

New Kent County Citizen Testimony - August 12, 2019

Public hearing on adding Combat/Tactical Training to Prohibited Uses

Charles Karow - Overall Insufficiency

Mr Chairman, I respectfully disagree with the contention that the existing zoning laws are sufficient to protect us from the threat of the disruption of our peaceful way of life, the loss in property values and the increase in physical danger that would result from a tactical combat training facility's being located in New Kent County. I contend that an explicit prohibition is needed and that it would not only protect against a use that has no place in NKC, but would save the commission, supervisors, county staff and citizens considerable time, money and distress by preventing a repetition of the CUP-02-18 adventure.

Mr Chairman, we had a chance last year to see how well the existing zoning laws would protect us against the treat of a combat range when Curtis Security Consulting submitted their application, CUP-02-18. **I think everyone now agrees that the Curtis proposed facility was not right for downtown Barhamsville and the permit should have been denied.** If the existing standards and conditions had been sufficient to block it, then the staff would have certainly cited the violations of those standards and offered a strong recommendation for denial. But the staff could not find even one compelling violation of the existing code and was forced to bring the application to the commission without a recommendation.

I have here the agenda packet, including the Curtis application (CUP-02-18), for last July's meeting that was to come before the commission, before the application was abruptly withdrawn at the last minute. It contains very few negative comments and **even a few recommendations for approval:**

- "VDOT has no further comments and recommends approval..."
- "As presented I have no issues with the plans as submitted..."
- "The proposed use would have some positive benefits for NKC..."

The staff report **quotes the promised economic benefits without comment, and without any critical evaluation or verification of the figures.** The staff report goes on to offer proposed conditions that would "assist in addressing, protecting and promoting health, safety and the general welfare..." Most of the significant conditions are **just copied from the Curtis Security application**, and none of them would have protected the community from the danger, the noise, or the loss in property values.

- There was nothing in the staff report about the proposed use not meeting the noise ordinance.
- There was nothing in the staff report about the proposed use not meeting the safety regulations.
- There was nothing in the staff report recommending denial of the permit for not meeting existing code.

Clearly the current code is not adequate to stop a combat range, because it did not stop the Curtis Security Consulting application, CUP-02-18.

If the existing laws already had provisions to block a combat range, then the staff could easily have quoted those provisions and indicated that the proposed use did not meet them; but they didn't – because the existing laws do not have any such provisions; **the existing code does not protect us against the threat of a combat range, and a prohibition does need to be added.**

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Dawn Estrin - Noise

Mr Chairman, the existing code does not protect us from the threat of a combat range or what it would do to the peace and quiet of the countryside we now enjoy here in New Kent County. I think that combat ranges should be prohibited.

The county's existing noise regulations that are based on time-averaged measurements are **totally inadequate to evaluate impulsive sounds such as gunfire or explosions.**

The county noise ordinance (Sec.46-121- 46-124) specifies noise level limits in public areas of 70-75 dbA measured with a sound level meter having the "slow" response. It then goes on to describe in detail, things like horns, radios, animals and machinery. And then it exempts rifle ranges and gun clubs!

The "slow" response is only appropriate for measuring continuous sounds like those discussed, since it averages over a one-second window. Gun shots and explosions are impulsive sounds that last for only a tiny fraction of a second; the rest of the second is filled with silence, and when averaged out you get a much lower measurement that does not reflect the true level of the sound or its disruptive effect.

To measure gunshots properly requires more specialized equipment that is capable of resolving sounds on the order of thousandths of a second, and with a very high dynamic range to handle the high sound pressure at the beginning of the shot.

Further, in the existing county laws, **there are no limits placed on noise on private property**, as the stated purpose of the article is only to regulate noise in a public area.

Curtis, in support of their CUP-02-18 application, had measurements showing that shots from their proposed firearms, when measured as specified in the county regulations, were within the county's limits for noise in public places.

There is also a mention of noise in the performance standards (Sec. 98-873(c)) that refers to the "standards" in the NRA Range Source Book. The NRA does not publish standards (only guidelines), and in their guidelines on sound/noise they completely fail to describe the distinctions between continuous sounds and impulsive sound. The DoD, on the other hand, does publish information and standards related to impulse noise with such documents as ADP010340, Techniques and Procedures for the Measurement of Impulse Noise, and MIL-STD-1474E, DoD Design Criteria Standard – Noise Limits.

