

PRESENT: W.F. Hite, Chairman  
J. Curd, Vice Chairman  
T. Cole  
B. Garvey  
K. Shiflett  
E. Shipplett  
T.K. Fitzgerald, Director of Community Development  
R.L. Earhart, Senior Planner

ABSENT: K. Leonard

VIRGINIA: At the Called Meeting of the Augusta County Planning Commission held on Tuesday, September 13, 2011, 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 and proposed ordinance amendments. The Planning Commission traveled to the following sites which will be considered by the Commission:

1. Railside Industries, Inc. – Rezoning
2. KWC, LLC – Rezoning
3. EJ's, LLC – Rezoning
4. Donald Rexrode – Amend Proffer
5. Diamond Club Ballfield – Rezoning
6. Larry Lee Weaver – Rezoning

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Chairman

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Secretary



Joint Meeting, Tuesday, September 13, 2011, at 7:00 p.m. Government Center, Verona, VA.

PRESENT: AUGUSTA COUNTY BOARD OF SUPERVISORS

Jeremy L. Shifflett, Chairman  
Wendell L. Coleman, Vice-Chairman  
David R. Beyeler  
Nancy T. Sorrells  
Larry C. Howdyshell

ABSENT: Gerald W. Garber  
Tracy C. Pyles, Jr.

PRESENT: AUGUSTA COUNTY PLANNING COMMISSION

Wayne F. Hite, Chairman,  
James Walter Curd, Vice-Chairman  
William B. Garvey  
Kitra Shiflett  
Eric M. Shipplett  
Taylor Cole

ABSENT: Gordon Kyle Leonard, Jr.

STAFF: Patrick J. Coffield, Augusta County Administrator  
Patrick J. Morgan, Augusta County Attorney  
Timmy Fitzgerald, Director of Community Development  
Jessica Staples, Administrative Secretary  
Becky Earhart, Senior Planner, Augusta County

VIRGINIA: At a joint meeting of the Augusta County Planning Commission and the Augusta County Board of Supervisors, held on Tuesday, September 13, 2011, at 7:00 p.m., in the Board Room, Augusta County Government Center, Verona, Virginia.

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FLOODPLAIN ORDINANCE

This being the day and time advertised to consider an ordinance to amend the Code of Augusta County, Virginia sections 25-471, 25-474.1, and 25-475 of the Floodplain ordinance, and Sections 21-6 and 21-22 of the Subdivision Ordinance, and to repeal section 25-706.1 of the Transitions Article.

The meeting was called to order at 7:00 p.m. by Chairman Shifflett for the Augusta County Board of Supervisors, and by Chairman Hite for the Augusta County Planning Commission.

Chairman Hite declared the joint public hearing open.

Chairman Shifflett declared the joint public hearing open.

Timmy Fitzgerald, Director of Community Development, reported the changes to the Floodplain Ordinance and stated that an updated version had been circulated. Changes were made to the following sections: 25-474.1.B; 25-474.1.C.; 25-475.A.; 25-475.B, which, basically, eliminates the requirement for additional work if you were within 100 feet of the floodplain boundary. In recent discussion, precautionary measures had been included in the ordinance which had a 100-foot buffer beyond the FEMA floodplain lines; issues were being created and the Board of Supervisors had requested that the 100-foot buffer be eliminated. This has now been eliminated from the ordinance. In Section 25-474.1, the requirement for all new lots to have at least 9,000 square feet outside of the floodplain was deleted and was replaced with a requirement that all new lots have a "buildable area" outside of the floodplain. In Section 25-706.1, the Transitions Article was deleted because it was a repeat in the Floodplain Ordinance. This was basically a clean-up measure. In Section 21-6, a requirement was added that all new lots created in the Floodplain Overlay Districts be in compliance with Section 25-474.1, which is the section that indicates where you can build within the floodplain. Section 25-474.1 states that you can develop the lot if it meets the requirements of Section 25-474.1.B. (for example, boat docks and sewer plants) or 25-474.1.C. (roads) of the Augusta County Code. In Section 21-22, lots that are created for those uses do not have to have sewer connections. Two additional changes were made since the draft was made:

- 1) Section 25-475.A.1. will now read: The sketch plan will be examined by the Zoning Administrator to determine "if" the proposed development may be in a Floodplain Overlay District; and
- 2) Section 25-475.B.1.e. will now read: Applicable "district" setbacks.

