

Regular Meeting, Wednesday, October 26, 2016, 7:00 p.m. Government Center, Verona, VA.

PRESENT: Carolyn S. Bragg, Chairman
Tracey Pyles, Jr., Vice-Chairman
Gerald W. Garber
Marshall W. Pattie
Wendell L. Coleman
Michael L. Shull
Terry Lee Kelley, Jr.
Becky Earhart, Senior Planner
Timmy Fitzgerald, County Administrator
Jennifer M. Whetzel, Deputy County Administrator
James R. Benkahla, Interim County Attorney
Angie Michael, Executive Secretary

VIRGINIA: At a regular meeting of the Augusta County Board of Supervisors held on Wednesday, October 26, 2016, at 7:00 p.m., at the Government Center, Verona, Virginia, and in the 241th year of the Commonwealth....

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Chairman Bragg welcomed the citizens present.

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The following student from Wilson Memorial High School led us with the Pledge of Allegiance:

John Garvey is a senior at Wilson Memorial High School. He is the SCA President and is on the golf team, plays baseball and participates in indoor track. Mr. Garvey plans to attend a four year university and is considering becoming a Special Education teacher.

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Terry Kelley, Supervisor for the Beverley Manor District, delivered the invocation.

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EMAD A. AND NEAMT N. MANSOUR-REZONING

This being the day and time advertised to consider a request to rezone from General Agriculture to General Business with proffers approximately 6.3 acres owned by Emad A. and Neamt N. Mansour located in the southwest quadrant of the intersection of Tinkling Spring Road (Rt. 285) and Mule Academy Road (Rt. 642) in Fishersville in the Wayne District. The Planning Commission recommends approval with proffers.

Becky Earhart, Senior Planner, showed a map of the property and then pointed out the four proffers submitted by the applicant:

- 1) Buffer to be installed or maintained for adjacent residential properties.
- 2) No access on to tinkling Spring Road and only one ingress/egress on Mule Academy Road.
- 3) Building height-50 feet maximum.
- 4) Full turn lanes shall be constructed to VDOT standards if warranted by the cumulative traffic generation of the development.

This is in an Urban Service Area slated for business development and there is public water and sewer available.

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EMAD A. AND NEAMT N. MANSOUR-REZONING (CONT'D) Ray Burkholder of Balzer Associates, representing the Mansour family, stated that this is a pretty straight forward rezoning. The applicant is looking to put several neighborhood type businesses in such as office, retail, an extended stay option and some senior living type of facility towards the back. A concern that has been brought up is storm water that goes down to the church below them. They will be meeting the state storm water regulations for all of their water. The Mansour family will work with the church as much as possible to mitigate the situation. Sewer runs through the property and fire flow tests are being done. The Service Authority will be replacing the waterline along Tinkling Springs Road so we will coordinate with them with any improvements needed.

Mr. Coleman pointed out that he was pleased with where the request is at this point and it is a pretty straight forward project. There is already a storm water issue and there has to be a plan in place to handle the additional water that flows to the church.

The Chairman declared the public hearing open.

There being no other speakers, the Chairman declared the public hearing closed.

Mr. Coleman moved, seconded by Mr. Shull, that the Board approve the rezoning request with the proffers.

ORDINANCE

A REQUEST TO REZONE FROM GENERAL AGRICULTURE TO GENERAL BUSINESS WITH PROFFERS APPROXIMATELY 6.3 ACRES OWNED BY EMAD A. AND NEAMT N. MANSOUR LOCATED IN THE SOUTHWEST QUADRANT OF THE INTERSECTION OF TINKLING SPRING ROAD (RT. 285) AND MULE ACADEMY ROAD (RT. 642) IN FISHERSVILLE IN THE WAYNE DISTRICT.

AN ORDINANCE to amend Chapter 25 "Zoning" of the Code of Augusta County, Virginia.