So the **existing county noise regulations are not adequate** to protect us against tactical combat training ranges for two reasons:

1. They do not properly account for the impulsive nature of gunshots and explosions, and
2. They do not limit noise on private property.

Clearly, we do need to add tactical training facilities to the list of prohibited uses.

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John Lockwood - Firearm Range Safety

Mr Chairman, I respectfully disagree with anyone who says we have code in place to protect us from the decrease in property values and the increase in physical danger from a tactical combat training facility in New Kent County. **There is no safe place for a tactical combat training range in NKC.** To keep the residents and school children safe, we need to prohibit combat ranges.

Firearm Range safety is not properly addressed in the existing zoning laws. The specific use conditions and performance standards refer to a non-existent “NRA standard,” when the DOD Standard, DA PAM 385-63, is the correct standard for safety of a military-style tactical combat training range.

NKC Code references the NRA standards in the NRA Range Source Book; there are no such standards, I have the document right here – all they offer are *guidelines* that leave it up to the owners to determine what risk they wish to assume. While this may be fine for recreational or sporting ranges, it is **not appropriate for military activities** at a military-style tactical combat training facility.

You might say that we already have a prohibition against tactical combat training ranges in section 98-745(b)(11) Specific use conditions for Pistol Ranges; it specifically says “No combat-type ranges shall be permitted.” But the county staff repeatedly said that this provision did not apply to the Curtis application since they were not applying for a pistol range. Although it makes one wonder, ***“if we can prohibit combat-style pistol ranges, why not combat-style rifle ranges?”***

People have shown that the Surface Danger Zone (SDZ) extends for miles from the firing station, and that no amount of berms, baffles or other mitigations can insure that all bullets are contained in any smaller area. The DoD standard requires that the entire SDZ be under control of the range operators. The Curtis proposal **placed homes, churches, horse farms and school bus routes within the SDZ, and there was nothing in the county zoning laws to prevent it**, and the staff report said nothing about this possibility.

So the existing county firearms range regulations are not adequate to protect us against tactical combat training ranges for these reasons:

1. they do not refer to the proper military standard for such military operations
2. they do not require that the entire SDZ be controlled by the range owner/operator
3. use conditions and performance standards only come into play well after it’s too late to stop such a use from being built in the first place

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Patti Peterson - CUP Process and Impact on community

Mr Chairman, I respectfully disagree with the idea that our current code and the conditional use permit mechanism is good enough to handle military-style combat training facilities. I think we need to add combat ranges to the prohibited uses for New Kent County.

It has been suggested that the existing CUP process includes evaluation of the impact on surrounding properties as well as the general welfare of the population surrounding the proposed sites, and that this could protect against the threat of a combat range.

The fact that the CUP evaluation process did not protect the community in the case of CUP-02-18, is a strong indication that the existing process is not sufficient and a prohibition is needed.

While the Curtis Security proposed use (or any other tactical training facility) would have disrupted the environment for homes and businesses for miles around, **notices were only required to be sent to owners of adjacent properties** (those with a boundary in common with the subject property).

While the proposed use (or any other tactical training facility) would have profoundly altered the character of the county, **and** would have caused many businesses such as the horse farms and wineries, to close down, **and** the standards require that “the proposed use shall not be prejudicial to the character of the neighborhood,” the staff was only able to offer the **rather bland comment** that “this use would be a significant change to the Barhamsville area.”

While the existence of the proposed combat range (or any other tactical training facility) would have reduced property values by 10s of millions of dollars, **and** county tax revenues would have been decreased by 100s of thousands of dollars (even after including the new taxes from the proposed range itself) **and** the standards for review of CUP applications require that “the proposed use shall not ... impair the value of buildings or property in the surrounding areas,” the application was to have been presented to the commission with the comment that “The proposed use would have some positive benefits for New Kent County, including increased tax revenue...” – and the applicant’s economic fact sheet **was accepted without any critical review** or request for justification of its claims.

