

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

VIRGINIA: At the Called Meeting of the Augusta County Planning Commission held on Tuesday, November 14, 2006, at 3:00 p.m. in the Board of Supervisors' Conference Room, Augusta County Government Center, Verona, Virginia.

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The Planning Commission assembled in the Augusta County Government Center to discuss the rezonings. The Planning Commission traveled to the following sites which will be considered by the Commission:

1. Bobby R. or Nellie B. Hevener – Rezoning
2. Thomas Properties of TN, L.L.C. – Rezoning
3. Dandy Investment, L.L.C. – Rezoning
4. C. Milton Driver – Rezoning

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R. L. Earhart, Senior Planner and Secretary
S. L. Rosenberg, County Attorney
D. L. Cobb, Director of Community Development
D. D. Wolfe, County Engineer
J. R. Wilkinson, Zoning Administrator
M. L. Comer, Subdivision Administrator

VIRGINIA: At the Continued Meeting of the Augusta County Planning Commission held on Tuesday, November 14, 2006, at 4:30 p.m. in the Smith's Transfer Room, Augusta County Government Center, Verona, Virginia.

The Planning Commission returned from their viewing, moved to the Smith's Transfer Room, and discussed the upcoming items on the Board of Zoning Appeals agenda.

Mr. Hite opened the worksession on the subdivision regulations under consideration by the Planning Commission.

Mr. Rosenberg passed out a memo with suggested changes based on comments on the subdivision regulations from Doug Woodworth, a local attorney. Mr. Rosenberg suggested that language be added to the ordinance to clarify that lot creation can not be cumulative in effect. If you are allowed to create one new lot every 3 years, but 15 years goes by and you haven't created any lots, you aren't entitled to 5 lots in a single year.

Mr. Rosenberg explained that language has been drafted that will allow people who get a family member exception lot to convey interest in their lot to their spouse, either at the time they initially get the lot from their family member or at any time during the holding period and that would not violate the ordinance. He stated that the language in the memo allows for the family member to convey the interest to a married or unmarried partner.

Mr. Rosenberg stated that the remaining items covered by the memo were minor clarifications or corrections of typos.

Mrs. Tilghman expressed concern about the use of the term "natural person" and questioned whether or not there was better language available to allow for the conveyance of land to partners, regardless of their marital status.

Mr. Byerly asked if a holding period was required by the draft ordinance on new lots created.

Mrs. Earhart stated there is no holding period, the only requirement is that you can create only one new lot per 12 months.

Mrs. Tilghman asked if the County can track the 12 months versus the calendar year provision.

Mr. Cobb stated that with the County's GIS, we were in a better position now to track lot creation than in previous years.

Mrs. Tilghman indicated that she favored Option 3- the one year time frame and deleting the contiguous acreage provision in Exclusive Agriculture.

Mr. Bridge stated that he was concerned that it appeared the County was going from one lot every 3 to 5 years down to one. He asked what has caused the shift.

Mr. Cobb stated that the County advertised the strictest option based on the Agricultural Task Force's recommendations and we heard the public's comments on that draft.

Mr. Hite indicated he heard virtually no support for the one in three and one in five limitations.

Mrs. Shiflett stated that was not the most restrictive recommendation that could have come from the Ag Task Force. The Committee was made up of farmers and the threats to agriculture are very real. Lot creation is a part of those threats. The public hearing was very one-sided, but at the Comp Plan meetings we heard a lot of support for protection of agriculture and the rural character of the County. The Ag Task Force was charged with making recommendations on making agriculture viable.

Mrs. Tilghman stated it is all in what is advertised and who's pocketbook we are affecting.

Mr. Curd stated he supported the ordinances as they currently exist.

Mr. Bridge asked if Option 3 is enough or is it too much.

Mr. Byerly stated he supported Option 3 and feels it will do the job, but he also likes the revisit the issue clause.

Mr. Hite introduced the topic of Family Member Exception for discussion.

Mr. Curd stated that if we want to take land speculators out and help the farmers, then require the land to be held at the front end.

