

AT A MEETING OF THE MIDDLESEX COUNTY BOARD OF SUPERVISORS
HELD ON TUESDAY, JUNE 21, 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. Due to the large crowd present for the public hearings, the Chairman moved the meeting to the Middlesex High School Auditorium.

**PUBLIC HEARING – REZONING APPLICATION 2005-03, JAMES CURRY AND
JAWARKITA COHEN**

Planning Director, Matthew Higgins, presented the application, a request from James Curry and Jawarkita Cohen to rezone the property at Tax Map 7-28 from Low Density Rural to Village Community to allow the establishment of a restaurant in the existing commercial building (it has been proffered that this building would only be used as a restaurant). This would create a new Village Community District to be located south of the intersection of Route 605 on Route 17. Because the previous use had been discontinued for a period exceeding two (2) years, it could not be re-established as a non-conforming use. The Comprehensive Plan does not target commercial development for this portion of Route 17, these being focused at Glebe Landing, Church View, Warner and Saluda. Mr. Higgins had recommended denial of the application because it was believed that the application is incongruent with both existing zoning and the intent of the Comprehensive Plan and should be construed as a “spot zoning” proposal. The Planning Commission voted unanimously to recommend denial of the application.

Mr. Crittenden opened the hearing for comments from the public. Ms. Cohen stated that as applicants they had been led to believe they had conformed to all requirements for approval and were surprised to hear Mr. Higgins recommend denial of the application at the Planning Commission level. She stated that she had also been told by several Commissioners that they had no choice but to deny the application, even though they felt it would be beneficial to the community; noting that this would not be the only business in the area. Mr. Joe Brinkley commented that if it met all

requirements except zoning, then it should be approved. Russell Smith of Tappahannock commented that a restaurant at this location would bring something positive to the area. Dave Petite spoke in favor of the application. Mr. Ermarth of Kilmer's Point, questioned what had happened that the applicants had believed the application would be approved and had gone to the expense to apply, only to be recommended for denial. There being no further comments, the public portion was closed. Mr. Williams and Mr. Miller commented that they had no problem with the application; food is sold across the road at the racetrack. Mr. Jessie commented that Mr. Higgins advises applicants of the process, but it is up to the Board of Supervisors to decide whether or not the application is approved. He believed it would be beneficial to the area. The motion to approve the rezoning as submitted was made by Mr. Jessie, seconded by Mr. Miller and carried unanimously.

PUBLIC HEARING – REZONING APPLICATION 2004-04, DIANE COX BASHEER AND KENNETH O. THOMPSON

Mr. Higgins presented the application to reclassify a 521-acre portion of a total 848 acres from Low Density Rural (LDR) zoning district to the Village Community (VC) zoning district with proffers (dated 6/16/05 and revised 6/21/05). The property is located at tax maps 27-10-1 and 2, the site of the Rosegill Plantation. The remaining acreage would remain in the LDR district for agricultural and forested land uses. The applicants have submitted a list of 23 proffers including a Community Pattern Book, Zoning Map, Open Space Map, Phasing Plan, Illustrative Master Plan, Historic District Plan and Historic District Illustrative Plan. The Illustrative Master Plan specifically establishes the residential, recreational, agricultural, historic and wooded areas within the development. These community features, including agricultural and wooded areas, would be established in perpetuity. The proffers mandate that this portion of the development would be placed in a perpetual conservation easement.

Staff summarized the proffers submitted as follows:

1. Submission of illustrative master plan, setting forth residential, recreational, agricultural, historic and wooded areas within the development.
2. Phasing of development in four (4) phases.
3. Restrictions on site design, including setbacks, dwelling sites, lot layouts and parking layouts within the proposed development in conformance with Rosegill Community Pattern Book.
4. Conservation easement in perpetuity for specified areas.
5. Prohibition of all commercial uses.
6. Limitation on the maximum number of dwelling units to 700, deleting the establishment of 30 age-restricted dwelling units. The maximum number of single-family and multi-family dwelling units per phase is also established.
7. Average value of dwelling unit established at \$450,000 and minimum dwelling sizes established.
8. Utilization of environmental/low impact development techniques.
9. Community amenities established as described.
10. Open space provided in perpetuity as established in Rosegill Open Space exhibit.

