

AT A MEETING OF THE MIDDLESEX COUNTY BOARD OF SUPERVISORS
HELD ON TUESDAY, FEBRUARY 15, 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. Miller gave a prayer. Mr. Culley led the group in the Pledge of Allegiance.

PUBLIC HEARING – REZONING 2004-05, EUGENE RUARK

Planning Director, Matthew Higgins, presented the application, a request for reclassifying a 27-acre parcel from Low Density Rural (LDR) to Residential (R), with proffers. This property is a portion of Tax Map 37-39, located immediately to the east of the Healy's Mill subdivision, which is currently zoned Residential. The property is currently vacant, with the proposed use to be the creation of approximately eight (8) new lots for single family residential development.

According to the 2001 Comprehensive Plan update, this property is located outside of any areas identified for planned development. The Plan also notes that there are no areas of the County considered unacceptable for residential development. Also, the Plan encourages low-density single-family dwellings outside of Town-like settlements. Mr. Higgins noted that although this application would rezone the property to the R district, the application would maintain the current rural development pattern consistent within the County because lots created would be a minimum 2.5 acre size currently permitted in the LDR district.

Mr. Higgins noted that traffic impact for this proposal would be minimal for the proposed eight dwelling units, however, impacts would increase over time if additional lots were created from the large parent tract. Future development impact on General Puller Highway (Route 33) and Stormont Road (Route 629) should be studied in depth. The applicant has submitted proffers to prevent any utilization of Mill Ridge Road within the Healy's Mill Subdivision, and the dam located on Mill Ridge Road for the current and future development of Tax Map 37-39. In addition, the road proposed for this development would not connect to any other roadway in the development of the

remainder of the property, and it has been proffered that it would be constructed to current Virginia Department of Transportation standards.

Staff recommended approval of the application as requested by the applicant, including the proffers submitted by the applicant on February 9, 2005. The application had been heard by the Planning Commission on September 9, 2004; the Commission recommended denial as submitted at that time.

Proffers submitted on February 9, 2005, as part of this application are as follows:

1. The following exhibit has been delivered to the Middlesex County Planning Department relating to Rezoning #2004-05 and is a formal part of the proffers for this rezoning case:
 - "Exhibit A" – Survey conducted on August 9, 2004 by Brownley Land Surveying showing the subdivision of eight (8) lots from a total of 26.995 acres (excluding the proposed roadway shown as "North Lake Drive").
2. A maximum of eight (8) lots shall be subdivided from the 26.995 acres as shown on Exhibit A.
3. All dwellings constructed shall contain a minimum finished floor area of 1,800 square feet on the first floor and 2,400 square feet in the total dwelling.
4. All lots shall gain access from the roadway shown on Exhibit A as "North Lake Drive." The roadway ("North Lake Drive") and its access on Stormont Road (State Route 629) shall be constructed to VDOT standards, including VDOT's 2005 Subdivision Street Requirements.
5. The roadway ("North Lake Drive") shown on Exhibit A shall not extend past the cul-de-sac shown on Exhibit A or connect to any other roadway in the development of Big Neck Farm or in the existing Healy's Mill subdivisions.
6. Any development of Tax Map #37-39 shall not gain access via Mill Ridge Road or the dam located at the northern end of Mill Ridge Road.
7. A 10' wide landscaped buffer shall be constructed along Stormont Road (State Route 629). Leyland cypresses and/or redtips shall be planted within this buffer for the purpose of visual screening of the development from Stormont Road. The landscaped buffer shall be planted within nine (9) months of rezoning approval by the Board of Supervisors.
8. Except for junction boxes, meters and existing overhead utility lines, all utility lines shall be underground.
9. Private well and septic areas shall be utilized for each dwelling unit.
10. No boathouses will be constructed on Healy's Mill Pond #2. No pier shall be constructed on Healy's Mill Pond #2 that is longer than 20 feet except parallel to shoreline. No gas or diesel engines shall be permitted in Healy's Mill Pond #2.
11. The visible portions of the dwellings foundations shall be constructed of brick or natural stone.
12. Prior to or concurrent with the conveyance of property shown in Exhibit A, restrictive covenants describing development controls and maintenance of property shall be recorded in the Clerk's Office of Middlesex County. In addition, there shall be a homeowner's association of the

property owners within the subdivision that shall be responsible for the enforcement of restrictive covenants, including maintenance of lots, roads and unit exteriors.