Mr. Fitzgerald added the requirement that setbacks were to be measured from the FEMA floodplain lines has been eliminated. He noted that you still had to meet the setbacks for front, rear and side yards as required in that particular district; therefore, that would be from the property line, not from the FEMA floodplain line.

The following people spoke in support of the revised ordinance:

W. J. Farley; Mitchell Robertson; Tim Farley; Jo Payne; Scott Winfield, IV; Doug Wood; Mac Williams

W. J. Farley, a farmer and recent retiree of the Virginia Department of Agriculture (38 years service), had never seen regulations so restrictive to the citizens based on

“unscientific data”. He felt that the FEMA flood maps will never be corrected. He did not feel it was good policy to place restrictions on property owners, especially, when the 100-foot requirement based on the flood lines is not accurate. It was noted that this requirement was not made by FEMA and was unnecessary. Repealing this requirement will not affect the eligibility of citizens of the County to participate in the flood insurance program if needed.

Mr. Robertson commended the Augusta County Board of Supervisors for seeking to amend and repeal the ordinance to eliminate the 100-foot buffer.

Tim Farley felt that “less regulation is the solution” (versus more regulation). He questioned why landowners were not notified when these regulations had been created. He asked for those present tonight who supported the amended ordinance to stand.

Ms. Payne added that in a previous meeting, it was mentioned that a 25-foot setback be added in lieu of the 100-foot setback and allow a waiver process. She felt that nothing should be added other than what FEMA requires. She referred to Back Creek where natural changes are occurring and asked who was responsible to assist in clearing blockages. She felt that a waiver process was unnecessary due to cost and time.

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

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

Chairman Hite asked the Commission if there were any questions or comments.

Mr. Shipplett moved, seconded by Mr. Garvey, to adopt the ordinance as revised. The motion carried unanimously.

Mr. Beyeler moved, seconded by Mr. Coleman, that the Board adopt the floodplain ordinance changes as revised. The motion carried unanimously.

There being no other business to come before the Board, Mr. Coleman moved, seconded by Ms. Sorrells, that the Board of Supervisors meeting be adjourned subject to the call of the Chairman.

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Mr. Hite called a short recess of the Planning Commission.

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Mr. Hite called the meeting of the Planning Commission back to order after a short recess.

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MINUTES

Mr. Curd moved to approve the minutes of the Regular Meetings on June 14, 2011 and August 12, 2011 as received.

Mrs. Shiflett seconded the motion, which carried unanimously.

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**Railside Industries, Inc. - Rezoning**

A request to rezone from General Industrial to Planned Commerce approximately 7 acres owned by Railside Industries located in the northeast quadrant of the intersection of Lee Highway (Rt. 11) and Buttermilk Road (Rt. 775) in Mt. Sidney in the North River District.

Mrs. Earhart explained the request. She stated the applicant has submitted a concept plan for Area 1 with the following uses: General Industrial, warehousing, limited outdoor storage, hospitality establishments, retail and service businesses, professional and business offices, and religious institutions. Mrs. Earhart explained the current ordinance does not allow for religious institutions in Planned Commerce, but the item is being considered by the Planning Commission tonight as an ordinance amendment and by the Board of Supervisors on September 28.

