

December 6, 2007

PRESENT: C. E. Swortzel, Chairman
J. W. Callison, Jr., Vice Chairman
D. A. Brown
G. A. Coyner, II
S. F. Shreckhise
J. R. Wilkinson, Zoning Administrator & Secretary
S. K. Shiflett, Zoning Technician I

ABSENT: None

VIRGINIA: At the Called Meeting of the Augusta County Board of Zoning Appeals held on Thursday, December 6, 2007, at 9:00 A.M., in the County Government Center, Verona, Virginia.

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VIEWINGS

The members of the Board of Zoning Appeals assembled at the Government Center and went as a group to view the following:

- **Augusta Expo/Terry W. Argenbright - Special Use Permit**
- **Jeff Gentry, agent for Acend 2002, LLC – Variance**
- **Augusta County Landfill Trust/Saw Range Committee - Special Use Permit**
- **David P. or Pamela D. Ramsey - Special Use Permit**

At each location, the Board observed the site and the premises to be utilized. The Board also viewed the development and the character of the surrounding area.

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Chairman

Secretary

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 S. F. Shreckhise
 J. R. Wilkinson, Zoning Administrator & Secretary
 S. K. Shiflett, Zoning Technician I
 B.B. Cardellicchio-Weber, Administrative Secretary

Absent: None

VIRGINIA: At the Regular Meeting of the Augusta County Board of Zoning Appeals held on Thursday, December 6, 2007, at 1:30 P.M., in the County Government Center, Verona, Virginia....

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MINUTES

Mr. Coyner moved that the minutes from the November 1, 2007 meeting be approved.

Vice Chairman Callison seconded the motion, which carried unanimously.

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TERRY W. ARGENBRIGHT - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Terry W. and Doug Argenbright, for a Special Use Permit to have a motor cross track, BMX track, skate park, and soap box derby track, with overnight recreational vehicle parking on property owned by Augusta Agricultural Industrial Expo, Inc., located on the east side of Jericho Road (Route 637), approximately .8 of a mile east of the intersection of Jericho Road (Route 637) and Ramsey Road (Route 635) in the Beverley Manor District.

Mr. Terry Argenbright stated that he currently resides in Fishersville. He stated that they chose Expo because Expo is zoned General Business. He stated that this is already an appropriate site for this type of activity. He stated that Expo already has Monster Trucks, tractor truck pulls, circuses, motor cross, and many other events. He stated that this request would be compatible with the surrounding uses and an ideal location for such a use. He stated that they talked with VDOT and it is already an approved location for such

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an activity. He stated that they will not run their activities when Expo is having their events. He stated that this site is easily accessible to Interstate 64. He stated that Expo is a community landmark and this would be a financial gain for Expo. He stated that this would be a positive impact for Expo. He stated that the motor cross operation is $\frac{1}{4}$ of what they are doing. He stated that Expo has three (3) approved Special Use Permits for motor cross already. He stated that the Expo site is perfect for what they are requesting. He stated that they will not have big jumps. He stated that they will incorporate a fifties track. He stated that they are going to separate beginning riders and they will also have training for safety. He stated that they will operate only during the daylight hours and they will close thirty (30) minutes before dusk. He stated that in the summer they will not be operating past 8:00 p.m. or thirty (30) minutes before dusk. He stated that they are working with the AMA to get their sanction and the AMA also provides them with insurance. He stated that the insurance covers the racers, fans, and it also covers the landowner. He stated that the closest track for the riders is two and half hours away. He stated that they will have the first ABA bicycle track in Virginia. He stated that they will have full insurance for the riders, fans, and the landowner. He stated that once a year all of the tracks get together and 100% of all of the funds are donated for Leukemia research. He stated that they will have a track designer and a track builder through the ABA. He stated that the ABA will also provide training and there will be representatives during the first few events to help them out. He stated that they also wanted to have a skateboard park. He stated that they will have picnic tables and pavilions which will be a central place to bring all of the kids together. He stated that all safety equipment will be required. He stated that if the rider is under sixteen (16) they will need to have adult supervision at the site. He stated that it will be a three (3) year plan to get the entire park done. He stated that they will also have a soap box derby track. He stated that there is not a current facility where kids can practice and weigh their cars to get ready for the events.

Mr. Terry Argenbright stated that their number one focus is safety. He stated that they will not have the big gap jumps on the motor cross track. He stated that their slogan states: If you don't abide, you will not ride. He stated that with the motor cross participants will need a helmet and neck guard. He stated that boots need to be above the ankle. He stated that goggles and chest guards are also required. He stated that they will have trained flaggers as their very own paid staff. He stated that they will have safety fencing all around the site. He stated that they will have the rescue squad at the events as well as local law enforcement and security at all of the events. He stated that everyone will have strict rules and regulations that they need to abide by. He stated that there will be fire extinguishers next to every flagger area. He stated that they will have recycle containers to help the environment. He stated that the retention pond and the fountain in the middle will make the site look like a park environment. He stated that they will have mulch within the topsoil to cut down on the amount of dust which will make it safer for the riders. He stated that the mulch holds the water and the track will not dry out as fast. He

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stated that the retention pond will help water the track with the pumping station so that the track can be watered. He stated that if they need to bring in a water truck they will do that also. He stated that they will have a designated oil changing and recycling area. He stated that two stroke machines are becoming more and more non-existent because everyone is going to four stroke bikes because of the environment. He stated that with the two strokes they will require the smokeless oil for them to run their machines on.

Mr. Doug Argenbright stated that he is part owner of this business. He stated that all motorcycles will be required to meet the 96 decibels that is set forth by the AMA standards. He stated that it will be monitored at track side so that the amount of decibels is not exceeded. He stated that if they do exceed the 96 decibels they will not be able to race. He stated that from 2006 VDOT data there are approximately 35,000 vehicles daily on the Interstate 64 corridor which creates noise already. He stated that they did the testing this morning for the Board. He stated that they also have a video of a motor cross event showing the decibels from different areas. He stated that the location of the starting gate area is positioned now somewhere around the top of the hill closest to Jericho Road. He stated that Expo did not want that gate to interfere with the Monster Truck events or the tractor pull. He stated that they are going to install a sound wall to handle the sound. He stated that there have been complaints filed on personal tracks in residential areas. He stated that right now there are no ordinances against residential tracks. He stated that this will reduce the need for residential tracks in the County. He stated that the Augusta County Noise Ordinance restricts noise levels not to exceed 65 decibels from midnight to 6:00 a.m. but there is no other requirement outside these hours. He stated that the site will not be open at night. He stated that each racer will spend an average of \$250 per event. He stated that this money will go towards gas, hotels, convenience stores, and local restaurants which will help our economy. He stated that an average of 400 riders participate at these events in the state of Virginia. He stated that each rider will generally race two (2) motos. He stated that a moto is one (1) race. He stated that when they are fully operational they will see \$1,500,000 into the economy. He stated that they will make contributions to the economy by hiring employees, improving local businesses revenue, and through donations. He stated that this request will create a positive impact on majority of the community. He stated that this has been a passion of theirs. He stated that the community is lacking a facility for families involved in alternative sports. He stated that an alternative sport is one like they are proposing like motor cross, BMX, and the soap box derby. He stated that statistics show that when a youth turns thirteen (13) 70% of those kids would have quit a team sport. He stated that usually when they reach high school age they have to make a team. He stated that this can be a place families go and enjoy together. He stated that there is a need for this in the community. He stated that children cannot come to the site unsupervised if under sixteen (16) years of age. He stated that they will provide safety, fun, and excitement to the youth of the community. He stated that when kids ride in the back yard you do not know if they are putting on their safety gear but at this park they will have to. He stated that they want to

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have a drug free environment. He stated that there will not be any alcohol sold on the premises. He stated that this will be a monitored environment and they will not tolerate the use of drugs or selling of drugs on their property.

Chairman Swortzel asked how many classes would that be during the events?

Mr. Terry Argenbright stated during the events there will be fifteen (15) to twenty (20) races. He stated that would range from 50cc to the 250cc.

Chairman Swortzel asked how many AMA races would be scheduled?

Mr. Terry Argenbright stated they would have three (3) AMA sanctioned races. He stated that they will run a series of races for the local group.

Chairman Swortzel asked if the races would be weekly or yearly?

Mr. Terry Argenbright stated they will have three (3) AMA sanctioned races a year and sixteen (16) non-sanctioned races for the year.

Mr. Coyner asked if the races would be on the weekends?

Mr. Terry Argenbright stated that the AMA sanctioned races requires that they practice on Saturday during the day and the race would be on Sunday during the day. He stated that the other races can be held on Friday and Saturday and not on Sundays.

Chairman Swortzel asked if the races would be during the week?

Mr. Terry Argenbright stated that on their original proposal they were going to race seven (7) days a week but at the community meeting on November 1, 2007 some of the area was not in favor of that. He stated that since they were not in favor of that they have eliminated the motor cross races on Monday and Tuesday. He stated that on Wednesday they will operate from 10:00 a.m. to 6:00 p.m. or thirty (30) minutes before dusk and Thursday, Friday, and Saturday from 10:00 a.m. until thirty (30) minutes before dusk or no later than 8:00 p.m. He stated that on Sunday they will start at 1:00 p.m. and end no later than 6:00 p.m.

Chairman Swortzel asked if they will have enough funds to keep the operation going with the amount of races they are planning on having?

Mr. Terry Argenbright stated that they will have daily rider's fees with the track fees but majority of their funds will come from race events. He stated that when there are regular

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daily riders they only need to have one (1) employee at the site because there needs to be a parent at the site in order for the child to ride.

Mr. Doug Argenbright stated that they will not have the ambulance or law enforcement during the daily riding, only at the racing events.

Mr. Shreckhise stated that they will charge a daily operating fee for the entire day as well as at the racing events. He stated that they will charge a fee to use the track for the entire day.