Mr. Crittenden opened the public hearing for comments on the application. The following spoke:

- Chuck Bennett – requested approval.
- Dan Downs – good proffers (different from what was submitted to the Planning Commission); the access road is not at the widest part of Stormont Road, but should not effect it that much; requested follow-up and enforcement of proffers.
- Edward Hudgins – is in the construction business working in Middlesex County; hopes the application is approved.
- Richard Willis – looks like a good plan; hope something can be done about the improvements to Route 629.
- John Coe – Why did the Planning Commission recommend denial? Mr. Higgins relayed that the Commission expressed strong feelings about piece-meal development and wished to see a development proposal for the entire track of this property and adjoining Big Neck Farm. Revised proffers were submitted to the Board that addressed some of the concerns of the Commission.
- Ahmet Anday – this development creates more affordable housing near the water, something that is needed.
- Dalton Brownley – good layout.
- John Polson – requested approval.
- Mark Femian – questioned the environmental impact such as on well water and septic systems. Mr. Crittenden responded that those issues are regulated by the Health Department.

There being no further comment, the public portion of this hearing was closed.

Mr. Williams favored a wider entrance onto Route 629. Mrs. Weber questioned whether changes could be made to the plat. Mr. Higgins responded that the plat was submitted as a proffer and could not be changed without another hearing with the Board. Mr. Jessie and Mr. Miller both noted their satisfaction with the application. The motion to approve Rezoning Application #2004-05, with the proffers dated February 9, 2005, was made by Mr. Miller, seconded by Mr. Jessie and carried unanimously. Mr. Crittenden noted that this was one of the most complete set of proffers that has been submitted with an application and added that proffers will have a lot to do with future rezoning applications.

PUBLIC HEARING – REZONING APPLICATION #2004-09, EUGENE RUARK

Mr. Higgins presented application R-2004-09, an application to rezone the remaining acreage of Tax Map 27-39 left from Rezoning Application R-2004-05 and all of adjoining Tax Map 27-35, for a total of 732 acres. The application is to rezone the properties from Low Density Rural to Residential, with proffers. The total property fronts on both State Route 33 and State Route 629, and adjoins property that is zoned Residential and Village Community. Currently, the property is vacant land with

potential use for agricultural purposes. In review of Application R-2004-05, the Planning Commission recommended that a master plan for development be created; this application is Mr. Ruark's attempt toward that plan. The Planning Commission considered his submittal to be too incomplete and recommended denial. Mr. Ruark later submitted a plat that indicated proposed lot lines and the creation of new waterfront areas. The intent of this subdivision is the creation of approximately 300 new lots for single-family residential development and is proposed to fit in with the development submitted along with Rezoning #2004-05. In addition, Mr. Ruark submitted the following proffers:

1. Healy's Mill is designed for people who want to own their own home and their own land – not clustered homes.
 2. The entire property (approximately 750 acres) will conform to a master plan and built in sections over a 15 year period. No commercial development.
 3. Lots will be from 1 to 6 acres, averaging 2 acres.
 4. House sizes – 1800 sq. ft. first floor, 2400 sq. ft. second floor – minimum. All built to BOCA Standards and above. Priced from \$250,000 to \$1,000,000.
 5. Hard surface roads.
 6. The few lots fronting on State highways will have setbacks and/or berms.
 7. Large lot size means open spaces.
 8. Large parcels plus smaller pocket parks will be set aside for future clubhouse, house barns, riding trails, etc.
 9. The entire development (lakefront and off lake lots) will use low impact development techniques, silt fences, straw, best soil management practices, 100' setbacks in accordance with the Chesapeake Bay Act. The lakes and streams afford great natural buffers.
 10. No boathouses – stick built or floating. This preserves everyone's views.
 11. No gas or diesel engines in the lakes – only electric engines, sail, or paddle boats.
 12. Piers no longer than 20' straight out – preferably side on to land.
 13. All underground utilities.
 14. Private wells and septic systems.
 15. The goal is to create the best lakefront community in the County.
 16. Tax revenue to be in excess of 1 million dollars per year to the County.
 17. Buyers to be locals, retirees, empty nesters (50+ years).
 18. This subdivision conforms to the County comprehensive plan because it is rural in nature, not urban.
- As a footnote: No historical sites have been located on the property.

