

PRESENT: T. Cole, Chairman
E. Shipplett, Vice Chairman
S. Bridge
J. Curd
K. Leonard
K. Shiflett
R. L. Earhart, Senior Planner and Secretary

ABSENT: C. Foschini
T. Fitzgerald, Director of Community Development

VIRGINIA: At the Called Meeting of the Augusta County Planning Commission held on Tuesday, June 10, 2014, at 4:30 p.m. in the Board of Supervisors' Conference Room, Augusta County Government Center, Verona, Virginia.

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

1. James Brenneman – Rezoning
2. Bain Family, LLC - Rezoning
3. Sphinx Land Development, LLC – Rezoning & Amend Proffers
4. Shannon Lea at Kennedy Creek – Amendment of Proffers

Chairman

Secretary

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ABSENT: C. Foschini
T. Fitzgerald, Director of Community Development

VIRGINIA: At the Regular Meeting of the Augusta County Planning Commission held on Tuesday, June 10, 2014, at 7:00 p.m. in the Board Room, Augusta County Government Center, Verona, Virginia.

DETERMINATION OF A QUORUM

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

MINUTES

Mr. Leonard moved to approve the minutes of the called and regular meetings held on May 13, 2014.

Mr. Curd seconded the motion, which carried unanimously.

James Brenneman

A request to rezone from Limited Business to General Business with proffers, approximately 2.4 acres owned by James Brenneman, located on the south side of Benz Road (Rt. 1614) at the intersection with Kolb Circle (Rt. 1615) in Lyndhurst in the South River District.

Mrs. Earhart explained the request as presented on PowerPoint. She stated the applicant has submitted the following proffers:

1. The following uses shall be permitted without Administrative or Special Use Permit provided they are conducted within an enclosed building and there is no outdoor storage without a Special Use Permit:

- A. Agriculture related uses, including, but not limited to: plant nurseries, tree farms, greenhouses open to the public, lawn and garden and farm supply centers, feed and fertilizer facilities, and landscape supply center.
- B. Construction support businesses, including, but not necessarily limited to: sales and storage of building materials, cabinets, carpentry, electrical, plumbing, and similar shops, and contractor offices.
- C. Government facilities, including, but not necessarily limited to: libraries, post offices, and public safety facilities.
- D. Meeting places and other facilities of civic, community service, and fraternal organizations.
- E. Offices, including, but not necessarily limited to: business offices, call centers, professional offices, medical or dental offices or clinics, and real estate offices
- F. Active and passive recreational facilities not utilizing outdoor lighting.
- G. Religious Institutions.
- H. Retail Sales and Service, including, but not limited to: antique shops, appliance repair, artist studios or galleries, barber or beauty shops, bakeries, clothing stores, convenience stores, coffee shops, drug stores, farmers markets, flea markets or auction houses, florists, funeral homes or mortuaries, furniture stores, grocery stores, gunsmith shops, hair salons, nails, tanning booths, or similar personal services, hardware stores, headstone, monument, or vaults, laundry or dry cleaning pick-up, massage therapy, office machines and supplies, paint and wallpaper stores, pet sales or grooming, private postal services, shopping centers, and upholstery shops.

2. The only uses allowed by Special Use Permit, if granted by the Board of Zoning Appeals, will be General Outdoor Storage.

3. The following uses will be expressly prohibited on the site:

- A. Retail sales of gasoline
- B. Drive-through facilities

Mrs. Earhart stated this property was zoned to Limited Business in 1993, which is a zoning classification that is no longer used. The property remains zoned as Limited Business and is under the guidelines of that zoning and will continue to be without a change in the zoning.

Mr. James Brenneman stated he is the owner of this property. He stated the property was platted in 1993 and backs up to a contractor's storage and equipment yard and is not appropriate for a dwelling to be built on. He would like to have a business on this property that would be compatible with other uses in the area. Quality Lawn Care has approached him about putting their business on the property. They currently maintain the property owned by the church on the west side. He feels Quality Lawn Care would maintain the property appropriately. Mr. Brenneman referred to a map on PowerPoint and explained where Quality Lawn Care would place storage buildings on the property for their business.

Mr. Shipplett asked if there was already an approved septic site.

Mr. Brenneman stated there is an approved septic site.

There being no further questions from the Commissioners, Mr. Cole opened the Public Hearing.

