

AT A MEETING OF THE MIDDLESEX COUNTY BOARD OF SUPERVISORS
HELD ON TUESDAY, JANUARY 17, 2006, IN THE AUDITORIUM OF
MIDDLESEX HIGH SCHOOL, SALUDA, VIRGINIA:

Present: Fred S. Crittenden, Pinetop 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. Miller called the meeting to order at 7:30 P.M. and Mr. Williams gave a prayer. Mr. Culley led the group in the Pledge of Allegiance.

PUBLIC HEARING – REZONING APPLICATION #2004-04

Planning Director, Matthew Higgins, presented the application for rezoning, which is essentially the same proposal that had been acted on by the Board of Supervisors on August 16, 2005. Because of a technical problem, the Board was rehearing the application for action. Proffers submitted on January 4, 2006, were essentially the same as those submitted on June 21, 2005 with the exception that conditions approved on August 16, 2005 as part of Special Exception Application #2005-04 were included in the proffers.

An updated economic impact study based on 700 dwelling units rather than 825 shows a positive fiscal impact to the County of \$13.9 million dollars over 20 years. The current facilities operated by the school system will be able to accommodate the additional school age children produced by the development. Staff comments include statements that the land use of the proposed development is consistent and compatible with surrounding land uses and development patterns; the proposed development is in conformance with the requirements of the Comprehensive Plan; and the applicant has adequately addressed the traffic impact of the development through both completed traffic impact studies and proffers. Historic concerns have been addressed by the creation of a 57-acre historic district and the elimination of numerous new dwellings around the historic structures.

Mr. Miller advised those present of the public hearing procedures to be followed and opened the public hearing for comments. Mr. Andy Conclin of Williams Mullin, representing the applicants, addressed the Board and highlighted the proffers that had been submitted.

The following groups and individuals spoke in favor of the application:

Carolyn Wake representing the Concerned Citizens, John Steele, Bob Walker, Miller Smither, Clarence Jones, Susan Dugan, Will Wills, Elizabeth Johnson reading a letter from Barbara Lovelace, Theresa Anderson reading a letter from John Elkin, Don Ritchwine, Bob Kenkel, Tyrone Young, Frank Johnson, Nevin Ramsburg reading a letter for Ruby Lee Norris, Ken Moore and Melvin Beverley. Comments supported the quality of development, the preservation of the historic area, economic growth and increased revenues for the County.

The following groups and individuals spoke in opposition to the application: Chris Kartache representing the Rescue Rosegill group; Latane Montague representing the Urbanna Group, Calter Lowe representing the Department of Historic Resources, Alana Courtney, Linda Parker, Mary Helen Morgan representing the Middle Peninsula Land Trust, Cheryl Minnick, Buck Montague, Stephanie Hanley, Carter Hudgins representing the Association for the Preservation of Virginia Antiquities, Janet Smith, Diane Gravett, Shannon Haley, Richard Donoff, Kerry Robusto, Grey Burke, Janice Compton, Rob Haley and Margaret Gurtz. Some speakers requested more limited development of the site, while others requested that no development be allowed. Concerns were expressed regarding the negative impact on the historic aspect of Rosegill and incompatibility with the Comprehensive Plan and the rural character of the community. Ms. Courtney admonished the supervisors for not responding to offers of free assistance from professional planners from the Chesterfield area.

Mr. Miller closed the public portion of the hearing and Mr. Condlin was given the opportunity for rebuttal. Mr. Condlin noted that the original comments from the historical society were taken into consideration and as a result the view shed had been pulled back and a Phase 1 archeological study will be provided. In addition, the architectural style of new houses was included in the proffers, and 60% open space will be retained. Also, this is only the first step in approvals, there will be other regulatory agencies looking at the application.

Mr. Miller closed the hearing for all comments. Mr. Williams commented that he believed the number of housing units to be too high, but the entire package is a good one. Mr. Williams criticized the APVA for the poor job they were doing in maintaining the Wilton property, which had been sold to the State. The Health Department controls the water and sewer approvals.