11. Homeowner's association and restrictions provided for the development, including \$100 per dwelling unit per year, that has received a certificate of occupancy.
12. Restrictions on Creek, River and Lake utilization.
13. Provision of streets in conformance with Rosegill Community Pattern Book, including limitation to three (3) entrances onto Route 227, provision of turn lanes, improvement of Route 227 at "entrance #4," provision of bond for traffic control device and provision of pedestrian facilities.
14. Provision of landscaping and hardscaping in conformance with Rosegill Community Pattern Book.
15. Provision of underground utilities.
16. Provision of central water and sewer.
17. Restrictions on garages.
18. Provision of access roadway to Route 33.
19. Cash contribution to private organizations, including \$1,000 per dwelling unit to local fire and rescue services.
20. Provision of a Phase I Archaeological Study on the site.
21. Development of the historic district in conformance with Rosegill Historic District Plan.
22. Limitation on impact of the development on the Urbanna Harbour subdivision.

The developers revised their proffers prior to the meeting so that the number of dwelling units would not exceed 700. The Staff Report prepared by Mr. Higgins was based on 730 total dwelling units. The density with the 730 units would be .86 dwelling units/acre. This is less than the Town of Urbanna (1.11), The Urbanna Harbour development (1.13), Village Community zoning district (2.0 for single-family), Residential zoning district (4.0), and Cluster Development zoning district (8.0).

No commercial development is proposed for within the Rosegill development. The impact study prepared by the Robert Charles Lesser and Co., LLC, for the developers has assumed that a total of 66 full-time jobs will be created in the County, including 24 full-time maintenance jobs exclusively for the Rosegill development and 42 retail or professional service jobs. Staff analysis indicates a higher number, at 117. Because there is limited land area in the Town of Urbanna for additional commercial growth, commercial growth would likely expand in the Cooks Corner area. If the application is approved, Staff recommended that a small area study of the Cooks Corner and Saluda areas be conducted to limit strip development and determine how to best accommodate new commercial growth.

According to Mr. Higgins, the proposed development is substantially consistent with the goals and objectives of the Comprehensive Plan regarding residential, agricultural and historic development by: encouraging residential development which is primarily providing single-family dwellings; concentrating development in and around designated population centers rather than on open prime farmland; encouraging development along the fringes of productive farmlands, open areas and scenic views so as to preserve the open space atmosphere; architecture is consistent with the traditional character and design of the County; preserving and protecting farmland in the County; maintaining historic structures in the County. However, Mr. Higgins noted

that several portions of phases I and II should be adequately screened or buffered to prevent direct view of the development from Route 227 and while a majority of the major farm fields located to the east of Route 227 and farm fields located along Route 33 are permanently conserved through conservation easement, certain portions of Phase I and II of the development still consume major segments of productive farmlands.

A fiscal impact study was also conducted by the Robert Charles Lesser and Co., LLC. Staff's evaluation of the study has determined that the number of full time residents and full time school age residents was underestimated, which caused the positive fiscal impact to be overestimated. According to Staff, there will still be a positive impact of approximately \$13.2 million over a 20-year time period, based on real property taxes of \$29.2 million being generated.

The applicants commissioned a traffic impact study from Fitzgerald and Halliday, which was conducted to Virginia Department of Transportation (VDOT) standards and assumed that all residents will be full-time residents; additional follow-up was provided by VETTRA, another consulting firm. The report was reviewed by VDOT. The applicant has adequately addressed the concerns and comments of VDOT through proffers. Although adequate proffers have been provided regarding the roadwork required to make the intersection of Entrance #4, located on a curve and change in elevation on Route 227, fully functional, staff still contends that this intersection is superfluous and could be removed to centralize traffic flow onto Route 227 from the development.

Staff recommended approval of the application as currently submitted, with proffers dated June 21, 2005. On a 6-2 vote, the Planning Commission recommended approval of the overall application and proffers submitted on May 11, 2005.

Mr. Crittenden opened the public hearing and gave instructions to the public regarding time limits for their comments. Andy Condlin spoke on behalf of the applicant.