WHEREAS, application has been made to the Board of Supervisors to amend the Augusta County Zoning Maps,

WHEREAS, the Augusta County Planning Commission, after a public hearing, has made their recommendation to the Board of Supervisors,

WHEREAS, the Board of Supervisors has conducted a public hearing,

WHEREAS, both the Commission and Board public hearings have been properly advertised and all public notice as required by the Zoning Ordinance and the Code of Virginia properly completed,

WHEREAS, the Board of Supervisors has considered the application, the Planning Commission recommendation and the comments presented at the public hearing;

NOW THEREFORE BE IT ORDAINED, by the Board of Supervisors that the Augusta County Zoning Maps be amended as follows:

Parcel number 104 on tax map number 67 containing a total of approximately 6.3 acres is changed from General Agriculture to General Business with the following proffers.

1. If at the time of development of the site, any of the adjacent property (TM#'s 67-102B, 67-100A, 67-105) is still zoned General Agriculture, then a buffer meeting Alternative 1, 2 or 3 described below, shall be installed or maintained as depicted on the attached "Zoning Exhibit A" prepared by Balzer & Associates dated September 16, 2016. The buffer will be maintained until such time as the zoning of the adjacent property is changed to business. This condition shall apply to each individual adjacent property.

Alternative 1: A ten foot (10') wide strip of land with a six foot (6') opaque privacy fence, wall, berm or combination thereof. Opaque privacy fences shall be constructed of good quality materials such as vinyl, pressure treated lumber, brick, stone or other similar materials approved by the Zoning Administrator. For the purposes of this proffer, tarps, car covers, tents, fabric, chain link fences with slats, or similar materials shall not be deemed to satisfy the requirements of opaque fencing.

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AUGUSTA COUNTY BOARD OF SUPERVISORS-SOURCE WATER PROTECTION
OVERLAY-MIDDLEBROOK (CONT'D)

this ordinance and which shall be kept on file in the Offices of the Department of Community Development.

Vote was as follows: Yeas: Shull, Garber, Coleman, Kelley, Bragg, Pyles
and Pattie
Nays: None

Motion carried.

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FRANKLYN EUGENE OR SUE THACKER SMILEY-MIDDLEBROOK AGRICULTURAL
AND FORESTAL DISTRICT WITHDRAWAL

This being the day and time advertised to Consider a request to withdraw approximately 97 acres of land from the Middlebrook Agricultural and Forestal District owned by Franklyn Eugene or Sue Thacker Smiley, located on the north side of Pisgah Road (Rt. 620) approximately .4 of a mile west of the intersection of Pisgah Road (Rt. 620) and Middlebrook Road (Rt. 252) in the Riverheads District. The Planning Commission recommends denial.

Becky Earhart showed a map of the property and the boundaries of the Ag District. Ms. Earhart also mentioned the State Code reference which states that any landowner can request removal from the Agricultural and Forestal District "for good reasonable cause". The Planning Commission and the Agricultural Forestal District Committee requests denial of the request based on a determination that the Smileys do not appear to meet the intent of the code section.

The applicant, Franklyn Smiley and his wife Sue stated that they joined the Ag Forestal district in the late 90's. At the time of the public hearing they asked if they could build on the farm at the time of retirement and they were told they could. Later, they found out that the majority of your income has to come from the farm to be able to build on the farm. This is not logical with a 100 acre farm. The Smiley's would like to build a two car garage/storage building on the farm to use as a transition building between selling their property on Middlebrook Road and building a house on the farm. The property is not in the middle of the Ag Forestal district so by removing this land, it does not leave a big hole in the middle of the district. There are no plans of building anything else on the farm other than keeping it agriculture. The area neighbors have no objection to this. We feel like building a home to retire, and a garage on the farm that we own is a very reasonable request.

The Chairman declared the public hearing open.

There being no other speakers, the Chairman declared the public hearing closed.

