



COUNTY OF AUGUSTA
COMMONWEALTH OF VIRGINIA
DEPARTMENT OF COMMUNITY DEVELOPMENT
P.O. BOX 590
COUNTY GOVERNMENT CENTER
VERONA, VA 24482-0590



MEMORANDUM

TO: Augusta County Planning Commission
FROM: Leslie Tate, Planner II
DATE: February 7, 2017
SUBJECT: Regular Meeting

The regular meeting of the Augusta County Planning Commission will be held on **Tuesday, February 14, 2017 at 7:00 p.m.**, at the Augusta County Government Center, in the Main Board Meeting Room, 18 Government Center Lane, Verona, Virginia.

The Planning Commission will meet beginning at **5:00 pm** in the **Board of Supervisors' Conference Room** (behind the Board Meeting Room) at the Augusta County Government Center for a staff briefing on the proposed ordinance amendments. We will have dinner in the Community Development Office at 6:15.

Attached are the agenda for Tuesday's meeting, the minutes from the December meeting, the Ordinance Amendments, and a draft of the Planning Commission's Annual Report. If you have any questions about any of the material, please feel free to contact me. If you won't be able to attend the meeting, please let Jean or me know.

LT/jm

**A D V A N C E
A G E N D A**

Regular Meeting of the Augusta County Planning Commission

Tuesday, February 14, 2017, 7:00 P.M.

1. CALL TO ORDER
2. DETERMINATION OF A QUORUM
3. MINUTES

Approval of the Regular Meeting on December 13, 2016.
4. PUBLIC HEARINGS
 - A. An ordinance to amend Sections 25-4, 25-74, 25-384, and 25-385 of the Augusta County Code to prohibit the extraction of oil and natural gas, specifically by means of enhanced recovery and/or hydraulic fracturing in Augusta County and to amend the special use permit conditions for extraction of materials in General Agriculture and Industrial districts.
 - B. An ordinance to amend Sections 25-602 and 25-604 of Division I, Article LX. Rezoning and other Amendments of the Augusta County Code.
 - C. An ordinance to amend Sections 25-4, 25-123, 25-133, and 25-134 of the Augusta County Code to provide for the keeping of chickens in rural residential and single family residential districts under certain circumstances and to clarify the requirements associated with allowing farms and limited agriculture by Special Use Permit in single family residential districts.
5. MATTERS TO BE PRESENTED BY THE PUBLIC
6. NEW BUSINESS
7. OLD BUSINESS
 - A. Appointment of Secretary for Planning Commission
8. MATTERS TO BE PRESENTED BY THE COMMISSION
9. STAFF REPORTS
 - A. Annual Report

 - B. Information for Commission – Code of Virginia, Section 15.2-2310
(Board of Zoning Appeals Items)
10. ADJOURNMENT

PRESENT: S. Bridge, Chairman
K. Shiflett, Vice Chairman
G. Campbell
J. Curd
T. Jennings
E. Shipplett
L. Tate, Planner II
J. Wilkinson, Director of Community Development

ABSENT: K. Leonard

VIRGINIA: At the Regular Meeting of the Augusta County Planning Commission held on Tuesday, December 13, 2016, at 7:00 p.m. in the Board Room, Augusta County Government Center, Verona, Virginia.

DETERMINATION OF A QUORUM

Mr. Bridge stated as there were six (6) members present, there was a quorum.

MINUTES

Mr. Curd moved to approve the minutes of the called and regular meetings held on October 11, 2016.

Mr. Jennings seconded the motion, which carried unanimously.

NEW BUSINESS

Election of Officers

Mr. Shipplett presented the nominating committee report, which included Kitra Shiflett as Chairman and James Curd as Vice Chairman.

Mr. Shipplett moved, seconded by Mr. Jennings to elect the slate by acclamation. The motion carried unanimously.

Inclement Weather Resolution

Mrs. Tate presented the 2017 Inclement Weather Resolution to the Commission.

Mr. Shipplett moved to recommend approval of the following ordinance:

INCLEMENT WEATHER RESOLUTION 2017

WHEREAS, § 15.2-2214 of the Code of Virginia (1950), as amended, authorizes the Augusta County Planning Commission to fix a schedule of regular meetings.

WHEREAS, the Planning Commission now desires to establish its schedule for regular meetings during calendar year 2017.

BE IT RESOLVED BY THE AUGUSTA COUNTY PLANNING COMMISSION:

1. The Planning Commission shall hold regular meetings during calendar year 2017, in the Board Meeting Room at the Augusta County Government Center, on the dates and at the times set forth below:

January 10, 2017	7:00 p.m.
February 14, 2017	7:00 p.m.
March 14, 2017	7:00 p.m.
April 11, 2017	7:00 p.m.
May 9, 2017	7:00 p.m.
June 13, 2017	7:00 p.m.
July 11, 2017	7:00 p.m.
August 8, 2017	7:00 p.m.
September 12, 2017	7:00 p.m.
October 10, 2017	7:00 p.m.
November 14, 2017	7:00 p.m.

2. In the event the Chairman of the Planning Commission, or the Vice Chairman of the Planning Commission, if the Chairman is unable to act, finds and declares that weather or other conditions are such that it is hazardous for members of the Planning Commission to attend a meeting, such meeting shall be continued to the next Tuesday. Such finding and declaration shall be communicated to the members of the Planning Commission and the media as promptly as possible. All hearings and other matters previously advertised shall be conducted at the continued meeting and no further advertisement is required.

BE IT FURTHER RESOLVED, that this resolution be adopted by the Commission and recorded in its minutes.

Mr. Curd seconded the motion, which carried unanimously.

(Mr. Leonard arrived at the meeting at this time.)

Airport Master Plan

Mrs. Tate introduced Greg Campbell, Executive Director of Shenandoah Valley Regional Airport. Mr. Campbell also serves as a Planning Commission member representing the Beverley Manor District.

Mr. Campbell stated Shenandoah Valley Regional Airport Commission was formed in the 1950's by a group of businessmen who felt it was important to have a local airport in order for growth to occur in the County. The commercial airline started in 1962 and significant growth has occurred since then. Originally the airport contained 60-70 acres and has expanded to 430 acres. There are 90 aircraft that are based at the facility on a permanent basis. Currently there are 70-80 operations a day, (take-offs and landings) in which four to six are airline operations. The remaining operations fall under the category of general aviation, which means certain companies utilize their own aircraft to transport personnel. The airport has a 6000' runway and can handle most any sized narrow bodied aircraft. There are no obstructions around the airport and the County has taken measures to protect the airspace. The airport has been a critical piece of major employers, manufacturing, distribution, and retail facilities locating here.

Previously the airport used Silver Airways, which transported passengers to Dulles airport for connecting flights. As of November 2016, Silver Airways is no longer being used. Service changed from a turbo prop up to Dulles to a 50 seat regional jet that travels to Charlotte, NC to make connecting flights.

The Airport Master Plan needs to be in place in order to qualify for funding through the State and Federal governments. The last Master Plan was completed in 1998. It is anticipated this Master Plan will be completed by late spring of 2017. The Master Plan has to be justified in terms of future development and growth. It has to have the consent of the Federal Aviation Administration, which approves federal funding, and the Virginia Department of Aviation, which is the agency that approves state funding. 90% of funding generally comes from Federal funding, eight percent from the State, and 2% from local funding. Revenue generated projects are not federally funded, such as hangars that are built for private planes that are housed at the airport.

Mr. Campbell talked about the existing layout of the airport and indicated on PowerPoint where the runway protection zones are, the terminal area, and where corporate aircraft are kept. New Airport Road has been constructed and Old Airport Road was deeded to the airport by VDOT. The north corporate area contains 30-40 acres and a taxiway has

been constructed in this area. A pad site has been leased in this area to Dynamic Aviation who has a 30 year land lease and will be constructing a 30,000 square foot hangar facility for their operations.

Mr. Campbell discussed the importance of land acquisition in order for the airport to maintain facility requirements. He indicated the airport would like to purchase a 19 acre tract along airport road that is owned by an adjoining property owner. This acreage would allow access into the north corporate area for future development and allow an environmental corridor. They are also interested in purchasing a 36 acre tract to the north and a 13.5 acre tract to the south. There are 135 acres they are interested in purchasing to the east, however, the property owners have talked about putting this property into an Agriculture Conservation Easement.

Mr. Shiplett asked how a fair price would be determined for the 19 acres.

Mr. Campbell stated the property would be appraised and they would make an offer to the property owner. If the owner does not accept the offer, as a last resort, there are means to acquire the property. The SVRA Board has a good relationship with the property owner and he has expressed an interest in selling the property.

Mr. Leonard asked how soon land will be acquired.

Mr. Campbell stated land acquisition will not be immediate, but they are anticipating the 19 acres will be acquired during Phase I or the first five years of the Master Plan. Other properties will be acquired during Phase II or III. He stated the airport currently owns enough land to build several more hangars without land acquisition.

Mr. Campbell talked about the improvements that will be made during Phase I (the first five years) of the Master Plan. Improvements include installing distance measuring equipment, removing obstructions and installing obstruction lighting, installing a water and sewer system that can support the airport, expanding and rehabilitating the general aviation apron where general aircraft park on a daily basis. The existing fuel farm will need to be relocated in order to expand the apron. It is planned to upgrade the security system within the terminal and expanding the security system to the borders of the airport. Construction of hangars and taxiway lanes associated with hangars are projects that will take place in the near future. Also, construction of a ground support equipment building will take place during this phase.

Mr. Campbell discussed the improvements that will happen during Phase II (6-15 years) of the Master Plan. It is planned to renovate the airline terminal, expand the commercial building, rehabilitate the general aviation corporate terminal, rehabilitate and expand the public safety aircraft rescue and firefighting facility, and install approach lighting system on the north end of the runway. The runways and taxiways will need to be rehabilitated during this phase and will be a difficult project because the runways cannot be closed. It is planned that the work will be done between midnight and 6:00 a.m. It is anticipated

the FAA will fund the additional costs for the rehab to be done at night as they did in 2004 and 2005 when the runways were last rehabilitated.