Mrs. Earhart made the following statement, "Members of the Commission, before the Commission considers this matter, I'd like to make a statement for purposes of the State and Local Government Conflict of Interests Act. My husband's company owns an interest in the Shenandoah Valley Railroad, which is an adjacent property owner to the property under consideration for rezoning. However in accordance with Section 2.2-3112 A. 2. of the Code of Virginia, I may participate in this transaction as I am a member of business, occupation, or group of three or more persons, the members of which are affected by this transaction. I have filed a written declaration of personal interest, as required by the Act with the Department of Community Development."

Mrs. Shiflett made the following statement, "Members of the Commission, before the Commission considers this matter, I'd like to make a statement for purposes of the State and Local Government Conflict of Interests Act. In accordance with Section 2.2-3112 A. 1. of the Code of Virginia, I may not participate in this transaction because it has application solely to me, my property or my business or a business that I have a personal interest in as defined by the State and Local Government Conflict of interest Act. I have filed a written declaration of personal interest, as required by the Act with the Department of Community Development."

Jonathan Garber, Lineage Architects, 610 Lee Highway, Verona, applicant for the request, explained the rear portion of the existing building has been in use by Railside Industries and IDM Trucking. He stated the portion of the building previously occupied as offices by Tyco, Corp. is sitting vacant. Mr. Garber explained immediate proposed uses for the building are a small retail consignment shop, worship center, and coffee shop. Mr. Garber stated there are no plans to change the exterior of the building and nor will the footprint of the building be changed and the proposed uses will have a lower traffic volume than the Tyco plant. Mr. Garber concluded by thanking staff for their assistance in the process and stated this will be a good use for the community.

Mr. Shipplett questioned limited outdoor storage. He asked if there were any intentions for outdoor storage.

Mr. Garber answered there are no plans for outdoor storage at this time however if that were to change, the applicant would have to go through the site plan process for approval.

Mr. Hite asked if there was anyone wishing to speak in favor or opposition to the request.

Matthew Fike, 74 Chickadee Lane, Weyers Cave, Pastor, Pleasant Valley Church of the Brethren and Chairman of the Board of Directors for Charis Project. Pastor Fike explained Pleasant Valley Church has started a non profit separate entity known as Charis Project. He explained Charis Project will be occupying the proposed space with the intent for a coffee and consignment shop to support various ministries including those to be run from this site as well as internationally. He explained worship services will also be offered in the building and in the future, possibly offering cooking, financial, and literacy classes. Mr. Fike stated approximately two years ago Pleasant Valley Church started a satellite church, Hope Chapel Church of the Brethren, which has been meeting at the Verona Fire Department and their plans are to make space at this location available for services. He concluded the goal is for the ministry to provide a positive presence in the community.

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

Mr. Garvey applauded Railside Industries for the rezoning request for the purposes of supporting a ministry organization.

Mr. Cole stated the request is a "terrific adaptive reuse for the building".

Mr. Curd stated he agrees the request is a good use for the building and moved to recommend approval of the request.

Mr. Shipplett seconded the motion. The motion carried on a 5-0 vote with Mrs. Shiflett abstaining.

### **KWC, LLC – Rezoning**

A request to rezone from Single Family Residential and General Business to Attached Residential with proffers approximately 5.9 acres owned by KWC, LLC located just east of the intersection of Gloucester Road (Rt. 1512) and Cambridge Court (Rt. 1502) in Stuarts Draft in the South River District.

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

1. There will be no more than 3 dwelling units per building and no more than 26 units on the 5.944 acre tract.
2. The exterior of all units will be brick and will be similar in appearance to the units on Cambridge Court.

Doug Campbell, 66 International Lane, Staunton, member of KWC, LLC and applicant for the request, explained plans are to build townhouses on the property as an extension to the 14 existing ones on Cambridge Court.

Mr. Curd asked Mr. Campbell if his intentions were to keep the same appearance as the existing townhomes.

Mr. Campbell answered yes. He stated as proffered the proposed buildings will be 2 and 3 unit dwellings and will be similar in appearance to those on Cambridge Court.

Mr. Hite asked if there was anyone wishing to speak in favor or opposition to the request. There being no one desiring to speak he declared the public hearing closed.