The following people spoke in opposition to the application: Mary Wakefield Buxton, Megan Brockman, Kerry Robusto, Richard Donoff, Bryant Wilson, Ellen Woodruff, Vic Federman, Robert Montague, Bruce Woodruff, Jan Dunlevy, Nancy Brooks, David Laughton, Dotty Allison, Alana Courtney, Roger Martin, Dan Gill, Janice Compton, Shannon Haley, Janet Smith, Steve Hollbert, Randolph Segar, Dixie Doerr and George Miller. Comments included the need to have the Capital Improvements Plan in place and Comprehensive Plan updated prior to approving a plan this big. In addition, contributions to the fire and rescue squads will not meet the real need of people. The opposition sited an end to small town businesses and life and added that the County will be unable to handle the increase in population, including an increase in the number of school age children of workers. Concerns for lack of water and the impact on wildlife and the environment were noted; this property would be better developed as a park or wildlife conservatory. It was a matter of keeping the County rural rather than it being a bad development.

The following people spoke in favor of the application: Joe Brinkley, Frank Johnson, Harrison Leach, Theresa Anderson, Marilyn South, Barbara Lovelace, Mary Kay Hight, John Byers, Bob Walker, Will Wills, John Steele, Ken Moore, Tyrone Young, Don Richwine, Bob Henkel, Donald Chapman, Miller Smither, Shep Miller, Andy Bury and John Elkin. Ruby Lee Norris and John and Carolyn Wake submitted letters at the hearing in support. It was noted that the developers had adjusted their application to meet the concerns of the public; this plan meets or exceeds what has been proposed for a Rural Planned Community. With regard to the Rosegill Plantation house, the farm vistas will continue; the plan has 62% open space, and conservation easements will be imposed – this is the only way to preserve Rosegill. This responsible development is welcomed; this would be better than having it spread throughout other farms. The character of the County has already changed – when the Town and Urbanna Harbour were carved out of the plantation property. This development will set new standards.

The Chairman closed the hearing for comments from the public. Board members offered the following comments: Mrs. Weber – this plan is more suitable for Northern Virginia. The County should get its policies in place, making our own rules and not going by those of the developers. Mr. Williams – the developers have tried to do it right, however, it will take some time to review the proffers and studies; he was not ready for a decision. Miller – thanked all for attending and for the work of the Commission and Planning Department; not ready to make a decision. Jessie – is in favor of the project; retirement age growth is better; think the proffers will take care of concerns; the business people he has talked with are in favor of the development; applicants did not have to proffer donations to fire and rescue; is in favor of the project. Crittenden – time needed for the County Attorney and Planner to review the proffers; thanked all for coming out.

The motion to table action on the application was made by Mr. Miller, seconded by Mr. Williams and carried unanimously.

PUBLIC HEARING – SPECIAL EXCEPTION APPLICATION #2005-04, DIANE COX BASHEER AND KENNETH O. THOMPSON

As this application is dependent upon action on Rezoning Application 2004-04, just tabled, the motion to continue the public hearing was made by Mr. Williams, seconded by Mr. Miller and carried unanimously.

APPROPRIATION

The motion to approve the following appropriations was made by Mr. Miller, seconded by Mrs. Weber and carried unanimously:

- FROM: 3-1-41060-0001, \$9,346.00 TO: 4-1-21030-5714, for overages spent with Court Services Unit

- FROM: 3-1-41060-0001, \$1,030.00 TO: 4-1-53090-5605, Virginia Housing Authority – Rental Assistance Program;
- FROM: 3-1-41060-0001, \$39,500.00 TO: 4-1-12040-3002, Legal Services – Professional Fees (to date, \$38,163.36 spent on the Hunter’s Pistol Club vs BZA.

DISBURSEMENTS

The motion to approve disbursements was made by Mrs. Weber, seconded by Mr. Miller and carried unanimously. Checks numbered 52188 through 52236 totaling \$75,123.70 were disbursed as approved.

PAYROLL

The motion to approve payroll for May 15 – June 15 was made by Mr. Williams, seconded by Mr. Miller and carried unanimously. Checks numbered 52122 through 52187 totaling \$198,703.29 were disbursed as approved.

ADJOURN

The meeting was adjourned until July 5, 2005, at 9:00 A.M. by motion of Mr. Williams, seconded by Mr. Miller and carried unanimously.

Fred S. Crittenden, Chair
Board of Supervisors