

AT A MEETING OF THE MIDDLESEX COUNTY BOARD OF SUPERVISORS
HELD ON TUESDAY, APRIL 20, 2004 IN THE BOARD ROOM OF THE
WOODWARD BUILDING, SALUDA, VIRGINIA:

Present: Lenora O. Weber, Saluda District
Wayne Jessie, Sr., Jamaica District
Fred S. Crittenden, Pinetop District
John D. Miller, Jr., Saluda District
Kenneth W. Williams, Pinetop District

Charles M. Culley, Jr., County Administrator
Michael T. Soberick, County Attorney

CALL TO ORDER

Mrs. Weber called the meeting to order at 7:30 P.M. Mr. Jessie opened with a prayer and Mr. Culley led in the Pledge.

RECESS AND RECONVENE

The motion to recess the meeting and move to the Courtroom due to the large number of people present was made by Mr. Miller, seconded by Mr. Jessie and carried unanimously. Mrs. Weber reconvened the meeting in the Courtroom.

PUBLIC HEARING – REZONING APPLICATION 2004-02, HERSEY MASON, JR.

Planning Director Matthew Higgins presented this application for rezoning, to rezone a 28.9 portion of a 61.64-acre tract from Low Density Rural to Village Community. A similar application, to rezone the entire portion from Low Density Rural to General Business was heard by the Board of Supervisors on October 29, 2001, with action tabled by the Board. The applicant officially withdrew that application on August 6, 2002. This new application requests a rezoning of the road front, leaving the rear of the property zoned Low Density Rural. The Applicant has also submitted proffers.

Mr. Higgins presented the following issues of the Comprehensive Plan that were concerns with the initial application submitted in 2001 that have not been resolved: Strip development- expansion in the Locust Hill area should be consistent with farmstead-like criteria, focusing commercial development in existing town-like and hamlet-like development areas such as Deltaville, Hartfield and Saluda. Other farm like settlements such as Hardyville and Harmony Village, along with Locust Hill, should remain separate communities along Route 33 and noncommercial zoning must be maintained between them. Without the interruption, the road will gradually fall to strip development. Therefore, any proposed rezoning should ensure that any commercial development is (a) in character with the existing development of the area; and (b) not high-intensity in nature (i.e. high traffic impact). This should be established with

proffers. Access Management should be restricted and should match up with established turning lanes on State Route 33. Buffering should be formally established in an approved set of proffers. Proffered limitations on types of permitted uses should be established prior to the development of this parcel.

The Planning Commission recommended approval of the Rezoning application with the proffers submitted on April 5, 2004.

Mrs. Weber opened the hearing for comments from the public. There being no comments, the hearing was closed. Mr. Miller commented that this application had a much better plan than the previous version. The motion to approve the application for rezoning with the following proffers as submitted by the applicant was made by Mr. Miller, seconded by Mr. Jessie and carried unanimously:

1. Owner will provide a 50' buffer at each end of the property where no buildings will be allowed.
2. No Residential use on the Village Community portion of this rezoning.
3. Repair garages and/or service stations will not be allowed.
4. All access roads to be approved by VDOT prior to submission of site plans.

PUBLIC HEARING – SPECIAL EXCEPTION #2004-01, FISHING BAY YACHT CLUB

Mr. Higgins presented the application for Fishing Bay Yacht Club (FBYC) to expand their operation onto an adjoining parcel that is 2.12 acres in size, and zoned Residential; yacht clubs are allowed by special exception in a Residential Zone. The Yacht Club has operated in this location since 1949, and the club has continued their expansion in the current location throughout the past few decades. Traffic and noise have impacted the neighborhood during high volume events, but minimal noise impact during normal operations. Mr. Higgins suggested that if the use is permitted, then the scale of the operation needs to be limited as to curb increased negative impacts, and suggested that a reasonable solution would be to limit the current member membership of the club. In this manner, the club, through the special exception, could have room for additional boat storage, parking and structures, but could not expand the number of persons (as well as their cars and boats) utilizing the club.