There being no one to speak in favor or opposition of the request, Mr. Cole closed the Public Hearing.

Mr. Bridge stated after seeing the site again today, he felt the request was appropriate for the area. He moved to recommend approval of the request with the proffers.

Mr. Shipplett seconded the motion, which passed unanimously.

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Bain Family LLC

A request to rezone from General Agriculture to Rural Residential with proffers, approximately 40 acres owned by Bain Family LLC located on the north side of Baynes Road (Rt. 611) at the intersection with Zion Church Road (Rt. 798) in the Wayne District.

Mrs. Earhart explained the request as presented on PowerPoint and stated the applicant submitted the following proffer:

1. Developer will dedicate a 10' wide strip of land to VDOT along the entire length of the property along Baynes Road (Route 611).

Mrs. Earhart noted that a new plat had been submitted for this rezoning that replaced the previous map which was sent to the commenting agencies. The comments have been taken care of with the new plan. Although the owners are not proffering a concept plan, they do realize there needs to be interconnectivity to the adjacent property owners. The development plan will provide for interconnectivity in order to meet VDOT requirements.

Mr. Thomas Shumate, Sr., Surveyor, stated he has been working with the Bain family on the rezoning. If the property is rezoned it would allow the ability to create a development with streets and lots. If the property remains zoned as General Agriculture, it would not provide a good layout for development. Oftentimes, residential property puts less pollutants as runoff than agriculture property does. There is no flood zone, wetlands, or streams bordering the property. The Health Department had negative remarks in the comments regarding lots 14, 15, and 16, possibly because of misreading the map. Lots 14, 15, and 16 fronting on the main road are not within the 10' area that will be given to VDOT to increase the road right-of-way. VDOT has given preliminary approval on the location of the entrance to the property. There will be one entrance to the main road. There

will be access at the rear of the property for a future public street to tie into. Drainfield and well approvals have been granted by the Health Department for this property.

Mr. Shumate provided copies of the revised plat, which the Planning Commission reviewed.

Mrs. Earhart reminded the Commissioners that the applicant was not bound to the concept drawing, as it is not being proffered.

Mr. Shipplett referred to both the older plat and the revised plat. He stated the revised plat does not show the drainfields as being in the same location as on the older plat. He asked for confirmation that approval has been given for the drainfields.

Mr. Shumate confirmed that all drainfields are on the lots and approval has been given by the Health Department for drainfields and wells.

Mrs. Earhart stated the drainfields would need to be shown at the time the lots are platted but it is not required at this stage to show them.

Mr. Shipplett asked if the applicant plans to develop the lots.

Mr. Shumate stated the family does not plan to develop it themselves. They plan to sell the property to a developer.

There being no further questions at this time from the Commissioners, Mr. Cole opened the Public Hearing.

Mr. Roger Bain, oldest of the Bain siblings, stated the 40 acres and the home constitute the primary assets of the estate. There is one sibling that lives adjacent to this property. The family is interested in having what would be deemed as a nice development and rezoning this property would allow for the flexibility for such a development. Rezoning the property is consistent with the general plan for the area. There are many advantages if this property is developed, for instance, there will be only one access point off the main road to the property; there will be additional access points for adjacent property owners; and going through the preliminary plat process will allow for more flexibility and will give the County more elements of control.

Mr. Larry Weeks of 430 Baynes Rd., Waynesboro stated he is against this request. There should be a moratorium on any new lots in the Wayne District. All three schools that service this area are critically overcrowded. A \$15 million dollar expansion has just been completed at Wilson Elementary and even with the expansion, the school is already near capacity. The middle school is over capacity by 50 students. Cassell Elementary is chronically overcrowded, even though the numbers do not show that. Every spare space in the school is being used. There is no storage and the teachers do not have offices. The school is not designed for special education for SOLs and for children who need remediation for SOLs. Hall space is being used for reading classes and remediation. A conference room is being used for remediation and reading. The faculty lounge is now a computer lab. Four trailers are being used for classrooms and another trailer has been requested. There are currently 200 housing units being built across from the Wilson

complex and an additional 100 units have been approved in the Crimora area. Until these issues are addressed with the infrastructure, no lots should be approved in the Wayne District. Seventeen drainfields will create more pollution than if the property remains zoned agriculture. Mr. Weeks stated he owns a spring just north of this property which feeds a stream. The water from the spring is used to water his sheep. He is concerned additional drainfields and wells will affect his spring and his well, which is located about 200 feet to the east of the property. He preferred the old five acre minimum lot size in rural residential developments. With the large portion of open space in this area, this request is not compatible for development into smaller lots.

