

PRESENT: J. D. Tilghman, Chairman
W. F. Hite, Vice-Chairman
T.H. Byerly
J. Curd
K. A. Shiflett
J. Shomo
R. L. Earhart, Senior Planner and Secretary

ABSENT: D. L. Cobb, Director of Community Development
S. N. Bridge

VIRGINIA: At the Called Meeting of the Augusta County Planning Commission held on Tuesday, February 8, 2005, at 3:45 p.m. in the Board of Supervisors' Conference Room, Augusta County Government Center, Verona, Virginia.

The Planning Commission assembled in the Augusta County Government Center to discuss a rezoning, a conservation easement, and the upcoming items on the BZA agenda. The Planning Commission traveled to the following sites which will be considered by the Commission at their regular meeting:

1. Trimen, L.L.C. – Amend and restate the proffers
2. P.J. and Elizabeth Wright – Conservation Easement

Chairman

Secretary

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VIRGINIA: At the Regular Meeting of the Augusta County
Planning Commission held on Tuesday,
February 8, 2005, at 7:00 p.m. in the Board
Meeting Room, Augusta County Government
Center, Verona, Virginia.

DETERMINATION OF A QUORUM

Ms. Tilghman stated as there were six (6) members present, there was a quorum.

MINUTES

Mr. Byerly made a motion to approve the minutes of the Called and Regular meeting held on January 11, 2005, and the Called meeting of January 24, 2005. Mr. Shomo seconded the motion, which carried unanimously.

Trimen, L.L.C. – Amend and restate the proffers

A request to amend and restate the proffers on 2.63 acres owned by Trimen, L.L.C., located in the southwest corner of the intersection of Jefferson Highway (Rt. 250) and Goose Creek Road (Rt. 640) in the Wayne District.

Mrs. Earhart explained this was a request to amend and restate the proffers. The following proffers had been submitted:

1. In reference to the proposed connector road from Route 250 to Route 640 that Augusta County and/or the Virginia Department of Transportation proposes to design and construct, the owner will provide, at no cost to Augusta County and/or the Virginia Department of Transportation, a 60' width right-of-way which shall run parallel and adjacent to the western property line and which shall expand to 80' width at the intersections with Route 250 and 640.
2. All permanent access for this property will be from the connector road connecting Route 250 and 640 as generally depicted on the schematic site plan for Jefferson Commons prepared by Design Vision and dated January 12, 2005.
3. As a temporary measure, one entrance on to Route 640 will be allowed. This entrance can serve a building or buildings the aggregate area of which shall not exceed 15,600 square feet. When the connector road is completed, this entrance, if developed will be closed.
4. There will be no direct access on to Route 250 from this parcel.
5. Until the connector road is completed, permitted uses on this parcel will be only those permitted in the County's Limited Business District (§ 25-292). After the connector road is completed, permitted uses of the property will be all those normally allowed in the General Business District.
6. All exterior faces of Building Phase 2 will be brick veneer, all exterior walls facing east, west, and north to include architectural elements as to provide a professional appearance as found in the north and east exterior walls of existing Building Phase I. These elements will include appropriate windows, doors, brick details, some covered walkway, etc. Service doors to be located on the south exterior wall and/or concealed in interior vestibules. Dumpster sites are to be located in the southwest property corner and screened with masonry walls (masonry material, split face block and/or brick). Improvements will be located and built as generally described and depicted on the schematic site plan for Jefferson Commons prepared by Design Vision and dated January 12, 2005.

Steve Hinton, 59 Oak Ridge Lane, Staunton, VA 24401, stated in 2000 they looked at developing this property. Essentially they developed a final draft for proffers for this property in August 2000. At that time, they were informed the County and/or VDOT wanted to improve the traffic pattern there and create a connector road from Route 640 beside Planters Bank across Route 250 to Route 640 heading to the hospital. They elected to donate their property for this

connector. The indications were this road was going to be developed and developed soon. VDOT asked them to be patient and that it may be done in a year or two. He stated it was safe to say he was a little timid in entering into an agreement because it was so gray. He stated he was in Patrick Coffield's office just before signing this proffer. He stated he told Mr. Coffield he wanted to work with the County and he understood they needed to work together but the road situation was a gray area. Mr. Coffield asked him to work with the County. Mr. Hinton indicated he still liked to do a lot of work on word of mouth, and basic person to person verbal agreements. He stated when Mr. Coffield asked him to work with the County he decided he would sign the proffer and go forth with it. One of the problems VDOT originally had with their plan is that they showed their exit going onto the new connector road. VDOT was concerned that entrance would be fairly close to the new intersection. He stated they decided they could rearrange their plan and move their entrance all the way back to give over 200' of space from the proposed intersection and give adequate room for stacking in that area. He stated it was possible the construction of the connector road with Route 250 would be moved back to 2010, 2011 or 2015. The problem with that is Mr. Hinton stated he is not in a time capsule. He stated he entered into a partnering situation with the County and he felt partners should work together and basically keep their end of the deal. Mr. Hinton handed out pictures and explained them.

