

PRESENT: T. Cole, Chairman
E. Shipplett, Vice Chairman
S. Bridge
J. Curd
C. Foschini
K. Leonard
K. Shiflett
T. Fitzgerald, Director of Community Development
R. L. Earhart, Senior Planner and Secretary

ABSENT:

VIRGINIA: At the Regular Meeting of the Augusta County Planning Commission held on Tuesday, July 8, 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 seven (7) members present, there was a quorum.

MINUTES

Mr. Curd moved to approve the minutes of the called and regular meetings held on June 10, 2014.

Mr. Shipplett seconded the motion, which carried unanimously.

National Developers of Virginia, LLC, Etal

A request to amend and restate proffers on approximately 112 acres owned by National Developers of Virginia, LLC; Raike Real Estate Income Fund, LLC; Turner Turn Key Homes; William R. or Kelly L. Smith; Steven P. or Audra A. Sours; Kenneth M. or Carolyn Sue Clark; and Mark D. or Dana L. Frazier and located on the north side of Howardsville Turnpike (Rt. 610) approximately 0.6 of a mile west of the intersection of Howardsville Turnpike (Rt. 610) and Patton Farm Road (Rt. 633) in the South River District.

Mrs. Earhart explained the request as presented on PowerPoint. She noted three lots which were highlighted on the PowerPoint presentation and stated they are not to be

included in the amended proffers and they will retain their current proffers and development rights.

Mr. William Raike stated he represents the developer and the residents of the project. He stated this project has been going on since 2005. He indicated he has been working with the County on the request to amend the proffers over the last few years. The most important proffer is to reduce the minimum square footage of the homes to enable the sale of the lots to builders. It has been difficult to sell the lots to builders for building "spec" homes with the current 2800 square footage requirement. Contracts with builders are pending, if the square footage can be decreased to 2500. The elimination of street trees that were originally going to be planted is also being requested. VDOT has a 50' right-of-way with 13' to each side of the curb. There is a 15' utility easement at the edge of their right-of-way where the 3' sidewalks will be installed. It will be impossible to plant trees because of VDOT's 50' right-of-way and the utility companies' easements. VDOT and the utility companies have asked that trees not be planted within their right-of-way. With the engineered septic systems, it puts the houses to a point on the lots where there is only 35 to 50 feet of front yard so if we're required to continue with that particular proffer, the trees would practically be in the living rooms. Sidewalks have continued to be bonded. Since VDOT is requiring 7" of concrete from the curb to the inside of the sidewalk at each driveway location, we think it is easier not to install the sidewalks as part of the road construction process since we don't know where the driveways are going to be. If we have sidewalks poured that are less than 7" then the builders will have to rip out the old sidewalk where the driveway is going to be and install the 7" depth concrete apron at each driveway. Since each house and garage plan may be different and we have no idea what will be built where on each lot, we want to wait until each house is built to install the sidewalks. If not, we're going to have to pour a mile of sidewalk that is 7" thick and that is not economically feasible. Those are the three proffers that we're requesting to change.

Mr. Raike further stated the County has provided a checklist of items over the years to complete that we have basically completed. The checklist items that the County has asked for involved putting control valves into our pond and redoing the spillway on our pond. We've put several storm drainage pipes in various areas of the project that lead down to Kennedy Creek. We've also raised and lowered many of the fire hydrants. We've landscaped and excavated behind drop inlets and at this point we are getting ready to finish up the last few items. I have an excavator that is going to remove two drop inlets tomorrow and remove a piece of pipe and put in a ditch that the County is requesting us to do. Other than that, basically everything that VDOT has requested is done other than a few pieces of paper. He indicated he is waiting on the bonding company to provide a bond which should be done in the next few days. He further stated he is basically ready to complete the project and move on. He has pending contracts from builders if they can build a little bit smaller houses. He concluded by saying it would be beneficial to the County and to him to be able to sell lots and get people living in the subdivision and paying taxes.

