

**MINUTES OF
FAUQUIER COUNTY PLANNING COMMISSION
JULY 30, 2009**

**Work Session
12:30 p.m.
Second Floor Conference Room, Warren Green Building,
10 Hotel Street, Warrenton, Virginia**

The Fauquier County Planning Commission held a Work Session on Thursday, July 30, 2009, beginning at 12:30 p.m., in the Warren Green Building, Second Floor Conference Room, 10 Hotel Street, Warrenton, Virginia. Members present were Mr. John Meadows, Vice-Chairman; Ms. Adrienne Garreau, Secretary; Ms. Ann McCarty, and Mr. Ken Alm. Also present were Mrs. Tracy Gallehr, Mr. Rick Carr, Mrs. Susan Eddy, Ms. Kimberley Johnson, Mr. Andrew Hushour, Ms. Holly Meade, and Ms. Kimberly Abe. Member absent was Mr. Jim Stone, Chairman.

On motion made by Ms. Garreau and seconded by Mr. Meadows, it was moved to go into a closed meeting, pursuant to *Code of Virginia* Section 2.2-3711(A)(7) for the purpose of consultation with legal counsel pertaining to specific legal matters requiring the provision of legal advice by counsel relating to matters before us this afternoon.

The motion carried 4 – 0, as follows:

- AYES: Mr. Meadows, Ms. Garreau, Mr. Alm, Ms. McCarty
- NAYS: None
- ABSTENTION: None
- ABSENT: Mr. Stone

Upon reconvening from the closed meeting, Ms. Garreau read the following Certification of Closed Meeting:

The Fauquier County Planning Commission, having adjourned into a closed meeting this day for the purposes stated in the resolution authorizing such meeting, does hereby certify that to the best of each member's knowledge:

1. Only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act, and
2. Only such public business matters as were identified in the motion by which the closed meeting was convened, were heard, discussed, or considered in the closed meeting.

This certification shall be recorded in the minutes of the Planning Commission on motion of Ms. Garreau and seconded by Mr. Meadows.

The motion carried 4 – 0, as follows:

AYES: Mr. Meadows, Ms. Garreau, Mr. Alm, Ms. McCarty

NAYS: None

ABSTENTION: None

ABSENT: Mr. Stone

Zoning Ordinance Text Amendment to Sections 3-318.17-18, 5-1810, 6-102, and 15-300 Related to Farm Wineries (Kim Johnson, Staff)

Ms. Johnson reviewed the text amendment and highlighted the changes.

CPAM09-MA-002 & REZN09-MA-003 – Douglas E. & Sharon Y. Darling and Eidolon Capital Partners II, LLC (Owners)/Douglas E. Darling (Applicant) – Cannon Ridge

Ms. Abe summarized the Cannon Ridge staff report.

Mr. Mike Fenner, representative, reviewed the proposed Cannon Ridge application.

PLDV09-CR-003 – Wilbur E. Ritchie, Trustee, Calvin L. Ritchie Trust (Owner)/Thomas Hugill (Applicant) – Ritchie Industrial Property

Ms. Meade gave an overview of the Ritchie Industrial Plan of Development.

Mr. Chuck Floyd, representative, gave a synopsis of the proposed Ritchie Industrial Property application.

CPAM09-SC-007 – New Baltimore Triangle Comprehensive Plan Amendment

Ms. Meade reviewed the New Baltimore Triangle Comprehensive Plan Amendment.

PROPOSED TEXT AMENDMENTS TO THE ZONING AND SUBDIVISION ORDINANCES, THE FAUQUIER COUNTY CODE AND THE COMPREHENSIVE PLAN

Zoning Ordinance Text Amendment to Article 3, District Regulations, and Article 5, Special Permits and Special Exceptions, to require Board of Supervisors' approval on Special Permits for property with non-common open space easements. (Drew Hushour, Staff)

Ms. Johnson reviewed the text amendment and highlighted the changes.

MAJOR PROJECT UPDATE – PEPSI EXPANSION

Ms. Meade briefed the Planning Commission on the proposed Pepsi expansion in the New Baltimore area.