Mr. Shomo asked where the retention pond was in relation to the stop light.

Mr. Hinton stated the retention pond was right at the stoplight pole. He stated the road would go to the right of the brick house.

Mr. Shomo asked if the road would line up with where the stoplight is now.

Mr. Hinton indicated it was debatable whether that pole would remain there. He stated he thought it would be logical.

Mr. Shomo asked if there would be a cul-de-sac.

Mr. Hinton indicated at one time VDOT was talking about abandoning the remaining portion of Route 640 and putting in a cul-de-sac.

Mrs. Earhart stated that would be an item for a public hearing and she didn't think VDOT would make any commitments one way or the other pending that public hearing.

Mr. Hinton stated he had not seen anything definitive regarding the cul-de-sac.

Mr. Curd asked if it was originally planned to develop the gravel portion of the parking lot.

Mr. Hinton stated originally the plan showed an L shaped building. When they did the original plan they did everything as far as runoff and parking for a 16,000 square foot building. He stated VDOT indicated that when the road went in they wanted them to connect to it; they just didn't know exactly where the entrance would be. He stated the plan they have submitted gives a lot of latitude as to where that entrance can be. It also moves it as far back off of Route 250 as conceivable. He stated it was over 200' from the centerline of Route 250.

Tom Shields, Jr., 3184 Village Drive, Waynesboro, VA 22980, stated he was a partner in the project. He stated his office, his wife's real estate office, a dentist's office, a mortgage company and a hair stylist were in this location. He explained these businesses do not generate a lot of traffic. He indicated typically they do not have a lot of trouble with the traffic, maybe sometimes going left. Obviously, he stated, he wants to complete his project. He stated being held to this proffer never gave him a timetable as to when they could finish the project. He indicated they were only adding 5,000 square feet. It isn't a tremendous building and it will be an attractive building. He stated they get along with their neighbors. He stated they haven't had any complaints, if there were any they addressed them. He stated someone complained about the lights so they dimmed them. He stated they want to be good neighbors. He also stated they have worked with the County. They gave the County the land and did not hold out for any money. He explained it was always planned to do the 16,000 square feet.

Ms. Tilghman asked if it was going to be a one-story building.

Mr. Shields stated it would be a one-story building and similar to the building that is existing.

Mr. Hite asked what was the length of the building.

Mr. Shields indicated it was approximately 100'.

Mr. Hite stated he didn't see that much space from the buildings to Route 250.

There being no one else desiring to speak in favor of, or in opposition to, the request Ms. Tilghman declared the public hearing closed.

Mr. Curd stated the buildings that were there are nice. He would like to see all developers build something like this development in the County. He indicated he sympathizes with Mr. Shields. He also stated the unfortunate fact is that the road has taken longer than anyone anticipated. He indicated he thought he understood originally that until the road was built Mr. Shields would be alright with a 10,000 square foot building but the fact remains the road isn't built. He stated there is more to a road than pavement. To build a road around existing structures is not the best way to do things if you have a choice. Mr. Curd thought the road needed to be built in order to know what they would be dealing with,

with setbacks and so forth. He made a motion to recommend denial of the request.

Ms. Shiflett seconded the motion. She also stated she was present when the original rezoning took place. She also stated she remembered they had some real difficulty deciding whether to do it at all because of the road. The Planning Commission had some severe reservations at that time not knowing where the road was going to go or the timing of it. She indicated no one could have anticipated the budget cuts that have taken place. She stated she agreed with Mr. Curd that we just can't tie our hands completely by approving this change. This road needs to be planned in the best way possible. She stated she thought for the good of the whole County we need to do this correctly.

Mr. Byerly stated this is a very attractive development and he too was present with the original rezoning request. He stated he was willing to bet on the Federal Reserve but not on VDOT. He also stated he has a problem doing away with what was done originally until the road is done. He indicated he regretted the hold up of the business as a result of the VDOT project but this is where we are. He stated he didn't see we had much of a choice.

Motion passed unanimously to recommend denial of the request.