Mr. Higgins presented the following items for consideration by the applicant to further improve the quality of the proposal:

1. Consider eliminating **proffers #7, 15, 16, 17 and 18** as they are speculative in nature and not true proffers or conditions of development. Other proffers submitted merely restate existing restrictions currently found in the Middlesex County Zoning Ordinance and are not true proffers or conditions of development.
2. Consider revising the proffers to establish that the Master Plan previously submitted to the Planning Commission via Rezoning #2004-05 is the Master Plan referenced in **proffer #2**. The applicant should consider providing a more detailed version of this Master Plan, showing items such as proposed phasing of development and specific locations of open spaces and community amenities.
3. Consider revising **proffer #2** to establish the number and type of dwelling units proposed in the development, including the number and type of dwelling units proposed per each phase.

4. Consider revising **proffer #2** to provide additional information regarding phasing of development.
5. Consider revising **proffer #3** to be more specific regarding minimum lot size and density of development.
6. Consider revising **proffer #5** to clarify whether public/private roads are being proposed and standards for those roads.
7. Consider revising **proffer #6** to be more specific regarding setbacks and berms proposed.
8. Consider revising **proffer #8** to be more specific regarding community facilities proposed.
9. Consider providing a proffer regarding the number and location of highway entrances proposed.
10. Consider providing a proffer regarding the architectural design and aesthetics of the development as a whole and the dwelling units proposed. In addition, the applicant should consider providing a proffer regarding landscaping and street trees.
11. Consider providing a proffer regarding homeowners' association regulations.
12. Consider providing a proffer regarding buffering and preservation of traditional uses to minimize visual impact on General Puller Highway and Stormont Road.

In addition, the principals of the Comprehensive Plan, with regard to preservation of existing natural resources and clustering of development, should be considered in evaluation of the proposal. Because of the clarification needed regarding the proffers and Master Plan submitted, staff could not fully determine whether this development complies with the Comprehensive Plan. In addition, no information regarding the potential community, fiscal or traffic impact has been submitted. Concern has also been expressed about the environmental impact of the proposed pond creation shown by the applicant. Staff had originally recommended continuation of this rezoning application to provide additional time to complete its analysis of the community and fiscal impact of this proposed development. On December 9, 2004, the Planning Commission recommended denial of the application as it was originally submitted. With the addition of the above referenced proffers and master plan layout, staff still considered the application incomplete in nature and recommended denial of the application to the Board of Supervisors.

Mr. Crittenden opened the public hearing for comments. The following citizens spoke regarding the application:

Ahmet Anday – encouraged approval; need affordable housing for those who want to be near water.

John Polson – supports request; requested that layout plan be considered as part of the application.

Gene Ruark – requested the Board continue action on the application and ask the Planning Commission to review the latest information.

Mary Ann Willis – questions brought up by the Planning Department staff need to be addressed.

Daniel Downs – requested that the Board deny the request and give Mr. Ruark a year or more to get a plan together. Mr. Downs questioned if the water area is being considered in the total of buildable land; is already subdivided land out of total; what about power lines. Encouraged the Board of Supervisors and Planning Commission to

consider health department review, highway department review. Mr. Downs noted that he believed there to be plenty of support for the project if it is done correctly.

John England – this is a totally different application than the Planning Commission was provided; it does not have the Commission’s review, expertise or recommendation; there is a lot that still needs to be done.

Ahmet Anday – this proposal has positive environmental – the ponds will be created from wetlands.

There being no further comments, the public portion of the hearing was closed. Mr. Miller requested clarification regarding the layout that was provided. Mr. Higgins explained that the layout showing proposed lot lines was received after the Planning Commission had reviewed the application. Mr. Jessie commented that with a project and tract of land this size more study was needed and he was not ready to make a decision. Mrs. Weber agreed, adding that a master study was needed of economic, transportation and environmental issues. Mrs. Weber made a motion that the application be denied, which was seconded by Mr. Miller. Mr. Soberick added that with denial, the applicant cannot reapply with substantially the same application before a one-year period has elapsed. The vote to deny the application was unanimous.

PUBLIC HEARING – REZONING APPLICATION 2005-01

Mr. Crittenden noted that the applicant, J. Tyler Crittenden, IV, had requested that the public hearing be postponed for at least 60 days. Mr. Crittenden opened the public hearing for comments. The motion to continue the application and public hearing until April 19, 2005, was made by Mr. Miller, seconded by Mr. Williams and carried unanimously.