Mr. Jack Caraway of 427 Baynes Road stated he and his wife live directly across from this property. He attended the BZA meeting last month for the hearing on the motorcross track which is behind his property and now a development is being considered to the front of his property. Septic systems are difficult to put in and wells have to be dug deeply in this area. Additional wells will pull from the wells of current property owners. The property should remain zoned agriculture and not sold for development. As mentioned already, overcrowding in schools remains a concern.

Mr. Shumate stated the drainfields will not be overly large and there is good percolation on the property. Testing has been done on the soil and the Health Department has approved the drainfields and wells. Regarding school overcrowding, the price of the lots will not bring in young families with grade school aged children and the high school is not overcrowded. If 16 lots are created and sold, that should not add more than five children to any one school.

Mr. Shipplett asked what the price of the lots will be.

Mr. Shumate stated the price has not been determined at this point. The neighbors would be better protected if the property is rezoned because manufactured homes will not be allowed.

Mr. Shipplett referred to Mr. Shumate's comment again regarding the pricing of the lots and because they would be priced presumably high, it would not attract young families.

Mr. Shumate stated the lots will be priced higher if they are allowed to develop it the way they want to. If it remains with the current zoning, it cannot be developed according to the plan provided.

Mr. Shipplett asked if there would be covenants and restrictions on the property and what they will be.

Mr. Shumate stated there will be covenants and restrictions but does not know what they will be at this time.

Mr. Leonard asked if the Bains family has tried to market the property as it is.

Mr. Shumate stated they have not tried to market the property the way it is. They felt if the property was rezoned and there was a development plan in place along with health

department and VDOT approval, they would be in a better position to attract a developer and sell it for a higher price.

Mr. Leonard asked if they plan on marketing the property once it is rezoned.

Mr. Shumate stated they do plan on marketing it, if rezoned.

Mr. Leonard stated that Mr. Shumate was only speaking for the family and does not have any control over what the family will do as far as what size houses will be built and what restrictions will be put into place once it is rezoned.

Mr. Shumate stated there is still one daughter who lives on the property. The family has been very careful not to do anything to affect the sibling who lives on the property.

Mr. Leonard stated once the property is sold the family will not have any control.

Mr. Shumate stated the family will put restrictions on the property when it is sold.

Mr. Leonard reminded Mr. Shumate of his previous comment that they do not know what the restrictions will be.

Mr. Shumate stated the family wants to protect the sibling who lives on the property and would not allow for anything unattractive to be developed.

Mr. Bain stated they plan for the houses in the development to be comparable to the newer houses in the surrounding area. It would be more appropriate to discuss the proffers when they get to the preliminary plat stage, if the property is rezoned.

Mr. Leonard stated Mr. Shumate is making assumptions that shouldn't have been made at this point, such as stating there will not be many school aged children.

Mr. Bain stated there should be no more than 20 lots created and should not generate a large number of school aged children.

Mr. Shipplett stated he is concerned because, if rezoned, they plan to sell it right away without developing it. If a developer purchases the property, they can change the restrictions.

Mr. Bain stated if a proffer is made and the zoning is granted or a preliminary plat is approved based on the proffers, the County would have to agree to any change to the proffers for them to be effective.

Mr. Shipplett reiterated the fact there are no covenants or restrictions for the Planning Commission to consider.

Mr. Bain stated they are not at the preliminary plat stage yet.

Mrs. Earhart clarified the preliminary plat stage is objective. The Plat either meets or doesn't meet the code requirements. A revision to the Virginia Code states a preliminary plat no longer be required for developments with less than 50 lots. Without a preliminary

plat to review, the Commissioners will need to be comfortable that what is being presented is compatible with the neighborhood.

Mr. Bain asked the Commissioners for an example of what they want and what their concerns are.

Mr. Shipplett stated he doesn't know enough about what they want to do with the property.

Mrs. Earhart stated the property owner can present proffers showing the number of lots being created, the size requirements for the homes, address concerns regarding the drainfields, and any other concerns voiced by the Commissioners. Proffers have to be voluntarily offered by the applicant.