Mr. Doug Argenbright stated that a rider can purchase a membership which will get them a cheaper daily operating fee than the normal riding fee. He stated that the track will be open Wednesday through Saturday with limited hours and Sunday from 1:00 p.m. to 6:00 p.m. He stated that they will be closed Monday and Tuesday because the track needs to be maintained especially after a long weekend.

Mr. Shreckhise stated that the retention pond would not be enough water to manage the dust. He stated that a retention pond does not mean anything if there is no water. He stated that they may need a well.

Mr. Doug Argenbright stated that they will bring in water trucks if needed and they will also explore a well if needed.

Mr. Terry Argenbright stated that the retention pond is the main source of water. He stated that during race events they will have a water truck keeping the dust down. He stated that on the steeper areas of the track they will have pumping stations so that they can use the retention pond.

Chairman Swortzel asked what is an event?

Mr. Terry Argenbright stated that at the three (3) AMA sanctioned races the rider gets points or money. He stated that the non-sanctioned races operate the same way but they are not tied into the points that the AMA offers. He stated that the riders will get trophies for the non-sanctioned races.

Chairman Swortzel asked how many laps would there be in each of the motos?

Mr. Terry Argenbright stated that on a bigger track they limit it to minutes which would be fifteen (15) minutes plus one (1) or two (2) laps. He stated that the pro-racers would go twenty (20) minutes plus two (2) laps. He stated that a moto is ten (10) to fifteen (15) minutes plus one (1) lap. He stated that the 50cc racers are limited to three (3) to five (5) laps. He stated that the race will last about ten (10) to fifteen (15) minutes maximum.

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Mr. Coyner stated that if there are four hundred (400) racers and each race takes approximately fifteen (15) minutes the events will be a full day activity.

Mr. Terry Argenbright stated yes. He stated that most tracks run practice at 7:00 a.m. and are done with the events around 9:00 p.m. He stated that with having the two (2) day events they can get all of the practice done in one (1) day and the second day they can start right into the racing.

Mr. Coyner stated that the public address system could be quite noisy over the motor cross bikes.

Mr. Terry Argenbright stated that they will be centering the public address system back toward Expo where the Monster Truck events are on the hill. He stated that they will setup a small system more toward the crowd.

Mr. Coyner asked when would the applicants plan on starting these events?

Mr. Terry Argenbright stated that they still need to get all of this approved through Expo. He stated that the main motor cross track and the BMX track will be built simultaneously which is all under Phase I. He stated that they will have a sound wall which will be one hundred (100') feet wide and eight (8') feet tall as well as a concession stand and retail space. He stated that the retail structure will be approximately 3,000 to 4,000 square feet. He stated that they want to position that between the track and Interstate 64 with Expo's approval. He stated that they can also plant more trees on the site. He stated that they are willing to do whatever it takes to make this work.

Mr. Shreckhise asked what will be used until the concession stand and bathrooms are built?

Mr. Terry Argenbright stated that they have spoken with the Health Department. He stated that they will be using the same concession stands as Expo does because they are approved through the Health Department.

Mr. Doug Argenbright stated that Expo has adequate restroom facilities. He stated that they will need one (1) porta john for every one hundred (100) people during the race events. He stated that they will use approved vendors.

Ms. Brown asked how many months would this go on?

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Mr. Terry Argenbright stated they would operate like a normal business. He stated that they will operate like a golf course would. He stated that like today even though they did the testing they would not be open because it is a little bit on the dangerous side. He stated that they will not be open much in the winter and they also have to work in conjunction with Expo. He stated that a lot of the time it will be based on the weather.

Mr. Doug Argenbright stated that they will only be open approximately 200-225 days a year with the motor cross portion.

Ms. Brown asked how many bikes will be on the track at the same time?

Mr. Doug Argenbright stated approximately twenty (20) at one time.

Ms. Brown asked when the event is over will there be a gate to keep people out?

Mr. Terry Argenbright stated yes. He stated that Expo requires them to put a chain link six (6') foot high fence with a gate so that their part of the facility will be gated and locked.

Ms. Brown asked if the three (3) different types of insurance will only be on race day?

Mr. Terry Argenbright stated that with the ABA they have insurance whether they are racing or not. He stated that the ABA covers them twenty-four (24) hours a day, seven (7) days a week. He stated that they also have insurance when they are having AMA sanctioned races. He stated that they would need to obtain other insurance to cover the facility and the landowners. He stated that for those events the insurance will be a little higher.

Ms. Brown asked who is providing the gas during the racing events?

Mr. Terry Argenbright stated that the riders provide their own.

Ms. Brown asked how will they know which bike has the proper muffler and which one does not?

Mr. Terry Argenbright stated that they have purchased a sound decibel meter which will help them determine that. He stated that all of the bikes are checked. He stated that automatically they can determine what is factory and what is not a factory muffler. He stated that some after market mufflers do meet the current standards. He stated that they will check everyone's bike because they do not want to be disruptive.

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Mr. Doug Argenbright stated that in the sound testing this morning there was one that did not have a factory muffler but they let them run anyway for the testing.

Chairman Swortzel asked if the track would be watered during the races a couple of times?

Mr. Doug Argenbright stated that they will water the track as needed.

Mr. Coyner asked if the racers will be allowed to go in the pit area and rev their engines?

Mr. Terry Argenbright stated that pit riding is not allowed. He stated that if someone is riding or starts their bike unnecessarily they are thrown out of the race. He stated that the racers understand that.

Mr. Doug Argenbright stated that they have a copy of their park rules and regulations and the pit path regulations if the Board would like to see it.

Chairman Swortzel asked if there was anyone wishing to speak in favor to the request?

Mr. Bob Argenbright stated that back in the early 1970s they went through the same thing for little league football. He stated that the first race that was held in the state of Virginia was Chesapeake and they had thirty-two (32) riders and fifteen (15) of them came from Waynesboro. He stated that a year later at the same track they had 302 riders and 3,000 spectators. He stated that this is a growing sport. He stated that this site will be safe for the youth because of all of the supervision. He stated that the children need something to keep them active and their minds off of drugs.

Ms. Wanda Ganson, 297 Grand Hill Lane, Churchville, stated that she has children who are seven (7) and eleven (11) who ride motor cross bikes. She stated that they have gotten broken bones but they are not like other kids these days. She stated that they are more responsible. She stated that they are polite and are excited about their competitors winning as they do for themselves. She stated that the eleven (11) year old tried to play football but he is too small so he sat on the bench and then decided to quit. She stated that this sport is not like that. She stated that if they want to race they race. She stated that they feel pride from within. She stated that you do not drop your kids off. She stated that parents stay with their children and watch them race. She stated that these kids make lasting relationships with other kids. She stated that the children take pride in their accomplishments. She stated that this makes the families involved with what their children are doing.

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Roger Harner, 61 Brendan Lane, Weyers Cave, stated that his son is the racer in the family. He stated that the nearest track is in Danville, Virginia which is a three (3) hour trip. He stated that his son only participates twice a year. He stated that he also has a track in the backyard. He stated that he also has cows and horses on his property. He stated that they have had a number of births this year. He stated that they get startled a little bit when the bikes start up but they seem to be fine. He stated that the animals are grazing in the same field that they are riding bikes in. He stated that East Side has sixty (60) plus events a year and all of the neighbors are far closer than any of the neighbors here. He stated that his youngest son would like the Board to approve the playground so that those who do not partake in the activities would have something else to do. He stated that this track will be money well spent for the amount of kids that could be involved in this activity. He stated that most noise is generated from the two stroke motorcycles. He stated that Honda is not producing the two stroke motorcycles anymore. He stated that the other brands should certainly follow Honda's lead.

Mr. Kevin Deegan, 48 Ivey Lane, Staunton, stated that his children love to ride with him and his wife. He stated that this creates loving memories which light up their children's eyes.

Mrs. Michelle Argenbright stated that she is Terry Argenbright's wife. She stated that Fishersville has grown in the last five (5) years. She stated that the County has had to make the schools bigger, build a ton of houses and businesses but there has been nothing done for activities for children outside of school. She stated that this is very sad. She stated that the future of the community is their children. She stated that children want structure in their lives and they also want mentors. She stated that is why children often turn to gangs because they are very structured. She stated that they have to realize that children want mentors. She stated that Terry and Doug Argenbright are incredible mentors to children.

Chase Click, 50 Riverside Avenue, Verona; James Brown, 636 Kiddsville Road, Waynesboro; and Kamden Losh 636 Kiddsville Road, Waynesboro stated that they have all been riding dirt bikes to keep away from other things like drugs, alcohol, and gangs. They said that this track will help them become better kids. They stated that most people do not want them to have this because of the noise. They said what is a little noise compared to a better community of kids. They said that they like to have the track because they are board of racing the same kids. They want to practice racing with other kids that they do not know. They want more opportunities to see who has the best skills to challenge themselves and each other. They stated that if they get this track they will have those opportunities.

Ms. Pam Heider, 308 Meadow Beauty Court, Waynesboro, stated that she has an eleven (11) year old daughter who dances, cheers, and loves motor cross. She stated

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that she has a twenty (20) year old college student who loves dirt bike riding. She stated that there is no place to ride that is close to home so they have to support the economies of West Virginia, Pennsylvania, South Carolina, and North Carolina. She stated that this sport scares her but it is a passion of her children. She stated that as parents she has to support what her children love. She stated that she applauds the Argenbrights for doing this. She stated that this is a positive influence on the community. She stated that the community needs things for their children. She stated that in the newspaper there are articles of gangs and drugs. She stated that she deals with noise from the airport in Waynesboro but it is a part of life and their passion. She stated that there is a train almost in her backyard. She stated that there are people racing in Waynesboro. She stated that she tunes the noise out because it is a part of life. She stated that the community needs to support their children because this is a positive thing.