ORDINANCE AMENDMENT 2005-01

Mr. Higgins presented this application for amendment of Article 18, Nonconformities, of the Zoning Ordinance, made at the request of the Board of Supervisors. The Zoning Ordinance currently permits the replacement of manufactured homes in the Village Community and Residential Districts by a special exception, but including a requirement that the replacement to be nineteen (19) feet or greater in width. The proposed amendment would change this language to permit a replacement manufactured home in the Village Community District if: (1), the home is equal width or greater; and (2), an equal age or newer. This would allow for newer replacements for old and deteriorating manufactured homes; a special exception application and approval would still be required. No changes are proposed for the Residential District, although it has been recommended that the Planning Commission review the possibility of also adopting the change in the Residential Zoning District. Staff recommended approval of the amendment as proposed; the Planning Commission recommended denial.

Mr. Crittenden opened the hearing for comments. Mr. John Coe questioned why the Planning Commission recommended denial. John England, Chairman of the Planning Commission, commented that the Commission did not want to start relaxing the ordinance and that the standard had been set just a few years ago with the Board's approval. The Commission saw the requirement for replacement homes to be "double-wides" as a way to improve situations. There being no other comments, the public portion of the hearing was closed.

Mrs. Weber agreed with Mr. England, noting that this requirement was incorporated into the Ordinance about ten years ago when there was concern about being able to move manufactured homes into all zoning districts. She added that the ordinance should not be changed to fit situations. Mr. Miller commented that he has a hard time denying someone the right to improve their living conditions. Mr. Williams and Mr. Jessie agreed that they had no problem with allowing the upgrade to remain a single-wide, as long as it was an improvement. Mr. Crittenden noted that changing the ordinance would not add any more manufactured homes to the County, but the County has an obligation to allow citizens to upgrade their homes. He added that if something in the Zoning Ordinance is not working, then the County needs to change the requirements. The motion to approve the ordinance amendment as presented was made by Mr. Miller, seconded by Mr. Williams and carried by vote of 4-1, with Mrs. Weber opposed.

DISBURSEMENTS

The motion to approve disbursements was made by Mrs. Weber, seconded by Mr. Miller and carried unanimously. Checks numbered 51293 through 51323 totaling \$29,584.99 were disbursed as approved.

PAYROLL

The motion to approve payroll for January 16 – February 15 was made by Mr. Williams, seconded by Mr. Jessie and carried unanimously. Checks numbered 51229 through 51292 and 51324 through 51325 totaling \$184,360.58 were disbursed as approved.

REQUEST TO WAIVE FEE

The motion to waive the \$250.00 special exception application fee for the Middlesex Health Department's application to erect a portable communication tower, was made by Mr. Miller, seconded by Mr. Jessie and carried unanimously.

DRAGON RUN

Mr. Miller reported that the Planning District Commission has requested that a planner from each County come to the Dragon Run Committee meetings. Board members commented that they would not have a problem with an employee attending the meeting as long as no compensation was required, however, they did not want to have to compensate an employee to attend. The motion to deny the request was made by Mrs. Weber, seconded by Mr. Miller and carried unanimously.

SCHOOL MATTERS

Superintendent Oliver Spencer and School Board Chairman James Goforth were present.

Tate Engineering – Mrs. Weber presented copies of bills for repair work at the high school that have been sent to Mr. John Moore, rather than to the School Board office. Mr. Moore had been the Board's representative on the school renovation project. Mrs. Weber expressed concern that the original warranty had run out. Dr. Shores will check on the invoices to get them paid and check warranty information.

St. Clare Walker Roof – Dr. Spencer presented a request for an appropriation of \$571,790.00, which would be used to pay the contract with J. King DeShazio, III, the low bidder for the St. Clare Walker roof project (bid price \$568,575.00) and the construction administration costs of \$3,215. Dr. Spencer reported that his staff and the engineering firm, P.S.I., have checked references for DeShazio and have verified that the bids meets the requirements and DeShazio is qualified to do the work.

Mr. Culley reported that his conversations with representatives from a Dinwiddie County project, in Dinwiddie school facilities management and the manufacturer's representative, revealed that there were problems with a job this firm was involved with. Mr. Culley advised that the County needed to make sure that all leads were covered and that the School Board should find examples of roofs with various pitches that the firm has worked on.

Mr. Goforth asked the Board if they wished to be included in the color selection; they agreed that the color should be a dark green and also requested that Mr. Soberick review the contract. Board members also requested that the proposed advertisement for clerk of the works be send to local newspapers. Members were also asked to let Mr. Culley know if they knew someone who could serve as the clerk of the works.

No action was taken on the request for appropriation at this time. The Board will take action at their meeting on March 1, 2005.

ADJOURN

The motion to adjourn until March 1, 2005, was made by Mr. Miller, seconded by Mr. Williams and carried unanimously.

Fred S. Crittenden, Chair
Board of Supervisors