Mrs. Shiflett stated there have been too many rezonings granted without specific requirements being stated. Intentions seem to be good, but once the property is sold developers tend to change what has been stated, if restrictions are not set. There seem to be no restrictions at this point. If it is approved to be rezoned the way it is now, there is too much that can be changed once sold. A developer would not have to stay with the 16 or 17 lots proposed by the applicant or any concept plan presented.

Mr. Bain asked if it would be adequate enough if they made a proffer based on the site plan that has been presented.

Mrs. Earhart stated proffers cannot be presented at the Public Hearing. The request will need to be tabled until proffers can be created and voluntarily presented.

Mr. Bain asked for the request to be tabled until the next meeting in July to address the concerns of the Commission.

Mr. Shumate brought up the fact if the property remains zoned as agriculture, the lot size requirement is only one acre, versus the lot size requirement of two acres for rural residential zoning.

There being no one further to speak in favor of or in opposition to the request, Mr. Cole closed the Public Hearing.

Mr. Bridge stated schools will remain a concern, however, the existing problems within the school system will more than likely remain regardless of the zoning.

Mr. Leonard stated if they want to have a nicer subdivision, maybe they needed to state a minimum house size.

Mr. Shipplett asked for confirmation that a preliminary plat cannot be required for anything under 50 lots.

Mrs. Earhart stated there is not a requirement for preliminary plat approval with the new ruling by the General Assembly. The applicant can proffer a concept plan to address any concerns by the Commission. It would need to be decided on how to enforce the concept

plan if one is proffered and would more than likely be enforced when the lots are created at final plat stage.

Mr. Bridge asked if the rezoning is approved what the next step will be.

Mrs. Earhart stated once approved, the property can go straight from rezoning into final plat stage.

Mrs. Shiflett stated the plan is a good design. It is already divided into five lots and the potential is greater to have a larger number of smaller lots, if it stays zoned General Agriculture. There is potential for five private entrances instead of one street entrance. It should not produce a larger number of school aged children but can possibly add some children into the school system. It is a concern to rezone without a plan. In general, I don't like to see farmland turned into houses, but there are houses all around this property and I don't see it staying in farmland. Any information regarding lot and house size would be advantageous.

Mr. Curd stated the property probably will not be used for farmland regardless of soils. School capacity is a concern, however, this will not be a big development. If the property is left as is, there is a potential for 40 one acres lots, which is not the kind of development we want. He moved to table the request until the July meeting.

Mrs. Shiflett seconded the motion, which passed unanimously.

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Sphinx Land Development, LLC

A request to rezone from Attached Residential to General Business with proffers approximately 4.3 acres and to amend the proffers on approximately 16.5 acres already zoned Attached Residential, owned by Sphinx Land Development, LLC located on the north side of Goose Creek Road (Rt. 640), approximately 0.25 of a mile east of the intersection with Tinkling Spring Road (Rt. 285) in Fishersville in the Wayne District.

Mrs. Earhart explained the request as presented on PowerPoint and stated the applicant submitted the following proffers:

1. Ingress to and egress from the site (including the previously subdivided Tax Map 67-84H) will be limited to no more than 4 street connections with Goose Creek Road (Rt. 640). There will be no individual lot entrances on Route 640.
2. The minimum square footage for single family attached dwellings (townhouses) will be 1300 square feet.
3. There will be no more than 80 single family attached dwellings (townhouses) constructed on the property.
4. A double row of 4' tall arborvitae, planted 8' on center, will be planted in the 25' buffer yard on any business lot(s) adjoining Tax Map 67, Parcel 84C, if that property is still zoned General Agriculture at the time of development. All plantings shall be permanently maintained and replaced, if necessary, unless the

adjacent property is rezoned to a business classification, in which event such plantings need not be replaced.

5. Developer will dedicate for public street purposes up to 45' of right-of-way to the County from the existing center line of Route 640.

Peter Boutros, representative for Sphinx Land Development, LLC stated they are requesting the rezoning because they wish to add a few more business lots in the development and have a clean break from the Attached Residential property. They also wish to keep the commercial land on the other side of the road, as well as increase the amount of commercial property they plan to develop. The reason for the request is because of the changes in the market and they believe offices and more office space growth is going to come, especially with the expansion of businesses and the Mary Baldwin development in this area. They want to be ready for adjustments in the market. They also want to decrease the amount of attached homes they are building as they feel the attached home market has been saturated in this area and is not a market they are interested in pursuing as ambitiously.