Mr. Garvey stated as a resident of the South River District he can say the existing Cambridge Court development is one of the nicest townhouse projects in Augusta County. He moved to recommend approval of the request with proffers.

Mr. Cole seconded the motion which carried unanimously.

### **EJ's, LLC - Rezoning**

A request to rezone from Limited Industrial to General Business with proffers approximately 1.2 acres owned by EJ's, LLC located on the south side of Jefferson Highway (Rt. 250) approximately 0.4 of a mile east of the intersection of Jefferson Highway (Rt. 250) and Tinkling Spring Road (Rt. 285) in Fishersville in the Wayne District.

Mrs. Earhart explained the request. She stated the applicant has submitted the following proffer:



1. No building or structure shall exceed thirty-five feet (35').

Stacy Comer, 1816 Mt. Torrey Road, Lyndhurst, applicant for the request, stated he is currently operating a body shop at this location. He stated he would also like to operate a small used car lot and have no more than 10 cars for sale on site at a time.

Mr. Hite asked if there was anyone wishing to speak in favor or opposition to the request.

Jerry Snider, 24 First Street, Fishersville, stated his property is located behind the site. Mr. Snider stated the site looks like a "junk yard" now and nothing is being stored inside as originally proffered in 1990. He stated there are more than ten cars being stored on site now. He also referenced a tree cutting business and noted the junk cars being stored at that location as well. Mr. Snider noted concern with the site devaluing his property and questioned what kind of neighbor this business would be to the existing neighborhood.

Mr. Hite asked if there was anyone else wishing to speak in favor or opposition to the request, there being none he declared the public hearing closed.

Mr. Shipplett asked Mr. Comer if he were currently selling cars on site.

Mr. Comer answered no.

Mr. Shipplett stated while on site he saw a sign advertising cars for sale.

Mr. Comer explained he installed the sign first, but he needs to have the zoning changed in order to get his license from DMV.

Mr. Curd stated the Limited Industrial zoning allows for a vehicle repair shop so as long as the work is conducted within an enclosed building. He explained in 1990 the parcel was rezoned to accommodate a cabinet shop that wanted to expand and at that time it was rezoned to Limited Industrial to provide protection for the neighboring properties. If the property is rezoned to General Business, he stated concern of whether or not the business would be able to meet those requirements regarding setback and buffer yards. Mr. Curd commented on the inadequacy of the existing buffer. He stated a more adequate buffer, such as an 8' tall, white vinyl fence, as well as a better buffer with the General Agriculture land and a limit on the amount of outdoor storage would be more appropriate. He recommended the proffer also be amended to read, "No building shall exceed 35' in height". Mr. Curd moved to recommend denial of the request.

Mrs. Shiflett seconded the motion.

Mr. Hite commented the current zoning is acceptable.

The motion carried unanimously.

### **Donald Rexrode – Amend Proffer**

A request to remove the proffer on approximately 2.5 acres zoned General Business owned by Donald Rexrode located on the north side of Stuarts Draft Highway (Rt. 340) approximately 0.2 of a mile east of the intersection of Stuarts Draft Highway (Rt. 340) and White Hill Road (Rt. 654) in Stuarts Draft in the Riverheads District.

Mrs. Earhart explained the request and stated the applicant wants to remove the following proffer:

1. There shall be no entrance onto Route 340 installed along the frontage of this property. Access will be through a shared entrance with an adjacent parcel.

Donald Rexrode, 498 Kindig Road, Waynesboro, explained he had originally sold the property to an adjacent landowner whom had the property rezoned to General Business. Mr. Rexrode explained, since that time, he has gotten the property back from the adjoining landowner and has not been able to obtain an entrance due to the proffer requiring a joint entry from the adjoining property. Mr. Rexrode explained for the past two years he has unsuccessfully tried to legally obtain an easement. Recently, he stated he has completed an Access Management Exception Request, and VDOT has agreed to a business entrance onto his property. He stated he is requesting for the current proffer to be removed and the property remain zoned General Business.