Mr. Scott Collins, applicant, answered questions and provided additional information regarding this application.

SIGN ORDINANCE

Ms. Johnson gave an update on the Ordinance and reviewed how staff is handling signs.

ROUTE 211 – ROUTE 17 CONNECTION BACKGROUND INFORMATION

Mr. Carr gave an overview of this proposed project.

The meeting was adjourned at 5:15 p.m.

*Regular Meeting
6:30 p.m.
Warren Green Meeting Room, 10 Hotel Street, Warrenton, Virginia*

The Fauquier County Planning Commission held its regular meeting on Thursday, July 30, 2009, beginning at 6:30 p.m. in the Warren Green Meeting Room, 10 Hotel Street, Warrenton, Virginia. Members present were Mr. Jim Stone, Chairman; Mr. John Meadows, Vice-Chairman; Ms. Adrienne Garreau, Secretary; Ms. Ann McCarty and Mr. Ken Alm. Also present were Mr. Rick Carr, Mrs. Tracy Gallehr, Mrs. Susan Eddy, Ms. Kimberley Johnson, Ms. Holly Meade, Ms. Kimberly Abe, and Mrs. Stacey Pell.

1. THE PLEDGE OF ALLEGIANCE

2. APPROVAL OF MINUTES – June 25, 2009

On motion made by Mr. Meadows and seconded by Ms. Garreau, it was moved to approve the June 25, 2009 minutes.

The motion carried unanimously.

3. CONSENT AGENDA - PLAN OF DEVELOPMENT

- **PLDV09-CR-003 – Wilbur E. Ritchie, Trustee, Calvin L. Ritchie Trust (Owner)/Thomas Hugill (Applicant) – Ritchie Industrial Property**

Applicant wishes to obtain approval of a Plan of Development to subdivide approximately 122.572 acres into two (2) lots. The property is located at 11738 Ag

Industrial Road off Ritchie Road (Route 644), Cedar Run District. (PIN #7808-52-3089-000) (Holly Meade, Staff)

Ms. Meade reviewed the staff report, a copy of which is attached to and made part of these official minutes.

On motion made by Mr. Stone and seconded by Mr. Meadows, it was moved to adopt the Consent Agenda.

The motion carried unanimously.

4. **BOARD OF ZONING APPEALS AGENDA**

No comment.

5. **TRANSPORTATION COMMITTEE AGENDA**

No comment.

<p style="text-align: center;"><i>Public Hearings</i> <i>6:30 p.m.</i> <i>Warren Green Meeting Room, 10 Hotel Street, Warrenton, Virginia</i></p>

6. **ANNOUNCEMENTS**

Mr. Stone stated that citizens may speak for three (3) minutes.

7. **CITIZENS' TIME**

Ms. Wendy Campbell, Marshall District, spoke in opposition to the Route 211 – Route 17 Connector because of the impact this proposal would have on the area.

Mr. Mark Nesfeder, Center District, spoke in opposition to the Route 211 – Route 17 Connector and encouraged the Planning Commission to review this proposal carefully.

8. **PROPOSED TEXT AMENDMENTS TO THE ZONING AND SUBDIVISION ORDINANCES, THE FAUQUIER COUNTY CODE AND THE COMPREHENSIVE PLAN**

- a. Zoning Ordinance Text Amendment to Article 3, District Regulations, and Article 5, Special Permits and Special Exceptions, to require Board of Supervisors' approval on Special Permits for property with non-common open space easements. (Drew Hushour, Staff)

Ms. Johnson reviewed the staff report, a copy of which is attached to and made part of these official minutes.

Mr. Stone opened the public hearing.

Dr. Kitty Smith, Marshall District, spoke in support of this proposed text amendment, stating that it is important for the Board of Supervisors to make decisions regarding any proposals that are not by-right uses on properties with non-common open space easements.

In that there were no further speakers, Mr. Stone closed the public hearing.

On motion made by Mr. Stone and seconded by Ms. McCarty, it was moved to forward this item to the Board of Supervisors with a recommendation for approval.

The motion carried unanimously.