Mr. Campbell stated it is hard to predict when Phase III of the Master Plan will be completed. During this phase it is anticipated the ground based navigational aids will be relocated, taxiways will be rehabilitated, fuel truck parking areas will be created, area traffic control tower will be built and a snow equipment building will be constructed. Other long term projects will consist of installing taxiways on the east side, installing additional navigational aids, constructing a tower facility on the east side, constructing additional hangars and a corporate terminal facility.

Mr. Campbell discussed the financial feasibility of the Master Plan. He stated engineers have presented a cost analysis to the Board with all the costs associated with the projects. The Board will present the study to the FAA and they will decide if it is reasonable. If they find it is reasonable, it will be put into the National FAA system so the projects can be eligible for funding. He feels this is a smart plan and will have minimal impacts on the Weyers Cave community.

Mr. Leonard asked if it is expected that Eagles Nest and New Market airports will close.

Mr. Campbell stated the two airports appear to be in jeopardy. They are not recognized by the FAA and are not eligible for improvements. The SVRA Board has taken into consideration the possibility the aircraft at these facilities may need to be housed at Weyers Cave.

Mr. Jennings asked if there would ever be a need for a second runway.

Mr. Campbell stated there would not be a need for second runway, even with additional growth.

STAFF REPORTS

Code of Virginia – Section 15.2-2310

Mrs. Tate reviewed with the Commissioners the requests coming before the BZA.

The Planning Commission took no action on the BZA items.

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

Chairman

Secretary

**COUNTY OF AUGUSTA
STAFF REPORT
Extraction of Oil & Natural Gas Ordinance Amendments
February 14, 2017**

An ordinance to amend Sections 25-4, 25-74, 25-384, and 25-385 of the Augusta County Code to prohibit the extraction of oil and natural gas, specifically by means of enhanced recovery and/or hydraulic fracturing in Augusta County and to amend the special use permit conditions for extraction of materials in General Agriculture and Industrial districts.

Enhanced recovery shall be defined as (i) any activity involving injection of any air, gas, water or other fluid into the productive strata, (ii) the application of pressure, heat or other means for the reduction of viscosity of the hydrocarbons, or (iii) the supplying of additional motive force other than normal pumping to increase the production of gas or oil from any well, wells or pool (Va. Code Section 45.1-361.1)

Hydraulic fracturing shall be defined as the process of using pressurized liquids, gases, and/or sand to create artificial fractures in subsurface reservoirs where hydrocarbons are locked in shale, coal or other impermeable rock formations, for the purpose of extracting gas or oil.

Requirements for a special use permit to extract minerals, rock, dirt, gravel, sand, oil and natural gas and similar materials include a transportation study, the extraction site shall not be located within an Area 1 or Area 2 in the Sourcewater Protection Overlay District, and submission of plans of site operation to the zoning administrator.

Requirements for a special use permit to extract specifically oil or natural gas include a study to determine the effects on public water supplies and private wells within five miles of the extraction site and evidence of conformance with state and federal regulations concerning noise and vibration.

AN ORDINANCE TO AMEND

SECTIONS 25-4, 25-74, 25-384, and 25-385

OF THE AUGUSTA COUNTY CODE

WHEREAS, the Augusta County Board of Supervisors has deemed it desirable to prohibit the extraction of oil and natural gas, specifically by means of enhanced recovery and/or hydraulic fracturing in Augusta County and;

WHEREAS, the Augusta County Board of Supervisors has deemed it desirable to amend the conditions for a special use permit for the extraction of minerals, rock, dirt, gravel, sand, oil and natural gas, and similar materials.

NOW THEREFORE be it resolved by the Board of Supervisors for Augusta County that Sections 25-4, 25-74, 25-384, and 25-385 of the Augusta County Code are amended to read as follows:

25-4 Definitions.

Enhanced Recovery. (i) any activity involving injection of any air, gas, water or other fluid into the productive strata, (ii) the application of pressure, heat or other means for the reduction of viscosity of the hydrocarbons, or (iii) the supplying of additional motive force other than normal pumping to increase the production of gas or oil from any well, wells or pool (Va. Code Section 45.1-361.1)

Hydraulic Fracturing. Also referred to as "hyrdofracking," "fracking," or "fracing" is the process of using pressurized liquids, gases, and/or sand to create artificial fractures in subsurface reservoirs where hydrocarbons are locked in shale, coal or other impermeable rock formations, for the purpose of extracting gas or oil.

25-74 Uses Permitted by Special Use Permit

D. Uses away from developed areas.

Uses customarily found in areas away from developed areas, including but not necessarily limited to: batching plants, including asphalt and portland cement, storage of bulk fuel, explosives, ammunition and fireworks, outdoor shooting ranges and preserves, and extraction of minerals, rock, dirt, gravel, sand, **oil or natural gas** and similar materials **but not to include extraction of such materials by means of enhanced recovery, hydraulic fracturing, and/or horizontal drilling**, may be permitted by Special Use Permit, provided:

1. The neighboring area is not characterized by residential, commercial, or industrial development which would be adversely impacted by the proposed use; and

2. ~~Traffic generated by the proposed project will be compatible with the roads serving the site and other traffic utilizing said roads~~ **A technical transportation study shall be submitted that assesses the potential physical and operational impacts to the transportation assets (roads, bridges, right-of-way, etc.) which are anticipated to provide service to the subject parcel or parcels; and**

3. On-site traffic flow will adequately and safely accommodate all traffic to and from the public highways; and

4. The business shall have direct access to a state maintained road; and

5. The business and anticipated enlargements thereof will be appropriate for agriculture areas and is not more properly placed in an available industrial zone; and

6. All buildings, structures, and operations will be set back at least two hundred feet (200') from all property lines and at least one thousand feet (1000') from any

residentially zoned property unless the board of zoning appeals determines that greater setbacks are necessary to adequately protect neighboring properties; and

7. The board of zoning appeals may reduce or eliminate the two hundred foot (200') set back between adjoining properties where similar industrial uses are ongoing and the adjoining property owners agree that such a reduction is mutually beneficial.

8. All uses involving the extraction of oil or natural gas shall conform to applicable state and federal regulations concerning noise and vibration. The Zoning Administrator may require the submission of a copy of data submitted to state or federal agencies pertaining to these performance standards with the required site plan.

9. All mining operators shall submit to the Zoning Administrator a copy of the operations plan required by state agencies with the required site plan.

10. For uses involving the extraction of oil or natural gas, a study shall be performed to determine that the use will not have an adverse effect on the public water supply or private water wells within a five mile radius of the mining operation, and outlining what measures, if any are necessary, the operator shall take to insure the public water supply or private water wells within a five mile radius of the mining operation will not be adversely affected.

11. The proposed location of the mining operation is not located within an Area 1 or Area 2, designated by the Sourcewater Protection Overlay District.

25-74.1 Uses prohibited.

B. Enhanced recovery and Hydraulic fracturing are prohibited in the General Agriculture District.

25-384 Uses Permitted by Special Use Permit

D. Extraction of minerals, rock, gravel, sand, oil, natural gas, and similar materials.

Extraction of minerals, rock, gravel, sand, oil or natural gas and similar materials, but not to include extraction of such materials, specifically by means of enhanced recovery, hydraulic fracturing, and/or horizontal drilling may be permitted by Special Use Permit provided:

1. The neighboring area is not characterized by residential, commercial, or industrial development which would be adversely impacted by the proposed use; and

2. ~~Traffic generated by the proposed project will be compatible with the roads serving the site and other traffic utilizing said roads~~ **A technical transportation**

study shall be submitted that assesses the potential physical and operational impacts to the transportation assets (roads, bridges, right-of-way, etc.) which are anticipated to provide service to the subject parcel or parcels; and

3. On-site traffic flow will adequately and safely accommodate all traffic to and from the public highways; and

4. All buildings, structures, and operations will be set back at least one hundred feet (100') from all property lines unless the board of zoning appeals determines that greater setbacks are necessary to adequately protect neighboring properties. An accessory retail sales outlet may observe the normal principal building setbacks in General Industrial Districts; and

5. All uses involving the extraction of oil or natural gas shall conform to applicable state and federal regulations concerning noise and vibration. The Zoning Administrator may require the submission of a copy of data submitted to state or federal agencies pertaining to these performance standards with the required site plan.

6. All mining operators shall submit to the Zoning Administrator a copy of the operations plan required by state agencies with the required site plan.

7. For uses involving the extraction of oil or natural gas, a study shall be performed to determine that the use will not have an adverse effect on the public water supply or private water wells within a five mile radius of the mining operation, and outlining what measures, if any are necessary, the operator shall take to insure the public water supply or private water wells within a five mile radius of the mining operation will not be adversely affected.

8. The proposed location of the mining operation is not located within an Area 1 or Area 2, designated by the Sourcewater Protection Overlay District.

~~5.~~ 9. Exemptions. The following extraction activities do not require a Special Use Permit.

Any operator engaging in mining and disturbing less than one (1) acre of land and removing less than five hundred (500) tons of material at any particular site is exempt from the provisions of this ordinance; providing, however, each person intending to engage in such restricted mining shall submit an application for exemption, a sketch of the mining site, and an operations plan to the Zoning Administrator, who shall approve the application if he determines that the issuance of the permit shall not violate the provisions of this ordinance.

25-385 Uses Prohibited

A. All uses except those listed in 25-382, 25-382.1, 25-383 and 25-384 above are specifically prohibited in General Industrial Districts.