There being no questions from the Commissioners, Mr. Cole opened the Public Hearing.

Gary Cash owns property across from this request and stated the traffic flow on Goose Creek Road has increased greatly because of traffic to and from the hospital and will continue to increase as development increases. He asked if there are any plans for the road to be widened and which way traffic will come out of the commercial property. He is also concerned about the speed of which vehicles travel on Goose Creek Rd.

Mr. Boutros stated that his company cares greatly about the type of development they build. They gave away a large piece of land for a church, which should decrease some of the traffic flow either going left or right. Because of the correlation with Rt. 250, the majority of the traffic will be coming off of and exiting onto I-64 and using Rt. 285. The proffers allow for a 45' right-of-way to the County and would allow for road expansion.

Mrs. Earhart confirmed the allowance to the County for a 45' right-of-way; however, road funding has been cut by the State and there are no immediate plans at this point for road improvements on Goose Creek Rd. The Sherriff's Office should be contacted regarding concerns of speeding vehicles.

There being no one else to speak in favor of or in opposition of the request, Mr. Cole closed the Public hearing.

Mrs. Shiflett asked Mr. Boutros why they wanted to make changes to the property before it was sold.

Mr. Boutros stated making changes during the selling process tends to be difficult. They are trying to determine what type of market is in demand now and foreseeing change in the future.

Mrs. Shiflett stated generally the Commission wants to know the reason for the changes.

Mr. Boutros stated development has been started under the current zoning. The engineering is being done to bring the water and sewer lines in for the church. Because sewer lines will pass through this area, they wish to make proper arrangements for engineering so when it does come to their property they won't have to back track and increase the sewer line already in place and active. The water line is already in position and the sewer line is expected to be in by late fall.

Mr. Curd stated that very little has changed in the area since 2003. If the property is rezoned to General Business, it will decrease housing by 25 units which will decrease enrollment in the schools for this area. The rezoning should also help with the potential traffic impact because of fewer housing units. He moved to recommend approval of the request with the proffers.

Mr. Bridge seconded the motion, which passed with a vote of 5 -1, with Mrs. Shiflett being opposed.

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NEW BUSINESS

William Garvey – Resolution

Mr. Cole read the following Resolution recognizing Mr. Garvey's service on the Commission.

WHEREAS, the County of Augusta in consideration of the long and dedicated service of William Garvey; and

WHEREAS, Mr. Garvey diligently served the citizens of Augusta County for more than three years in the capacity of a public servant; and

WHEREAS, Mr. Garvey served on the Augusta County Planning Commission from January 2011 to April 2014; and

WHEREAS, the Augusta County Planning Commission is desirous of expressing their appreciation and thanks to Mr. Garvey for his dedicated service on this commission.

NOW, THEREFORE BE IT RESOLVED that the Augusta County Planning Commission does hereby publicly thank Mr. Garvey for his service which he has so aptly fulfilled with diligence and concern for the citizens of Augusta County.

BE IT FURTHER RESOLVED, that this resolution be adopted by the Commission recorded in its minutes, and a copy forwarded to Mr. Garvey.

Mrs. Shiflett moved, seconded by Mr. Leonard to approve the foregoing resolution recognizing Mr. Garvey for his service. The motion passed on a unanimous vote.

STAFF REPORTS

A. CODE OF VIRGINIA – SECTION 15.2-2310

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

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

The Planning Commission took no action the on the BZA items.

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Mr. Shipplett referred back to the Bain request and stated it is going to be difficult to make a decision without a preliminary plat. It is confusing about what can and cannot be asked for since the General Assembly changed the law regarding preliminary plat regulations and if clarification could be obtained from the County Attorney.

Mr. Curd stated basically proffers cannot be required. To be fair to the property owner since the laws changed from the time of application, they should be allowed to address the Commissioner’s concerns.

Mr. Leonard stated his concern is that once the property is rezoned, the property owner can do anything he wants to with it.

Mrs. Earhart stated the property owner can address concerns by voluntarily developing a concept plan. The development will have to be in general conformance, which can be addressed at the final plat stage. She will meet with the County Attorney to determine how to word that the final plat has to be in general conformance.

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

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Chairman

Secretary