- b. Zoning Ordinance Text Amendment to Sections 3-318.17-18, 5-1810, 6-102, and 15-300 Related to Farm Wineries (Kim Johnson, Staff)

Ms. Johnson reviewed the staff report, a copy of which is attached to and made part of these official minutes.

Mr. Stone opened the public hearing.

Mr. John Todhunter, Marshall District, stated that he is the owner of Three Fox Vineyards in Delaplane and he is opposed to this proposed text amendment because of the negative impact it would have on wineries.

Mr. Dan Mortland, Marshall District, stated that he and his wife are the owners of Fox Meadow Winery in Linden and he is opposed to the proposed text amendment. Mr. Mortland expressed concern about the limitation on the hours of operation and stated that the County is trying to turn his basic right to farm into a privilege. Mr. Mortland further stated that this proposed text amendment would classify everything the winery does, including wine tastings, as an “event,” which would create a direct financial hardship for his family.

Ms. Brenda Moorman, Marshall District, stated that she is a spokesperson for Virginians for Responsible Wine Promotion, an unincorporated association of citizens concerned about the impact of winery marketing activities on their local neighborhoods. Ms. Moorman stated that while they support wineries, winery neighbors are deeply concerned about the burdens they must bear in the form of increased noise, increased traffic, and decreased land values caused by winery activities. Ms. Moorman noted that several winery neighbors spoke at the last public hearing, but many were unable to attend this meeting. However, she has spoken with most of them and they have requested that the following information regarding several provisions incorporated into the revised proposal become part of the record:

1. *The Regulations are lawful.*

First and foremost, it is very clear that these regulations fall within the provisions of State Law S1033, passed on March 27, 2009, relating to farm wineries. S1033 allows counties to protect the health, safety, and welfare of the citizens of the Commonwealth. Section “A” also allows counties to pass ordinances to regulate “outdoor amplified music” at farm wineries.

2. *No Outdoor Amplified Music shall be allowed. Outdoor amplified music shall include music emanating from an open or temporary structure.*

This is the key requirement. If it should be removed or relaxed for any reason, then the entire regulation would have to be altered to drastically reduce the number of events.

3. *Right of Public Participation in Permit Decisions*

At several points in the regulations, the Zoning Administration is authorized to issue permits to wineries. The public should be allowed to participate in the proceedings leading up to a permit decision. The proceedings should include public hearings if requested by interested parties.

4. *Number of Events*

The number of events provided is far in excess of what wineries need or will use. The Provision of “unlimited” events in certain categories is excessive. Wineries should be assigned events based on a reasonable expectation of the capacity and demand for events at wineries, modified by the needs of local communities and the benefit of preserving the rural atmosphere that is the underlying attraction for visitors to country wineries. Thus, wineries should not be allowed to become attractive nuisances that undermine the ambience that, in part, provides the basis for their existence.

It should be noted that events listed in paragraph 4 regarding Winery Events held in conjunction with a Fauquier County sponsored wine event should be within the limits of paragraph 1.

5. *Public Signage Relating to Events and Closure of Tasting Rooms*

The criteria for many events requires the closure of tasting rooms. This is very important. However, wineries should be required to prominently display signs signifying whether the tasting room is open or closed and whether or not an event is in progress.

6. *Permit Renewal (Section 3)*

The regulations provide that permits are to be automatically renewed unless the Zoning Administrator has cited a particular winery for permit violations, etc., in which case the winery in question must apply for renewal. We think that this provision should also apply if the Zoning Administrator, the Sheriff, or other county officials have received three or more complaints related to a winery’s potential violations during the preceding year. It should also apply if a winery has been cited for a violation by any other governing agency.

7. Permit Renewal (Section 3)

The additional sentence “The Zoning Administrator may decline to renew the by-right event permit for any winery with a history of repeating violations, requiring the winery to secure special exception approval for future events pursuant to Section 5-18102” is a good addition. However, eliminating in the phrase “received one or more complaints regarding the operation of Events and has notified the Farm Winery thereof in writing” is a mistake. The eliminated language would be helpful though it should read “three or more complaints.” This change would guard against overreacting to only one or two complaints. Under the provision as now written, the neighbors would get no relief until a whole year has passed.