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P.J. and Elizabeth Wright – Conservation Easement

P.J. and Elizabeth Wright wish to place a Conservation Easement on their property- Tax Map 47-70 and 47B (3) 1. In order for the Virginia Outdoors Foundation to hold the easement, they must find that the easement is in compliance with County planning. If the easement is in a Rural Conservation or Agriculture Conservation Area, it is assumed that the easement does support county planning. If it is in an Urban Service Area or a Community Development Area, the Outdoors Foundations asks for a formal determination by the County that it is in compliance with County planning efforts. This property is located in a Community Development Area and a Potential Community Development Area.

Mrs. Earhart explained the easement. She also indicated this was not a public hearing, it was just new business. She stated the Virginia Outdoors Foundation is seeking confirmation from the County that the conservation easement will be in compliance with the County's Comprehensive Plan. She stated the property owner, his surveyor and Faye Cooper from the Virginia Outdoors Foundation are present to answer any questions the Commission may have.

P. J. Wright, 1449 Laurel Hill Rd., Verona, VA 24482, stated he was born in the area and has been a real estate agent for 35 years. He indicated he would like to give back to the community by placing his property into a permanent conservation

easement. He stated on his farm he has some wooded land, some open space and three (3) ponds. He indicated he also had about a mile of frontage on Christians Creek. He stated he has tried to be a good steward and he would continue to do so. One of the things he is proposing is to add language into the easement that would state no till of the land and no building of any buildings along Christians Creek. He stated he knew staff had some concerns. One would be the widening of Route 612. He indicated he would be willing to add language that he would donate 50' to allow for any widening of the road. He also indicated he would be willing to add language pertaining to future extension of underground facilities. He stated in his opinion, an easement on his property should not affect the Commission's decision on a future zoning request of an adjacent property. He asked the Commission to help him preserve some land for Augusta County and help protect a very important watershed.

Ms. Tilghman asked Mr. Wright where he could potentially build other structures on the property.

Mr. Wright indicated it could be anywhere in the areas that are not in the blue and that are not in the floodplain. He explained when the Virginia Outdoors Foundation looks at a property, if it has less than 100 acres he didn't think they would allow for another dwelling to be built. If you have over 100 acres they will allow for that.

Ms. Tilghman asked the amount of homes he could build on the property.

Mr. Wright stated on the conservation easement area there would be an allowance of an additional home and a secondary home for a total of three (3) counting his existing home.

Mrs. Earhart commented plus the stable apartment.

Mr. Wright indicated he did not use it as an apartment.

Mrs. Earhart explained the easement reserves that ability.

Mr. Wright indicated he used this apartment for his hunting trophies.

Mr. Hite asked Mr. Wright if he currently had a right-of-way from Crickett Lane.

Mr. Wright indicated he had a deeded right-of-way and it goes off of Crickett Lane.

Mr. Shomo asked where Mr. Wright's home was located.

Mr. Wright explained his home location.

Faye Cooper, Virginia Outdoors Foundation, stated she lived in Staunton. She indicated Mr. Wright approached the foundation several months ago with his request to place an easement on his property. She explained they are always willing to talk to landowners who have large properties and who wish to conserve them. She gave some background information of the foundation. She stated, as Mrs. Earhart noted, the Virginia Outdoors Foundation is required to pay attention to the local land use plans. They are directed to accept easements on properties that are in compliance with the local land use plan. She indicated soon after her discussion with Mr. Wright, she checked the Comprehensive Plan and found there may be a conflict. This is why the County was contacted. The foundation needs to make sure it fits with the land use plan. She stated since the property is in a Community Development Area and a portion of the property is in a Potential Community Development Area, they have to raise this question. She indicated there are neighboring properties that are in agriculture use. She stated one of the most significant attributes is that the property is active agricultural land. She indicated Mr. Wright does have cattle on his property and a mile of frontage on Christians Creek. She commented on how well this farm has been managed as far as the impact on this stream. Even though there are cattle on this property that have access to the stream, the stream banks are in incredibly good condition. Ms. Cooper stated Mr. Wright rotates the cattle and does not allow the cattle on the property during the winter months. She stated to continue the protection of the stream Mr. Wright is willing to have no plow zones, no till zones and no build areas along that stream. She stated the Virginia Outdoors Foundation has not approved this easement. She indicated it would be considered at their April meeting. She stated the Foundation needs to know for certain the County would be supportive of this easement. She commented on the staff report and the concerns with the road and utilities. She stated they have had one other instance similar to this with the Moffett farm. In that particular easement, provisions were made for the potential need for road improvements. She stated there was no reason why they couldn't do the same for utilities. Her last comment was a general comment. She stated there was a comparison made with the issues with the Boy Scout Camp. She indicated she would caution this Commission and others in the County to look at easements as a threat to neighboring properties in that it would prevent neighbors from doing what they wish with their property. She stated she could tell the Commission with certainty it is not the intent of the foundation to accept an easement and then impact what neighbors may or may not do with their property. She indicated the easement would cause a positive affect. She stated because of the open space around or beside property, it could actually increase their property value. She asked the Commission to not set a specific policy in denying or accepting an easement based on what a neighbor may or may not do with their property. She stated she thought it was more important to look at what that particular property offers in terms of public benefit. In closing, she stated they would certainly work with the County in any expansion of service related needs.

