

AT A MEETING OF THE MIDDLESEX COUNTY BOARD OF SUPERVISORS
HELD ON TUESDAY, APRIL 19, 2005, IN THE BOARD ROOM OF THE
WOODWARD BUILDING, SALUDA, VIRGINIA:

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

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

CALL TO ORDER

Mr. Crittenden called the meeting to order at 7:30 P.M. and Mr. Jessie gave a prayer. Mr. Culley led the group in the Pledge of Allegiance. Because of the larger crowd expected for several of the hearings, the meeting was recessed and moved to the Courtroom.

**PUBLIC HEARING – REZONING APPLICATION 2005-01, JAMES T. CRITTENDEN,
IV**

Planning Director, Matthew Higgins, presented the application, a request from Tyler Crittenden to rezone Tax Map 40-305A, a 1.34 acre parcel from Residential (R) to Low Density Rural (LDR) to allow placement of a manufactured home on the property. This property is in an area with both LDR and R properties surrounding. The property is less than the minimum required to be a LDR lot, but according to Mr. Higgins, this is less of an issue than the visual impact that could be created. The property is located 385 feet from the access road (Providence Road) and any placement of the mobile home would not be visible from the highway. The visual impact and obtrusiveness of the rezoning and eventual placement of a manufactured home would be minimal. The proposed use would be a low-density residential situation, increasing the minimum lot size from 10,000 – 30,000 square feet in a R zone to 2.5 acres of the LDR zoning district. If rezoned, subdivision of the lot would not be allowed, as the rezoning would create a non-conforming lot size. The Planning Commission recommended denial of the application, as the lot created would be non-conforming in size. No proffers have been submitted with the application.

Mr. Crittenden opened the public hearing for comments. The applicant, Mr. Crittenden, commented that he owns other property zoned LDR where the manufactured home could be placed, however he did not want to put any more on the hard surfaced road. He suggested that he would be willing to trade zoning rights of property on the road.

- Preston Philyaw commented that volunteers had been trying to improve the area by mowing and picking up trash. They did not want to encourage transient residences in the area.
- Gordon White commented that the residents are slowly upgrading the area and oppose downzoning.
- Jerry Lester, representing the Bland Point Homeowners Associated, opposed the request.
- Franklin South – opposed.
- Art Smith presented a petition with 104 signatures opposing the request. Requested that the parcels be kept as they are; adjoining property owners are opposed.
- J. T. Norris – does not want to see property go down in value; this would be a step backwards. Manufactured homes are fine in parks and on properties zoned for it. This application has the potential to be an eye-sore and nuisance. Suggested that the applicant put the home on property near his own to keep an eye on it and make sure that it will be maintained.
- Al Wild – this application lowers the bar and is less desirable than what is already there. Consider upgrading the zoning on other properties along the road.

There being no further comments, the public portion of the hearing was closed. Mrs. Weber reported that she was opposed to this application, and the Board has never down-zoned or spot zoned property. Mr. Miller noted that the request does not meet the minimum acreage requirement and would create an island of LDR in a R zone. Mr. Williams and Mr. Jessie both commented that the request does not fit, does not meet the requirements and would be spot zoning. The motion to deny the request was made by Mrs. Weber, seconded by Mr. Miller and carried by vote of 4-0, with Mr. Crittenden abstaining.

ORDINANCE AMENDMENT 2005-02, RURAL PLANNED COMMUNITY DISTRICT

Mr. Higgins presented an ordinance amendment to amend the Middlesex County Zoning Ordinance by adding Article 9B, Rural Planned Community (RPC), as directed by the Board of Supervisors at their meeting on November 16, 2004. This ordinance would establish a district to encourage innovative and creative design on large parcels located in rural settings within the County. This would provide open space, allow a variety of housing types in an orderly relationship to each other and to surrounding neighborhoods to prevent sprawl development; promote high standards in the layout, design and construction of residential development; and implement the goals and objectives of the Comprehensive Plan. The proposed ordinance would ultimately achieve the following smart growth principles: clustering of development, lower fiscal impact, preserve the working landscape, preserve environmental quality,

mix land uses, create walkable communities, create distinctive communities with a sense of place and variation in housing types. A summary of the district requirements are as follows:

Minimum district requirements	75 acres
Commercial uses	Permitted – not required
Residential density	1.0 – 1.4 dwelling units per acre. This is a lower density than VC, R or CD districts
Minimum Open Space	40%
Setbacks	100 feet from all project boundaries; no internal setbacks required
Development Requirements	Pedestrian facilities; underground utilities
Submission Requirements	Master Plan; community impact statement; traffic impact statement

Mr. Higgins noted that the requirement for the master plan of development is a great proffer that allows the Planning Commission and Board to see the entire project. Increases in density may be considered on a case-by-case basis for large-tract development projects and may be permitted where open spaces are permanently incorporated into the development. This is not to be confused with the separate requirement to preserve and protect those areas possessing significant and sensitive historic, scenic and natural resources, but could be seen as an inducement to preserve a rural element in the project theme and add amenity value as well as safe refuges for natural resources warranting protection.