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

Mr. Dwayne Turner, owner of Turner Turn Key Homes stated he owns four lots in the subdivision and two lots under contingency. He came into the subdivision because the expectations were that the square footage of the homes would be lowered between 2200 and 2500 square feet. A 2500 square foot house will have a \$400,000 sales price, which is still high in today's market. He was hoping the square footage would be lower than the 2800 square feet.

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

Mr. Bridge asked Mr. Raike what the plan is on the three lots that Mr. Raike does not represent as far as carrying out the previous proffers.

Mr. Raike stated he does not know. I assume the owner will sell the lots and then we can resolve the issues. At the time we request VDOT approval of Jacobs Lane, which they are not accepting with the rest of the streets, I would assume at that point we would be able to resolve the issues with them. The only issues on those three lots are just the trees. The utility companies or VDOT would not want us to plant trees on top of their right-of-ways and I don't know whether the size of those lots is going to require the house to sit back far enough to still plant trees. We plant trees as a matter of landscaping anyway in the front yards of homes we build on spec. In this case some of the lots you can't put trees on because of where the house is going to sit. We have actually worked with that owner as much as we possibly can. I don't know why they haven't built on their lots. They've never submitted plans and hopefully whatever issues we have to work out, we can get worked out eventually. As of right now I'm assuming that we'll bring those lots into compliance when we do Jacobs Lane. Two of the lots Mr. Turner is buying are on Jacobs Lane.

Mr. Bridge asked Mrs. Earhart if the existing proffers transfer to the three lots as it is written.

Mrs. Earhart stated the three lots will remain subject to the original proffers which clearly state that the sidewalks and street trees will be done by the developer. They will have to be done in order to meet the zoning requirements and to avoid having a zoning violation.

Mr. Raike indicated he has no issues with the sidewalks. We're going to lay sidewalks which is one of the proffers and if it means planting a couple of trees, that is fine too. Whoever he sells those lots to if they want to build a 2800 square foot house instead of a 2500 square foot house, that's fine with me. I probably won't build any 2500 square foot houses. I'm basically trying to get this proffer amended so we can sell lots to other builders.

Mr. Shipplett asked if every house has a sidewalk in front of it.

Mr. Raike replied the ones that we've built have sidewalks except for one on lot 12 that Mr. Sours built himself when we first started the project. We haven't put a sidewalk in front of his house yet, but sidewalks are slated to be put in on that entire side of the

street this summer. We hope to put sidewalks on the entire west side of Jaspers Lane all the way to the clubhouse this summer.

Mrs. Shiflett referred to drawings provided by the County Engineer. One of the drawings is a VDOT drawing that shows trees in VDOT's right-of-way. This would indicate a conflict with Mr. Raike's previous statement that VDOT will not let him plant trees in their right-of-way.

Mr. Fitzgerald referred to the VDOT standard sheet which was given to the Commissioners. According to the VDOT manual, VDOT will allow the trees to be between the curb and sidewalk.

Mr. Raike stated it was part of the original proffers, however, the water lines are in the VDOT right-of-way.

Mr. Fitzgerald stated the water lines are on the western side of the road. On the right hand side going into the subdivision, there is room between the curb and sidewalk to plant trees.

Mr. Raike indicated he could plant trees in there but the residents don't want trees because of the view of the mountains.

Mr. Fitzgerald said VDOT would allow trees to be there based on their standard.

Mr. Raike agreed and stated potentially on the side of the street where there is no water line we could plant trees.

Mr. Fitzgerald stated the original plan had the trees pushed back beyond the sidewalk which could be an issue. The trees could be brought in between the curb and sidewalks because of the 10' grassy area. Theoretically, trees could be planted there because there are no utilities in that strip.

Mr. Raike reiterated the water line is under there and the Service Authority confirmed with us that they prefer we didn't plant trees on that side of the road.

Mr. Fitzgerald confirmed again that the water line is on the left hand side going in and that there is nothing in the strip on the right hand side between the curb and the edge of the right-of-way.

Mr. Raike stated the water lines run underneath the roads and they run to the other side of the road and hook into meter boxes. I don't know exactly where trees would fall every 75 feet, but in addition, on the other side of the street we have all the electric lines as well.

Mr. Fitzgerald stated he was unaware of where the electric lines were.