Mr. Andrew Tedesco, 117 Rosebud Lane, Staunton, stated that unlike football and baseball, ATV and motor cross is a full family sport. He stated that even though his son is the one on the track most of the time, he is there with him. He stated that they race together, wash bikes, and do maintenance on the bikes together. He stated that his son is nine (9) years old and considering his passion for this bike he is not allowed to ride unless he does what he is supposed to do. He stated that he knows how to adjust the chain on his bike and change a spark plug and for nine (9) years old that is a pretty big accomplishment. He stated that he is not allowed to ride unless he has his homework done and his chores around the house done. He stated that this is the leverage he uses over him. He stated that it has been a challenge for him to be a positive role model and because of his passion with the bikes it has caused him to get into it to. He stated that they both have made many life long friends. He stated that this sport develops relationships with other people. He stated that they try to be positive role models to the other children because they are constantly watching them. He stated that after everything that was done with the testing they decided to go to Shoney's for lunch and while up at Shoney's they received several compliments that the children were well behaved. He stated that the manager from Shoney's offered their support of what they were trying to do within the community. He stated that the manager of Shoney's wrote a letter of support to the Board. He stated that the manager was impressed of how the children reacted. He stated that this is a strong family sport. He stated that this creates a strong father son bond. He stated that the children are very well behaved and they are not disruptive or loud even in this meeting room.

Mr. Scott Wood stated that he has lived in Waynesboro for forty-six (46) years and now he lives in Greenville. He stated that he was a referee for five (5) years for AMA races. He stated that he started his kids racing when they were three (3) years old. He stated that now they are twenty-seven (27) and twenty-four (24) years old. He stated that he has traveled all over the east coast. He stated that his kids knew they had to be in

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shape to be a racer so they did not party or do drugs or alcohol. He stated that if they were bad in school or got into any trouble, they did not race.

Mr. Scott Winfield, 97 Twin Springs Lane, Stuarts Draft, stated that he is a poultry farmer and a motorcycle enthusiast. He stated that he understood that there were some concerns about cattle and horses that might not be able to breed because of the noise problem. He stated that he spoke with a veterinarian Dr. Patrick who is a large animal practitioner in Albemarle and Madison County. He stated that he did say that the breeding would not be a problem considering the circumstances. He stated that they did type of a letter which he will submit to the Board.

Mr. Patrick Talley, 805 Gypsy Avenue, Staunton, stated that he is a resident of Fishersville. He stated that he works with Remax Advantage. He stated that he is a little partial because he has ridden motorcycles. He stated that there is no evidence that property values will go down due to the sports park. He stated that he has never heard anyone complain about something like this in their backyard. He stated that it may help the property value. He stated that there is no way to see or say that this would negatively affect the property. He stated that it is just personal preference as far as he is concerned.

Chairman Swortzel asked if there was anyone else wishing to speak in favor to the request?

There being none, Chairman Swortzel asked if there was anyone wishing to speak in opposition to the request?

Mr. Julian "Buddy" Rittenhouse, 38 Goose Meadow Court, Fishersville, stated that he is the President of the Village on Goose Creek Homeowners Association. He stated that he is representing thirty-two (32) households. He stated that they oppose the Special Use Permit. He stated that the track will create noise, dust, and loud speakers. He stated that there will be a future of one hundred eighty-eight (188) homes and approximately 440 people at our best guess will be impacted from the motor cross race track which is 1,600' to 1,700' from the property line. He stated that this area is a desirable growth area due to the fact that there is water, sewer, good road system, Augusta Medical Center, Women Center, Hospice House, nursing home, and funeral home. He stated that allowing the motor cross track is contradictory to what the County Planning Commission wants in Fishersville. He stated that the race track will not be compatible with the community. He stated that currently Expo has the Special Use Permits for the Monster Truck shows and we are grateful that they are infrequent. He stated that a lot of the neighbors leave their house during those times. He stated that the motor cross track running between five (5) or seven (7) days a week from 10:00 a.m. to dark means that normal conversations will be interrupted, family gatherings will

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be impacted, and grilling for dinner on the patios will be undesirable. He stated that Valley Motor Cross was testing at Expo with about three (3) motorcycles and he heard the noise which was very loud and irritating. He stated that there will be an excess of four hundred (400) motorcycles practicing and tuning their bikes. He stated that Mr. Argenbright came to the community and talked with the homeowners. He stated that Mr. Argenbright stated that the neighbors where he lives wants him to stop operating the track on Goose Creek Road yet he has no problem transferring the noise and nuisance to our neighborhood. He quoted Augusta County Code Chapter 15-2. He stated that a motor cross track is not an accessory use for agricultural industrial exhibits. He stated that there are court cases that the plaintiffs have asked the courts that the race tracks be removed after they were constructed on the property. He stated that the courts found in favor of the plaintiffs and it stated that the race track interfered with the property owners in their lawful use and enjoyment of their property. He stated that the court prohibited the owners from operating the motor cross track in the vicinity. He stated that this is simply not the location for an inappropriate and intrusive motor cross track. He stated that the Board's decision will have a significant impact on the citizens of Augusta County. He stated that the Board should deny the Special Use Permit.

Mr. Henry Moffett, 24 Clover Green Court, Fishersville, stated that his home is one of those which would be adversely impacted by the request for a Special Use Permit to operate a motor cross track at Augusta Expo. He stated that excessive noise is the problem and for that reason he urged the Board to deny this request. He stated that his home is one of the thirty-two (32) homes which constitute Phase One of the development known as Village on Goose Creek. He stated that this is an upscale residential development which was approved by the Planning Commission and the Augusta County Board of Supervisors in 1998. He stated that Phase One is now complete and fully occupied. He stated that Phase Two has been approved by the County also. He stated that there are one hundred eighty-eight (188) more housing units paying a considerable amount of taxes to Augusta County. He stated that the development is across the road from Expo. He stated that he would like to call the Board's attention to the staff report. He read to the Board the Planning Commission's recommendation on the staff report. He stated that he does not think a race track is compatible with a residential area. He stated that a motor cross track is not compatible with private homes. He stated that an ideal location would be a remote area where the least number of neighbors are affected by the extreme loud noise. He stated that the only ideal thing about this location is that it would be a private for profit business using facilities and parking lots paid for by someone else at the expense of the adjoining homeowners. He stated that the recommendation on the bottom is contradicted by staff concerns on pages three and four of the staff report. He stated that the last paragraph at the bottom of page three stated that staff has concerns about how the potential impacts from increased traffic, noise, vibration, and dust from the motor cross

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track will have on the homes and future business development of the existing sites in the neighborhood. He stated that the applicants will present data from their noise samples, however, without an actual live demonstration of a typical number of motorcycles that may be operating during a race event it is not possible for staff or the neighbors to know the impact, if any, from the sports park. He stated that without this vital information, staff could not make a recommendation of approval. He stated that the demonstration this morning was not typical of a race day. He stated that the number of motorcycles was approximately fifteen (15). He stated that the decibel level was 98db to 110db. He stated that this was done this morning onsite. He stated that the midrange on this meter was sixty (60) to one hundred (100). He had to move the meter up to the next level which is a range from ninety (90) to one hundred thirty (130). He asked how many bikes will be running at the same time on race days? He stated that there could be hundreds possibly running from 8:00 a.m. to dusk. He stated that the applicants say no one will be allowed to run a bike with a db level above 96db. He stated that the noise level where hearing protection is required by OSHA is 90db. He stated that more than one (1) bike at the 96db level increases the noise level. He stated that there is a contradictory staff report and an unreliable applicant statement. He stated that he recognizes the difficult decision the Board has in trying to decipher truth from fiction. He stated that may your wisdom prevail and have the compassion on the residents who would have to live with or move away from the extreme noise of a motorcycle race track at Augusta Expo. He stated that he has a grandson that participates in motor cross events. He also has a concern outside of the residential neighborhood. He stated that there will be noise disruption to the four (4) churches in the immediate vicinity. He stated that the one with which he is most familiar is the Tinkling Spring Church. He stated that they have a lot of activities there all week including a school. He stated that of the fifteen (15) activities scheduled this week thirteen (13) of those fifteen (15) would be during the hours that the motor cross track would be operating and that does not include the school. He stated that people have been worshipping that tranquil location for 267 years. He asked that the Board not ruin that with noise from motorcycles. He stated that the time to address problems is before they are created if possible. He trusts this is the mission of the Department of Community Development. He stated that this Board has the opportunity and obligation to stop this nuisance before it goes any further, and the time to do that is now.

Mr. Michael Knick, 430 Jericho Road, Fishersville, stated that he owns a seventy-four (74) acre tract behind the sport park. He stated that he breeds and raises horses. He stated that he is concerned about the noise level and its affect on fertility. He stated that he is not a veterinarian but he has been breeding horses for ten (10) years and when they are scared they get in a cluster and run back and forth. He stated that the stallions pace back and forth when they get scared. He stated that they lose weight when they are scared. He stated that horses can hear higher levels of frequency than what humans hear. He stated that Monster Truck rallies do affect his horses. He

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stated that all night long on the Monster Truck rallies they are running around. He stated that Interstate 64 does not bother them that much except for when someone goes one hundred thirty (130) miles per hour on a Suzuki down Interstate 64 and then they are scared. He stated that he has put over \$300,000 with these horses and the fence as well as ten (10) years of his life. He stated that he is worried about the dust and how that will affect the horses' respiratory system as well as his families. He stated that he lives on that farm. He stated that he has three (3) ponds on his property. He stated that the ponds are much lower than the hillside. He stated that it has been his experience that a pond cannot be kept on the hillside. He stated that two (2) of the ponds that he has have ran dry over the last couple of years. He stated that people will see a dirt track while driving along Interstate 64. He stated that he has four (4) sons and he puts them to work. He stated that he does not go out and spend thousands of dollars entertaining them. He stated that Valley Extreme Sports Park pretty much says it all. He stated that he has a report from the Center for Disease Control website on the mortality report dated June 9, 2006 and it states that motorcycle crashing is a public health problem for children and teens. He stated that during 2003 there were 245 children under the age of nineteen (19) that died. He stated that 57,000 were treated in hospitals around the United States. He submitted a copy to the Board. He stated that motor cross parks are not safer than riding in your own backyards. He stated that on the report it states that injuries that occurred in motor cross areas were more than likely to be hospitalized than those in off-road locations. He stated that most of the people that spoke today are not from Fishersville. He stated that Fishersville is his community where he chose to buy a farm and raise his family. He stated that he would like to see it known for Augusta Medical Center, Woodrow Wilson Rehabilitation and not a Valley Extreme Sports Park. He stated that Mr. Argenbright asked him at the Fishersville Small Area Plan public meeting what his objections were and he did tell him that he was concerned about his horses and that is why you heard several people talking about horses today. He stated that his farm borders Jericho Road. He stated that he is .3 of a mile directly behind Expo.