Mrs. Earhart explained that staff had looked at that idea since it was first presented at the public hearing. It is the feeling of staff that that won't slow down the development. The farmers will just have to use the family member exception clause to create the lots prior to the sale of their property, rather than selling it to a developer who creates the lots through their family member exceptions after they get the land from the farmer. In many cases, developers are running out of family members and they are going to have to get the farmers to do that anyway.

Mr. Curd stated that there has been a lot of talk about the abuse by spouses of the family member exception clause. He stated for real estate purposes, it is sometimes necessary.

Mr. Bridge stated that the purpose of family member exception is to keep the family on the farm.

Mrs. Shiflett stated that one of the speakers at the public hearing stated that he needed grandchildren to remain in the ordinance to finish creating the lots in his subdivision. She indicated that he could have sold the land for farming, but he didn't. She asked if it is the County's job to maximize a property owner's profit. She stated that it is being abused and a surveyor told her that if you make people hold the lots, it will cure the abuses.

Mr. Bridge stated that it comes down to a question of whether or not we think development in the agriculture areas needs to be slowed down. If we do and don't recommend changes, that's wrong. We need to reach a consensus on that issue first.

Mrs. Shiflett stated that she felt that way.

Mr. Byerly stated Augusta County was a big county and there are a few instances of abuse, but mostly farmers make the right decisions that won't impact their agricultural operations. He stated that he accepts that there will be abuses, but we just don't want there to be too many.

Mrs. Tilghman stated that she doesn't accept the abuses. She indicated that she could accept spouses if there was a holding period. She stated that if the County does nothing else, it needs the holding period. The biggest question is how long a holding period is necessary. She suggested testing a time period out and if that doesn't cut down on the abuses, do something more.

Mr. Curd cautioned against doing harm to the farmer. He stated he realized what the point of family member exception was, but he doesn't support the holding period.

Mrs. Tilghman asked about farmers without family members. She stated that if you really think we need to give farmers a way to create lots, family member exception is the wrong way to go about it.

Mr. Hite introduced the issue of boundary line adjustments for discussion.

Mrs. Shiflett stated that they should count. She indicated that she was afraid that it will be abused more and more if the other regulations are tightened up.

Mrs. Tilghman suggested that the adjustments not count for now, but monitor this and make changes if needed.

The Commission adjourned for dinner.

Chairman

Secretary

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VIRGINIA: At the Called Meeting of the Augusta County Planning Commission held on Tuesday, November 14, 2006, at 7:00 p.m. in the Meeting Room, Augusta County Government Center, Verona, Virginia.

DETERMINATION OF A QUORUM

Mr. Hite stated as there were seven (7) members present, there was a quorum.

MINUTES

Mr. Byerly moved, seconded by Mr. Curd to approve the minutes of the Called and Regular meeting held on October 10, 2006 as mailed. The motion passed on a unanimous vote. Ms. Tilghman moved to approve the minutes of the Worksessions on September 13, 2006 and September 28, 2006, as amended, and the Joint Public Hearing on October 18, 2006. Mr. Bridge seconded the motion, which carried unanimously.

Bobby R. or Nellie B. Hevener

A request to rezone from Rural Residential to General Agriculture approximately 1.2 acres owned by Bobby R. or Nellie B. Hevener located on the south side of Lone Fountain Lane approximately 0.6 of a mile south of the intersection of Hankey Mountain Highway (Route 250) and Jerusalem Chapel Road (Route 720) in the Pastures District.

Ms. Earhart explained the request.

Mr. Chapman Goodwin, representing Bobby and Nellie Hevener, stated that the intention for the rezoning request is to allow Mr. and Mrs. Hevener's son to move closer to them, so that he can take care of them because they are getting older. On a separate matter, Mr. Goodwin added that there is also a strip of land that is going to be given to the neighbors to straighten out the boundary line. He explained that the parcel involved in this rezoning will be used for a single family residence with a septic system. Mr. Goodwin explained that the 1.2 acre parcel will be added to a one (1) acre parcel zoned General Agriculture located to the rear of the property. The only negative that Mr. Goodwin stated he could see with this rezoning, would be the change to Agriculture which would allow certain uses that would not be allowed on rural residential zoned property. He responded that the only people adjacent to the parcel are already zoned General Agriculture and they have the same use of their property as would be allowed on this tract and the Heveners who are requesting the zoning. Mr. Goodwin asked that this request be recommended and stated that this request would create a 2.2 acre tract which would never be subdivided. Mr. Goodwin then asked if there were any questions.