8. Enforcement

The regulations are silent on how complaints are to be made and how regulations are to be enforced. All parties involved should know what the enforcement procedures will be. Of great importance is that the appropriate channel for complaints be spelled out.

9. Wine Tasting Lunches and Dinners

The regulations should make clear that wine tasting lunches and wine tasting dinners are events.

Ms. Kay Hayes, Marshall District, encouraged the Planning Commission to revisit the noise and wine event issues.

Ms. Ellen Ussery, Marshall District, stated that wineries are increasing the number of events that are being hosted and that automatic renewal should not be allowed. Ms. Ussery also expressed concern about the noise issue.

Mr. Harvey Ussery, Marshall District, stated that while he would like to see the wineries succeed as a farming enterprise, the stipulation for no amplified outdoor music would help alleviate the noise issue. Mr. Ussery also stated that a periodic review of the wineries’ permits would also be beneficial.

Ms. Irene Kerns, Marshall District, stated that she lives across from the Philip Carter Winery and that loud music is an issue. Ms. Kerns also expressed concern about an accident that occurred involving a car leaving the winery.

Mr. Brian Roeder, Marshall District, stated that he and his wife are the owners of Barrel Oak Winery in Delaplane. Mr. Roeder stated that sixty percent of his customers are members of this community and that he has never received a complaint regarding activities at his winery. Mr. Roeder requested that the Commissioners consider the financial impact this proposed text amendment would have on wineries.

Mr. Ralph Ruggiero, Scott District, stated that the current provisions of this amendment are reasonable. Mr. Ruggiero also noted that wineries occasionally spray their crops and this does affect neighbors as well as visitors to wineries.

Mr. Wayne Peterson, Scott District, stated that his property backs up to Pearmund Cellars and that noise (i.e., traffic, tractors, forklifts, refrigeration trucks, etc.) is his major concern. Mr. Petersen also expressed concern that unlimited events would be allowed.

Mr. Tom Marable, Marshall District, stated that, as a member of the Department of Fire, Rescue, and Emergency Services, he has traveled most of the roads in the County in a fire truck and has never paid much attention to wineries since they never stick out. Mr. Marable applauded the wineries for creating a sense of community and contributing to fundraising events.

Mr. Louizo Papadopoulos, Lee District, stated that he is opposed to the current version of this proposed text amendment because of the negative impact it would have on wineries. Mr. Papadopoulos further stated that this proposal is not consistent with state law, which protects wineries as a farm and agricultural business.

Mr. Howard O'Brien, Marshall District, stated that he is the owner of Chateau O'Brien in Markham. He stated that wineries are already regulated through the Virginia Department of Alcoholic Beverage Control, the Alcohol and Tobacco Tax and Trade Bureau, and are under the Farm Winery Act and to isolate wineries with this proposed text amendment is unfair.

Mr. Chris Pearmund, Scott District, stated that he is the owner of Pearmund Cellars in Broad Run and his operations have not changed since his winery opened. Mr. Pearmund questioned if the County really wants wineries here and encouraged any neighbors with complaints to contact him.

Mr. Philip Strother, Marshall District, stated that he is the owner of Philip Carter Winery in Hume and that he has someone walk the property's perimeter twice during events involving music to ensure that there are no noise issues. Mr. Strother stated that if this proposed text amendment is adopted, it will put farm wineries out of business and have a substantial economic impact. Mr. Strother further stated that this proposed text amendment is a blatant violation of state law regarding wineries, which, as a land use attorney, he helped write.

Mr. David Hamilton, Marshall District, stated that the concerns of neighbors of wineries are real.

Mr. David Horne, Marshall District, stated he is surrounded by wineries, which he likes. Mr. Horne stated that wineries have a right to make a living and if their events get too loud, he walks over and asks them to reduce the noise.

Dr. Kitty Smith, Marshall District, stated this proposed text amendment meets the state legislation standards. Dr. Smith also stated that she supports the right to farm, which includes vineyards, but wineries can become commercial events. Dr. Smith further stated that citizens living near wineries should be informed of what they can do if they experience problems.