Mr. Al Dahler, 60 Enchanted View Circle, Fishersville, stated that he had a column in the News Leader yesterday. He stated that his objection is with the planning procedure, the decision making process, and especially the impact for future projects that affect the quality of life. He stated that the only notice to the general public was the letter to the editor in Tuesday's New Leader and an article in the News Virginian on Saturday. He stated that the News Virginian article never mentioned impact issues or concerns from the project. He stated that the letter to the editor stated that this project is focused to build a better future for Augusta County's young people. He stated that according to the letter motorcycle racing solves all of the teenage problems to school failure, drug abuse, and gangs. He stated that he wishes life was that simple. He stated that he has worked with young people for many years and is involved in educational research and he has never seen evidence that would support the

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assumptions that people have made. He stated that involving young people in activities is a positive kind of thing. He stated that it does not have to be motorcycle racing. He stated that his grandkids find all kinds of things to do in the area. He stated that one of the arguments that were made in the letter to the editor was that this is a recreational challenged area. He stated that there are more things to do here than any other place that he has been before. He stated that it is because of a lack of imagination. He stated that something like this needs to be well publicized so that the people of Fishersville can get the information. He stated that at the Fishersville Small Area Plan meeting nothing was mentioned about this. He stated that this information needs to be discussed with the public so that they can all have input.

Mr. Wilkinson stated that this request was advertised as required by the State Code. He stated that all Special Use Permits require that the County, per State Code, notify the adjoining property owners by written letter and the County must also advertise requests two (2) consecutive weeks before the public meeting. He stated that a public notice was advertised in the Waynesboro News Virginian and the Staunton News Leader, giving the required notice on this request and other matters before the Board today.

Mr. Ken Biggs, 65 Patchwork Lane, Fishersville, stated that he is a half a mile from Expo. He stated that when there are events they can be heard from where their houses are. He stated that those events are only a few times a year. He stated that this Board is looking at changing to an event that would take place 225 days a year as opposed to ten (10) to twelve (12) days a year and take place over many more hours. He stated that all of the people that spoke in favor were not from the immediate surrounding Fishersville area. He stated that he has a concern about the overnight RV parking that was mentioned because nothing has been addressed about that part of the request. He stated that there is a difference between moving into an area where there is already an established event happening like East Side Speedway and already living in an area and an event coming to you. He stated that this is important because they have moved into the area already knowing that there was a tractor pull and Monster Truck event once a year but they did not move into the area expecting 225 days of motorcycles running in their backyards. He stated that he is concerned about the noise level. He stated that this would deteriorate the house values because anytime you move into an area you ask about noise levels.

Mr. Bob Thompson, 599 Jericho Road, Fishersville, stated that last week they had a meeting at Wilson Middle School that was put on by the planning department. He stated that Fishersville is an Urban Growth Area. He stated that 80% of the population growth is supposed to take place in the Urban Growth Areas. He stated that a race track is not compatible with that growth area. He stated that he does have a petition signed by 200 people who are actually residents of Fishersville and they are also saying

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that a race track does not need to be in an Urban Service Area. He stated that Interstate 64 is a corridor into Augusta County. He stated that the hillside will have the track on it. He showed the committee a display of what a real track looks like. He stated that the background behind those race tracks do not have any buildings behind it. He stated that these race tracks are located in remote areas and that is where they need to be if we even want one. He stated that the County has spent millions on schools to provide facilities for recreation. He stated that they have an Augusta County Recreation Department that has programs all year long. He stated that they have numerous churches that have numerous programs geared toward youth. He stated that people come here on vacation because of the recreational facilities. He stated that they live between two national forests with numerous recreational facilities. He stated that if a child cannot find anything to do in Augusta County they are not looking very hard. He stated that he is questioning whether they need a second race track. He stated that twenty (20) years from now what would this race track look like.

Mr. Paul Harper, 221 Tinkling Spring Road, Fishersville, stated that he is tired of noise, tired of dust, tired of water runoff from development, and tired of broken promises from developers. He stated that they will have a lot of rules that the riders will have to comply with. He asked if they will have the manpower to enforce those rules. He stated that Mr. Argenbright is making a lot of promises. He stated that once the permit is approved the promises will be broken. He stated that the Board should deny this request.

Mr. Scott Williams, PO Box 5586, Charlottesville, stated that his company owns one hundred (100) acres from the proposed park. He stated that he is speaking on behalf of the future one hundred eighty-eight (188) property owners. He stated that he would like to thank the Argenbrights and all of those who participated in the demonstration. He stated that his concern and his company's concern is about the noise on their proposed townhouses and the quality of life for the thirty-two (32) existing residents and the future residents and to make sure that it will not be adversely impacted. He stated that he is not opposed to the other uses in the park and in fact, he is in favor of those. He stated that if he could be convinced that the noise would not be an issue for their site he could support this request. He stated that he is not convinced so far. He stated that he is a developer and he is a believer in land uses and compatible uses but a tremendous amount of noise would not be compatible with the already approved uses in the area. He stated that he is not opposed to having things for children to do and there are other uses that could occupy kids outside of motor cross but he does not know whether it is financially feasible to build the park without the motor cross. He stated that if the noise issue could be verified 100% he could be a supporter of this request. He stated that he does not know whether it is possible but if the Board is moving towards approving the request he would ask the Board to place limits on the motor cross so that they can have some protection. He stated that maybe the Board

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could approve the Special Use Permit without the motor cross and with the other uses so that they do have some options for the kids but are also protected from the noise.

Mr. Shreckhise asked if Mr. Williams thought the motorcycles were loud?

Mr. Williams stated that it was not loud. He stated that he was not convinced because the wind direction this morning was coming out of the north and if there is a way to verify the noise level he could support the entire request.

Ms. Susan Thompson, 599 Jericho Road, Fishersville, stated that Expo's originally intent was to promote agriculture in Augusta County and her position originally was environmental at this location. She stated that Interstate 64 is used for medical treatment, Woodrow Wilson Rehabilitation traffic, and others. She stated that she was part of a small group touring the Hospice House before it opens soon. She stated that each room is to comfort and sooth the residents' final days. She stated that these doors have French doors which open fully to a private patio allowing the bed to be moved for the patient's last days. She stated that the last time with family will be spent with flowers, birds, woods, and the serenity and deserved peace that nature can bring. She stated that now out of respect for the terminally ill and their families she is asking the Board to deny the permit. She stated that motor cross should move elsewhere out of gratitude to Augusta Medical Center which has brought adjacent related services, countless medical doctors and offices, growth, employment, revenue, awareness, healing, and hope to our County by locating in Fishersville. She stated that they are reaching the end of 2007 which is the 400th anniversary of the permanent colony, therefore, it would seem uncooperative to further congest the Fishersville exit and destroy any remaining green space.

Mr. Sweeney, 45 Goose Meadow Court, Fishersville, stated that he was at the test site this morning to make sure that the riders do a proper test. He stated that he motioned to the riders to open up and go but one of the riders said that they are not allowed to make noise.

Mr. Robert Martin, 78 Roxbury Drive, Fishersville, stated that this subdivision is known as Ivy Ridge. He stated that this is right across from Expo. He stated that this subdivision is made up of older people who are retired. He stated that there is a large industrial park, hospital, and FedEx in the area. He stated that if the motor cross goes in there will be dust and noise. He stated that they like to sit outside and walk in the evenings and we also like to go to bed early. He stated that he would like the Board to keep this into consideration. He stated that they are right on top of the motor cross track and that would be unacceptable.

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Mr. William Whitaker, 131 Lake Shore Lane, Fishersville, stated that this area is a nightmare traffic area. He stated that from 7:00 a.m. to 10:00 a.m. and from about 3:00 p.m. to 6:30 p.m. it is tough to get through the Route 608/285 area. He asked if the County is prepared to improve the roads so that the traffic can be accommodated. He stated that he would assume that Jericho Road would need to be widened and paved to accommodate it. He stated that at some point in time the bridge across Interstate 64 would need to be widened to accommodate the traffic and yet we are going to bring more into the area. He stated that he has two (2) grandsons and two (2) sons who were all involved in sports. He stated that sports and academics build an adult. He stated that it builds integrity, honesty, and sportsmanship. He stated that he did not enjoy the testing this morning because it was not a clear understanding of how much noise is going to be involved with this track. He stated that there was too much ice and too many people around the track telling the kids not to make noise with the motorcycles. He asked why was this not brought up at the public meeting last week regarding the Fishersville area?

Mr. Wilkinson stated that this was an advertised Special Use Permit before this Board. He stated that the small area plan is another department within the Community Development office.

Mr. Whitaker stated that this would be a real impact for the Fishersville area. He stated that it does impact on the value of homes and the land in the area. He asked that the Board seriously consider what they have heard here today.