Mr. Raike stated the biggest issue with the trees was the fact that on some of the lots, if we planted them outside of the right-of-way, it would be right up in someone's living room because of where the houses have to sit.

Mr. Leonard asked for confirmation from Mr. Raike that the remaining work needing to be done on Jaspers Lane could be done in a short period of time so VDOT can take over the road. He asked how long before the work is complete.

Mr. Raike replied he hopes to have everything approved within a week to ten days. We are waiting on the bond company right now. We met with two representatives from VDOT today. My excavator has already paved the turnaround spot they requested. We have to put up a few signs at the end of the cul-de-sac that say End of Road and No Parking. When they paved the cul-de-sac they were going to pave another patch in the deceleration lane. They forgot to do that so they are going back to do that and scratch up a small area right next to the boulevard entrance that is a low spot. Other than that, there is an application for the sprinkler system at the entrance. Basically I have all the paperwork and everything ready to go, but I was told I needed to present it all at one time. All the as-builts have been done by the engineer and supplied to the County. I think we still have to get a digital copy of the as-builts as well.

Mr. Leonard asked if this was information that needed to be presented to VDOT.

Mr. Raike stated yes, Mr. Shy requested that I present everything at one time in one package. I only have a few items left including the bond. There was a question about the bond company being incorporated in Virginia which held us up a couple of weeks trying to get an answer on that. We went ahead and purchased a bond in the amount of 36,000 that they asked for. Something changed and we didn't need a \$36,000 one we needed \$24,000, so hopefully I'll have that in the next day or two and I've got all the checks cut, the \$1,800 maintenance fee and the \$2,000 administrative fee and we're basically ready to turn the streets over.

Mr. Bridge asked for confirmation from Staff that the streets are really that close to being turned over to VDOT.

Mrs. Earhart stated there are easements that have to be done and legal work that has to be done. The streets do not necessarily have to be in the system, but everything needs to be ready to go. It is not being suggested to Mr. Raike that the Commonwealth Transportation Board has to take their final action. There are a good many punchlist items that need to be completed, but none of them should take too long, however, there are some things that are out of Mr. Raike's control, like lining up people to do the work.

Mr. Raike explained he talked to Mr. Lotts about the easements on the drawings and he said it wouldn't take him but a day or two to fix that. There are three small easements that have to do with water easements where they ran a couple pieces of storm pipe and instead of being in the actual easement shown on the drawings, they were out of the easement a few feet, so we have to prepare an easement document for that.

Mr. Shipplett stated he hopes the streets would be done very soon but he is concerned about proffer #8 which states: "3' concrete sidewalks on both sides of the streets shall be built by the developer during the road construction process and maintained by the Homeowners or Property Owners Association." What guarantee is there that the sidewalks will be completed?

Mr. Raike replied he intends to keep them bonded, which we've done continually. I intend to put the sidewalk on the west side of Jaspers Lane by the end of this summer. Obviously we haven't sold a lot of houses over there, so as money permits we'll continue to do improvements.

Mr. Shipplett asked for confirmation that there are already signed contracts on some of the lots.

Mr. Raike responded he has signed contracts from Mr. Turner for two more lots and we have a verbal commitment from someone else that is building 2500 square foot houses in the area and he has committed to building here. If he comes into the project he could potentially build on all the lots. The handicap ramps I recently installed at all the intersections. VDOT actually told us as far as they were concerned we could go around through there and put gravel between the handicapped ramps but that's not the plan. The plan is to put the sidewalks in.

Mr. Foschini stated that due to a conflict of interest he would not be participating in the discussion of this request.

Mr. Curd asked if the owner of the three lots that are not part of this request was contacted and asked to join in the request.

Mr. Raike indicated he was contacted.

Mr. Curd asked the reason the owner of the three lots did not want to join in this request.

Mr. Raike stated he doesn't think he has any intentions of building in the project. He originally owed his water availability fees, which he never paid. When the homeowner's assessment was put into effect last year, he filed a lawsuit against me to try to avoid paying that and we just don't have a great relationship. As far as I know he just wants to sell his lots and be gone. I think Mr. Turner would be able to answer that question better than me. I don't know him personally. I've only met him one time.