Mr. Curd asked if the conveyance of the agriculture lot has taken place.

Mr. Goodwin stated that it has not. He stated that it was intended to be taken care of today, however it did not get finalized until this afternoon. He stated that the conveyance will occur either tomorrow or the next day.

Ms. Tilghman asked if the entrance to the property would be off of Lone Fountain Lane.

Mr. Goodwin answered yes.

Mr. Hite asked if there was anyone wishing to speak in favor of this request.

Mr. Hite asked if there was anyone wishing to speak in opposition to this request.

There being no one desiring to speak, Mr. Hite declared the public hearing closed.

Ms. Tilghman made a motion to approve this request contingent on the transfer to Tim Hevener of the adjoining parcel taking place before final approval by the Board of Supervisors.

Mr. Byerly seconded the motion.

Mr. Hite asked if there was any further discussion.

Ms. Shiflett stated that she can support the motion although it is not generally good zoning practice to zone a lot back to agriculture so that a lot can be created, but she stated that the only impact would be on the family.

The motion carried unanimously.

Thomas Properties of TN, L.L.C.

A request to rezone from General Agriculture to Rural Residential approximately 0.67 acres owned by Thomas Properties of TN, LLC located on the west side of Shutterlee Mill Road (Route 742) just north of the Staunton City Limits in the Pastures District.

Ms. Earhart explained the request.

Ms. Tina Tinsley, stated that she works for Balzer and Associates, 1461 Commerce Road, Verona, Virginia. She explained that the property is on the west side of Shutterlee Mill Road, just north of the Staunton City Limits. She stated that this request is to rezone from General Agriculture to Rural Residential. She reiterated that the Staff Report shows that the majority of the property is in the City of Staunton and is already zoned Low Density Residential. Ms. Tinsley stated that the 0.67 of an acre is planned to be developed as part of Baldwin Hills, Section II, which is already zoned Rural Residential. She further stated that this request is basically a clean up measure and is in compliance with the County's Comprehensive Plan.

Mr. Hite asked if there was anyone wishing to speak in favor of this request.

Mr. Hite asked if there was anyone wishing to speak in opposition to this request.

There being no one desiring to speak, Mr. Hite declared the public hearing closed.

Mr. Bridge stated that this request is in order and that he could support the request. Mr. Bridge moved to recommend approval.

Ms. Tilghman seconded the motion. She stated that this request is mostly a housekeeping matter.

Mr. Hite stated that he agrees.

Mr. Curd added that it was in compliance with the Comprehensive Plan.

The motion carried unanimously.

Dandy Investments, L.L.C.

A request to rezone from Single Family Residential to General Business approximately 0.07 of an acre owned by Dandy Investments, L.L.C. located on the east side of Village Drive (Route 1802) just south of the intersection of Village Drive (Route 1802) and Parkersburg Turnpike (Route 254) in the Pastures District.

Ms. Earhart explained the request.

Bill Hanger, 1805 North Drive Staunton, Virginia, stated that he is representing Dandy Investments and he stated that the request is a housekeeping matter. Mr. Hanger also stated that the property was owned by the Department of Game and Inland Fisheries

and the rest of it is already zoned business. He stated that he would like to have the entire property zoned business.

Mr. Hite asked if there was anyone wishing to speak in favor of this request.

Mr. Hite asked if there was anyone wishing to speak in opposition to this request.

There being no one desiring to speak, Mr. Hite declared the public hearing closed.

Ms. Tilghman moved to recommend approval of the request to rezone to General Business. She stated that it has obviously been a business for a long time and that she thought everyone believed that it was already zoned General Business.

Ms. Shiflett seconded the motion.

The motion carried unanimously.

C. Milton Driver

A request to rezone from Single Family Residential to General Business with proffers approximately 0.5 acres owned by C. Milton Driver located in the southeast quadrant of the intersection of Parkersburg Turnpike (Route 254) and Stanley Street (Route 1081) in the Pastures District.