Ms. Karin Magno, 200 Deep Meadow Drive, Fishersville, stated that is in the Hickory Hill area. She stated that they hear the Monster Truck announcer as well as the trucks. She stated that depending on how the wind is blowing on Interstate 64 it could be very loud. She stated that they also have the Eagle's Nest which runs all day every weekend. She stated that she does have kids and they have been excited about this. She disagrees with the location. She stated that everything else except the motorcycles would be a great thing to have at the site. She stated that she has a neighbor on the other side of Interstate 64 and their motorcycle can be heard from across Interstate 64.

Mr. Brian Shirley, 358 Elk Mountain Road, Afton, stated that he is representing Four Square Church on the hill which is directly across from Expo and the proposed site. He stated that he is representing five hundred (500) adults and children that worship there. He applauded the Argenbrights for putting this together. He stated that he knows the need they are trying to address. He stated that unfortunately there is a noise issue. He stated that the church has outdoor services, weddings, and picnics. He stated that he is in objection to this request. He stated that unfortunately the proposed site is adjacent to the hospital, nursing homes, retirement homes, and churches. He stated that he

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feels that there is nothing against the concept but it is not a good location. He stated that it was mentioned that the nearest place to do something like this was in Danville and the reason for that is that this is a difficult thing to do.

Ms. Lynn Uzzell, 73 Patchwork Lane, Fishersville, stated that she is a little more than a half a mile from Expo. She stated that when the wind is coming from the north carrying all of the noise from Interstate 64 the sound is still fairly minimal. She stated that during the Monster Truck rallies it sounds like a speaker has been inside their living room. She stated that she used to live across the street from someone that owned a motorcycle and it seemed to her that he enjoyed revving the motorcycle more than he enjoyed riding it. She stated that the boys stated what is a little noise, to children noise is not an issue. She stated that this is a tranquil, beautiful spot. She stated that now they are faced with the possibility that five (5) days a week, 225 days a year they will have the collective sound of the public address system and two (2) dozen motorcycles revving their engines at once. She stated that they have made us aware that there is no maximum decibel limit for him, his business, or anyone else. She stated that another person mentioned that if it were the case that they could make some guarantee about the noise level, he would not be opposed and she thinks that is where she stands. She stated that she might not like the increased traffic, dust, and litter, but it is mainly the noise that they are worried about. She stated that if he guarantees a certain decibel limit and exceeds that limit he should be fined. She stated that if they continue to be fined then eventually they should be put out of the business. She stated that she wants the children to have a good time if it was in an area that did not affect anyone. She stated that their house is further away from the hospital, nursing homes, and churches and the noise level from the Monster Trucks are intolerable. She stated that the Board should imagine what the patients are going through in the hospital recovering from illnesses and hearing all of this noise.

Mr. Richard Humphries, 4214 Lee Jackson Highway, Greenville, stated that this is not in an urban development. He stated that if the Board has concerns with noise then they should table it and make a better study. He stated that it was more than fifteen (15) bikes at the testing today and when they went over the hill they could not be heard from the backside. He stated that there are seven (7) tracks but Danville is the closest.

Ms. Janet James stated that she lives on Old White Bridge Road. She stated that she was wondering what the plans are on the lighting for this track. She stated that no one has addressed the light pollution yet and since she has lived in the Fishersville area the light has gotten brighter and brighter. She stated that she is aware that kids need a place to play but she feels that there will be a lot of noise from the motor cross track.

Chairman Swortzel asked if there was anyone else wishing to speak in opposition?

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There being none, Chairman Swortzel asked the Argenbrights to speak in rebuttal.

Mr. Doug Argenbright stated that they heard the issue of noise over and over again. He stated that when they mentioned noise they always mentioned Monster Trucks and they are very loud. He stated that an average motorcycle is 100 horsepower and a Monster Truck is 1,200 to 1,600 horsepower. He stated that the noise between a motorcycle and a Monster Truck is very different. He stated that when they build the track they will have a layer of topsoil and they are going to mix in mulch with the topsoil. He stated that it will help control dust. He stated that when they water the track it remains damp and it is safer for the riders. He stated that he saw twenty-seven (27) combinations of motorcycles and ATVs racing and he heard the noise at trackside. He stated that when he got down to the Expo parking lot it was very minimal. He stated that he does not believe noise is going to be an issue. He stated that no one mentioned motorcycles racing during the fair. He stated that he does not know what type of weighting was used to do the decibel reading that was mentioned earlier. He stated that "a" weighting is the proper weighting. He stated that Mr. Wilkinson was with him and the reading was an average of .86 and .87 and when they cranked down it was between .92 and .93 decibels. He stated that he is not disputing what the gentleman did but there are different weightings that could be used.

Mr. Terry Argenbright stated that he does respect greatly the concerns of the opposing party. He stated that he can give assurance that their purpose is the children. He stated that as an active member of the church all of his life, deacon, as someone who has worked with the youth, a coach, and as a current foster parent, his concern is the children. He stated that he knows this park will not be the fix all but it can be the fix for a lot. He stated that there is a true need for a safe haven for a lot of people. He stated that there are over two hundred fifty (250) children all of the time within foster care. He stated that he is thankful that majority of the party that are opposed all said that they were not opposed at doing something for their children. He stated that they are looking at taking a piece of property that Expo owns and they are willing to spend \$600,000 to get this track down and if this fails Expo gets all of the things they are trying to do. He stated that there is high grass, tractors, and equipment sitting there on Expo's property which is an eyesore to him. He stated that they are going to work hand in hand with Expo. He stated that his passion is children. He stated that he will not let the Board down, the children, or the community down. He stated that he does not want to decrease the value of the property. He stated that his intention is to bring this community together to work as a whole. He stated that if the Board would like they can play the video from an AMA race. He stated that during the practice event at an AMA race they allow 125cc and 250cc four strokes on the track at the same time to speed things up. He stated that there are fifty (50) plus bikes on the track and vehicles warming up at the exact same time. He stated that they have a video that will show the Board track side, then immediately to three hundred (300') feet, one thousand (1,000')

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feet, and a 1/10 of a mile. He stated that they did not do anything odd this morning during the testing.

The Board could not make a determination from the video that the Argenbrights presented.

Mr. Doug Argenbright stated that they were at Action Town and there were fifty-two (52) motorcycles on the track at that time. He stated that they would only have twenty (20) motorcycles at any given time. He stated that there were some motorcycles that exceeded the .96 decibels but they already mentioned that they would not permit those bikes to ride. He stated that they went to three hundred (300') feet and they measured decibel readings around 78db. He stated that at one thousand (1,000') feet it dropped to 50db. He stated that they went to .2 miles and all you could hear was the traffic behind them. He stated that they did not do anything odd this morning with the testing. He stated that it got to the point where the riders could not go any faster because of the conditions.

Chairman Swortzel declared the public hearing closed. He stated that there were very good comments on both sides of this request. He stated that he does not think the motor park would deteriorate the look but noise is the issue. He stated that this morning the ground was icy and the riders could not go any faster than they were. He stated that they need to study the noise issue.

Mr. Shreckhise stated that he feels that it is not a very true representation of what they heard. He stated that the motorcycles were not as revved up as they normally would be. He stated that maybe they can have another display sometime. He stated that maybe the request can be tabled so that the Board can get a better idea of what the noise would be. He stated that the request should be tabled so that the Argenbrights can supply staff a listing of the motor cross tracks in the state. He stated that perhaps staff can contact the County Administration office in these areas to get an opinion of how much noise pollution these tracks do create.

Chairman Swortzel stated that when they walked back to the County van this morning you could not hear any noise. He stated that when they went around the Route 608 side it was a little bit louder. He stated that the wind was carrying the sound in that direction.

Mr. Coyner stated that he agrees with Mr. Shreckhise in that the Board should get unbiased opinions. He moved that the request be tabled to the March 6, 2008 meeting. He stated that he would like to see a true demonstration in typical conditions or visit a track in the area.

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Mr. Shreckhise seconded the motion, which carried unanimously.

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SAW RANGE COMMITTEE - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by the SAW Range Committee, for a Special Use Permit to expand the existing shooting range facility to include classroom building, secondary shooting range, tactical entry/live fire simulation building, obstacle course, and victory tower on property owned by Augusta County Landfill Land Trust, Trustees, located on the south side of Christians Creek Road (Route 648), approximately 1.8 miles west of the intersection of Christians Creek Road (Route 648) and Tinkling Spring Road (Route 608) in the Riverheads District.

Mr. Derek Almarode stated that he is employed by the Augusta County Sheriff's Office. He stated that he represents the cities of Waynesboro, Staunton, and Augusta County on the SAW Range Committee. He stated that he currently chairs that committee. He stated that for many years they have operated a live fire shooting range on the landfill property. He stated that in about 1998 a committee was formed to build a new facility. He stated that property was obtained and there is a Special Use Permit for Phase I of that property. He stated that facility has been completed. He stated that the request is to expand the Special Use Permit to include a classroom with bathrooms and specialized training, simulated trainer, and expand the facility to accommodate more types of training. He stated that they would like to have a self-contained shoot house and a victory tower and obstacle course for physical fitness. He stated that they are looking at about an \$850,000 addition to this facility. He stated that the project will be done in phases.

Mr. Coyner stated that they have accomplished getting out of the public eye.

Mr. Almarode stated that the old range is still left open for emergency situations but it is used very little throughout the year. He stated that they are extremely proud of the facility they have and if they continue to proceed with their plans they will have the best facility in the Commonwealth of Virginia and probably on the east coast.

Mr. Coyner asked if they planned on starting this project soon?

Mr. Almarode stated that they have by-laws and procedures in place. He stated that they have money in the back to start construction. He stated that they can move forward as soon as possible.

Chairman Swortzel asked if this would be an ongoing project until it is completed?

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Mr. Almarode stated that based on finances it will be an ongoing project until it is completed and the committee will stay in place to govern the facilities usage and what happens at the site.

Chairman Swortzel asked what the timeframe for the final construction was?

Mr. Almarode stated that they are hoping to do this in a five (5) year plan.