Mr. Shipplett asked if Mr. Turner could answer the question.

Mr. Turner stated he did not have any more information than what had been given by Mr. Raike.

Mr. Leonard asked if the other owner at one time owned more than three lots.

Mr. Raike replied he owned six lots at one time. They sold three recently and still have three. I actually gave them the blueprints for houses we build. They would never submit blueprint drawings to be approved. They absolutely don't want anything to do with the homeowner's association, which by the way was formed in 2005, so there has been a homeowner's association in existence for many, many years. One of the proffers mentions there is to be a homeowner's association approved by the County. It has actually been in existence for ten years now.

Mr. Shipplett stated he is concerned about the three lots having one set of rules and the other lots have a different set of rules.

Mr. Raike stated he agreed. I would certainly prefer that Mr. Loudermilk participate in what we are trying to accomplish over there.

Mr. Bridge stated he is concerned about the length of time it has taken for the items on VDOT's checklist to be accomplished and for the road system to be put in. It seems the roads should be ready to be turned over to VDOT by now.

Mr. Raike stated he had never done a development project like this and was never aware of any kind of timeframe or anything on developing. Once it became an issue with the County, we began working on checklist items that they wanted us to complete and for almost four years we've continued to do checklist after checklist of items they've wanted us to complete and it has cost us tens of thousands of dollars.

Mr. Bridge stated the two concerns he has are the three lots that are not part of the proffers and the road system not being completed.

Mr. Curd said he agreed with the reduction in the square footage of the homes and he does not have any real concerns regarding the placement of trees. He is concerned about the streets not being finished and about the three lots that are not part of the request. The homeowner's association will be responsible for maintaining the trees on those three lots. Everyone should be under the same requirements.

Mr. Leonard asked if the three lots were sold, would the new property owner come in and apply for another change in the proffers just for the three lots.

Mrs. Earhart stated if the new lot owners wanted to apply for a change in the proffers, they could make that request but they would not be required to. They could remain subject to the existing proffers.

Mrs. Shiflett stated she does not have any issue with reducing the square footage of the homes. The sidewalks and street trees are not ideal. The completion of the road is a real issue. The general policy is to have everything completed before sending it on to the Board of Supervisors. It is also not the policy to rezone portions of a project and this is only a portion until the three lots are incorporated.

Mr. Bridge moved to table the request indefinitely until the issue with the three lots is resolved and the VDOT checklist is completed and the roads are ready to be taken into the VDOT system.

Mr. Leonard seconded the motion, which carried 6-0 with Mr. Foschini abstaining.

* * * * *

OLD BUSINESS

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. Shiflett moved to remove this request from the table.

Mr. Bridge seconded the motion, which passed unanimously.

Mrs. Earhart explained the request as presented on PowerPoint and reviewed the revised proffers.

Mr. Roger Bain, oldest of the five Bain siblings, stated as requested by the Commission at the June hearing, new proffers have been submitted. The most significant proffer is to submit a preliminary plat in accordance with the concept plan, which has been provided to the Commissioners. This should help alleviate concerns raised by the statute the Virginia Legislature passed regarding subdivisions with less than 50 lots. They concur with the Staff recommendations and he asked that the request be recommended.

Mr. Shipplett thanked Mr. Bain for providing the new proffers for consideration.

There being no further questions or comments from the Commissioners, Mr. Cole reopened the Public Hearing.

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

Mrs. Shiflett thanked Mr. Bain for providing the revised proffers and stated they addressed the Commissioners’ previous concerns. She moved to recommend approval of the request with the revised proffers.

Mr. Shipplett seconded the motion, which carried unanimously.

* * * * *

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.

14-44 Doris Wright

The Planning Commission expressed concern about the amount of outdoor storage at this location and the appearance of the site. Mr. Leonard moved to encourage the BZA to consider the location of the storage area and recommended that all outdoor storage be confined to the paved area in the front of the business.

Mrs. Shiflett seconded the motion, which passed 6-1 with Mr. Foschini opposed.

* * * * *

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

* * * * *

Chairman

Secretary