B. Enhanced Recovery and Hydraulic fracturing are prohibited in General Industrial Districts.

COMMUNITY DEVELOPMENT STAFF RECOMMENDATION: With the 2015 Attorney General's ruling that permits localities to ban fracking, reversing a 2013 Attorney General's determination that localities could not ban fracking, the County felt that it would be advisable to define and prohibit hydraulic fracturing (fracking) and enhanced recovery in General Agriculture and General Industrial districts where extraction of such resources is currently permitted with a Special Use Permit.

Based on Board member input, the extraction of oil and natural gas, not by means of hydraulic fracturing, has been specifically included in General Agriculture and General Industrial districts among the other extraction materials permitted by a Special Use Permit.

With the addition of oil and natural gas as a permitted extraction material, requirements have been drafted to address impact on public and private water supplies and the transportation network. Staff recommends Approval of the Ordinance Amendments.

**COUNTY OF AUGUSTA
STAFF REPORT
Rezoning & Other Amendments
February 14, 2017**

**An ordinance to amend Sections 25-602 and 25-604 of Division I, Article LX.
Rezoning and other Amendments of the Augusta County Code**

This ordinance will bring the County Code into compliance with Virginia Code 15.2-2303.4. These changes effect conditional rezoning proffers on residential rezonings or the residential portion of mixed use rezoning for applications submitted after July 1, 2016. Requirements for residential proffers to be in compliance include: such conditions are specifically attributable to the proposed development, off-site conditions address a development impact to a public facility which shall be limited to transportation, public safety, schools, or parks, off-site conditions shall address a need or identifiable portion of a need for public facility improvements in excess of existing capacity, and such conditions shall lend a direct and material benefit to the development.

PROPOSED ORDINANCE TEXT:

**AN ORDINANCE TO AMEND
SECTIONS 25-602 and 25-604
OF THE AUGUSTA COUNTY CODE**

WHEREAS, the Augusta County Board of Supervisors has deemed it desirable to amend parts of the Permits and Amendments Division of the Zoning Ordinance, more specifically Article LX. Rezoning and other amendments, to reference and incorporate State Code Section 15.2-2303.4. Provisions applicable to certain conditional rezoning proffers;

NOW THEREFORE be it resolved by the Board of Supervisors for Augusta County that Sections 25-602 and 25-604 of the Augusta County Code are amended to read as follows:

§ 25-602. Presubmission conference.

A. Prior to the formal submission of a petition for rezoning by the owner, contract purchaser with the owner's consent, or the owner's agent, the petitioner or his representative shall hold a conference with the Director of the Community Development Department concerning the proposed rezoning.

B. The presubmission conference shall be for the following purposes:

1. To allow the petitioner to submit unofficial preliminary studies of the concept of the proposed development for tentative review, comments and recommendations.

2. To review the Comprehensive Plan as it may relate to the requested rezoning and proposed development.

3. To review the procedures which must be followed to effect the requested rezoning.

4. To determine whether the proposal may have an undue adverse impact on the surrounding neighborhood.

5. To consider possible conditions which the owner may be willing to voluntarily proffer to mitigate such adverse impact, **as provided by law.**

§ 25-604. Conditional zoning.

A. Purpose. The purpose of this section is to include and provide for the voluntary proffering in writing, by the owner, of reasonable conditions in addition to the regulations provided for the zoning district or zone by this chapter, as a part of a rezoning or amendment to a zoning map as authorized by state law.

B. Voluntary proffer authorized for non-residential rezonings. The owner of property which is the subject of an application for rezoning may voluntarily proffer in writing reasonable conditions in addition to the regulations provided for the zoning district by this chapter, as a part of the rezoning, provided that:

1. The rezoning itself gives rise to the need for the conditions.
2. Such conditions have a reasonable relation to the rezoning.
3. All such conditions are in conformity with the Comprehensive Plan.

State law reference--Virginia Code § 15.2-2298.

C. Voluntary proffer authorized for residential rezonings and the residential use portion of mixed use rezonings. The owner of property which is the subject of an application for rezoning may voluntarily proffer in writing reasonable conditions in addition to the regulations provided for the zoning district by this chapter, as a part of the rezoning, provided that:

1. Such conditions are specifically attributable to the proposed development.
2. Such off-site conditions address a development impact to a public facility, limited to the following areas: transportation, public safety, schools, or parks.
3. Such off-site conditions address a need or identifiable portion of a need for public facility improvements in excess of existing capacity.
4. Such conditions lend a direct and material benefit to the development.

State law reference--Virginia Code § 15.2-2303.4.

COMMUNITY DEVELOPMENT STAFF RECOMMENDATION: Proffer legislation for residential rezonings, to include proffer amendments, or residential portions of mixed-use rezonings, effective July 1, 2016, requires that all on-site and off-site proffers accepted by a locality be specifically attributable to the proposed development. In addition, off-site proffers are deemed unreasonable unless they address an impact to an off-site facility of which the new residential development creates a need or portion of a need in excess of available capacity. In addition, off-site facility proffers must provide a direct and material benefit to the residential development. The legislation limits the scope of proffers to include only 4 off-site public facilities: schools, parks, public safety, and transportation. Please see attached copy of the legislation. With the enactment of state law Virginia Code § 15.2-2303.4., staff recommends approval of the ordinance amendments.

**COUNTY OF AUGUSTA
STAFF REPORT
Keeping of Chickens Amendments
February 14, 2017**

An ordinance to amend Sections 25-4, 25-123, 25-133, and 25-134 of the Augusta County Code to provide for keeping domestic chickens in rural residential and single family residential districts under certain circumstances and to clarify the requirements associated with allowing farms and limited agriculture by Special Use Permit in single family residential districts.

Limited agriculture, which is permitted by special use permit in single family residential districts, shall be amended to clarify the exclusion of poultry and swine.

A keeping of Poultry Permit will be required in order to keep chickens in rural Residential and Single Family Residential districts. There will be a limit of four hens per parcel and the use must be accessory to the principal use of the property which shall be residential. Chickens shall not be permitted on any parcel of land that is within five hundred feet of any poultry house. Chickens shall only be raised for domestic purposes and not for commercial sale. No roosters, capons, or crowing hens shall be allowed. All hens must be kept in an enclosed and covered pen that contains at a minimum four square feet of roost space per bird, with an additional five square feet of run space per bird. The maximum total area of the coop and chicken enclosure shall not exceed one hundred fifty square feet nor a height of ten feet. Such pens shall not be located in a front yard and no nearer than twenty-five feet from any property lines or thirty-five feet from any stream, floodplain, or similar environmentally sensitive area. Enclosed pens must be kept in a neat and sanitary condition at all times so as to eliminate odors perceptible at the property boundaries. All feed for the chickens shall be kept in a secure container. There shall be no outside slaughter of chickens and no on-site composting of manure or dead birds. Chicken litter and waste shall be collected by a bona-fide litter service or bagged and taken to the county landfill. Any dead bird shall also be taken to the county landfill and unexplained bird deaths shall be reported to the Virginia Department of Agriculture and Consumer Services prior to disposal at the landfill. The ordinance also sets forth the procedure for applying for a Keeping of Poultry Permit and establishes a procedure for applying for a special use permit to keep chickens, if a Keeping of Poultry Permit is denied.

PROPOSED ORDINANCE TEXT:

**AN ORDINANCE TO AMEND
SECTIONS 25-4, 25-123, 25-133, and 25-134
OF THE AUGUSTA COUNTY CODE
TO PROVIDE FOR
KEEPING DOMESTIC CHICKENS IN
RURAL RESIDENTIAL AND SINGLE FAMILY RESIDENTIAL
DISTRICTS**

WHEREAS, the Augusta County Board of Supervisors has deemed it desirable to enact an ordinance to add provisions to the County Code to allow for the keeping of chickens in residentially zoned areas in Augusta County; and

WHEREAS, the Augusta County Board of Supervisors seeks to protect the residential integrity of the surrounding neighborhood and the health and safety of the chickens and other poultry, including the poultry that is a vital part of the agribusiness economy of the County.

NOW THEREFORE be it resolved by the Board of Supervisors for Augusta County that §25-4 is amended so the definition of agriculture, limited will read as follows:

§ 25-4. Definitions.

Agriculture, limited. The use of the land for agricultural purposes including farming, dairying, pasturage, apiculture, aquaculture, floriculture, horticulture, silviculture, viticulture and the raising of ~~poultry~~ and livestock , **but not including poultry or swine**, and the necessary accessory uses for packing, treating and storing the produce, provided there is no more than one (1) animal unit per acre.

BE IT FURTHER RESOLVED by the Board of Supervisors for Augusta County that §25-123 is amended by adding a new Paragraph E to read as follows:

E. Domestic Chickens.

The keeping of no more than four (4) chicken hens shall be permitted by Administrative Permit provided:

1. No more than four (4) chicken hens shall be allowed per parcel and will be accessory to a single-family dwelling. Chickens shall not be permitted on any parcel of land that is within five hundred (500) feet of any poultry house. Chickens shall only be raised for domestic purposes. No commercial on-site use on the property such as selling eggs or selling chickens for meat shall be allowed.
2. No roosters, capons, or crowing hens shall be allowed.
3. There shall be no outside slaughtering of birds.