Ms. Brown asked if this would be used only by the three (3) localities?

Mr. Almarode stated that this would be used by the Waynesboro City Police Department, Waynesboro City, County of Augusta, City of Staunton, and the Middle River Regional Jail. He stated that it is not open to the public.

Chairman Swortzel asked if there was anyone wishing to speak in favor, or in opposition to the request?

Mr. Mike Fortin, 1153 Christians Creek Road, stated this sounds like it will be a pretty intense complex. He stated that he is concerned about flash grenades that will go off at the site. He stated that he goes on the computer to get their schedule and they are booked from 6:00 a.m. to 6:00 p.m. He stated that is not a big deal with him. He wondered if they were going to adhere to that. He stated that he sees police officers from all different jurisdictions coming to the site.

Mr. Coyner asked where he lives in relation to the site?

Mr. Fortin stated that he owns the log house. He would like to know if they are going to adhere to a time schedule and he is also concerned about the heavier ordinances than pistols and assault rifles. He stated that he heard the state police putting off dynamite for example.

Chairman Swortzel asked if there was anyone else wishing to speak in favor, or in opposition to the request?

Mr. Guy Eavers stated that he lives on Mint Spring Road. He stated that the County has approved 256 acres which joins the landfill and he does have concerns. He stated that it is zoned for business.

Chairman Swortzel asked if there was anyone else wishing to speak in favor, or in opposition to the request?

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There being none, Chairman Swortzel asked if Mr. Almarode would like to speak in rebuttal?

Mr. Almarode stated that unfortunately law enforcement training does require them to shoot at night but not all of the time. He stated that all four (4) current owner departments schedule one (1) time a year that they shoot at night. He stated that one time a year it will be three (3) consecutive nights that they are out there shooting. He stated that they do not shoot past midnight. He stated that they try to be off of the range at 10:00 p.m. but due to qualification requirements and standardized training they sometimes find themselves out there later. He stated that entry devices and flash bangs are permitted on the range on the new facility. He stated that everyone is usually below them. He stated that there are some heavier ordinances but they are distraction devices. He stated that they are not hand grenades. He stated that they look like them but they do not do the same thing. He stated that they are not used at night because of the safety issues. He stated that they train with them during the daytime. He stated that the dynamite and explosions is the department of defense or the state police. He stated that they are disposing of those items because they need to get rid of them. He stated that they do not use that type of explosive during their trainings. He stated that the facility is set in a bowl and where they are going to shoot is in a 360 degree area. He stated that the shoot house is self-contained. He stated that the obstacle course and the classroom is not an issue. He stated that quite frequently they go to other sites too. He stated that they all train together so that they can respond to a call together. He stated that when you see the JMU and Harrisonburg vehicles they are there by invitation and they are all on the facility. He stated that they also have the regional training academy and they use this facility when they get into a scheduling conflict.

Chairman Swortzel declared the public hearing closed. He stated that the Board visited the site today.

Mr. Coyner moved that the request be approved with the following conditions:

Pre-Conditions:

1. Submit site plan meeting the requirements of Section 25-673 "Site Plan Contents" of the Augusta County Zoning Ordinance to be approved by all appropriate departments and/or agencies.
2. Obtain Certificate of Occupancy before commencing use of the facility.

Operating Condition:

1. Applicant be given five (5) years to complete the project.

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Ms. Brown seconded the motion, which carried unanimously.

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KENNETH L. GORDON - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Kenneth L. Gordon, for a Special Use Permit to continue the small engine repair shop on property owned by Mary Lou Gordon, located on the east side of Middlebrook Road (Route 252), approximately .25 of a mile south of the intersection of Middlebrook Road (Route 252) and Mt. Hermon Road (Route 681) in the Riverheads District.

Mr. Kenneth Gordon stated that he would like to continue the lawn mower business that his father ran for twenty (20) years. He stated that he does not have any neighbors around him except for one house on the right hand side and the rest of the land is all farmland.

Mr. Coyner stated that the Board has never received a complaint for this site. He stated that he is going to continue what his dad did but the permit would be in Kenneth Gordon's name.

Mr. Wilkinson asked if the applicant would continue to keep the property neat and orderly like it has been over the years?

Mr. Gordon stated yes.

Chairman Swortzel asked if there was anyone wishing to speak in favor, or in opposition to the request?

There being none, Chairman Swortzel declared the public hearing closed.

Ms. Brown moved that the request be approved with the following conditions:

Pre-Conditions:

None

Operating Conditions:

1. Site be kept neat and orderly.

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2. No junk, mowers, equipment, or parts of mowers or equipment be kept outside.
3. Any mowers dropped off for service or to be picked up must be put in the 10' x 20' drop off or pick-up area shown on the site plan.

Mr. Shreckhise seconded the motion, which carried unanimously.

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TIMOTHY M. AND PAMELA S. HOYSRADT - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Timothy M. and Pamela S. Hoysradt, for a Special Use Permit to add a crime scene and trauma cleanup business on property they own, located on the north side of Shalom Road (Route 632), just east of the intersection of Shalom Road (Route 632) and Homestead Lane in the South River District.

Mr. Timothy Hoysradt stated that he is not changing building size or employees.

Mr. Wilkinson asked if there is any state regulations as far as bringing the hazardous materials and how they are contained?

Mr. Hoysradt stated that this is a federal regulation. He stated that OSHA requires them to bag it in special bags and then box it so that nothing leaks or nothing comes out. He stated that a private firm takes it to Richmond so that it can be incinerated. He stated that if it was a problem bringing it in, he would not do it. He stated that he is a Certified Indoor Environmental Consultant.

Mr. Shreckhise asked if the packages are opened at the site?

Mr. Hoysradt stated that they do not open the packages at their site. He stated that once they seal them at the site then they bring them to the property and the truck comes to pick them up.

Mr. Shreckhise asked what are they sealed in?

Mr. Hoysradt stated that they are red bagged and sealed in very thick cardboard boxes.

Mr. Wilkinson asked if it is a special bio-hazard bag?

Mr. Hoysradt stated that the special bag is marked.

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Mr. Coyner asked if the pickup is a couple days a week?

Mr. Hoysradt stated that the truck comes anywhere from one (1) to four (4) times a week. He stated that they pickup for the doctors and veterinarian offices.

Mr. Coyner stated that the dwell time in the building is very short.

Mr. Shreckhise asked what are the typical contents in the bag?

Mr. Hoysradt stated that it could be anything relating to a crime scene, trauma, murder, or suicide. He stated that at present they are only one of the two (2) companies that have certifications that do this in the state of Virginia. He stated that they have been talking with sheriff's offices all over the valley.

Mr. Shreckhise stated that special clothes need to be worn. He asked what happens to the clothes once they are done cleaning up?

Mr. Hoysradt stated that they are already setup for the exact same thing doing mold remediation. He stated that the clothes go in the bag on the scene. He stated that they have to wear a tie back suit.

Mr. Shreckhise asked if the washing is done at the scene?

Mr. Hoysradt stated that the self contained suit gets put in the bag. He stated that nothing goes back that is not sealed. He stated that they would not be able to transport anything if it is not sealed.

Ms. Brown asked if they wear a mask?

Mr. Hoysradt stated that they have to be masked.

Ms. Brown asked how many employees are there for this business?

Mr. Hoysradt stated that all of the employees are cross-trained so that they do not have to hire anyone else. He stated that the building is not being added on to. He stated that nothing is changing.

Mr. Coyner asked if there are criteria on how the box is transported to the site?

Mr. Hoysradt stated that depending on the volume on a truck there needs to be a card. He stated that they do not have enough volume to justify that.

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Vice Chairman Callison asked how often per month would the truck come?

Mr. Hoysradt stated that they have no way of knowing. He stated that they got into this because they had an acquaintance commit suicide. He stated that they could go six (6) months and not have anything. He stated that they could go a month and have a lot of calls. He stated that Virginia Tech had no one in the state of Virginia that could go to the crime scene. He stated that they needed to get a company out of Chicago.

Mr. Shreckhise asked if the bags would be brought back to the site?

Mr. Hoysradt stated that, for example, if Virginia Tech had called them they probably would have not because there would be too much of a volume. He stated that the truck would pick it up from the scene of the accident. He stated that the boxes are forty (40) pounds and if they are filled up half way that would be very high. He stated that when the person passes the medical doctors remove the body but there is stuff on the walls and ceilings which have to be removed. He stated that it needs to be removed a certain way. He stated that they have the qualifications to do this.

Ms. Pamela Hoysradt stated that they have one (1) truck that will be designated for doing the bio-hazard material which is all setup for that. She stated that they are not cross-contaminating anything that they do in their other business. She stated that they would like to have a caged area in the shop. She stated that the boxes and bags will be self-contained in the shop. She stated that the area will be locked. She stated that when the truck comes to pick up the boxes there will be a lot of regulations and paperwork. She stated that they have precautions for their employees. She stated that they will be getting Hepatitis B shots. She stated that their company has the training and proper clothing and knows how to dispose of all of the items. She stated that there is a need in the area for this business.

Mr. Wilkinson asked if they are going to convert one (1) of the air duct trucks for this business?

Mr. Hoysradt stated that they only have one (1) truck. He stated that the other one is gone.

Chairman Swortzel asked if there was anyone wishing to speak in favor, or in opposition to the request?

Mr. Robert Brining, 96 Shalom Road, Waynesboro, stated that his property borders the applicant on the north and west side. He stated that his house sits directly behind his backyard. He stated that the staff report states no residue from cleaning jobs be brought to the site and no bio-hazard materials be brought to the site. He stated that

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red bag material coming from hospitals, crime scenes, or doctor offices by definition is toxic. He stated that this request is to place toxic materials on the piece of property which borders five (5) residential properties. He stated that he feels that this should not happen. He stated that he is objecting to the approval of this request. He stated that his wife has written a letter to the Board. He stated that this land is zoned for agricultural uses not for a facility doing this type of operation.