Mr. Crump commented that he had stated his favorable position on the Rosegill application early in his campaign for the supervisors' seat.

Mr. Crittenden added that Mr. Crump's position had been known prior to this second hearing. Mr. Crittenden explained his reason for not taking up the free offer for professional services. Mr. Crittenden stated that he did not want to have someone from an urban area working on a plan for rural Middlesex County. Mr. Crittenden agreed with Mr. Williams comments regarding the poor maintenance of Wilton, perhaps the oldest house in Middlesex County. Mr. Crittenden added his thanks to the Planning Commission and subcommittees for the hours of work they put in on the process.

Mr. Jessie also expressed his lack of appreciation for the comments from Ms. Courtney. He added that the proposed plan may not be perfect, but opposition to any changes could go on and on and the Board would make their best decision on the information provided.

Mr. Miller commented that outside professionals were not needed because the County had Mr. Higgins on staff. Mr. Miller also commented that the developers had made adjustments to their plan based on the responses from citizens, the planning department and the Board of Supervisors.

Mr. Crump offered the following motion: "Mr. Chairman, I'd like to put forth a motion that we approve Rezoning 2004-04, having considered the Planning Commission recommendations, the staff recommendations, the staff reports, all the evidence included in this public hearing and other public hearings, all the evidence that has been put forth to the county, to the Board of Supervisors, all the records included in the Planning Office, and all the issues raised in the amended Bill of Complaints, December the 29th '05 and in the Court Case CH 05-51." This motion was seconded by Mr. Jessie, and carried unanimously by a roll call vote.

PUBLIC HEARING – SPECIAL EXCEPTION 2005-04, DIANE COX BASHEER AND KENNETH O. THOMPSON, MULTI-FAMILY IN VILLAGE COMMUNITY

Mr. Higgins presented the application requesting a special exception for multi-family dwelling units in the Village Community zoning district, with no more than 108 multi-family dwelling units permitted. This would be for the property approved with Rezoning Application 2004-04, Tax Map 27-10-1 and 27-10-2. The proffers for the Rezoning 2004-04 would regulate the overall development and limit the total development to 700 total dwelling units, including the 108 multi-family units requested.

Mr. Miller opened the hearing for comments from the applicant. Mr. Conklin, representing the applicant, requested approval of the application. Mr. Miller opened the hearing for comments from other speakers. Kerry Robusto asked the Board to consider language in the comprehensive plan and smart rural planning. There being no further comments, the public portion of the hearing was closed.

The motion to approve Special Exception 2005-04 as submitted was made by Mr. Crittenden, seconded by Mr. Crump and carried unanimously by roll call vote.

PUBLIC HEARING – REZONING APPLICATION 2005-07

Mr. Higgins presented this application for reclassification of a 2.83-acre parcel from Low Density Rural district to Cluster Development district, at Tax Map 28-130C. The parcel currently contains two apartment buildings, with a total of 12 units, which

were constructed prior to the establishment of the Middlesex County Zoning Ordinance. If the reclassification is approved, a total of 22 units would be permitted.

The Planning Commission had reviewed proffers, dated December 20, 2005, and submitted by the applicant. At the Commission hearing, Mr. Higgins expressed his concern that the proposal did not provide any preservation of suitable open space, natural resources or worthwhile undeveloped areas in exchange for the significant density. Staff had recommended either an increase in the level of proposed open space provided or a reduction in the number of proposed dwelling units to match the existing number of units on the property. The Planning Commission recommended denial of the application as submitted at the time.

Additional proffers were submitted for the Board of Supervisors, dated January 10, 2006. These proffers reduced the number of proposed units from 19 to 16 and increased the open space from 30% to 51%. A community pier in Whiting Creek has been eliminated and cash proffers have increased to \$3,053 per dwelling. Based on the new proffers staff recommended approval of the application. The Planning Commission had not reviewed the revised proposal.