Mr. Byerly asked if the C.R.E.P. program could be initiated on this property.

Ms. Cooper stated it could be; their easements fully support that type of application.

Mr. Curd asked if the conservation easement prohibits realignment or relocation of public utilities or roads.

Ms. Cooper stated they have specific language that they can add into the easement to permit needed road improvements. She stated she knew there were not any plans right now to extend water and sewer in that direction but they could allow for that to occur. Once installed, underground facilities would have little impact on the open space and agriculture use of the property.

Mr. Curd asked if the Foundation could still approve this request even if the Board of Supervisors says it is not compatible with the Comprehensive Plan.

Ms. Cooper indicated they could not. She stated the Foundation would need written confirmation from the Board of Supervisors stating it was in compliance with the land use plan.

Ms. Tilghman asked if this was true with all easements.

Ms. Cooper indicated it was not. If land falls within Rural or Agriculture Conservation Areas, they make the assumption that is what the County wishes to have.

Ms. Shiflett stated this was a beautiful piece of property. She stated, in general, she is very supportive of these easements, but the question is if this easement is in compliance with the Comprehensive Plan. She indicated by the maps it is not in compliance with the plan. She stated Potential Community Development Areas and Community Development Areas are areas where the County wants its development and growth. She explained an amendment was just done to allow for water to be extended on towards Christians Creek. She stated she thought consideration should be given to surrounding properties. She indicated in her mind, an easement in the middle of a housing development doesn't fit. Ms. Shiflett made a motion to recommend a finding that the easement is not in compliance with the Comprehensive Plan.

Mr. Curd seconded the motion.

Mr. Byerly stated this was a model property. He stated he thought it was attractive. He indicated perpetuity is forever. He stated the only concern he really had was the 50' easement for road improvements and/or utilities. He stated he has been satisfied on that. He commented as a property owner he would love to border a conservation easement. He stated he could not support the motion.

Mr. Hite stated he agreed with Mr. Byerly. He was concerned with the road and utility improvements and since they have been addressed he thinks keeping it as open space would be good for the County and for the community.

Mr. Shomo asked what type of precedent is set if they allow this.

Mrs. Earhart stated she respectively disagreed with Ms. Cooper on the impact on future rezonings. We saw as a result of the Moffett easement that they came in when the adjacent property was under consideration for rezoning and wanted protection because there was an easement on the property and they thought the County needed to take that into consideration. She stated if we say this is in compliance with the plan then we are really saying this isn't where we want development to occur. She stated she thought we should be looking at making some changes to the plan to reflect the fact that this has an easement on it. There would really be two pieces of conflicting information. One, this is an area set up for development by the Comprehensive Plan and one is the Board of Supervisors has determined that preservation of open space is important in this area. She stated they do not have any specific information right now that would address a conservation easement being in one of these areas.

Mr. Shomo stated it was his thinking with the Boy Scouts that they wait until the Comprehensive Plan was amended.

Mrs. Earhart stated she didn't know if the plan is going to change its designation, it always could. She stated there is going to be water along the Route 612 Corridor.

Mr. Shomo asked if it was feasible to deny this request until the Comprehensive Plan is updated.

Mrs. Earhart stated they are asking for a determination now because it is going before the Virginia Outdoors Foundation Board in April. She indicated they have brought up a legitimate concern that the County probably needs to address in the Comprehensive Plan process.

Mr. Shomo stated his heart is with green space. His only concern was with the utilities, but he didn't want to see that lovely property developed with houses. He indicated he was struggling with this and he could not support the motion.

Mr. Curd indicated to Mr. Wright he had a beautiful piece of property. He understood the intent was not to impact future rezoning requests but the practicality of it is that it happens quite frequently. He stated today, February 8, 2005, it is not in compliance with the Comprehensive Plan and they would be lying if they said it was.