4. All chicken hens must be kept at all times in an enclosed and covered, at a minimum with wire mesh, secure movable or stationary pen that contains at a minimum four (4) square feet of roost space per bird, with an additional five (5) square feet of run space per bird. The maximum total area of the coop and chicken enclosure shall not exceed one hundred fifty (150) square feet nor a height of ten feet (10').
5. All coops and enclosed pens must be located behind the front building line of the principal structure and may not be erected, altered, located, reconstructed, or enlarged nearer than twenty-five feet (25') from any property lines or thirty-five feet (35') from any stream or any river and shall not be located in any storm water management area, flood plain, or Source Water Protection Area 1.
6. All enclosed pens must be kept in a neat and sanitary condition at all times, and must be cleaned on a regular basis so as to prevent odors perceptible at the property boundaries.
7. All feed for the chickens shall be kept in a secure container or location to prevent the attraction of rodents and other animals.
8. Provisions shall be made for the storage and removal of chicken litter and chicken waste (manure). Chicken litter and chicken waste shall not be disposed of by composting on-site, but shall be collected by a bona-fide litter service, or bagged and taken to the county landfill. In no case shall such chicken litter and chicken waste be allowed to create a nuisance or health hazard to adjoining property owners.
9. Any dead bird shall be taken to the county landfill. Further all unexplained bird deaths shall be reported to the Virginia Department of Agriculture and Consumer Services prior to transport to the county landfill.
10. Persons wishing to keep chicken hens pursuant to this subsection must file an application with the Department of Community Development, which application shall include a sketch showing the area where the chickens will be housed and the types and size of enclosures in which the chickens shall be housed along with the fee for a Keeping of Poultry Permit. The sketch must show all dimensions and setbacks. As part of the application process all persons must complete the Virginia Livestock Premises Registration with the Virginia State Veterinarian's Office prior to the issuance of a permit. If the applicant is not the property owner, property owner consent is required.
11. Upon receipt of an application for a Keeping of Poultry Permit, the Director of the Community Development Department shall send by first class mail written notice of such application to all adjoining property owners as shown on the current real estate assessment books.
 - A. Action if objection received.
 - i. If written objection is received from an adjoining property owner within twenty-one (21) days following the mailing of said notice, the application shall be denied, and the applicant advised that

the keeping of chickens may be allowed only upon approval of a Special Use Permit by the board of zoning appeals.

- ii. If the Special Use Permit is granted by the board of zoning appeals, the keeping of chickens shall be permitted provided all terms and conditions of the Special Use Permit are satisfied.

B. Action if no objection received. If no written objection is received from an adjoining property owner within twenty-one (21) days following the mailing of said notice, the keeping of chickens may be permitted by a Keeping of Poultry Permit.

C. In all cases, the permit to keep chickens is issued non-transferrable and does not run with the land.

12. Once the permit has been issued, the site and enclosures shall be inspected and approved by the Director of the Community Development Department within thirty (30) days of construction of the pens. Permits shall be valid for one (1) year. Each existing permit must be renewed annually by filing a renewal application with the Community Development Department along with the payment of an annual license fee established in Section 19-53 of the Augusta County Code and by having the county's Director of the Community Development Department make another inspection of the site. Notification of adjacent property owners is not required for permit renewals.
13. Each chicken will be tagged with an identification band provided by the county at the time the permit is issued, which shall be attached to either leg or wing.
14. The permit applicant must be the owner of the property or must have and submit written consent of the owner of the property as part of the Keeping of Poultry Permit application to keep **chickens** on the property. Upon written notice of the property owner's withdrawal or cancellation or termination of such approval, the permit shall be revoked by the Director of Community Development.
15. If the permit holder is convicted of any county or state code violation associated with the keeping of **chickens**, the permit shall be revoked.
16. In the event of the Department of Community Development receiving and verifying three substantial and credible complaints of violation of any provision of this chapter and after notice given of such to the permit holder, the permit shall be revoked.
17. Upon revocation of the permit, **chickens** must be removed within 30 days or be subject to removal. Any person(s) so having a permit revoked shall not be allowed, at any time, to make application for another permit for five years.
18. Upon a finding by the zoning administrator that there is warning or equivalent notice or advisory or guidance issued by federal or state authorities regarding a present or forecasted substantial threat of the potential transmission or spread of avian influenza or other poultry disease, no further permits shall be issued until such time that, by similar notice or advisory or guidance, the threat has been recognized by federal or state authorities as having been eliminated.

BE IT FURTHER RESOLVED by the Board of Supervisors for Augusta County that §25-133 is amended by adding a new Paragraph D to read as follows:

D. Domestic Chickens.

The keeping of no more than four (4) chicken hens shall be permitted by Administrative Permit provided:

1. No more than four (4) chicken hens shall be allowed per parcel and will be accessory to a single-family dwelling. Chickens shall not be permitted on any parcel of land that is within five hundred (500) feet of any poultry house. Chickens shall only be raised for domestic purposes. No commercial on-site use on the property such as selling eggs or selling chickens for meat shall be allowed.
2. No roosters, capons, or crowing hens shall be allowed.
3. There shall be no outside slaughtering of birds.
4. All chicken hens must be kept at all times in an enclosed and covered, at a minimum with wire mesh, secure movable or stationary pen that contains at a minimum four (4) square feet of roost space per bird, with an additional five (5) square feet of run space per bird. The maximum total area of the coop and chicken enclosure shall not exceed one hundred fifty (150) square feet nor a height of ten feet (10').
5. All coops and enclosed pens must be located behind the front building line of the principal structure and may not be erected, altered, located, reconstructed, or enlarged nearer than twenty-five feet (25') from any property lines or thirty-five feet (35') from any stream or any river and shall not be located in any storm water management area, flood plain, or Source Water Protection Area 1.
6. All enclosed pens must be kept in a neat and sanitary condition at all times, and must be cleaned on a regular basis so as to prevent odors perceptible at the property boundaries.
7. All feed for the chickens shall be kept in a secure container or location to prevent the attraction of rodents and other animals.
8. Provisions shall be made for the storage and removal of chicken litter and chicken waste (manure). Chicken litter and chicken waste shall not be disposed of by composting on-site, but shall be collected by a bona-fide litter service, or bagged and taken to the county landfill. In no case shall such chicken litter and chicken waste be allowed to create a nuisance or health hazard to adjoining property owners.
9. Any dead bird shall be taken to the county landfill. Further all unexplained bird deaths shall be reported to the Virginia Department of Agriculture and Consumer Services prior to transport to the county landfill.
10. Persons wishing to keep chicken hens pursuant to this subsection must file an application with the Department of Community Development, which application shall include a sketch showing the area where the chickens will be housed and the types and size of enclosures in which the chickens shall be housed along with the

fee for a Keeping of Poultry Permit. The sketch must show all dimensions and setbacks. As part of the application process all persons must complete the Virginia Livestock Premises Registration with the Virginia State Veterinarian's Office prior to the issuance of a permit. If the applicant is not the property owner, property owner consent is required.

11. Upon receipt of an application for a Keeping of Poultry Permit, the Director of the Community Development Department shall send by first class mail written notice of such application to all adjoining property owners as shown on the current real estate assessment books.
 - A. Action if objection received.
 - i. If written objection is received from an adjoining property owner within twenty-one (21) days following the mailing of said notice, the application shall be denied, and the applicant advised that the keeping of chickens may be allowed only upon approval of a Special Use Permit by the board of zoning appeals.
 - ii. If the Special Use Permit is granted by the board of zoning appeals, the keeping of chickens shall be permitted provided all terms and conditions of the Special Use Permit are satisfied.
 - B. Action if no objection received. If no written objection is received from an adjoining property owner within twenty-one (21) days following the mailing of said notice, the keeping of chickens may be permitted by a Keeping of Poultry Permit.
 - C. In all cases, the permit to keep chickens is issued non-transferrable and does not run with the land.
12. Once the permit has been issued, the site and enclosures shall be inspected and approved by the Department of Community Development within thirty (30) days of construction of the pens. Permits shall be valid for one (1) year. Each existing permit must be renewed annually by filing a renewal application with the Community Development Department along with the payment of an annual license fee established in Section 19-53 of the Augusta County Code and by having the county's Animal Control Office make another inspection of the site. Notification of adjacent property owners is not required for permit renewals.
13. Each chicken will be tagged with an identification band provided by the county at the time the permit is issued, which shall be attached to either leg or wing.
14. The permit applicant must be the owner of the property or must have and submit written consent of the owner of the property as part of the Keeping of Poultry Permit application to keep **chickens** on the property. Upon written notice of the property owner's withdrawal or cancellation or termination of such approval, the permit shall be revoked by the Director of Community Development.
15. If the permit holder is convicted of any county or state code violation associated with the keeping of **chickens**, the permit shall be revoked.
16. In the event of the Department of Community Development receiving and verifying three substantial and credible complaints of violation of any provision of this

chapter and after notice given of such to the permit holder, the permit shall be revoked.

17. Upon revocation of the permit, **chickens** must be removed within 30 days or be subject to removal. Any person(s) so having a permit revoked shall not be allowed, at any time, to make application for another permit for five years.
18. Upon a finding by the zoning administrator that there is warning or equivalent notice or advisory or guidance issued by federal or state authorities regarding a present or forecasted substantial threat of the potential transmission or spread of avian influenza or other poultry disease, no further permits shall be issued until such time that, by similar notice or advisory or guidance, the threat has been recognized by federal or state authorities as having been eliminated.

BE IT FURTHER RESOLVED by the Board of Supervisors for Augusta County that §25-134 is amended to read as follows:

§ 25-134. Uses permitted by Special Use Permit.

The uses listed in this section shall be permitted within Single Family Residential Districts only upon the issuance of a Special Use Permit by the board of zoning appeals pursuant to the provisions of article LVIII of division I of this chapter.

E. Farms and agriculture of a limited nature.

Limited agriculture, **not including swine and poultry, except for domestic chickens as provided for in §25-133**, may be permitted by Special Use Permit provided:

1. The tract or parcel is at least five (5) acres in size; and
2. The property is not part of a platted residential subdivision; and
3. The tract or parcel fronts on and has access from a state maintained road, or, if it fronts on a private road, the applicant has demonstrated that the private road is constructed and maintained to adequate standards so as to accommodate the anticipated traffic; and
4. Traffic generated by the proposed farming operation will be compatible with the roads serving the site and other traffic utilizing said roads; and
5. There shall be no accessory business use of the property that will generate additional traffic.