The Planning Commission, following a lengthy public hearing, voted 8-2 to recommend approval of the application with the following conditions:

1. Fishing Bay Yacht Club (FBYC) will establish a "Community Advisory Board" with 3 Co-Chairmen:
 - a. Two appointees of FBYC, usually the Past Commodore,
 - b. Two representatives of the Stove Point Improvement Association (SPIA), usually the Past Present, and
 - c. Two representatives of the residents of Fishing Bay Road who live between Ruarks and FBYCAnd such other members as the Co-Chairmen appoint. The function of the Community Advisory Board is to facilitate communication between FBYC and its neighbors and to discuss and resolve issues involving the FBYC neighborhood, including without limitation, road use and maintenance,

noise, lighting, and event scheduling. The FBYC flag officers will meet with the committee upon request at least annually and as often as reasonably requested.

2. FBYC shall establish a mutual fence or a landscape buffer between the subject property and all direct abutters. The buffer must be mutually agreeable to FBYC and the abutter prior to the construction of the buffer.
3. All new on-site lighting shall be designed to prevent light spillage onto adjacent roadways and properties not owned by the FBYC. All on-site outdoor yard or parking lot lighting shall have shielded fixtures designed to direct light downward and shield adjacent properties. The spillover of lighting shall not exceed one-half (1/2) foot candle. A spillover shall be measured horizontally and vertically at the property line.
4. FBYC will not permit camping on the subject property except for temporary overnight camping during multiple day regattas and events. FBYC will not provide any sewer hookups or pads for motor homes, nor will it permit permanent camping of any type on its property.
5. FBYC will notify all direct abutters and the SPIA of the dates of all events where more than 200 persons will be present on the site. FBYC will terminate all outdoor music by 11 PM, and will terminate all outdoor activities by 12AM.
6. FBYC will not locate its main clubhouse on the subject property, and may only locate accessory structures on the subject property.
7. The membership of FBYC shall be capped at 350 family memberships.
8. Parking for all FBYC events shall be provided on-site with off-street parking or at satellite parking areas. No on-street parking shall be permitted.

Mrs. Weber opened the public hearing for comments and instructed the audience on the limits of time for speaking.

Lud Kimbrough, III – expressed concern for the cap recommended by the Planning Commission – no place in a land use decision. FBYC has been located on the same site since 1949. The group is working with a volunteer land use planner in an effort to get cars and boats off the road. This project has the support of a majority of neighbors.

Tom Hawksworth – more traffic to be created and more potential for accidents; found a majority of homeowners to be opposed. Requested approval of all restrictions.

Pam Strotmeyer – 10-15 minute wait to get past the yacht club because traffic is single lane; a rescue vehicle would have a difficult time.

John England – speaking as Planning Commission Chairman, is opposed to approval; will be difficult to enforce. The FBYC has outgrown its current location. Requested denial of the application to self-limit the use; continue off-site location of volume events.

Bob Strotmeyer – do not know the impact that more traffic will create. One house nearby is used by people with mental health disabilities who have to cope with increased traffic – one person crosses the road on his elbows.

Strother Scott – financial advisor – the adjoining land that has been purchased will increase the parking ability by 65%; adjoining property owners did not request a buffer,

however, FBYC was willing to have one installed; no new slips are requested; a grass ramp for children will be installed on the new piece, along with moving the junior building. The FBYC has had the same number of members for the past 15 years.

Ed Ruark – there are 85 homes that use the 16 foot right of way along with an 80 slip marina. The rescue squad cannot access the people that may need their services; the yacht club has had as many as 1200 people attend an event weekend. The yacht club has only picked up trash once on the beach near his house.

Silvia Hall – lived on site since 1942; the yacht club members do not seem to understand that she owns the road and pays taxes on it; the yacht club just has a right of way over it; vote against membership being increased.

Noel Kennard – owner at Jackson Creek Condominiums commented that 13 of 26 owners are members of FBYC. The economic benefit spreads out to more than just the immediate area; events are scheduled for different weekends to help spread out the impact.

Bob Walker – wants to join; membership will limit itself; the benefits are immeasurable and do not tax local services; controlled growth is necessary, but unfair for private clubs to have to limit their membership.

Bev Crump – member of both the FBYC and SPIA; proponent of buying additional land for parking; over 100 family membership where no one attends; limited membership may increase the use and may not fix the problems.