Mr. Shull stated that we are supposed to be here to help people. Citizens come to us to resolve issues. . Things change over the years just like the Comprehensive Plan. It was set up to be a guideline for all of the land in the County, but we have a right to change things with the Comprehensive Plan. Mr. Shull hopes the Board understands the situation and will help the Smileys out.

Mr. Shull moved, seconded by Mr. Kelley, that the Board accept the request to withdraw the 97 acres from the Agricultural and Forestal District.

Mr. Pyles commented on why he is going against the Planning recommendation.

October 26, 2016, at 7:00 p.m.

FRANKLYN EUGENE OR SUE THACKER SMILEY-MIDDLEBROOK AGRICULTURAL AND FORESTAL DISTRICT WITHDRAWAL (MR. PYLES CONT'D)

When the Districts were established in the 1990's, the question was why would anyone voluntarily put their land where it had less options and very little benefit from it? When this program was formed, the people wanted to get a synergy of all being together and it would stop other things from interfering with agriculture. During the pipeline, we did find a value with these districts. The pipe couldn't go through the Conservation Districts, so there is some value to it. Mr. Pyles was interested to see if anyone came to the meeting to speak in opposition of the withdrawal and no one came. The Board should not be harsh with the decision, the Board needs to be reasonable with these types of requests. So in this case Mr. Pyles is going to go against the Planning Commission's recommendations and approve it.

**AN ORDINANCE TO REVISE THE
MIDDLEBROOK AGRICULTURAL AND FORESTAL DISTRICTS
IN AUGUSTA COUNTY**

WHEREAS, it is the public policy of the Commonwealth of Virginia, as set forth in the Agricultural and Forestal Districts Act (Title 15.2, Chapter 43, Code of Virginia, 1950, as amended), to conserve and protect agricultural and forestal lands as valued natural ecological resources;

WHEREAS, by ordinance adopted on December 9, 1998, the Middlebrook Agricultural and Forestal District was created;

WHEREAS, pursuant to § 15.2-4314 owners of land lying in such districts may file with the locality a written request to withdraw all or part of their land from the district for good and reasonable cause;

WHEREAS, Franklyn Eugene and Sue Thacker Smiley, Tax Map Parcel Nos. 80-24 have made application that their property be removed from the Middlebrook Agricultural and Forestal District; and

WHEREAS, such removal will not affect the review period for the District.

NOW, THEREFORE, be it ordained by the Board of Supervisors of Augusta County, Virginia, that the Code of Augusta County be, and hereby is, amended by the revision of Chapter 3, Article III, § 3-22 entitled "District described," as follows:

§ 3-22. District described.

The Middlebrook Agricultural and Forestal District shall generally consist of the following territory:

Approximately ~~2759~~ 2662 acres of land lying on the south side of the intersection of Middlebrook Road (Route 252) and Dutch Hollow Road (Route 726) and as far south as the Rockbridge County line and including parcels shown on County Real Estate maps as of the effective date of this Article as parcels numbered ~~80-24~~, 80-27, 80-30, 80-30B, 80-63, 80-63A, 80-64, 80-67, 81-1A, 81-2, 81-3, 81-3A, 81-4, 81-11, 81-15, 81-19, 87-3A, 87-5A, 87-7, 87-8C, 87-24, 87-24A, 87-26A, 87-29, 87-30, 87-30A, and 87-30B.

The specific boundaries of the Middlebrook Agricultural and Forestal District are established as shown on a map entitled "Middlebrook Agricultural & Forestal District," and dated October 28, 2016. Such map, together with all explanatory matter thereon, is hereby adopted by reference and declared to be part of this article. A copy of the map, properly attested, shall be filed in the office of the Director of the Community Development Department and shall be available for inspection by the public.

Vote was as follows: Yeas: Shull, Garber, Coleman, Kelley, Bragg, Pyles and Pattie
Nays: None

Motion carried.

****END OF PUBLIC HEARINGS****

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