Ms. Anna Touhey, Marshall District, stated that she lives on a dairy farm and appreciates and applauds what the wineries are doing.

In that there were no further speakers, Mr. Stone closed the public hearing.

On motion made by Ms. McCarty and seconded by Ms. Garreau, it was moved to postpone action on this item until the next regularly scheduled meeting, with the public hearing closed.

The motion carried unanimously.

9. COMPREHENSIVE PLAN AMENDMENT

- **CPAM09-SC-007 – New Baltimore Triangle Comprehensive Plan Amendment** – An amendment to Comprehensive Plan Chapter 6 – Service Districts – New Baltimore Service District Plan – to amend the land use plan, the transportation plan and associated text for the area east of Lee Highway (Routes 15/29), west of Grays Mill Road (Route 674) and north of and including the Mill Run Business Park. (Holly Meade, Staff)

Ms. Meade reviewed the staff report, a copy of which is attached to and made part of these official minutes.

Mr. Stone opened the public hearing.

Mr. David Dibble, a business owner in New Baltimore, spoke in support of this proposed text amendment due to the number of accidents that have occurred in this area.

Mr. J. L. Combemale, Scott District, stated he is a member of the New Baltimore Volunteer Fire and Rescue Company. Mr. Combemale spoke in support of this proposed text amendment and stated that the economic impact of this proposal on the fire department would be beneficial.

Ms. Christine Pegler, Scott District, spoke in opposition to this proposed text amendment. Ms. Pegler stated that this proposed road would run either right through her house or next to it.

Mr. Peter Karanovich, Scott District, spoke in opposition to this proposed text amendment. Mr. Karanovich acknowledged that something needs to be done to slow down traffic in this area, but the proposed road would go through his garage and affect his drainfield.

Mr. William Tapp, Scott District, spoke in opposition to this proposed text amendment and expressed concern that the meetings and letters leading up to this public hearing were misleading in regard to the planned roads. Mr. Tapp stated that Fauquier County does not need another strip mall and urged the Planning Commission not to turn Route 29 into another Route 234 in Manassas.

Ms. Marlene Zuras, Scott District, stated that citizens requested help with speed issues in this area, but this proposal is not what they wanted. Ms. Zuras stated that she is in favor of a stoplight and the lowered speed, but does not want a strip mall or to see homes destroyed.

Mr. Clayton Yoder, Scott District, stated that options were given at the community meetings and this proposal seems to be the most reasonable.

Ms. Nicole Yoder, Scott District, stated that traffic speed is a serious issue on Grays Mill Road and supports this proposal.

Ms. Julie Broaddus, Scott District, stated that this proposal will only make matters worse regarding the volume of traffic in the area.

In that there were no further speakers, Mr. Stone closed the public hearing.

Ms. Garreau stated that there have been two successful town meetings regarding roads and the Comprehensive Plan for this area. Ms. Garreau stated that the language in this proposal does not allow for a strip mall, and future businesses would be screened from Route 29. Ms. Garreau also stated that there would be no forced development. Residents in the area do not have to move and can live out their lives there. Any new development would require a rezoning, which takes many different steps and the property owners would have to be involved. Ms. Garreau further stated that if residents are unwilling to sell their property, no one is going to take their property and no roads will go through the houses, garages, or properties without their consent. This is more of a broad vision of what the Planning Commission sees as being logical for this area in the future. She also stated that she feels this is the best thing for this area right now and is very proud of the proposal.

Mr. Alm stated that he supports the change to an office park, but it is his understanding that roads would not be constructed through properties without the owner's consent. Mr. Alm stated that there may be a better solution regarding the proposed light near Old Alexandria Turnpike and traffic flow on the north side of Route 29.

Mr. Meadows stated that he agrees with Mr. Alm regarding the proposed light near Old Alexandria Turnpike and the impact on the opposite side of Route 29.

Mr. Carr stated that a transportation study would be done regarding the proposed signal near Old Alexandria Turnpike.