Ms. Earhart explained the request. She stated that the applicant has submitted the following proffers:

1. Access to Parkersburg Turnpike (Rt. 254) from parcels 8 and 9 shall be limited to no more than one entrance.
2. Within twelve months of rezoning approval, the applicant will either obtain a demolition permit for the block building on parcel 9 or do a boundary line adjustment to combine lots 8 and 9.
3. Prior to the establishment of a business use on Parcels 8 or 9, an administrative permit must be applied for and received for an "apartment not on the ground floor" as permitted by §25-303H of the Augusta County Code, if a residential use of the property is to be permitted.

Peter Driver, 1203 West Johnson Street Staunton, Virginia, stated that he is the owner's son and manager of the business. He stated that it is his understanding that it is the owner's intent to make use of the two lots primarily as storage and office space for the operation of their business. He stated that there was some consideration of maintaining the use of the upstairs of one or both buildings as apartment rentals, however he is not sure of the status of that request at this time. Mr. Driver stated that the primary use would be business use and office space.

Mr. Hite asked if there was anyone wishing to speak in favor of this request.

Mr. Hite asked if there was anyone wishing to speak in opposition to this request.

There being no one desiring to speak, Mr. Hite declared the public hearing closed.

Mr. Byerly stated that the request was reasonable, especially with the proffers that were submitted addressing the concerns that staff has. Therefore, Mr. Byerly moved to recommend approval with proffers.

Mr. Curd seconded the motion.

Ms. Tilghman stated that the request is reasonable, even though the property is shown as Medium Density Residential in the Comprehensive Plan. She further stated that the adjoining property, Driver Brothers, has been a business for many years and it is reasonable to rezone the entire property to business.

The motion carried unanimously.

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New Business

Subdivision/Zoning Ordinance Amendments

Ms. Earhart stated that the Planning Commission has conducted several worksessions on the Subdivision regulations. She stated that the changes center around technical changes, agricultural lot creation, family member exception and boundary line adjustments. She said it was up to the Planning Commission to decide how they want to handle the discussion.

Mr. Hite asked if there were any recommendations.

Ms. Tilghman suggested that each theme be addressed separately.

It was a consensus that the matters be handled individually.

Ms. Earhart stated that the Staff Recommendation was to recommend adoption of the Revised Subdivision Ordinance in its entirety with modifications to the following sections:

- §21-11 Alleys – Recommend that alleys be exempt from the street standards in §21-11 and that the County adopt construction standards for alleys.
- §21-42(A) 12F Sewer Connections – Recommend that the requirement that Sewer Connections be shown on the preliminary plat for everyone lot be deleted.
- Recommend that the grammatical changes be made to §21-16 and §21-20.

Ms. Shiflett moved to recommend approval of the Subdivision Ordinance with the aforementioned changes.

Mr. Bridge seconded the motion.

Mr. Hite asked for any further discussion.

The motion carried unanimously.

Miscellaneous Provisions

Ms. Earhart discussed the miscellaneous changes to the regulations including the changes in names and prohibiting direct discharge alternative systems except in cases of failure. She explained the proposed changes did not impact conventional sewage disposal systems.

Mr. Bridge moved that the Commission recommended approval of the technical changes as presented.

Ms. Tilghman seconded the motion.

Mr. Bridge stated that he hopes that this decision clears up any confusion that there may have been about prohibiting conventional septic systems.

Mr. Hite stated the motion has been made, properly seconded, to recommend approval of the changes proposed by staff. The motion carried unanimously.

Lot Creation

Ms. Earhart stated the advertised ordinance is to allow one (1) lot every three (3) years in General Agriculture, one (1) lot every five (5) years in Exclusive Agriculture, and delete the contiguous acreage provision. She mentioned that the only concern of the County Attorney is regardless of the time period that is decided, that at the end of the sentence the following be added, "The provisions of this section shall not be cumulative in their effect. In no event may more than one lot be created every _____ () years." So however many years, it is clear that it is not a rolling count.

Mr. Bridge stated that the idea of lot creation has created controversy and discussion not only among members, but at the public hearings as well. He stated that he believes it is time to send up a recommendation to the Board of Supervisors. He stated he believes that it is the County's responsibility to think of ways to help farmers stay in business with incentives. He explained that he has heard from the public that there is a lot of interest in maintaining the County's agricultural roots, so some sort of restriction may be necessary to slow down the growth in General and Exclusive Agriculture. He stated that he thinks the goal for tonight's meeting is to think about all concepts and ramifications not only for the Agricultural Districts, but for the entire County.