Mr. Miller opened the public hearing for comments from the applicant and those speaking in favor and opposition. The applicant, Mr. Beckham Dickerson, informed the Board that five neighbors came together to purchase the property, to tear down the existing apartments and construct new. There will be a small increase in density with a great improvement to the situation. Mr. Dickerson commented that condominium units will be constructed, and by owning the units, the quality of the area should improve over rental units.

Mr. J. D. Davis, whose mother is selling the property, commented that very little in the area complies with the nature of low density zoning. Mr. Powers Thomas agreed that low density rural does not reflect the current zoning. He added that owner occupied units versus tenant occupied will improve the neighborhood and increase values. David Burgess commented that he would like the property to stay as a vacant field, but knows that it will not. Earl Butler agreed.

Mr. Wayne Mantay spoke in opposition to the application. According to the Comprehensive Plan this area is designated for rural open space and farmstead development; nowhere does it include high density. This was the information that he and his wife considered when they purchased in the area. John England advised the Board that this would be a case of spot zoning. Mr. Hank Stupi expressed his concerns with increased boat traffic on a small creek and opposed any increase in the number of units. Dorothy Edwards commented that this would be an example of spot zoning and a stepping stone for later damage. Joe Edwards commented that the only people speaking in favor of the application are the adjoining property owners who jointly purchased the property under consideration.

In rebuttal, Mr. Dickerson commented that they were limited on what could be done to a non-conforming property, as the footprint could not be changed. The use of

the property had to change to meet the market demand. There being no further comments, the public portion of the hearing was closed.

Mr. Crump questioned where water resources would come from. According to the proposal, water would come from the water system used by the adjoining nursing home property. A central sewer system would be required as part of the cluster development district requirements. Mr. Crump questioned whether the Puri-Flo system proposed by the developers would meet the requirements. Mr. Higgins commented that the State Health Department would regulate the system.

Mr. Williams commented that he did not see this as a case of spot zoning because the change in zoning is verifying what use is currently being made of the property. Mr. Jessie stated that he wished it to be made clear that the Board would not come back later to rezone adjoining property to cluster development. Mr. Williams stated that the application would not be the same because the other property is vacant. This property currently has multi-family dwellings on it.

The motion to approve the rezoning application with the proffers as submitted January 10, 2006, was made by Mr. Crump and seconded by Mr. Williams. Mr. Jessie expressed his concern that approval of the application could come back to haunt the Board. Mr. Higgins noted that this is a unique situation because of the existing non-conformities.

The motion carried by a unanimous vote.

ENDORSEMENT TO VIRGINIA MARINE RESOURCES

The Virginia Twin Rivers Waterman's Association has requested the Board's endorsement of issues endorsed by the Shellfish Advisory Committee to go before the Virginia Marine Resources Board at their January 24th meeting. These issues are as follows: slowing spring planting of approximately 100,000 bushels of James River seed oysters in the upper Rappahannock and Potomac tributaries in Virginia; and re-opening areas in the Rappahannock River that are currently closed to harvesting be re-opened for oyster harvesting. The motion to send a letter of endorsement was made by Mr. Williams, seconded by Mr. Crittenden and carried unanimously.

PAYROLL

The motion to approve payroll for the month of January was made by Mr. Williams, seconded by Mr. Crump and carried unanimously. Checks numbered 54024 through 54100 totaling \$243,791.90 were disbursed as approved.

DISBURSEMENTS

The motion to approve disbursements was made by Mr. Williams, seconded by Mr. Crump and carried unanimously. Checks numbered 54101 through 54221 totaling \$58,052.57 were disbursed as approved.

ADJOURN

There being no further business, the meeting was adjourned by motion until the annual organizational meeting scheduled for January 3, 2006, at 9:00 A.M.

John D. Miller, Jr., Chair
Board of Supervisors