This ordinance shall become effective six months after adoption.

~~BE IT FURTHER RESOLVED~~ by the Board of Supervisors for Augusta County that Article VIII to Chapter 5 of the Augusta County Code, consisting of §5-70 and §5-71, is adopted to read as follows:

~~Sec. 5-70 Chickens Running at Large.~~

~~A. It shall be unlawful for the owner, or any other person having charge or control of any chicken, regardless of zoning district, to permit or allow it to range and run at large on lands or property of another, without such other's consent or permission.~~

~~B. Any citizen having sufficient evidence of violation of this section above may present such evidence and make affidavit to the Augusta County Magistrate and request issuance of a summons based thereon. Corroboration of the alleged violation by the sheriff's department or the animal control officers shall not be necessary in order for a citizen to pursue a summons against another person for such violation. In no event shall this section be construed as a limitation or restriction of any person's right to access the courts or to seek the abatement of violations of this article by any lawful means.~~

~~Sec. 5-71 Violations. Any person found guilty of violating this section shall be guilty of a Class 3 misdemeanor.~~

COMMUNITY DEVELOPMENT STAFF COMMENTS: Currently chickens are not allowed in residential districts in Augusta County. The keeping of chickens, as well as other agricultural animals, is permitted by right in General Agriculture districts which amounts to nearly 95% of the land zoned in the County. Since the last time the Planning Commission reviewed a backyard chicken ordinance, the requirements associated with such a use have been added to Chapter 25 Zoning Ordinance rather than in Chapter 5 of the Augusta County Code which covers other animal control regulations.

Under the proposed amendment, a Keeping of Poultry Permit will be available in Single Family and Rural Residential Districts. There is no minimum acreage required to keep chickens, but no more than 4 chickens can be kept per parcel and no roosters will be allowed. The ordinance lays out other requirements that must be met in regards to construction of the pen, the storage of the feed, and the disposal of the waste and dead birds. Permits will be issued for a year and must be renewed annually. The Permit will be similar to several other permits issued in the County that require notification of adjacent property owners and a time period where they can object to the activity. If a neighbor objects, the only way the chickens can be kept will be if the BZA approves a SUP for the activity.

During a previous review of the domestic chicken ordinance, a "Running at Large" provision was added to Chapter 5 of the Augusta County Code (see strikethrough section above). The Ordinance Committee recommended removal of this section as they did not

intend for it to apply to chickens from an agriculture operation. However, the Animal Control Office will still take calls for chickens that have escaped their pens in residential neighborhoods as the landowner would be in violation of the zoning ordinance requiring that they be contained.

Comments from the State Veterinarian (dated December 2014) and the County's Agriculture Industry Board (dated January 2015) are enclosed with this report.

Also enclosed with this report are updated comments and cost estimates from Animal Control (dated January 4, 2017).



AUGUSTA COUNTY ANIMAL CONTROL
PO BOX 590
VERONA, VIRGINIA 24482
540-245-5635

MEMORANDUM

TO: Ordinance Committee

FROM: Candy Hensley, Assistant to County Administrator
Animal Control Officers

COPY: Timothy Fitzgerald, County Administrator
Leslie Tate, Planner II

DATE: January 4, 2017

SUBJECT: Domestic Chickens

Animal Control has reviewed the proposed ordinance, Keeping of Domestic Chickens, Version 15 and has the following comments in regard to handling chickens if seized, caught, or surrendered:

1. Catching and transporting chickens:

- a. Chickens will be placed in the dog boxes of animal control vehicles to be transported.
- b. Dogs should not be transported at the same time.
- c. Once chickens have been delivered, dog boxes and vehicles will need to be decontaminated prior to picking up other animals, which takes significant time.
- d. Chickens may need to be caught when roosting at night. If they are roosting in high locations, ladders may need to be transported. Other specialized equipment may be needed to catch chickens and handle them as well.

2. Housing chickens:

a. Shenandoah Animal Services Center:

- i. The Special Use Permit currently does not allow. The Permit would need to be amended.

- ii. A location to house on the property is a concern. Remaining land is low-lying and at times is wet and can flood.
- iii. Chickens from different families cannot be housed in the same pen. Chickens must be separated or they will fight.
- iv. The Shelter is not equipped to handle chickens. I.e. pens, food, feeders, waterers.
- v. The Shelter is jointly owned by the County, Staunton and Waynesboro. Owners would need to approve housing and handling of chickens.

3. Holding period and adoption/disposal:

- a. State Code (3.2-6569) requires the chickens to be held 10 business days. If not picked up by the owner, notice must be given to the Commonwealth Attorney and the State Veterinarian's office. Also, notice is required to be published in the newspaper and heard in General District Court prior to the animal being adopted, given away or properly disposed. Notices in the newspaper range from \$400 to \$500.

4. Nuisances and disease:

- a. Chickens and their eggs attract raccoons, skunks, fox, snakes, etc. looking for an easy meal. This could increase the chance of bites from wildlife. Wildlife can carry the rabies virus which could be deadly to humans. Bites to companion animals from wildlife could also increase.
- b. Dogs can be a threat to chickens. Neighboring dogs may run at large seeking the chickens and in some cases destroy pens to get to them.

5. Other:

- a. It is possible running at large cases will increase. If dogs are caught on other property running or killing chickens, they could be shot by the chicken owner, thus creating civil issues, work for animal control and livestock payments from the county for chickens lost.
- b. There are bio-contamination concerns when dealing with chickens and traveling from farm to farm dealing with dog and other animal issues.

6. Staff and budget:

a. Current budget:

Personnel	\$171,920	(includes \$8,000 for OT)
Operating	<u>\$238,850</u>	(includes \$211,200 for shelter)
Total	<u>\$410,770</u>	

- b. Currently there are 3 full-time ACOs. They work 8:00 AM to 7:00 PM shifts. There is coverage 7 days per week. ACOs overlap on weekdays due to increased call volume with only one officer on call on weekends. There is always an officer "on-call" for emergencies after hours. After hour calls are screened by ECC. Calls are worked the following day unless deemed an emergency. Hours worked for emergencies are considered over-time. In 2015:

Calls received	2,961
Night (after hours) calls received	296
Animals Received (dogs & cats)	554
Stray animals	347
Animals surrendered	115
Complaints worked	2,382
Court cases	12
Livestock claims	\$900
Kennel inspections	10
Civils fines issued	949

Based on working hours and number of calls received, approximately 2 hours is spent per call. This includes answering questions, investigating complaints, picking up animals and transporting them to the shelter, time spent on court cases and record keeping. Keep in mind staff travels approximately 21,000 miles per year, each.

- c. The proposed ordinance would increase job duties as follows:
- i. Initial inspections of site and enclosures when the permit has been issued.
 - ii. Annual inspections of the site and enclosures.
 - iii. Working complaints for running at large, depending how the ordinance is written.
 - iv. Additional trips to Shenandoah Animal Services Center and decontamination of dog boxes and vehicles.
 - v. Increase over-time hours. Chickens may need to be caught when roosting at night.
- d. Additional budget expenses may include:
- i. Over-time.
 - ii. Vehicle maintenance and fuel costs.
 - iii. Special equipment to catch or handle chickens.
 - iv. Increased housing expenses.
 - v. Increased expense for advertising to adopt or dispose of chickens.

If additional information is needed, please advise.



AUGUSTA COUNTY ANIMAL CONTROL
PO BOX 590
VERONA, VIRGINIA 24482
540-245-5635

MEMORANDUM

TO: Ordinance Committee

FROM: Candy J. Hensley, Assistant to the County Administrator
Animal Control Officers

COPY: Timothy K. Fitzgerald, County Administrator
Leslie Tate, Planner II

DATE: January 4, 2017

SUBJECT: Housing of Domestic Chickens

As requested, staff looked into costs associated with housing chickens at the Shenandoah Valley Animal Services Center. The number of chickens that may be temporarily housed at the shelter is unknown. Staff researched temporary pens and have found a wooden unit that would allow two separate cages for two chickens. The cost is approximately \$175 each. We suggest purchasing two to allow housing for four chickens as a starting point. Staff proposes to place the two units at the rear of the building out of sight and be covered with tarps until needed.

Estimated "start-up" cost at Shenandoah Valley Animal Services Center:

Staff recommends this expense be shared by Augusta County, Staunton and Waynesboro. Chickens will be kept at the Shenandoah Valley Animal Services Center. We should note that both Cities currently allow chickens in residential areas. "Start-up" should be considered now at the Shelter regardless whether or not the County enacts the ordinance.

2 Chicken Coops/Cages @ \$175 ea.	\$ 350
4 Chicken Feeders (plastic) @ \$6 ea.	\$ 24
4 Chicken Waterers (plastic) @ \$6 ea.	\$ 24
20 Gallon Container to Keep Feed	\$ 28
Tarps	\$ 15
Subtotal	\$ 441
10% Contingency	\$ 44
Total	\$ 485

Estimated "start-up" costs for Augusta County Animal Control:

3 Small Coops for Transport @ \$100 ea.	\$ 300
1 Net Gun*	\$2,000
3 Throw Nets @ \$100 ea.	<u>\$ 300</u>
Sub-Total	\$2,600
10% Contingency	<u>\$ 260</u>
Total	\$3,200

*Note that additional net guns may be needed. Only one is proposed initially, however if chickens become a significant problem and they need to have the net gun in the truck available immediately, versus coming back to the Government Center to pick-up, additional expenditures will be proposed.

Staff would not suggest buying food until chickens arrive. Food can be bought at Tractor Supply or any co-op/farm store. Veterinarian care would be minimal and only sought if needed during temporary stay.