Of principal concern to Mr. Higgins is that there may not be enough incentives for a developer to apply for this zoning district. Submission requirements and standards for development are significantly higher for rezoning into the proposed RPC district than they are for existing residential zoning districts. In order to correct this issue, Mr. Higgins recommends that the Planning Commission consider increasing the amount of density bonus offered for increases in open space provided and that the Planning Commission also pursue other available tools to prevent sprawl development and promote smart growth.

A sub-committee of citizens, Planning Commission members and Board members worked through nine meetings to prepare this document. At the eighth meeting, Janet Smith presented an alternative version of the RPC as prepared by the Concerned Citizens of Middlesex. Some of the concepts within that document were addressed in the version presented to the full Planning Commission. At their meeting on March 10th, the Planning Commission voted to recommend approval of the document by a vote of 7-3 (Commissioners Dunlevy, Hensley and Weber opposed).

Mr. Crittenden opened the hearing for comments from the public:

- Hazel Lawton – worked on the sub-committee and believes it to be a good plan, however believes that the Capital Improvement Plan needs to be in place before the RPC is adopted.
- Daniel Downs – also recommended approval of the plan, but after the Capital Improvement Plan is adopted.
- John England – urged adoption; it is a tool that is needed. With work on this amendment, the sub-committee realized the impact of future growth and saw deficiencies in the current ordinance; it needs work. The Board should plan for growth with the aid of the Planning Commission.
- Janet Smith – spoke on behalf of the Concerned Citizens of Middlesex – cautioned the Board of Supervisors not to do things rapidly and noted that the proposed document leaves the County with lots of things to look at. There are tough decisions to be made on how the Board wants the County to look and ordinances must be developed to be flexible, yet stringent. The revised ordinance amendment that was created by herself and the Cottrell's was created to better address development over ten years; she would like to further develop the proposal and have public hearings on it. Ms. Smith also would like to have the Capital Improvement Plan in place before the amendment is adopted.

There being no further comments from the public, the Board made the following comments:

Mr. Miller commented that he appreciated the effort of staff, the Planning Commission and citizens. He noted that the proposed amendment gave developers the option for installing water and sewer systems and added that this would be a major problem and the County should insist that systems be provided. Mr. Miller also questioned the need for a safe distance between buildings for fire service vehicles.

Mr. Williams questioned when the Capital Improvements Plan would be ready. Mr. Higgins stated that departments are to submit requests by the end of the month; a draft plan should be coming to the Board of Supervisors by the end of May. Mr. Williams commented that the Concerned Citizens group had done a lot of work that needed to be incorporated into the document. He also believed that 40 acres should be the minimum acreage required.

Mr. Jessie agreed that he did not believe the amendment was ready to adopt.

Mrs. Weber commented that it was good that opposing groups could get together with a solution not that far apart. She indicated that she also had a problem with water and sewer being optional and believed that 40 acres should be a minimum. In addition, she believed that any major subdivision should come under the RPC District so that a master plan can be done.

Mr. Crittenden stated that the Planning Commission has not had time to consider the proposal submitted by the Concerned Citizens as it was submitted at the next to last meeting of the Sub-Committee.

Mr. Higgins commented that the Sub-Committee had incorporated some of the ideas within the Concerned Citizens Proposal, but left out others. Water and sewer had been issues that were debated at all meetings. Also, there was much debate regarding density.

Mr. Miller made a motion to deny the proposal as presented and suggested the sub-committee continue its work at a slower pace. Mr. Williams and Mrs. Weber suggested that the sub-committee continue its work and come back with revisions without letting it die. Mr. Miller withdrew his motion. No action was taken at this time; Mr. Soberick suggested that the sub-committee could come back with a list of possible revisions.

SPECIAL EXCEPTION 2005-02, CONTRACTOR'S FACILITY

Mr. Higgins presented a request for special exception application submitted by Haskel White who desired to establish a contractor facility on vacant land at Tax Map 8-37A, zoned Low Density Rural, in the Water View area. This lot is surrounded by several single-family dwellings and some vacant land. The applicant has proposed that the site be utilized primarily for the storage of contractor-related equipment, as well as trucks, recreational equipment, camping trailers and boats. A 30' x 60' building for the business is also proposed for the site.

Mr. Higgins presented his concern regarding the impact of such a facility on surrounding land uses. The storage of vehicles and equipment may have a negative impact on surrounding properties via noise, smoke, fumes, odors and other disturbances. Without proper buffering and screening, the site may also have a negative visual impact on surrounding properties that would not be harmonious with the character of the general vicinity.