Chairman Swortzel asked how long have they been at this site?

Mr. Brining stated that they have been actually living there since 1999.

Chairman Swortzel stated that this property looks a lot better than when the lawnmower shop was located at the site.

Mr. Brining stated that the yard looks better. He stated that this second request is contingent upon the 2004 Special Use Permit which was granted. He stated that since the applicant parks his vehicles behind his building, he can look out at any time of the day and he can tell when vehicles are there and when they are not there. He stated that they can tell when they come in from a job even at night because they are parking behind the building with lights on. He stated that he has seen the vehicles as late as midnight. He stated that there is no way that they can be going to the landfill at that time of night. He stated that condition has not been met. He stated that if they no longer have to follow that criteria and he can return toxic materials to the property and keep it overnight or until whenever this other firm comes to pick up the material, then he is violating the original permit. He stated that there is no built in means of monitoring the request. He stated that they do not know how much toxic material will be coming in or where it is coming from. He stated that there is no regular schedule as to when the toxic material will be picked up. He stated that they have no way of knowing how the material will be handled.

Chairman Swortzel asked if there was anyone else wishing to speak in favor, or in opposition to the request?

There being none, Chairman Swortzel asked if the applicant would like to speak in rebuttal?

Mr. Hoysradt stated that there is no toxic waste coming to the building at all and there never has been. He stated that the mold remediation is bagged onsite and taken to the landfill. He stated that trucks come in and they are from the air duct cleaning. He stated that they have two (2) rows of trees which have grown quite tall. He stated that when they were originally here they had a lot of people with a lot of questions and they do not have that anymore.

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Mr. Shreckhise stated that if the Board approves the permit the applicant wants to bring toxic waste to the site.

Mr. Hoysradt stated that it is not deemed toxic it is medical waste. He stated that the EPA has not deemed it toxic because of privacy laws. He stated that if the Board does not allow them to store it onsite they can store it offsite.

Ms. Hoysradt stated that the mold material cannot be brought into the building. She stated that this particular product has to be contained and has to come back to a structure or an area that will contain it until it is properly picked up by the proper truck. She stated that right now they have a contract on an on-call basis. She stated that if they have a job they call this company to come in. She stated that contract can change. She stated that right now they do not know what type of volume they are going to be doing. She stated that they have intentions on getting a monthly contract.

Mr. Hoysradt stated that doctors and dentists create more medical waste than they ever would.

Mr. Shreckhise asked if there was a place as a red bag drop off place?

Mr. Hoysradt stated no.

Ms. Hoysradt stated that the other option would be to place the bags in a self storage facility which does not have as much security as they do. She stated that they stop in on the weekend and she is there every day. She stated that they do plan and hope to put in a surveillance system around the shop. She stated that at a rental place there is no security. She stated that the bags will go from the truck into the shop. She stated that they have to take precautions so that the bags do not leak. She stated that the company provides them with the boxes and bags.

Mr. Hoysradt stated that they do work at several universities. He stated that they are not bringing in anything toxic.

Chairman Swortzel declared the public hearing closed. He stated that they are running a good business at the site.

Mr. Wilkinson stated that this is not bio-hazard material.

Mr. Hoysradt stated that this is medical waste.

Chairman Swortzel stated that they should label it as medical waste.

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Ms. Brown moved that the request be approved with the following conditions:

Operating Conditions:

1. Only medical waste for temporary storage be brought on the property.
2. All other stipulations of SUP#04-18 remain in effect.

Mr. Coyner seconded the motion, which carried unanimously.

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DAVID P. OR PAMELA D. RAMSEY - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by David P. or Pamela D. Ramsey, for a Special Use Permit to increase the outdoor storage of equipment, rock, stone, mulch, landscaping supplies, and to have small engine sales and repair shop, and use an existing building for storage on property they own, located in the eastern quadrant of the intersection of Lee Jackson Highway (Route 11) and Walnut Hills Road (Route 655) in the Riverheads District.

Mr. David Ramsey stated that the outdoor storage of landscaping has really increased since they started. He stated that in order to get competitive prices they order items in tractor trailer loads. He stated that they have a lot of material left over from jobs once they get done. He stated that they need to have a place to keep the outside storage. He stated that they have twenty-two (22) licensed and insured vehicles. He stated that right now they have sixteen (16) employees but in the spring and summer they need more. He stated that the County is limiting the number of employees to twenty-one (21). He stated that many of his employees carpool. He stated that the employees are only at the site thirty (30) minutes in the morning. He stated that in bad weather they all do not come in. He stated that in order for him to do a new site plan that will cost money. He stated that he did one originally and he would like to modify the original site plan. He stated that staff is recommending screening for the small equipment area which he would call his snow plow and tiller which is seen in the country. He stated that it is located underneath the power line. He stated that if he has to put trees underneath the power line they would eventually need to be cut down so he would rather move it behind the detention pond where it cannot be seen. He stated that the eight (8') foot fence will not fit into the scenery out there. He stated that he would like to move that over. He stated that he would like to screen as much as the back storage area as he could screen. He stated that Mr. Eavers came by and told him to put a screen up and he told him that he already started but he stopped as soon as he spoke with Mr.

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Wilkinson so that he could go before the Board of Zoning Appeals. He stated that his intention is to screen everything he can from Route 11 to keep the neighbors happy. He stated that he has letters from some of his adjoining neighbors in support. He stated that they have every intention of keeping all of the items in a designated area but as you grow they tend to expand. He stated that they try to keep everything in the appropriate places at all times. He stated that they keep their place decent for being a landscaping business. He stated that the goal is to keep the operation looking good not only for the neighbors but from people driving on Route 11. He stated that the power line limits them from certain things. He stated that they are in the process of cleaning up more. He stated that his goal is to keep the business contained in the shop. He stated that they need a small engine repair mechanic to work on his equipment.

Chairman Swortzel stated that the place looks a lot better than when the Board first saw the site.

Vice Chairman Callison stated that there is a natural buffer along the right of way.

Mr. Shreckhise stated that with small engine repair shops sometimes there could be a lot of things piling up.

Mr. Ramsey stated that his goal is to give the customer thirty (30) days to get it off of the site or he will sell it. He stated that his goal is to keep the people happy. He stated that his job is to make places look good. He stated that they are not in business to make places look bad. He stated that to him the small equipment looks more natural into the landscape than the trucks and blocks. He stated that he is trying to screen the blocks and trucks. He stated that to him a front end loader in the County looks natural.

Mr. Wilkinson stated that the equipment outside is more appropriate when you are talking about a farm. He stated that with a commercial establishment under Special Use Permit the Board grants permission to have a certain amount of outdoor storage which Augusta County regulates. He stated that you do not have quite as much leeway as you do on a commercial property. He stated that when the Board gives you a specific area to keep the items in and if the business starts to grow, then the applicant needs to come back before the Board and ask them if they are willing to expand that area. He stated that the applicant cannot just keep expanding without Board approval. He stated that if the site plan is changed the applicant needs to come back before the Board.

Mr. Ramsey asked why the County does not want them to expand any more?

Mr. Wilkinson stated that it is not up to the County. He stated that Mr. Ramsey was given a Special Use Permit by the Board of Zoning Appeals and on that permit the

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Board approved the site plan that was submitted, and if you outgrow those storage areas you cannot decide on your own to start expanding the area, you must go before the Board for their approval. He stated that if they deny it then you must comply with the conditions they approved previously just like anyone else that has a Special Use Permit. He stated that the Ramsey property is not in a business area and they are getting a special privilege to have a business on an agricultural price of property that is in a residential area.

Mr. Ramsey stated that if he feels the need to expand he can come back before the Board again.

Mr. Wilkinson stated that when the applicant has a Special Use Permit the applicant is bound by those regulations. He stated that the comment sheets are recommendations made by staff to the Board for their consideration. He stated that the Board will determine what regulations they would like to have on the permit.

Mr. Ramsey stated that he was not sure if Mr. Wilkinson liked him because he did not approve him last time and he is recommending denial this time as well.

Mr. Wilkinson stated that the staff comments as well as the Planning Commission state that this area is planned for residential growth. He stated that they write their comments based on the ordinance of Augusta County which are regulations set by the Board of Supervisors.

Mr. Ramsey stated that if they need to expand three (3) or four (4) years down the road, he can come back before the Board.

Mr. Wilkinson stated that the applicant can make application to the Board. He stated that whatever limitations they set the applicant needs to abide by including the screening of equipment. He stated that the Board of Supervisors sets the regulations in the ordinance and everyone is required to abide by them.

Mr. Shreckhise stated that if the applicant comes back to expand in four (4) years and wants more outside storage, it will make a difference if there is a couple of houses built near the site and if they have a direct view of what the applicant is storing. He stated that may make a difference in the Board's decision. He stated that if everything is kept neat and orderly and if the area is not developing very well the applicant would have a better chance of expanding.

Mr. Ramsey stated that they try to keep the area neat and screened as much as possible. He stated that his neighbors have been in favor to him operating the business.

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Mr. Shreckhise stated that is a plus but it is not a guarantee.

Vice Chairman Callison asked if there were any complaints filed?

Mr. Wilkinson stated no. He stated that when staff made their inspection the applicant was not in compliance with his permit. He stated that the vehicles were not in the designated areas and the rocks were stored along the road.

Mr. Coyner stated that the applicant would need to adhere to the regulations and conditions of the permit. He stated that were the applicant come back years from now and ask for an expansion and if the Board had nothing but problems the Board may not grant the permit.

Mr. Wilkinson stated that if the applicant did not follow the operating conditions they could possibly risk losing their entire permit.

Chairman Swortzel asked if there was anyone wishing to speak in favor, or in opposition to the request?