Carolyn Schmalenberger – FBYC has already made many concessions; Leukemia Cup Regatta, sponsored by FBYC raised \$125,000 last year; FBYC has moved big events to the firehouse; contributions are throughout the County and not just commercial benefits, but as volunteers.

James Ward – being able to expand onto the adjoining property will help some of the problems with the existing road; hoped the implication was not that a FBYC member would not slow down on the road for those with handicaps; opposed John England speaking as Planning Commission Chairman; only one special exception criteria listed for yacht clubs; do not believe the Planning Commission can place conditions on an application, although the Board of Supervisors can; do not believe the Board of Supervisors can impose a cap in membership, just like you cannot control memberships in churches or clubs; requested continuation to allow the committee to get together to work on issues.

Mike Hurd – this application expands non-conforming use into a Residential area – this is a privilege, not a right; economic benefit in the community is not issue; an increase in membership increases sailors, increases everything; the SPIA has also made concessions; requested curtailing activities so the traffic does not grow – this will limit traffic.

Mike Carne – the FBYC has not opposed additions to people’s houses on Stove Point, which adds people and traffic; the most people that have attended on a weekend are between 300-350.

There being no further comments, Mrs. Weber closed the public portion of the hearing. Mrs. Weber questioned the County Attorney regarding the Board setting a cap on membership. According to Mr. Soberick, the issue is suitability of the land and road, not membership numbers; the Board cannot set a cap.

Mr. Crittenden agreed that the issue was the traffic and that it was a good idea for the joint committee to address road issues. The FBYC has said that the additional land will help with people trying to get past the property to get to their homes. Mr. Crittenden encouraged more communication. Mr. Crittenden suggested that the FBYC should show the people that they appreciate use of the road by picking up trash all the way to the end. Mr. Crittenden suggested tabling the matter until no later than the night meeting in June.

Mr. Williams commented that the County boasts about tourism and the low tax rate, but what worked in 1949, does not necessarily work in the present. Mr. Jessie and Mr. Miller commented that somewhere there is a solution, but a cap in the membership is not it.

The motion to table a decision until no later than June 15, 2004, was made by Mr. Crittenden, seconded by Mr. Williams and carried unanimously. If the new committee is able to bring forward a resolution before then, then the request can be made for the Board to take action before then. There will be no other public comment. The Committee can report to staff; staff reports to the Board. Mr. Soberick indicated he would be open to any information regarding setting a cap.

SPECIAL EXCEPTION #2004-02, BAY AGING APARTMENTS MIDDLESEX, INC.

Mr. Higgins presented a request from Bay Aging Apartments Middlesex, Inc., for approval of a special exception request for multi-family dwelling for supportive housing for the elderly to be located on a portion of Tax Map 19-205, a 4.079 acre property zoned General Business. There are special requirements of Section 8-4.4 of the Zoning Ordinance that must be met, which the proposed development, as shown on the conceptual site plan submitted, meet the majority of. All buildings must be 50’ from side and rear property lines; this item must be revised in the major site plan submitted for the development. Staff also recommended some form of vegetative screening be established to buffer the proposed residential uses from the commercial uses in front of the development. The Planning Commission voted unanimously in favor of the plan.

Mrs. Weber opened the hearing for comments from the public. Kathy Vestly Massey commented that Bay Aging had received no objections to the proposal. There being no further comment, the public portion of the hearing was closed.

The motion to approve the Special Exception application with the following requirements was made by Mr. Miller, seconded by Mr. Williams and carried unanimously:

1. All structures shall be no closer than fifty (50') feet to any side or rear property line.
2. A vegetative buffer shall be established between the proposed use and the commercial uses in front of the development.

SPECIAL EXCEPTION #2004-03, STANLEY AND ROSIE WILLIAMS

Mr. Higgins presented the request for approval of a special exception for the location of more than one (1) principal residential structure on an individual parcel of land for an immediate family member. This property is located at Tax Map 13-67, a 1.905-acre parcel zoned Low Density Rural that currently has a single family dwelling and accessory structure on it. The applicants, parents of the property owner, desire to install a manufactured home on the property. Mr. Higgins noted that the property is in violation of sections of the Zoning Ordinance, as the proposed manufactured home has already been placed on the lot prior to obtaining special exception approval from the Board of Supervisors and a Zoning Permit from the Planning Department.

