

April 6, 2021

To: Barbara Greenwood, Chair  
Cornwall Development Review Board

From: Katherine Branch and Michael Collier, 776 West Street, Cornwall

We are writing to express a number of strong concerns about the commercial event rental venue for private parties being proposed for 1683 West Street, and on the agenda for the April 7, 2021 DRB meeting. We will make a much-abbreviated public statement at the meeting, but we have too many concerns to express within the time constraints of the meeting.

First and foremost, this proposed use does not appear to fall within the definition of the Low Density Residential (LDR) district. Section 260 Low Density Residential of the Cornwall Zoning Regulations states the “one of the primary objectives of this district is to preserve and encourage agriculture...Commercial uses within this area will continue to be primarily home-based businesses...Public uses, with the exception of recreation, should not be encouraged in this district”. Elsewhere in the zoning regulations, outdoor recreation is defined as “low-impact dispersed outdoor commercial recreation”, including uses such as playgrounds, parks and ball fields. The current Cornwall Town Plan makes it clear that “recreation” means outdoor recreation such as hiking, bicycling, walking, and wildlife viewing. This list of outdoor recreation does not include rent venues for private functions, such as weddings, graduation parties, family reunions and celebrations as listed by the Applicants—these are not outdoor recreation activities, but rather parties. The proposal for a parking area of 150 spaces, suggests that 300 or more people might attend such parties, as generally people attend social events in couples (for weddings) or family groups of three or more in one car (for family reunions). This number of people congregating is incompatible with a Low Density Residential district.

The Cornwall Town Plan states in Goal 2 under Economy that home-based businesses and home occupations should “preserve the neighbors’ quality of life” (p. 106). A party barn with more than 300 possible partygoers would not preserve the neighbors’ quality of life. This application is lacking important information that might mitigate substantial undue impacts, such as: noise limits, limits on hours of operation, limits on number of events per year, limits on number of attendees, and limits on the time of year that the venue can operate. Adverse impacts are not limited to just the day of the event, but also activities such as set-up of equipment and tents, placing port-a-potties, catering setup and break-down, trash removal and clean-up which might take place 1-2 days before and after the event, resulting in 4-5 days of disruption. Because West Street is used heavily by walkers, joggers, cyclists and even skateboarders, the presence of large vehicles unfamiliar with the poor sightlines and hills create a dangerous situation.

This use is completely contrary to the rural and agricultural nature of the Town; in fact, because of the quiet open space in rural areas, noise from parties travels phenomenally far. This past summer, a series of late afternoon concerts, open to the public, took place a mile from our house with what appeared to be about 40-50 maximum attendees at concerts that ended before dark. Even with low (or possibly no) levels of amplification needed for a small audience, we could still hear the music from a mile away. Because of the refraction of sound waves, sounds transmit much further at night, when people are trying to sleep. These small events promoted community within Town, and we were happy they took place; however, they are a direct contrast to the type of large, private parties with no stated ending-times that are planned by the applicants.

The Applicants state several reasons for this Conditional Use Application, including a “mission to care for this structure,” and a lack of such event spaces in 2015. The barn structure is now used to store eight boats. At least two of these boats were removed five days ago, on April 3<sup>rd</sup>. Since no zoning permit was issued for this adaptive reuse, we don’t know whether it rented for commercial purposes; however, this type of commercial use can be quite lucrative since indoor boat storage in the area can cost up to \$30 per foot length of the boat, most boats are 20 to 30 feet long, and boat storage is in short supply. This type of commercial adaptive reuse would be clearly less disruptive to neighbors and other townspeople, and more aligned with the zoning regulations. In terms of availability of event venues in Cornwall, as of 2019, there is no longer a lack of event space since an event venue was approved in a Medium Density zoning district.

Another safety issue is that of potential wildfires. Just two and a half weeks ago, on March 21<sup>st</sup>, a large wildfire broke out just west of West Street and raced through acres and acres of grass, brush and trees. Although we don’t know the cause of the fire, numerous fire trucks responded, and even more frightening, Michael clearly heard them shouting “Save West Street, let the fire go to the Lemon Fair.” After the fire equipment left, the fire broke out again and we called 911. Without proper surveillance by fire experts, it seems that smoking, open candles or carelessness by such a large number of partygoers could result in a very dangerous mix of dry fields and fire.