Ms. Shiflett made the following statement:

“In February of 2005 the BOS appointed an Ag Task Force to study and recommend ways of sustaining our agriculture economy. Farmers were appointed to serve on this task force and they met 22 times to study threats to the farm economy and to make recommendations on ways to strengthen and preserve Augusta County’s important farm economy.

The Task Force made its report of findings and recommendations in December of 2005. They did not find one “cure-all” recommendation but came up with a group of recommendations that could be considered the tools to be used toward sustaining agriculture into the future. Some of those recommendations are included in the advertised subdivision changes.

They found the threats to agriculture viability included loss of farmland, fragmentation of farmland, and residential development conflicts. Subdivisions are being created without proper planning through the use of loopholes in the ordinances. The lot creation of 49.3% of residential lots far exceeds the current Comp Plan Goals of less than 20% in Rural and Agricultural Conservation Areas.

The Comprehensive Plan Survey listed Rapid Development and Loss of Ag Land as the worst problems facing Augusta County. People at the public meetings hold us accountable for the Comp Plan not being implemented. Augusta County has a large amount of agriculture land, but the farms are being threatened. The conflicts with homeowners, the competition for land to expand operations, and other threats make it harder to maintain the farms. As farms are turned into more and more houses we lose the support industries like feed mills, implement dealers, stockyards and suppliers, which, in turn drives more farmers out of business. Unless protection is implemented we will be living without the quality of life and scenic views that we value.

The members of the Ag Task Force struggled with the need to preserve farmland versus the landowners’ property rights and did not recommend the most restrictive ordinances. Where do property rights end? When they infringe upon another person’s rights? We all give up some rights for the privilege of living in a community, receiving services, and having improved quality of life.

Farmers receive a tax break with land use taxation, which they deserve because even with the reduction they pay more in taxes than they use. They use very few services and keep the tax rates low for the rest of the County residents. Agriculture is a very large part of our economy and we all have a stake in keeping it viable. Low taxes and a great quality of life are valuable assets.

The Family Member Exception is not being used as it was intended. It is supposed to be an exception to create a non-conforming lot for a family member to stay on the farm. An exception is not supposed to be used to create 44% of the lots in agriculture areas. It is being used as an end run around the subdivision ordinance. A landowner can give, sell

or otherwise convey a conforming lot to anyone. It must be properly created and of proper size. Augusta County is not required to allow any FME lots at all. It is only because the exception has been so badly abused that we are looking at making these changes. Many of the groups of houses have been created using FME do not follow accepted planning and have created drainage, runoff, road access, well, and septic issues for themselves and surrounding landowners. Which of these wells takes someone else's water? Which septic system contaminates the groundwater for all?

Production agriculture is most definitely under threat. This is a tough balancing act and these are tough decisions we are asked to make. Do we protect what we have or wait until it is gone to see its value? Look to our northern neighboring counties that have no farms left and exploding tax rates to see what could happen.”

Mr. Hite asked the Commission if there was any further discussion.

Mr. Byerly moved that the County permit one (1) lot to be created per twelve month (12) time period in General and Exclusive Agriculture and to delete the continuous acreage provision in Exclusive Agriculture.

Ms. Tilghman seconded the motion.

Ms. Shiflett offered an amendment to the motion that once the Comprehensive Plan is completed, the Planning Commission re-visit this issue.

Mr. Byerly accepted the amendment.

Ms. Tilghman accepted the amendment she seconded and added that she believes that the Planning Commission needs to wait until the Comprehensive Plan is complete before they make any major changes.

Mr. Hite stated that he agrees with the previous comments.

Mr. Byerly stated that he appreciated the work that has gone into the subdivision regulations. He indicated he thought everyone has done a good job exploring the options and weighing what is best for the citizens of Augusta County and he feels that this is a reasonable position.