Costs to care for Chickens:

Feed – 20 Lb. bag	\$10.00
Grit – 5 lb. bag	\$ 6.00
Veterinarian Care	\$ Unknown

Although care of the chickens is not time consuming, cages will need to be cleaned daily along with checking their food and water. Staff suggest that if chickens are claimed by their owners, the owner be required to pay for daily care and any veterinary expenses, if received. Currently daily fee for cats and dogs is \$15. We suggest charging the same to be consistent. We also suggest if running at large is included in the ordinance, a fee be charged as well. The fee for dogs currently is \$25. The fee for chickens could be the same to remain consistent. Daily care and running at large fees could only be collected when chickens are claimed by the owner.

January 6, 2015

Mr. Larry Wills
Chairman, Augusta County Board of Supervisors
P.O. Box 590
Verona, VA 24482

Dear Chairman Wills:

The Augusta County Agriculture Industry Board would like to comment on the proposed ordinance for poultry in small lot residential developments within the County. The main concerns and recommendations of the Augusta County Agriculture Industry Board are as follows:

Residents who keep poultry should practice sound animal husbandry to ensure that birds and facilities are properly cared for through all phases of production. In any setting (commercial or residential) this requires a strict adherence to containment and space allotment, sanitation, and provisions for waste and mortality management. The current draft ordinance does a good job of setting guidelines for animal husbandry.

Because of its unique position as a center of the Virginia and US poultry industry and its importance to the livelihood of many Augusta County farm families, poultry diseases are of great concern to the local agricultural community. The AIB recommends that residential poultry producers join the commercial poultry industry in registering their premises with the Virginia Department of Agriculture and Consumer Services (contact Richard Odom, 804-692-0600, richard.odom@vdacs.virginia.gov). The AIB also encourages backyard poultry producers to help detect and respond to the threat of disease by utilizing the poultry necropsy service offered by the Virginia Department of Agriculture and Consumer Services (VDACS) at their Regional Lab in Harrisonburg. This service is provided free by funding from the USDA as part of a nation-wide effort. Contact VDACS at (540) - 209-9130.

The AIB also encourages backyard poultry producers to contact Virginia Cooperative Extension with any questions related to disease or mortality management. They can be contacted at (540)-245-5750.

Sincerely,



Matt Booher, Extension Agent
Virginia Cooperative Extension

Invent the Future

VIRGINIA POLYTECHNIC INSTITUTE AND STATE UNIVERSITY

Extension is a joint program of Virginia Tech, Virginia State University, the U.S. Department of Agriculture, and state and local governments.

Virginia Cooperative Extension programs and employment are open to all, regardless of age, color, disability, gender, gender identity, gender expression, national origin, political affiliation, race, religion, sexual orientation, genetic information, veteran status, or any other basis protected by law. An equal opportunity/affirmative action employer.

Becky Earhart

From: Hopson, Donald (VDACS) <Donald.Hopson@vdacs.virginia.gov>
Sent: Tuesday, December 09, 2014 12:33 PM
To: Becky Earhart
Cc: Gary Webb; Hammer, Kymberly (VDACS); Bowman, Bruce (VDACS)
Subject: Augusta County Chicken Ordinance

Ms. Earhart,

My office is in receipt of your letter regarding the proposed Augusta County chicken ordinance. I have conversed with the Office of Veterinary Service's Poultry Specialist regarding the proposal and we have a couple concerns:

1. The proposal addresses on chickens rather than including all poultry. Keep in mind that all poultry (defined as chickens, turkeys, water fowl, cassowaries, and upland gamebirds) can present a biosecurity risk and nuisance in residential neighborhoods. Consider to include the term "domestic poultry" in place of "chickens".
2. Sec. 5-71 paragraph (11)-tagging of individual birds is an ideal suggestion; however, tracking the leg band numbers will be a challenge for your staff. Keep in mind that poultry owners will continually be purchasing and trading unidentified birds and it will be difficult to enforce that each bird has been banded.

Regards,
Don

Don Hopson, DVM
Regional State Veterinary Supervisor
VDACS, Office of Veterinary Services
261 Mt. Clinton Pike
Harrisonburg, VA 22802
540-209-9120
www.vdacs.virginia.gov.

§ 15.2-2303.4. Provisions applicable to certain conditional rezoning proffers

A. For purposes of this section, unless the context requires a different meaning:

"New residential development" means any construction or building expansion on residentially zoned property, including a residential component of a mixed-use development, that results in either one or more additional residential dwelling units or, otherwise, fewer residential dwelling units, beyond what may be permitted by right under the then-existing zoning of the property, when such new residential development requires a rezoning or proffer condition amendment.

"New residential use" means any use of residentially zoned property that requires a rezoning or that requires a proffer condition amendment to allow for new residential development.

"Offsite proffer" means a proffer addressing an impact outside the boundaries of the property to be developed and shall include all cash proffers.

"Onsite proffer" means a proffer addressing an impact within the boundaries of the property to be developed and shall not include any cash proffers.

"Proffer condition amendment" means an amendment to an existing proffer statement applicable to a property or properties.

"Public facilities" means public transportation facilities, public safety facilities, public school facilities, or public parks.

"Public facility improvement" means an offsite public transportation facility improvement, a public safety facility improvement, a public school facility improvement, or an improvement to or construction of a public park. No public facility improvement shall include any operating expense of an existing public facility, such as ordinary maintenance or repair, or any capital improvement to an existing public facility, such as a renovation or technology upgrade, that does not expand the capacity of such facility. For purposes of this section, the term "public park" shall include playgrounds and other recreational facilities.

"Public safety facility improvement" means construction of new law-enforcement, fire, emergency medical, and rescue facilities or expansion of existing public safety facilities, to include all buildings, structures, parking, and other costs directly related thereto.

"Public school facility improvement" means construction of new primary and secondary public schools or expansion of existing primary and secondary public schools, to include all buildings, structures, parking, and other costs directly related thereto.

"Public transportation facility improvement" means (i) construction of new roads; (ii) improvement or expansion of existing roads and related appurtenances as required by applicable standards of the Virginia Department of Transportation, or the applicable standards of a locality; and (iii) construction, improvement, or expansion of buildings, structures, parking, and other facilities directly related to transit.

"Residentially zoned property" means property zoned or proposed to be zoned for either single-family or multifamily housing.

"Small area comprehensive plan" means that portion of a comprehensive plan adopted pursuant to § 15.2-2223 that is specifically applicable to a delineated area within a locality rather than the locality as a whole.

B. Notwithstanding any other provision of law, general or special, no locality shall (i) request or accept any unreasonable proffer, as described in subsection C, in connection with a rezoning or a proffer condition amendment as a condition of approval of a new residential development or new residential use or (ii) deny any rezoning application or proffer condition amendment for a new residential development or new residential use where such denial is based in whole or in part on an applicant's failure or refusal to submit an unreasonable proffer or proffer condition amendment.

C. Notwithstanding any other provision of law, general or special, (i) as used in this chapter, a proffer, or proffer condition amendment, whether onsite or offsite, offered voluntarily pursuant to § 15.2-2297, 15.2-2298, 15.2-2303, or 15.2-2303.1, shall be deemed unreasonable unless it addresses an impact that is specifically attributable to a proposed new residential development or other new residential use applied for and (ii) an offsite proffer shall be deemed unreasonable pursuant to subdivision (i) unless it addresses an impact to an offsite public facility, such that (a) the new residential development or new residential use creates a need, or an identifiable portion of a need, for one or more public facility improvements in excess of existing public facility capacity at the time of the rezoning or proffer condition amendment and (b) each such new residential development or new residential use applied for receives a direct and material benefit from a proffer made with respect to any such public facility improvements. For the purposes of this section, a locality may base its assessment of public facility capacity on the projected impacts specifically attributable to the new residential development or new residential use.

D. Notwithstanding any other provision of law, general or special:

1. Actions brought to contest the action of a locality in violation of this section shall be brought only by the aggrieved applicant or the owner of the property subject to a rezoning or proffer condition amendment pursuant to subsection F of § 15.2-2285.

2. In any action in which a locality has denied a rezoning or an amendment to an existing proffer and the aggrieved applicant proves by a preponderance of the evidence that it refused or failed to submit an unreasonable proffer or proffer condition amendment that it has proven was suggested, requested, or required by the locality, the court shall presume, absent clear and convincing evidence to the contrary, that such refusal or failure was the controlling basis for the denial.

3. In any successful action brought pursuant to this section contesting an action of a locality in violation of this section, the applicant may be entitled to an award of reasonable attorney fees and costs and to an order remanding the matter to the governing body with a direction to approve the rezoning or proffer condition amendment without the inclusion of any unreasonable proffer. If the locality fails or refuses to approve the rezoning or proffer condition amendment within a reasonable time not to exceed 90 days from the date of the court's order to do so, the court shall enjoin the locality from interfering with the use of the property as applied for without the unreasonable proffer. Upon remand to the local governing body pursuant to this subsection,

the requirements of § 15.2-2204 shall not apply.

E. The provisions of this section shall not apply to any new residential development or new residential use occurring within any of the following areas: (i) an approved small area comprehensive plan in which the delineated area is designated as a revitalization area, encompasses mass transit as defined in § 33.2-100, includes mixed use development, and allows a density of at least 3.0 floor area ratio in a portion thereof; (ii) an approved small area comprehensive plan that encompasses an existing or planned Metrorail station, or is adjacent to a Metrorail station located in a neighboring locality, and allows additional density within the vicinity of such existing or planned station; or (iii) an approved service district created pursuant to § 15.2-2400 that encompasses an existing or planned Metrorail station.

F. This section shall be construed as supplementary to any existing provisions limiting or curtailing proffers or proffer condition amendments for new residential development or new residential use that are consistent with its terms and shall be construed to supersede any existing statutory provision with respect to proffers or proffer condition amendments for new residential development or new residential use that are inconsistent with its terms.

2016, c. 322.