Another significant concern is the nearby proximity of Vermont Fish and Wildlife lands and the potential intersection between hunters who are knowledgeable and respectful about the land and hunting regulations, and partygoers who might not be. Between deer, duck, coot, Canada geese, and turkey archery and/or shotgun seasons, the periods of May 1-31<sup>st</sup> and October 1-December 15<sup>th</sup> are periods when events and hunting could overlap—this seems unwise. It also seems unfair that the public, who currently have the unfettered right to access Fish and Wildlife lands via the Right of Way, might have this right curtailed by these events and their set-up and break-down.

Since there are very few, to no, AirBnb sites or inns in Cornwall itself, it is likely that event attendees would stay overnight in Middlebury. Google maps shows the most direct route from 1683 West Street to Middlebury as along Route 125. In the past twenty years, there have been four traffic fatalities and numerous crashes along this stretch of 125 between West St and the town of Middlebury, because of poor sight lines. It is not prudent to have 150 vehicles with party attendees driving these vehicles, presumably in the dark and after consuming alcohol, onto 125 to reach Middlebury.

Additional questions that we have about the application, which our time allotment will not allow us to address during the April 7<sup>th</sup>, 2021 DRB meeting include:

- whether the proposed parking area will be dry enough during the party season to allow parking in the field. Will topsoil be removed from that area? Will the parking area be paved?
- are arrangements for transportation buses to the venue planned, to minimize the number of vehicles and likelihood of impaired driving?
- how will waste removal be handled? Will there be limits on non-biodegradable “throws” and giveaways such as party favors, confetti, beads, hats, noisemakers, wristbands, etc. so that soil is not contaminated?
- will music and amplified sound be limited to only inside the venue
- will the Schaefers be on-site to insure that all safety and nuisance conditions are met?

--whether 300 or more people can fit within the barn, and if so, would fire suppression measures be needed? Would the barn be accessible to those with disabilities?

--it is common knowledge that Middlebury College students often use off-campus, rural locations for parties so avoid campus alcohol restrictions. What kinds of controls will be in place to prevent these types of parties?

--location of portable bathroom facilities, how long these porta-potties would be allowed to be in place before and after the event, and whether they would be screened from view from the road

--will tents also be constructed, and how long will they remain before and after events?

--will neighbors be notified, and how far in advance, of events scheduled? Will abutting neighbors receive a contact phone number to call in case of problems occurring?

--The current Cornwall Zoning Regulations state that Applicants "shall protect dark skies at night and ridgelines by minimizing exterior lighting and obtrusive glare...to minimize the intrusion of light across property lines, eliminate upward illumination and reduce glare..." (Section 820). What type of lighting is planned for the proposed events? How will compliance to the zoning regulations regarding light be ensured in the large parking area?

--whether the Cornwall fire department has been consulted regarding fire risks, especially with barn capacity limits. Will bonfires, smoking, candles or fireworks be permitted? Has the State Fire Marshal been consulted? Is an occupancy permit required from the Vermont Division of Fire Safety for the barn?

This use is completely contrary to the rural and agricultural nature of the Town of Cornwall. The Application appears to privilege out-of-town partygoers who would attend these events over tax-paying Town residents.

In summary, there are no valid reasons, or benefits to the Town, in over-riding the existing Cornwall zoning regulations to allow this Conditional Use. In fact, the proposed use would directly contradict a primary objective of the Low Density Residential zone "to preserve and encourage agriculture" since it would harm the agricultural activities of one of the few remaining farms in Cornwall whose prime grazing area is contiguous to the proposed event venue. In addition, this proposal does not "protect the rights of neighboring property owners from substantial undue impacts," as required under the definition of Section 407, Home Based Businesses. Granting this Conditional Use would set an incorrect precedent that could open other areas of Cornwall to uses not intended by the Town Plan and zoning regulations.

Thank you for taking our concerns into consideration as you review this proposal.