On motion made by Ms. Garreau and seconded by Mr. Meadows, it was moved to forward this item to the Board of Supervisors with a recommendation of approval. The Planning Commission further stated that the road network north of Route 29 (specifically Old Alexandria Turnpike) should be studied.

The motion carried unanimously.

10. COMPREHENSIVE PLAN AMENDMENT/REZONING

- **CPAM09-MA-002 & REZN09-MA-003 – Douglas E. & Sharon Y. Darling and Eidolon Capital Partners II, LLC (Owners)/Douglas E. Darling (Applicant) – Cannon Ridge** – Applicant wishes to change the land use designation on a 16.84-acre parcel from Mixed Use, Low Density Residential and Park/Open Space/Public Use/Preservation to Mixed Use and High Density Residential, and to change the land use designation on a 40.49-acre parcel from Low Density Residential and High Density Residential to High Density Residential. Amendments to the Plan text are also proposed. The applicant also wishes to rezone a 16.84-acre parcel zoned Commercial – Neighborhood (C-1) and Residential-2 (R-2), and a 40.49-acre parcel zoned Residential-4 (R-4) to Planned Residential Development (PRD) for a 280-lot development. The properties are located on the southeast side of John Marshall Highway (Route 55), Marshall District. (PIN #6969-46-8936-000 and 6969-56-9904-000) (Kimberly Abe, Staff)

Ms. Abe reviewed the staff report, a copy of which is attached to and made part of these official minutes.

Mr. Stone opened the public hearing.

Mr. Mike Fenner, representative, reviewed his client's proposal.

Dr. Kitty Smith, Marshall District, stated that the density requested is too high for this area. Dr. Smith questioned if such a large number of homes could be supported by Marshall's current water system.

Mr. Duke Yowell, Marshall District, spoke on behalf of approximately thirty-five (35) citizens who stood to confirm their opposition to this proposal because of the limited water supply, increased traffic, and the steep slopes in this area.

Mr. Harold Petty, Marshall District, spoke in opposition to this proposal due to his concern about the impact it would have on Stephenson's Hill, which is a historic battlefield site.

Mr. John Suter, Marshall District expressed concern about the limited water and sewer supplies, and the impact this proposal would have on Stephenson's Hill, which is a historic battlefield site.

Ms. Hope Porter, Marshall District, stated that this development would have a negative impact on taxes.

Ms. Linda Suter, Marshall District, spoke in opposition to this proposal because of the impact it would have on the water supply.

Mr. David Horne, Marshall District, questioned how such a large number of homes would fit on the site. Mr. Horne also stated that he has major concerns about the strain

such a large development would put on essential services, such as fire and rescue as well as the police department.

Mr. Bill Clark, Marshall District, spoke in opposition to this proposal, expressing concern about the water and sewer systems, condition of soils in the area, traffic, and the economic impact it would have.

Mr. Bob Sinclair, Scott District, read a statement, a copy of which is attached to and made part of these official minutes, from the Fauquier Heritage and Preservation Foundation expressing concern about the impact this proposal would have on such a historic site. Mr. Sinclair stated that historic sites such as Stephenson's Hill should be preserved and protected.

Ms. Feroline Higginson, Marshall District, questioned the need for such a higher density to accommodate a neo-traditional development.

Ms. Anna Touhey, Marshall District, expressed concern about the limited water supply and stated that she would not like to see Anderson Avenue widened.

Dr. Norris Royston, Jr., Marshall District, stated that he helped revise the Comprehensive Plan for Marshall and is opposed to this proposal.

Mr. Charles Risdon, Marshall District, stated that this proposal contains too many houses.

In that there were no further speakers, Mr. Stone adjourned the public hearing.

On motion made by Ms. McCarty and seconded by Mr. Stone, it was moved to postpone action on this item for up to 90 days with the public hearing left open, with the concurrence of the applicant's representative.

The motion carried unanimously.

In that there was no further business, the meeting was adjourned at 9:13 p.m.

A tape recording of the meeting, as well as the associated staff reports and attachments for each agenda item, are retained on file in the Department of Community Development's Planning Office, 10 Hotel Street, Third Floor, Warrenton, Virginia, for a period of one year.