AUGUSTA COUNTY PLANNING COMMISSION



ANNUAL REPORT 2016

AUGUSTA COUNTY PLANNING COMMISSION 2016 ANNUAL REPORT

MEMBERSHIP

The Augusta County Planning Commission 2016 commissioners were: Stephen Neil Bridge, Chairman; Kitra A. Shiflett, Vice-Chairman; Eric M. Shipplett; Gordon Kyle Leonard, Jr.; James W. Curd; E. Thomas Jennings, Jr; and Gregory W. Campbell replaced Christopher M. Foschini in July for the Beverley Manor District. Rebecca L. Earhart served as Secretary to the Commission with Leslie C. Tate replacing Mrs. Earhart after her retirement in November.

MEETINGS

In 2016, the Planning Commission held ten (10) regular meetings. The Commission had strong attendance at all of their meetings with Kitra Shiflett and James Curd attending all ten meetings. Steve Bridge missed only one meeting. The Commission continued their practice of meeting on the second Tuesday of each month and viewing the requests prior to the public hearings.

WORKLOAD

The Commission had six (6) rezoning requests come before them, as well as one request to amend proffers, three requests to add the Source Water Protection Overlay Area 1 & 2 zoning designations to the supplies or potential supplies of public water systems, three requests to add the Public Use Overlay to accommodate school facilities and a trail, and one request to withdraw from an Agricultural and Forestal District. The Commission also considered three (3) Zoning and Subdivision Ordinance amendments including: the extraction of oil and natural gas, regulations concerning telecommunications facilities, and to allow daycare centers by Special Use Permit in Industrial Zones.

The Commission did site visits of Deerfield Park, Natural Chimneys, Crimora Park, Berry Farm and Stuarts Draft Park and heard a presentation by Parks and Recreation Director, Andy Wells on Augusta Springs Park. The Commission also heard an update of the Parks and Recreation Master Plan which the Planning Commission will eventually vote to adopt as part of the Comprehensive Plan.

The Commission, during a work session in May, also heard input from the County Attorney concerning new residential proffer legislation passed by the General Assembly.

REZONING OF LAND

Five (5) of the six (6) requests for rezoning were recommended to the Board to be approved with proffers, while a request to rezone from General Agriculture to Attached Residential was recommended to the Board for denial. There was one (1) request to

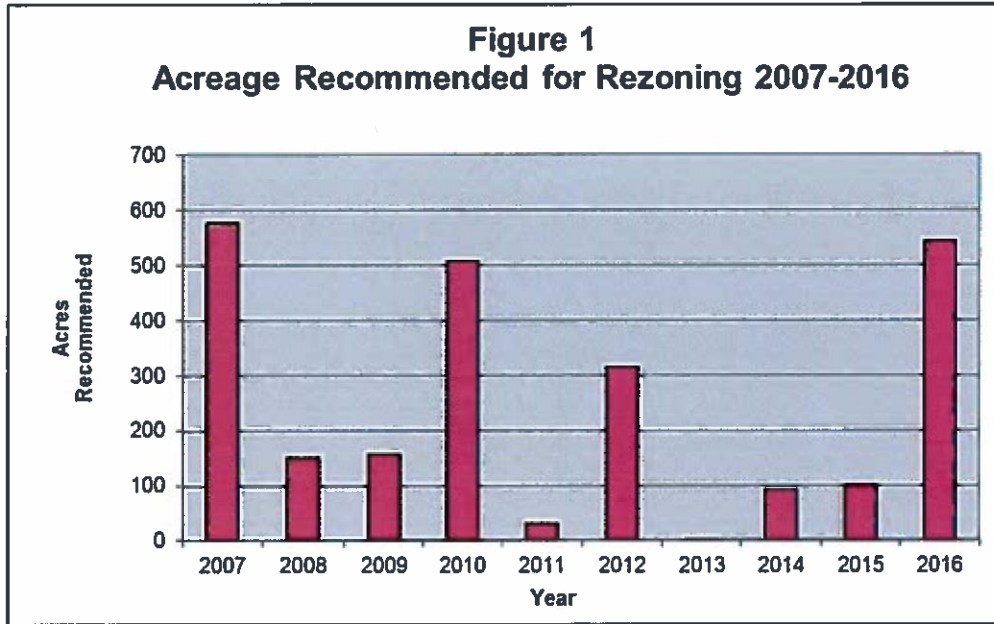
amend and restate proffers on previously zoned properties. Table 1 shows a breakdown of the Planning Commission's actions on all the requests for rezoning by magisterial district.

**TABLE 1
RECOMMENDATIONS ON REQUESTS FOR REZONING
BY THE PLANNING COMMISSION
BY MAGISTERIAL DISTRICT**

DISTRICT	RECOMMEND APPROVAL WITH PROFFERS	RECOMMEND APPROVAL WITHOUT PROFFERS	RECOMMEND DENIAL	TABLED	TOTAL
Beverley Manor	1	0	0	0	1
Middle River	1	0	0	0	1
North River	1	0	1	0	2
Pastures	0	0	0	0	0
Riverheads	0	0	0	0	0
South River	0	0	0	0	0
Wayne	2	0	0	0	2
TOTAL	5	0	1	0	6

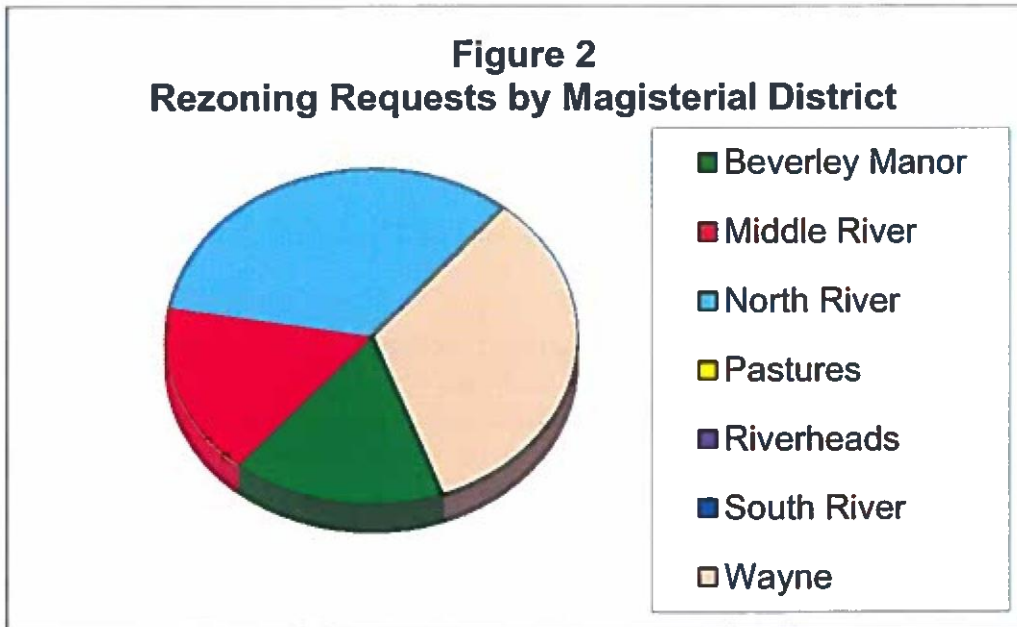
The number of rezoning requests in 2016 (six) was a slight increase from the five requests heard by the commission for the previous two years. While 6 requests is a significant increase from the 2 in 2013, the data shows 2016 still saw less than the eight (8) requests that came before the commission in 2012. For the purposes of this report, only the rezoning requests will be considered, not the request to amend the proffers, add Source Water Protection Overlay or Public Use Overlay designations, or the request to withdraw from the Middlebrook Agricultural and Forestal district. The Board of Supervisors followed the recommendations of the Planning Commission in 5 of the 6 rezoning cases in 2016.

The acreage recommended for rezoning increased as compared to last year, from just over 100 acres in 2015 (see Figure 1 on Page 4) to approximately 543 acres in 2016. This significant increase in acreage is attributable to one request to rezone approximately 515 acres from General Agriculture to General Industrial with a portion to Airport Business at the recommendation of the Board of Supervisors.



* Note: This table does not include requests to add the Source Water Protection Overlays or Public Use Overlays, requests to add or amend and restate proffers, or a request to withdraw from an Agricultural and Forestal District.

The rezoning requests in 2016 were distributed over four (4) of the seven (7) magisterial districts. The Wayne and North River Districts had the most requests with two (2) each, while the Beverley Manor and Middle River Districts each had one (1) request. There were no rezoning requests made in the Riverheads, Pastures or South River Districts in 2016. Figure 2 graphically depicts the number of rezoning requests by magisterial district.



* Note: This table does not include requests to add the Source Water Protection Overlays or Public Use Overlays, requests to add or amend and restate proffers, or a request to withdraw from an Agricultural and Forestal District.

More than 95% of the land recommended for rezoning in 2016 was from General Agriculture. The other 3 requests recommended for rezoning changed from one development zoning classification to another: 19.2 acres from Single Family and General Business to Multi-Family, 3.3 acres from Limited Business to General Business, and 0.3 of an acre from General Business to Single Family. Table 2 lists the acres recommended for rezoning by zoning classification and magisterial district.