Mr. Crittenden opened the hearing for comments from the public. Mr. Ed Panzer commented that this was not a proper location for this use. Mr. George Duke of Water View commented that this was not the proper area for it and if approved, it would open the way for similar facilities which would also not be appropriate. There being no other comments, the public portion of the hearing was closed.

Mr. Jessie commented that this would be a use that is not appropriate for this area. Mrs. Weber agreed that it is out of character for the area. The motion to deny the request was made by Mr. Jessie, seconded by Mr. Miller and carried unanimously.

ORDINANCE AMENDMENT – 2005-03, NONCONFORMITIES

Mr. Higgins presented a Zoning Ordinance amendment requesting to amend Article 9, Residential (R) District and Article 18, Nonconformities. The purpose of this amendment is to eliminate width requirements for replacement of manufactured homes in the Village Community (VC) and Residential (R) zoning districts pursuant to Section 15-2.2307 of the Code of Virginia. This section of the Code of Virginia was changed as of June 2004 to state that mobile or manufactured homes not located in a mobile or manufactured home park may be replaced with a newer manufactured home, either single- or multi-section, that meets the current HUD manufactured housing code. The County's Zoning Ordinance currently requires replacements to be nineteen (19) feet or greater in width, which is in conflict with the State Code.

Mr. Crittenden opened the public hearing for comments. Mr. Daniel Downs commented that the County needed to pay more attention to violations of the County's Zoning Ordinance, such as the one that brought this amendment forward initially. There being no further comments, the public portion of the meeting was closed.

Mrs. Weber commented that this change in the Code of Virginia was one that was attempted last year, which the County opposed and it was defeated. This year it was slipped in with other amendments. The motion to approve the amendment was made by Mr. Miller, seconded by Mr. Jessie and carried by a vote of 4-1 (Weber opposed).

STREET NAME APPLICATION

The motion to approve a new street name of "Back Creek Rd", for a new private road off of Greys Point Road, was made by Mr. Miller, seconded by Mrs. Weber and carried unanimously.

APPROPRIATION

The motion to approve the appropriation of 2003-I and 2003-II grants received as part of the Homeland Security Program was made by Mrs. Weber, seconded by Mr. Jessie and carried unanimously. The Board also approved the purchase of Minitor V Pagers and extended warranties for volunteer fire and rescue workers, if approved by the communications committee. These new pagers will not be available until after May 1st and will be shown to the committee after the sample is received. All equipment purchased must meet the requirements of the grants.

DISBURSEMENTS

The motion to approve disbursements was made by Mrs. Weber, seconded by Mr. Miller and carried unanimously. Checks numbered 51736 through 51769 totaling \$118,026.20 were disbursed as approved. Assistant Administrator, Marcia Jones,

reported that the awning ordered for replacement at the Cooks Corner Office Complex came with a five (5) year warranty.

PAYROLL

The motion to approve payroll for March 15 – April 15 was made by Mr. Miller, seconded by Mr. Williams and carried unanimously. Checks numbered 51671 through 51735 totaling \$188,384.76 were disbursed as approved.

CLOSED MEETING

The motion to convene in closed session to discuss matters for consultation with legal counsel per Code of Virginia, §2.1-3711.A7, was made by Mr. Williams, seconded by Mr. Jessie and carried unanimously. Upon reconvening in open session, the following motion was made by Mrs. Weber, seconded by Mr. Jessie and carried unanimously:

- To the best of the members' knowledge only public business matters lawfully exempted from open meeting requirements under Code of Virginia §2.1-3711.A7 as identified in the motion by which the Closed Meeting convened were heard, discussed, or considered by the public body.

Action:

As a result of the Closed Session, there was no action taken.

OLD/NEW BUSINESS

Interest in Land:

Mrs. Weber informed the Board that she has received a letter from Mary Mercer who has expressed an interest in purchasing land near the airport from the County. Copies of Mrs. Mercer's request would be distributed to the Board for discussion at a later meeting.

T-Hangars:

Mrs. Weber noted that a letter from the Department of Aviation regarding the proposed Airport Layout Plan included a notation that T-hangars were not an eligible project to receive federal or state grant funding.

Boat Racing:

Mr. Segar has suggested to Mrs. Weber that the County request that Gloucester County join forces in opposition to the boat races proposed for July on the Piankatank.

The Board approved sending letters to Gloucester County and also Congresswoman JoAnn Davis requesting assistance with the opposition.

RECESS

The meeting was adjourned until April 26, 2005, at 7:30 P.M., at which time the public hearing on the budget would be conducted.

Fred S. Crittenden, Chair
Board of Supervisors