Mr. Bridge stated that he believes this motion will restrict somewhat the creation of lots and the County can start to see whether or not this is effective in slowing down the lot creation in the agricultural areas. Therefore, he stated that he can support the motion and the amendment which would to allow one (1) lot to be created per twelve (12) month time period in both General and Exclusive Agriculture. He further explained that if a lot is created regardless of what day, the owner would have to wait one (1) full year before they can create another one. He stated that this new change would be a lot different than what it is now, because today's ordinance it is based on a calendar year.

Mr. Hite stated that he could also support the motion and added that he too believes in the importance of waiting on the Comprehensive Plan to be completed. He stated that the new plan will encourage residential development to go where there are public utilities available and keep development out of the agricultural areas. He indicated this was a first step.

Mr. Curd stated that he can support the recommendation and motion made by Mr. Byerly in that it makes sense to have a twelve (12) month period instead of a calendar year basis for lot creation.

Mr. Shomo stated that he also supports the motion.

Mr. Hite asked the Commission if there was any further discussion on lot creation.

Mr. Hite stated the motion has been made, properly seconded. The motion carried unanimously.

Family Member Exception

Ms. Earhart stated the advertised ordinance will allow lots to be created without road frontage as long as they are conveyed to children only. Those children must retain the lot for 5 years. An affidavit will be required on the face of the plat and a specific provision will be added to the ordinance that states that you can't use the Family Member Exception to circumvent the Ordinance and the County would seek legal recourse if it is. Ms. Earhart added that the County Attorney has suggested some changes. Currently a lot can be given to a family member and since there is no holding period, the family member can immediately put it in both their name and the name of their spouse. Language is being suggested that will continue to allow the grantor to give to the child and to the child's spouse or partner as long as the child retains 50% ownership of the lot. She explained that this can happen at the time the lot is initially created or can be transferred at later date and not be a violation. For example, if the child initially gets a lot and then after two (2) years decides to give it to their spouse the remainder of the holding period stays with the lot.

Mr. Hite asked the Commission if there was any further discussion on the family member exception.

Ms. Tilghman made a motion to include in Family Member Exception spouse, parents, children, grandchildren, the lot must be retained for three (3) years, an affidavit be put in the deed and the plat, that there be a circumvention clause, and that the issue be revisited in twenty-four (24) months. Ms. Tilghman also recommended that the language suggested by the County Attorney be added to the Ordinance which would allow the family member to convey interest in the lot as long as the family member retains 50% interest in the lot. The language would allow lots to be conveyed to spouses, etc.

Ms. Tilghman explained that Virginia Law does not require Augusta County to have a Family Member Exception clause. She stated that the original reason that the County decided to have this was to preserve the agriculture heritage of the County. She stated that in fact, all this does is allows a lot to be created without road frontage if given to a family member. Ms. Tilghman stated that there is a lot of disagreement amongst the citizens of the County with how restrictive to be on division of land. She explained not in all cases, but in some, that this clause has been used as a way around the Subdivision Ordinance to sell to an unrelated party which is not what it was intended for. Ms. Tilghman explained that if there was disagreement over the County's restrictions on lot creation, then they need to be addressed and not handled through the "back door" as they had in the past. Ms. Tilghman stated that once the Comprehensive Plan is completed, citizens of the County need to decide where they want to the County to go and decide how much leeway is given to creation of lots. It is then, Ms. Tilghman explained, that citizens need to stand up and decide where they stand on these issues. She stated that the only change that she has to the ordinance that is in place now, is to put in a holding period and revisit the issue again in twenty-four (24) months. She stated everything has some abuse to it, but if it is continually done then we need to do something about it. The holding period should do that.

Mr. Hite asked if there was any further discussion.

Ms. Earhart summarized Ms. Tilghman's motion as follows:

- a. To include spouse, parent, children and grandchildren in whom the lot could be given to.
- b. Would have to retain the lot for three (3) years after it has been created.
- c. Add circumvention clause to the document and the language would have to be recorded on the deed as well as on the plat.
- d. Revisit issue in twenty-four (24) months.
- e. Add spouse or natural person language as suggested by the County Attorney.

Ms. Shiflett stated that the motion is not quite as much as she would like to see, but she can support it as a good start especially with the holding period. Therefore, she seconded the motion.

Mr. Shomo stated that he agrees with the motion.

Mr. Byerly stated that his first preference would be a two (2) year holding period, but since there will be a twenty-four (24) month review process, he stated that he could reluctantly go with three (3) years.