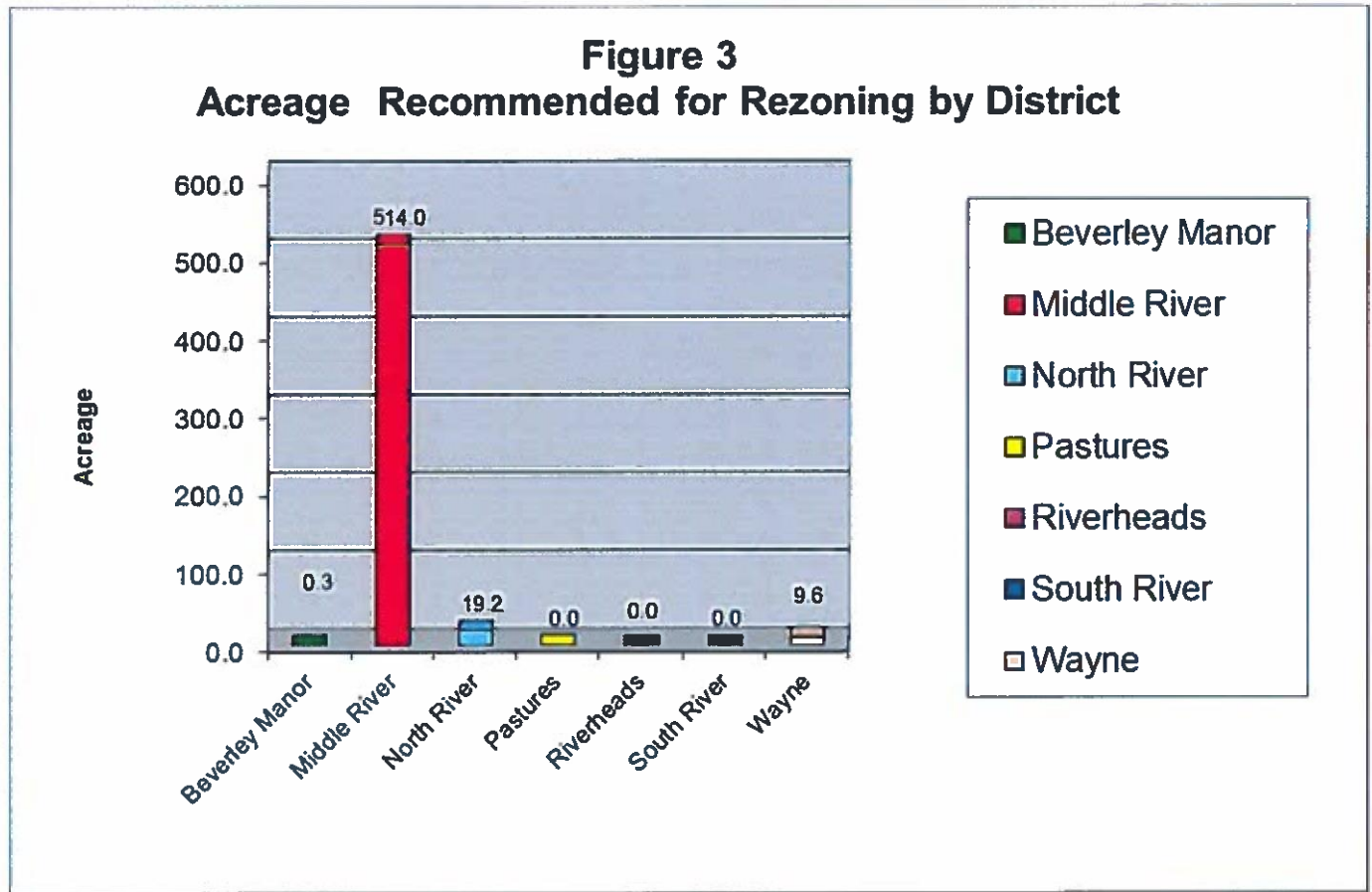
**TABLE 2
ACREAGE RECOMMENDED FOR REZONING
BY ZONING CLASSIFICATION AND MAGISTERIAL DISTRICT**

ZONE	Beverley Manor	Middle River	North River	Pastures	R'heads	South River	Wayne	TOTAL
General Agriculture	0	514	0	0	0	0	6.3	520.3
Rural Residential	0	0	0	0	0	0	0	0
Single-family Residential	0	0	0	0	0	0	0	0
Attached Residential-Duplexes and Townhouses	0	0	0	0	0	0	0	0
Manufactured Home Park	0	0	0	0	0	0	0	0
Multi-family Residential	0	0	0	0	0	0	0	0
Airport Business	0	0	0	0	0	0	0	0
Limited Business	0	0	0	0	0	0	3.3	3.3
General Business	0.3	0	19.2	0	0	0	0	19.5
Planned Commerce	0	0	0	0	0	0	0	0
General Industrial	0	0	0	0	0	0	0	0
Planned Unit Developments	0	0	0	0	0	0	0	0
TOTAL*	0.3	514	19.2	0	0	0	9.6	543.1

* Note: This table does not include requests to add the Source Water Protection Overlays or Public Use Overlays, requests to add or amend and restate proffers, or a request to withdraw from an Agricultural and Forestal District.

Figure 3 graphically illustrates the geographic location of the acreage recommended for rezoning. The Middle River District had 94% of the acres recommended for rezoning,

while the North River District had just under 4%. Less than ten (10) acres total were requested to be rezoned in the Wayne and Beverley Manor Districts.



* Note: This table does not include requests to add the Source Water Protection Overlays or Public Use Overlays, requests to add or amend and restate proffers, or a request to withdraw from an Agricultural and Forestal District.

RELATIONSHIP TO THE COMPREHENSIVE PLAN

One of the goals of the Augusta County Comprehensive Plan Update 2014/2015 is to target the County's growth to those areas with the public services designed to accommodate the development. The Plan recommends that 80% of the County's future residential growth locate in the Urban Service Areas, while Community Development Areas are planned to accommodate up to 10% of the future residential growth. Rural Conservation Areas and Agricultural Conservation Areas are each expected to accommodate less than 5% of the future residential development, with Rural Conservation Areas expected to accommodate the majority of the rural residential development in the County.

One way to track how well the Comprehensive Plan is being implemented is to view the number of rezonings being sought by Comprehensive Plan Planning Policy Area.

In 2016, all six (6) requests for rezoning were in the Urban Service Area, totaling approximately 543 acres.

Of the land being recommended for rezoning, 520.3 acres was being requested to be rezoned out of General Agriculture to facilitate new business and residential development, while 22.8 acres was being zoned from one residential or business zoning classification to another.

ORDINANCE AMENDMENTS

In 2016, changes to the County's development regulations was a portion of the Commission's workload. The Planning Commission recommended ordinance changes to regulations on wireless telecommunications facilities to bring the county ordinance in compliance with federally mandated code and update definitions per the Federal Communications Commission. The Planning Commission also recommended ordinance changes to permit daycare centers in industrial zones by Special Use Permit. The Planning Commission also heard ordinance amendments concerning the prohibition of oil and natural gas extraction in general agricultural zones and the allowance of oil and natural gas extraction, by special use permit, in industrial zones. Ordinance amendments concerning extraction of oil and natural gas were tabled by the Planning Commission for further research and discussion.

The Board of Supervisors approved the wireless telecommunications facilities amendments and the provision for daycare centers in industrial zones, both recommended by the commission.

SOURCE WATER PROTECTION OVERLAYS

The commission recommended approval to add the Area 2 Source Water Protection Overlay designation to approximately 2,913 acres located in the recharge areas for the water systems in Berry Farm and Middlebrook. These recharge areas were identified as a result of extensive study by the Augusta County Service Authority on these water systems. In addition, the commission also recommended approval of a request to add the Area 1 Source Water Protection Overlay designation to two new proposed well sites at Berry Farm.

PUBLIC USE OVERLAYS

The commission recommended approval of all three (3) Public Use Overlay (PUO) requests, one of which was to combine separate PUO's for the Riverheads School Complex into one overlay. Another PUO request was for a walking trail and other passive recreational uses at Mill Place Park.

LOT CREATION

There are two ways to create lots in Augusta County. The major subdivision process is the typical way lots get created in residential, business, or industrial zoning. In 2016, 74 lots were created through the major subdivision process. The other way lots can be created in the County is through the minor subdivision process. This process allows a single lot, zoned agriculture, to be created off a larger tract of land and approved administratively by the County Subdivision Agent. In most cases, these lots are created to be sold and houses to be built on them. Up to two lots zoned residential, industrial or business can also be created in this manner, although the minor subdivision process is most frequently used in the agricultural areas. In 2016, only three (3) lots were created through the minor subdivision process that weren't zoned General Agriculture, 1 was created in Single Family Residential, and two in General Industrial. There was also one lot created through the minor subdivision process in the Middle River Agricultural and Forestal District.

To get a clearer picture of the number of residential lots being created in Augusta County in any given year, you must analyze both the minor and major subdivision plats being approved in the County (See Table 3). In 2016, 74 lots were created through the major subdivision process, four of which were for General Business zoning and the remainder were for some type of attached or detached residential. In 2016, forty-four (44) new lots were created through the minor subdivision process in General Agriculture (one of which was in an Agricultural and Forestal District), one (1) Single Family Residential lot was created through the minor subdivision process, and two (2) General Industrial lots were created through the minor subdivision process.

New lots created in the County are required to have frontage on a public road. The only exception to that is in the General Agriculture districts where it is possible to create a lot without road frontage, but meeting all other lot requirements, and convey it to a family member. In 2016, fifteen (15) of the forty-four (44) lots (approximately 34%) created in General Agriculture districts were created using the Family Member Exception.

**TABLE 3
LOTS CREATED IN 2016**

Zoning	Minor Subdivision Lots	Major Subdivision Lots	Total New Lots
Rural Residential	0	4	4
Single Family Residential	1	25	26
Attached Residential	0	21	21
Townhouse Residential	0	4	4
Master Planned Community (residential)	0	16	16
Multi-Family Residential	0	0	0
General Business	0	4	4
General Industrial	2	0	2

Planned Commerce	0	0	0
General Agriculture	44	0	44
TOTAL	47	74	121

Figure 5 (below) graphically presents the number of all lots created, both from major and minor subdivisions, from residential zoning districts (62%) versus the general agriculture zoning district (38%) in 2016.