Mrs. Weber opened the hearing for comments from the public. There being no comments, the public portion of the hearing was closed. The motion to approve the Special Exception, with the mandated conditions of Section 15-20 of the Zoning Ordinance, as follows, plus application for all applicable "after-the-fact" Building and Zoning Permits, was made by Mr. Jessie, seconded by Mr. Crittenden and carried unanimously:

1. The Health Department shall approve a permit for a new septic system or connection to an existing septic system prior to obtaining a Zoning and Building Permit.
2. The manufactured home shall be removed from the property within ninety -(90) days of the discontinuance of use by the parents of the property owner.

SPECIAL EXCEPTION #2004-04, HERMAN ROGERS

Mr. Higgins presented the request for approval of a special exception application for a retail store/shop and repair garage to operate at Tax Map 37-1, a property .69 acres in size, zoned Village Community. Retail sales are a permitted use in this zone, however, the repair garage requires a special exception approval.

The owner has agreed to have the business closed on Sundays so as to limit the impact on the adjoining property owner, Harmony Grove Church, however, Mr. Higgins listed his concerns, specifically the potential noise, odors, traffic, and outside storage of materials or merchandise related to the repair garage, and its impact on the church. The Zoning Ordinance already places restrictions on the display of materials

or merchandise for retail use; however, the Board of Supervisors has the ability to place restrictions on the repair garage portion of the application.

Mrs. Weber opened the hearing for comments from the public. Mr. Herman Rogers noted he agreed with the conditions presented. It was noted that the limiting hours was only for the repair garage portion of the application. There being no further comment, the public portion of the hearing was closed.

The motion to approve the special exception application with the following conditions was made by Mr. Miller, seconded by Mr. Jessie and carried unanimously:

1. No outdoor display or storage of materials or merchandise related to the motorcycle sales and repair garage is permitted. All motorcycle sales and repair garage operations shall be conducted within a completely enclosed building. No dismantled, partly dismantled or wrecked motorcycles shall be located or parked outside of an enclosed building.
2. The applicant shall have no operations on Sunday or between 7PM and 7AM on weekdays/Saturdays.
3. All junk and inoperable motor vehicles shall be removed from the site prior to any business activities commencing.
4. All trucking business operations shall be separated from the motorcycle sales and repair operations and shall be screened via vegetation and fencing.
5. The applicant shall obtain any permits required by the Virginia Department of Transportation (VDOT) related to change of use of the property prior to any business activities commencing.

ORDINANCE AMENDMENT #2004-03

There was no public hearing on the above application. The Planning Commission had voted unanimously to continue action on the proposed amendments so that staff and the Commission's Zoning Ordinance subcommittee could incorporate comments from the public.

DISBURSEMENTS

The motion to approve disbursements dated April 19, 2004, was made by Mr. Crittenden, seconded by Mr. Miller and carried unanimously. Checks numbered 48277 through 48295 totaling \$22556.41 were disbursed as approved. Board members requested a report on the number and balance remaining for leased vehicles used by the Sheriff's Department.

APPOINTMENT

The motion to recommend Mr. John McKone for appointment to the Board of Zoning Appeals, to replace Mr. William Harris, whose term expires April 30, 2004, was made by Mr. Crittenden, seconded by Mr. Jessie and carried unanimously.

OLD BUSINESS

Voting Machines: Mr. Culley expressed his reservations with purchasing voting machines now rather than waiting until next year. He expressed his concerns with storage, changing technology and funding actually coming from the federal government to pay for the machines. Mrs. Weber requested that Mr. Culley meet with the Electoral Board. There was no action taken on the request at this time.

Sludge: Mr. Williams requested that the Board of Supervisors do whatever is necessary to make the approval process for biosolids application as complicated as possible. Because localities are not allowed to refuse the application, the Board of Supervisors can only require that County hired personnel do additional testing.

ADJOURN

There being no further business, the motion to adjourn the meeting until the advertised public hearing on the tax rate, on April 27, 2004, was made by Mr. Williams, seconded by Mr. Miller and carried unanimously.

Lenora O. Weber, Chair
Board of Supervisors