Mr. Hite asked if there was anyone wishing to speak in favor or opposition to the request, there being none he declared the public hearing closed.

Mr. Curd commented under the circumstances stated by Mr. Rexrode, it makes sense to remove the existing proffer.

Mr. Hite agreed.

Mrs. Shiflett stated the only “remedy” to resolve the issue is to remove the proffer. She moved to recommend the proffer be removed.

Mr. Curd seconded the motion which carried unanimously.

### **Diamond Club Ballfield – Rezoning**

A request to rezone from General Agriculture to General Business approximately 4.8 acres known as the Diamond Club Ballfield owned by the Augusta County Board of Supervisors located in the northwest quadrant of the intersection of Cambridge Drive (Rt. 1502) and Stuart Avenue (Rt. 1510) in Stuarts Draft in the South River District.

Mrs. Earhart explained the request.

Timmy Fitzgerald, Director of Community Development, representing the applicant for the request explained plans are to replace the bleachers on the baseball field with stadium seating, however the new seating will not meet the setback under the current General Agriculture Zoning, thus the applicant is requesting the property to be rezoned to General Business which would allow for the seating to be replaced and thus meet the setback. Mr. Fitzgerald explained future plans are to acquire additional property from the Stuarts Draft Fire Department through a boundary line adjustment.

Mr. Hite asked if there was anyone wishing to speak in favor or opposition to the request, there being none he declared the public hearing closed.

Mr. Garvey moved to recommend approval of the request.

Mr. Shipplett seconded the motion which carried unanimously.

### **Larry Lee Weaver – Rezoning**

A request to rezone from General Agriculture to Single Family Residential approximately 0.2 of an acre owned by Larry Lee Weaver located on the west side of Stuart Avenue (Rt. 1510) adjacent to the Diamond Club Ballfield in Stuarts Draft in the South River District.

Mrs. Earhart explained the request.

Mr. Fitzgerald stated he is representing the applicant for the request. He stated the property owner is in agreement with the request. He noted the purpose is to make the zoning consistent with the adjacent properties.

Mr. Garvey moved to recommend approval of the request.

Mr. Shipplett seconded the motion which carried unanimously.

**An Ordinance amending the Code of Augusta County Virginia by modifying various provisions in Chapter 21, the Subdivision Ordinance, and Chapter 25, the Zoning Ordinance.**

Mrs. Shiflett made the following statement, “Members of the Commission, before the Commission considers this matter, I’d like to make a statement for purposes of the State and Local Government Conflict of Interests Act. In accordance with Section 2.2-3112 A. 2. of the Code of Virginia, I may participate in this transaction as I am a member of business, occupation, or group of three or more persons, the members of which are affected by this transaction. I have filed a written declaration of personal interest, as required by the Act with the Department of Community Development.”

Mrs. Earhart explained the following proposed changes.

- §25-4: Group home definition amended to include no more than 8 aged, infirmed, or disabled persons living together with staff members- allowed as a single family dwelling
- §25-4: Adds definitions for caregiver, mentally or physically impaired person, and temporary health care structure and in §25-72.1, 122.1, & 132.1 permits temporary health care structures in GA, RR, and SFR districts as required by State Code
- §25-16: Establishes a 25’ minimum setback of 25’ from property line unless otherwise specified; clarifies requirements for lots without road frontage.
- §25-24: Provides an exception to the sketch plan ordinance in cases where the footprint of the building doesn’t change.
- §25-33: Exempts ballfields from marking their parking spaces
- §25-35: Adds parking requirements for batting cages, dialysis centers, and ice cream parlors.
- §25-41: Clarifies the definition of a temporary sign to be no more than 60 days in any one year period.
- §25-42: Adds a waiver provision to allow larger advertising signs when within 100’ of a residentially zoned district.
- §25-52. Increases the size of an accessory building allowed on undeveloped lots in all districts to 200 square feet.
- Special Use Permit Standard language in all districts modified to clarify that no permit shall be issued without consideration that, in addition to conformity with any specific standards set forth in the Zoning Ordinance for Special Use Permit uses, the following general standards must be met:
  - Conformity with the Comp Plan
  - Impact on neighborhood.
- §25-68.4, 68.5, 69.6 Modifies the requirements for wireless telecommunication facilities and wind energy facilities allowing the Board of Zoning Appeals to consider requests where the general requirements for the facilities can not be met.
- §25-72.1 Clarifies that accessory buildings can be erected in the front yard of lots 1 acre or larger in General Agriculture districts.