Mr. Bridge added that this ordinance is obviously putting a restriction on peoples' land, and that there is no way around it. He stated that he believes that this is not the ultimate goal, but this is necessary in slowing down the development in rural and agriculture land and that the County has to start somewhere and needs to make a stand. Mr. Bridge stated that he agrees with the recommendation.

Mr. Curd stated he believes that a holding period will not reduce the number of lots created. He stated that this holding period is going to be difficult to keep up with and will increase administrative costs. He questioned who can the County hold responsible if the lot is sold to someone besides a child? Mr. Curd also questioned the motive of this Ordinance. He asked if this was to appease the Ag Task Force? He stated that if they were going to be appease anyone, then it should be the citizens of Augusta County. He stated that if the motive was to preserve farmland then he does not think that this is the way to go about it. Mr. Curd believes that the restrictions will in fact increase the loss of farmland. He stated that this is a premature move. He stated that after the Comprehensive Plan has been finalized, then the County needs to look at other options for development in agriculture areas. Mr. Curd stated that he does not support the motion.

Mr. Byerly commented that zoning does not insure profitability or success of any industry.

Ms. Tilghman stated that at the public hearing there was simply a difference in opinion of the citizens. Ms. Tilghman stated that farmers without families should be treated the same as those with families. She further stated that Family Member Exception was created for families not for lot creation.

Mr. Hite stated that he favors a two (2) year retention period, however he can support the three (3) year holding term. He stated that with this change, he believes we are doing the right thing for Augusta County.

Mr. Hite stated the motion has been made that the ordinance include spouse, parent, children and grandchildren, the retention period be three (3) years, a circumvention clause be added, require documentation on both the deed and the plat, the changes in the language to add spouse or natural person be added, and for this ordinance to be reviewed in twenty-four (24) months. The motion carried on a 6 to 1 vote with Mr. Curd opposed.

Boundary Line Adjustment

Ms. Earhart stated the advertised ordinance was that Boundary Line Adjustments count as the one lot every 3 years in GA or 5 years in XA for the "giving lot" unless the receiving owner signs an affidavit that the land will remain in agriculture production for 10 years. Additionally the "receiving lot" cannot be resubdivided for 5 years with or without the affidavit.

Mr. Hite asked the Commission if there was any further discussion on the boundary line adjustment language.

Mr. Bridge stated that even though members and staff know that there will be abuses with the boundary line adjustment clause, he believes that there are many more legitimate reasons why the County needs boundary line adjustments. Therefore, Mr.

Bridge moved to continue boundary line adjustments as they currently appear in the Code in that it will not count towards lot creation and to monitor this change over the next twenty-four (24) months to make sure that abuse is not taken place.

Ms. Tilghman seconded the motion.

Ms. Shiflett stated that her concern is this factor will be abused more and more as we try to get control over the other loopholes. She stated she is concerned this will be the method of choice around the ordinance.

Ms. Tilghman stated that Ms. Shiflett may be correct in her concerns, however, that is the reason to include the monitoring in the motion.

Mr. Curd stated that the preservation of agriculture should not stop here. We need to look at other options other than restricting lot creation.

Mr. Bridge stated that he agrees with Mr. Curd and that the citizens of Augusta County need to decide how important the agriculture land is, and if it is important enough to want to do something about it. He stated that this may be the best option today, but to certainly look at other options in the future to keep farmers viable.

Mr. Hite stated the motion has been made and properly seconded that boundary line adjustments will remain as they are in the ordinance and review the situation in twenty-four (24) months. The motion carried a 5 to 2 vote with Mr. Shomo and Ms. Shiflett opposed.

NOMINATING COMMITTEE

Ms. Earhart stated several members were eligible for reappointment and the Board of Supervisors had not acted yet. She asked that the nominating committee report be deferred to the next meeting.

* * * * *

STAFF REPORTS

A. CODE OF VIRGINIA – SECTION 15.2-2310

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

SUP 06-66 John R. Higgs and Shelby S. Higgs

The Planning Commission recommends that the request be denied and the original stipulations of the Special Use Permit be retained.

Mr. Shomo seconded the motion which carried unanimously.

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

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Chairman

Secretary