Ms. Nancy Sorrells stated that she is here because she has been working with the Ramseys on this project. She stated that they have been good members of the community. She stated that their issues were that they underestimated the success of their business and have been struggling with trying to understand the terms of the Special Use Permit. She stated that they have been working hard to get into compliance. She stated that they want to enhance their services with the engine repair which is a needed service all over the County. She stated that this does fit the character of the area because Route 11 is a commercial and residential corridor. She stated that because the Comprehensive Plan wants it to be a residential area the Board of Zoning Appeals has the job of controlling the type of business through the Special Use Permit process. She stated that referring to the natural buffer that the Board is suggesting, the applicant would like to expand it even beyond that area to create a screen between the northern border and the only residential piece of property on their side of the road which may take longer than sixty (60) days. She stated that the Board should allow the applicant to choose what is appropriate in the different areas.

Chairman Swortzel asked if there was anyone else wishing to speak in favor, or in opposition to the request?

Mr. Guy C. Eavers stated that he lives on the road going into Route 655. He was wondering what type of fence they were going to build between Route 655 and their business. He stated that the buildings that they want to have their engine repair in he

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will see. He stated that a six (6') foot or eight (8') foot will give them some protection. He stated that they own the property on Route 655 with a farm and he lives on Route 655. He stated that he also wanted to know a timeframe on when they will get everything done.

Chairman Swortzel asked if there was anyone else wishing to speak in favor, or in opposition to the request?

There being none, Chairman Swortzel asked if Mr. Ramsey would like to address Mr. Eavers concerns.

Mr. Ramsey stated that with regarding the small engine repair business it will not be seen from Route 655. He stated that nothing will be near Route 655. He stated that the building that the small engine repair operation will be in his existing shop. He stated that he has started a row of Leyland Cypress trees which are ten (10') foot apart. He stated that Mr. Wilkinson asked for a double row of trees. He stated that he went down to where the small equipment was and he will take the trees all of the way down to the interstate. He stated that the trees will cover the entire side of the lot. He stated that he would like to screen his employee parking because he feels that is an eyesore. He stated that he owns clear to Walnut Hill Road.

Mr. Wilkinson asked if the trees will be in front of the mulch pile or behind?

Mr. Ramsey stated that in front of the mulch pile are the power lines. He stated that he already has a row of trees started from the corner of the building down to the seventy-five (75') foot right of way of the power line. He stated that he will run a row of trees clean across to the interstate all the way up to where he can hide everything in the back.

Mr. Wilkinson stated that the site plan would need to be modified.

Chairman Swortzel declared the public hearing closed.

Vice Chairman Callison stated that Mr. Ramsey has done a wonderful job cleaning up the property and he has been making an effort to comply with whatever the Board wants. He stated that nothing can be done in the easement area because of the power line on the property. He stated that he has confidence that the applicant will have a neat property. He moved that the request be approved with the following conditions:

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Pre-Conditions:

1. Submit an amended site plan showing the expansions meeting the requirements of Section 25-673 "Site Plan Contents" of the Augusta County Zoning Ordinance to be approved by all appropriate departments and/or agencies.
2. The 30' x 30' small equipment storage area be screened by an eight (8') foot high opaque vinyl privacy fence or a single row of six (6') foot high staggered evergreen trees planted ten (10') foot on center within sixty (60) days.

Operating Conditions:

1. All outdoor storage be kept only in the designated areas shown on the site plan.
2. Site be kept neat and orderly.
3. No junk or inoperable vehicles, equipment, or parts of vehicles or equipment be kept outside.
4. Be limited to a maximum of twenty-one (21) employees.
5. No further expansion.

Mr. Coyner seconded the motion, which carried unanimously.

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JEFF GENTRY, AGENT FOR VETERANS OF FOREIGN WARS (POST 9339) - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Jeff Gentry, agent for Veterans of Foreign Wars (Post 9339), for a Special Use Permit to construct a parking lot for the VFW on property owned by Sunrise Investors, Inc., located on the west side of Locust Grove Lane, just south of the intersection of Locust Grove Lane and Stuarts Draft Highway (Route 340) in the South River District.

Mr. Jeff Gentry stated that he is acting as agent for the VFW and Sunrise Investors. He stated that they are requesting a Special Use Permit to be granted to the VFW for the tract of land that they are swapping with Sunrise Investors for a parking lot expansion. He stated that presently VFW operates the hall for bingo. He stated that the crowds are quite large and they do a lot of good service for the community. He stated that a lot of fundraisers are held at the building. He stated that the problem is that they do not have

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anywhere to park. He stated that they are trying to formulate plans for them down the road to have places to park.

Chairman Swortzel asked if there was anyone wishing to speak in favor, or in opposition to the request?

There being none, Chairman Swortzel declared the public hearing closed.

Mr. Shreckhise moved that the request be approved with the following condition:

Operating Condition:

- 1. Parking lot be developed per BZA sketch plan.

Mr. Coyner seconded the motion, which carried unanimously.

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JEFF GENTRY, AGENT FOR ACEND 2002, LLC - VARIANCE

This being the date and time advertised to consider a request by Jeff Gentry, agent for Acend 2002, LLC, for a Variance from the street setback requirements on property they own, located on the north side of Victoria Drive, opposite the intersection of Victoria Drive and Chicory Drive in the Wayne District.

Mr. Jeff Gentry stated that they are requesting a ten (10') foot setback Variance on the five (5) lots. He stated that Teaverton subdivision has been around for a long time. He stated that it was master planned in the early 1970s. He stated that the topography dates back to that time. He stated that these lots actually turned out to be a little steeper than planned and anticipated. He stated that the present owner of these lots has a desire to build some houses to what is compatible with already in the neighborhood. He stated that they are trying to keep the ranch style homes with the basement. He stated that from the sketches if they go back to the full thirty-five (35') foot setback it begins to create some hardship in terms of terrain to get into the houses as well as the garages that are attached the houses. He stated that a garage is considered an accessory use and may not be an absolute requirement on the house but if you look in Teaverton there are not many houses without garages. He stated that these lots have been there as part of Section 11. He stated that Sections 12 and 13 and other sections of Teaverton have fully developed out but the reason that these lots have not been built on is because they are difficult lots to do something with. He stated that this builder is willing to put the right type of house on these lots. He stated that if the request is not granted they would have to revert back to a multi-story building to try

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to make something work. He stated that it will require quite a bit of engineered fill foundation design to make all of that happen on the terrain that they are dealing with. He stated that one of the concerns that have been mentioned is adequate parking. He stated that several of these houses have garages that enter from the side and even if the house has a twenty-five (25') foot setback there is still adequate room to park multiple cars in the driveway. He stated that there is only one (1) other house on that side of the street and they have no objection to the request. He stated that the area to the right is the common area which will be a clubhouse, swimming pool, and a big parking lot. He stated that he does not see where this request would have any negative impacts on the look and feel of what is already there.

Ms. Brown stated that if they did not build the one story the applicant could build a two story home.

Mr. Gentry stated that would be the only other option to be able to slide the building further back. He stated that they are trying to keep the house on the flattest part of the lot on the front where the access is more attractive and desirable. He stated that some of the dwellings built in Enchanted View look like they are hanging on the ledges. He stated that they are trying to keep the dwellings on the terrain that is the most agreeable and to have a desirable product that someone would want to buy when it is finished.

Mr. Coyner stated that was an open field when the developer laid out the plans. He stated that whoever laid it out boxed themselves in. He stated that they have created their own hardship.

Mr. Gentry stated that the topography that they surveyed on the ground is actually steeper than what was shown on the original topography that dates back to the 1970s. He stated that a lot of standards have changed since the 1970s. He stated that this street is planned to project onto the neighboring property. He stated that it is designed to accommodate some traffic from the adjoining piece of property.

Mr. Coyner stated that one of the reasons for having a Variance is if there is a piece of property that cannot be used for anything, but a dwelling can be built at this site.

Mr. Gentry stated that even with this they will have a lot of work to do to make this work. He stated that if they go back another ten (10') feet they are adding a significant cost.

Mr. Coyner stated that economics is not the basis for a hardship.

Chairman Swortzel asked if there was anyone wishing to speak in favor, or in opposition to the request?

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Mr. Tim Armentrout, 57 Hamshire Way, Fishersville, stated that he is a licensed real estate agent. He stated that he is a resident of Teaverton and President of the Homeowner's Association as well. He stated that he cannot see where this request would be detrimental to anyone. He stated that he has received negative comments from the neighbors that they not build two stories because of what it will do to the view they already have. He stated that they would like to accommodate those people and keep the one story house on those lots since they are on the upper side. He stated that it will not devalue the property in any way. He stated that this will raise the value of the other homes as well. He stated that what they propose to do is a definite plus for the residents, the street, and Teaverton. He stated that he would hope the Board will grant the Variance.

Chairman Swortzel asked if there was anyone else wishing to speak in favor, or in opposition to the request?

Mr. Douglas Miller, 40 Hamshire Way, Fishersville, stated that he would like to see the dwellings built as one story. He stated that a two story dwelling would block his view of the mountains behind him. He stated that he would like them to flow with the terrain when building the dwellings.

Chairman Swortzel asked if there was anyone else wishing to speak in favor, or in opposition to the request?

There being none. Mr. Wilkinson stated that he received a letter in opposition from Harold and Karen Bess, 40 Victoria Drive, which is across the street. He stated that they are in opposition based on other parts of the community being in compliance with the required setback ordinances.

Chairman Swortzel declared the public hearing closed. He stated that what the applicant is wanting would create a better looking community.

Mr. Shreckhise stated that when this was first developed it could have been drawn up so that these lots were more desirable building lots. He moved that the Variance be denied.

Mr. Coyner seconded the motion, which carried unanimously.

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STAFF REPORT

07-09 Stevens, David M. or Darlene M.
07-10 Perry, George N.
07-11 RT Manufacturing, LLC

Mr. Wilkinson stated that all three (3) Special Use Permits have all been inspected and are all in compliance.

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

* * * * *

Chairman

Secretary