So the existing CUP review process did not then, and will not in the future, protect against the threat of a tactical combat training range for these reasons:

1. It does not provide for the proper notification of property owners that would be affected
2. It does not offer any evaluation guidelines that the staff can use to determine what constitutes being “prejudicial to the character” of a neighborhood
3. It does not require any justification for financial figures provided by an applicant
4. It does not have anything specific that the staff can use to evaluate the economic impact of a proposed use; just a vague provision about impairing the value of nearby properties

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Terri Peterson - Some Additional Considerations

Mr Chairman, with all due respect, I do not believe the existing laws are enough to insure the future safety and character of our great county. I want to see NKC continue to be a desirable place for all residents, and a place where compatible businesses are welcome and have an environment where they can thrive. Many of **our existing businesses would be severely harmed or driven out of business** if a combat range opened here, so I think we do need to prohibit them.

Mr Chairman, it is correct to say that **we don't really know how the Planning Commission would have voted** on CUP-02-18 last year, since they never got the chance to vote, but I do know this: **not one of the commissioners would say how they felt** before the meeting last year, and no more than two of the ten commissioners would even meet with any of us to hear our concerns and learn about the facts we had gathered. So I think it is easy to say now that one would have voted "no," but since nobody would say that a year ago, a **healthy dose of skepticism is warranted** on the part of the citizens.

Questions have been raised about the citizens' proposed definition, and why it needs to exempt "bona fide law enforcement or military training facilities operated by local, regional, state or federal government." I believe this was added as a way to indicate that there is no lack of patriotism, no desire to prevent the proper training of those who protect us, **no desire to restrict the rights of law-abiding gun owners**. In fact that provision is not strictly necessary; everyone knows that the military follows its own standards and would not even consider building a tactical training facility on a few hundred acres in a residential community. Because the government entities are required to comply with the government standards, a government-owned military combat training range would comply with the military standard and there is no place in NKC where a range meeting the DOD Standard, DA PAM 385-63, could be situated, so there is **no possibility of DoD even considering placing one here**.

It has been suggested that with a prohibition, we lose the ability to use the conditional use code to mold some future proposal into something that could be acceptable and appreciated. But people have shown the commission that military-style tactical combat training facilities, as defined, **can not be made acceptable to be placed anywhere in NKC, no matter what you do**.

There may be other types of training facilities and firearms ranges that could be acceptable and even desirable, but they are not included in the proposed definition (some uses are specifically excluded). This could include 40,000 sq ft indoor shooting ranges, or karate studios, or future technologies like virtual-reality simulated environments, which should be evaluated on their own merits and would not be included in the proposed definition of combat ranges that need to be prohibited.

There is nothing you can do to make a military-style tactical combat training facility acceptable anywhere in NKC, and this is exactly what the prohibited uses list is for.

Clearly, we do need to add tactical training facilities to the list of prohibited uses.

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Sandi Gauthier - Passionate Plea

Mr Chairman, a year ago a lot of citizens, my neighbors in NKC, **had serious doubts** about whether whether the Planning Commission and the BoS could be trusted with the future of our community; especially since no-one, not even one of the commissioners or supervisors, would give any reassurances or indications of where they stood. We'll never truly know how that vote would have gone, although it's easy **now** to say how likely a certain outcome might have been.

Tonight this board will have another chance, a **second chance to show whether the citizens can count on them** to do the right thing for the county and its current and future citizens.

A prohibition will give certainty and stability to our community and will **signal to businesses that it is safe to invest in NKC**. It will signal to our nationally-recognized show horse farms, and three (soon to be four) high-quality winerys that there is a future for them in NKC. It will reassure our veterans dealing with PTSD issues that NKC is a safe and welcoming place for them.

On the other hand, leaving the door open to future combat ranges, or saying that there are places in the county where one could be built is tantamount

- to saying “no” to the kinds of businesses we want to have here
- to saying “no” to our existing winerys and horse farms
- to saying “no” to all the residents who came here seeking a peaceful, safe place to live
- to making Economic Development Director Matt Smolnik’s job that much harder; after all, **what kind of business wants to set up near a combat range?**
 - not a horse farm
 - not a horse race track
 - not a doctor’s office
 - not a restaurant
 - not a child-care center
 - not an office park
 - not tele-work center
 - maybe a smelter
 - maybe a nuclear fuel processor
 - maybe a landfill
 - maybe a medical waste incinerator
 - maybe a hog farm

I respectfully urge every member of the board to **do the right thing** tonight by voting for the addition of tactical combat training facility, as narrowly defined in the proposed definition, to the list of prohibited uses.