, PLS, 593 Green Hill Beach Road, South Kingstown, RI 02879.

This approval is based upon the following Findings of Fact and Conditions of Approval:

Findings of Fact

- A. The granting of approval will not result in conditions inimical to the public health, safety, and welfare.
- B. With the required Conditions of Approval, the granting of such approval will not substantially or permanently injure the appropriate use of the property in the surrounding area or zoning district.
- C. With the required Conditions of Approval, the plans for the project comply with all the requirements of the Zoning Ordinance and the Subdivision and Land Development Regulations.
- D. The plans for the project are consistent with the Comprehensive Community Plan.
- E. Any conditions or restrictions that are necessary to ensure that these findings have been met have been incorporated into this approval.

Conditions of Approval

- 1. This approval shall be limited to the hosting of up to ____ events annually.
- 2. Events shall occur only between _____ and _____ of each year.
- 3. All events shall be limited in size to a maximum of _____ persons.
- 4. All events including production of amplified sound, are to end no later than 10:00PM. All vendor activity including catering, clean-up, and valet services (if appropriate) shall conclude within 1.5 hours of the event end time.
- 5. Temporary signage indicating the location of events shall be provided for all events at the property entrance in accordance with Section 806 of the Zoning Ordinance.
- 6. All temporary lighting utilized during events shall be downcast in nature and shall be designed and sited to prevent light from extending beyond the boundaries of the property.
- 7. All events will utilize portable toilets for guest use.
- 8. Any request by the applicant to amend this approval, including requests to increase the number of events allowed annually, shall require review and approval by the Planning Board.”
- 9. **And any other conditions deemed necessary by the Planning Board in consideration of this application...”**