- §25-73.B. Adds produce stands, and “pick-your own” farms to the list of examples of Ag businesses allowed by Administrative Permit where at least 75% of the goods sold are produced on the premises.
- Clarifies in the Home Occupations, Class A sections that utility trailers are not considered to be commercial vehicles and clarifies that landscaping, lawn care, and mowing businesses can be permitted as a Home Occupation as long as all equipment and utility vehicles are kept off-site.
- §25-73.J. Increases the acreage required to qualify for a Rural Home Business Administrative Permit in General Ag districts to 2 acres; other standards remain the same. Qualifying businesses on lots less than 2 acres may still have the option to apply for a Special Use Permit.
- §25-74. Adds a requirement in the SUP standards for limited businesses and industries in agriculture zones a requirement that all items for sale or stored on site must be setback at least 25’ from edge of pavement and never in r-o-w; requirement consistent with requirement for vehicle sales lots in GB districts.
- §25-77.1. Eliminated the requirement that land with steep slopes couldn’t be counted as part of the gross site acreage in a cluster subdivision consistent with a new state requirement.
- §25-230.1 and 240.1 Eliminated the requirement for bonding for MFR and MHP developments.
- §25-304. B. Clarified that required parking spaces can’t be used for outdoor storage, however, extra parking spaces can.
- §25-308 and 387 Adds planned commerce to the list of districts along which no buffer is required if adjacent to a business or industrial development. Also adds property which is planned for community or neighborhood mixed use but currently zoned General Agriculture to the list of properties that do not require a buffer.
- §25-435. Adds religious institutions to the list of uses permitted in a Planned Commerce District and deletes feed, grain, and fertilizer sales, storage and handling facilities from the list of prohibited uses.
- §25-675. Decreases to 3 days the number of days notice required prior to having a site plan meeting and allows the Director of Community Development to schedule one earlier.
- §25-707. Adds a provision addressing the validity of plans of developments approved prior to March 1, 2010 when plans of developments were no longer required for MF and MHP projects.
- §21-9. Deletes this section which required site plans and plans of development to be subject to the Minor Subdivision Plat requirements.
- §21-42. Clarifies that the anticipated land uses comes from the Comp Plan.
- §21-43. Replaces the PC and BOS with the subdivision agent the body that reviewing agencies should send their comments to, since preliminary plat approval is no longer a legislative act.
- §21-44. Eliminates the requirement to submit an 8½” x 11” copy of the plat to the Community Development Office.

Mr. Hite asked if there was anyone wishing to speak in favor or opposition to the proposed ordinance amendments, there being none he declared the public hearing closed.

Mr. Curd moved to recommend approval of the ordinance amendments to the Code of Augusta County Virginia by modifying various provisions in Chapter 21, the Subdivision Ordinance, and Chapter 25, the Zoning Ordinance.

Mr. Cole seconded the motion which carried unanimously.

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**STAFF REPORTS**

A. CODE OF VIRGINIA – SECTION 15.2-2310

Mrs. Earhart reviewed with the Commission the requests coming before the BZA.

Mr. Hite asked if there were any comments regarding the upcoming items on the BZA agenda.

The Planning Commission took no action on the BZA items.

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

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Chairman

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Secretary