Ms. Tilghman stated Mr. Curd is correct, it is not in compliance and not proper here. She indicated it may be proper down the road. She stated it would affect the

neighbors and to say otherwise is not realistic. She indicated people living on conservation easements have expectations and they have a right to have expectations. She stated the people that live in the Swoope area that have put their property into an easement have expectations. She stated she was sure this property was properly designated as a Community Development Area, but this is something that will need to be looked at during the update of the Comprehensive Plan. She commented this was a wonderful piece of property. She stated she could support the motion.

Mr. Shomo stated if it is legal, he supports this 200%. He wants to see land stay open.

Mr. Byerly stated the Comprehensive Plan is the planning handbook. The County is huge and we have water lines installed where we hope people don't follow because they are not at the right place. He stated he thought maybe this area needs to be re-looked at. He also stated he would shed a tear to see development on this gorgeous 114 acres. He would like to see it protected.

Motion failed on a 3 to 3 vote with Mr. Shomo, Mr. Hite, and Mr. Byerly opposed.

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STAFF REPORTS

A. **CODE OF VIRGINIA – SECTION 15.2-2310**

Ms. Tilghman asked if there were any comments regarding the upcoming items on the BZA agenda. The Commission took the following action:

05-10 Allen R. VanDevander

Ms. Shiflett made a motion, seconded by Mr. Curd, the Commission express to the BZA that they continue to be concerned about the number of businesses not related to agriculture being allowed to locate in General Agriculture areas. They would like to encourage businesses to locate in business zoning. Motion carried unanimously.

05-12 James E. Twitty

Ms. Shiflett made a motion, seconded by Mr. Curd, the Commission continues to be concerned about the number of businesses not related to agriculture being allowed to locate in General Agriculture areas. They would like to encourage businesses to locate in business zoning. Motion carried unanimously.

05-13 Susan E. and French M. Croft

Ms. Shiflett made a motion, seconded by Mr. Curd, the Commission continues to be concerned about the number of businesses not related to agriculture being allowed to locate in General Agriculture areas. They are concerned this may be out of character with the neighborhood. If approved, the Commission would like this permit to be limited to the contracting business and inside storage of his business material. The Commission didn't think the mini-warehouse/storage use of this property would be compatible with the area. Motion carried unanimously.

05-15 Virginia M. Engleman

Ms. Shiflett made a motion, seconded by Mr. Curd, in 2003 when this permit was first issued the Planning Commission expressed concern that this property was not zoned business and encouraged the property owner to rezone it to General Business prior to any other Special Use Permits being issued. The Commission would like to reiterate that comment. Motion carried unanimously.

05-2 Z & Z Machine, Inc.

Ms. Shiflett made a motion, seconded by Mr. Byerly, that because Route 612 is a major transportation corridor in the County, the Planning Commission is concerned that allowing this building to remain in violation of the setback and so close to Route 612 may be an impediment to future road improvements. Motion carried unanimously.

B. Lighting Ordinance

Mrs. Earhart explained the lighting ordinance will be advertised for public hearing for the March meeting. She did say the Board of Supervisors has not authorized Article III to be advertised. The Board of Supervisors is not going to be advertising any outdoor lighting requirements for properties located within one half mile of the observatory in Stokesville. At one time it was included in the ordinance but it will not be part of the public hearing. She stated essentially what the Commission has is outdoor lighting that will be on commercial or industrial properties, either for property that is zoned business or industrial or for Special Use Permit activities. She stated there are numerous things that are exempt from the ordinance. She stated she is sure there will be people here during the March meeting to voice their displeasure that it does not include residential settings but the ordinance was drafted in compliance with the special legislation passed by the General Assembly for Augusta County. She indicated it does not put the burden on County staff to implement this ordinance; it will be up to the people doing the development. They will have to bring in a plan that meets the ordinance requirements and that has been done by a lighting manufacturer.

C. New Planner

She indicated Community Development has hired a new planner. His name is Jeremy Sharp and will be starting tomorrow.

D. Training

Mrs. Earhart encouraged the Commission to attend the planning commissioner training that was being offered and distributed the information flyers.

E. Comprehensive Plan Update

She also informed the Commission Mr. Curd and Ms. Shiflett would be their representatives on the Comprehensive Plan Consultant Selection Committee. They will be interviewing consultants and making a recommendation on a firm in late February or March.

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There being no further business to come before the Commission, the meeting was adjourned.

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Chairman

Secretary