

*MINUTES OF
FAUQUIER COUNTY PLANNING COMMISSION
AUGUST 27, 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, August 27, 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. Jim Stone, Chairman, 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, Mrs. Kimberley Fogle, Ms. Kimberley Johnson, Mr. Andrew Hushour, Ms. Holly Meade, Ms. Kimberly Abe and Ms. Melissa Dargis.

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

Ms. Johnson reviewed the proposed text amendment.

TWSE09-MA-002 – Jackie Shay McNeal (Owner)/T-Mobile Northeast, LLC (Applicant) – T-Mobile WAW312B GTP Delaplane

Mrs. Dargis reviewed the application and handed out additional information.

Planning Commissioners agreed to a site visit which will occur on September 11, 2009 at 10:00 a.m. to the T-Mobile site.

REZN08-LE-005 – Donald R. Tharpe, Trustee & Toll Land X Limited Partnership (Owners)/Donald R. Tharpe (Applicant) – White Marsh (Formerly Colonial Crossing) Mixed Use

Ms. Meade reviewed the application.

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 application and reviewed changes.

A site visit will occur on September 11, 2009 at 10:00 a.m. to T-Mobile and Cannon Ridge sites.

REZN09-SC-004 – Beights Development Corporation (Owner)/Collins Engineering (Applicant) – Mill Run Business Park – Pepsi Expansion

No discussion as the applicant requested postponement.

Zoning Ordinance Text Amendment to Section 13-600 related to civil penalties.

Mr. Hushour reviewed the proposed amendment.

SPEX10-CR-004 – School Board of Fauquier County (Owner)/Fauquier County Public Schools (Applicant) – Southeastern Alternative School

Mrs. Dargis reviewed the application.

Closed Sessions

Mrs. Gallehr reviewed procedures for closed sessions.

Zoning Ordinance Text Amendment to Sections 3-314.6 and 5-1407 relating to motor vehicle impoundment and towing businesses.

Mr. Hushour reviewed the proposed text amendment.

Route 211-17 Corridor

Mr. Carr reviewed the Route 211 – Route 17 Corridor Technical Study. A work session was decided on for September 24, 2009 at 10:00 am.

BZA AGENDA REVIEW:

Ms. Johnson reviewed the agenda. Planning Commissioners discussed sending a letter from the Planning Commission regarding the Zambrana/Mendez small contracting business (SPPT09-CR-038), to the Board of Zoning Appeals.

TRANSPORTATION AGENDA REVIEW:

There was no August Transportation Committee meeting.

Other

Mrs. Fogle passed out topics for the BOS/PC joint work session.

The meeting was adjourned at 5:00 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, August 27, 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. Melissa Dargis, Mr. Andrew Hushour, and Mrs. Becca Kellert.

1. THE PLEDGE OF ALLEGIANCE

2. APPROVAL OF MINUTES – July 30, 2009

On motion made by Mr. Meadows and seconded by Ms. Garreau, it was moved to approve the July 30, 2009 minutes.

The motion carried unanimously.

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

- **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.

Ms. Garreau stated, "In May of 2008, wine critic Dan Berger, pondering Virginia wines' lack of performance on the global stage, noted in his newsletter that "Virginia's wines would be far more respected if state legislators got behind them." Mr. Berger and other observers of the wine industry cite such contributing factors as "no quality standards, no certification that only Virginia-grown fruit goes into the bottle," and a lack of "a wine czar who isn't connected to any of the state's sub-regions," according to an article in the current edition of the Piedmont Virginian. In his remarks, Mr. Berger added that "local wine industry leaders have failed to make a strong case for their wines. Indeed, internal feuding among wineries has left the wineries association far less effective than it could be... As such it has failed to find the crucial funding...to elevate the image of the state's top wines."

So the State Legislature went to work, though not quite in the direction that these noted experts indicated was needed. In response to many farm winery owners' conviction that their livelihood is dependent upon their ability to attract and build public attention to their wineries, state legislators have singled out farm wineries in the Commonwealth's vast agricultural network. Under recently passed State Code, farm wineries uniquely are encouraged to become public spaces, to serve and sell alcohol at their farms, and to host such events that, if sought by any other type of agricultural establishment, would be subject to special permitting by local jurisdictions. Counties all over Virginia are scrambling to bring their disparate zoning ordinances in line with the new guidelines.

In the 21 months since Fauquier Zoning Administrator Kim Johnson began working on our ordinance, staff, the Planning Commission and members of the Board have met with and heard from the County's farm winery owners, winery managers and owners in other parts of Virginia, viticulturists and wine experts, our Department of Economic Development, Fauquier County Counsel and many dozens of concerned citizens, in addition to reviewing ordinances from around the country. The county has received more than 100 emails, letters, and phone calls, has hosted town meetings and has held numerous work sessions and three public hearings.

While it is not in our purview to determine what will boost or detract from Virginia's wine industry, we must consider the impacts of ordinances on the success of farm wineries. According to the State Code, the County has "the land use authority to protect the health, safety, and welfare of the citizens of the Commonwealth." The job of the Planning Commission is to make a recommendation to the BOS on a zoning ordinance that upholds that part of the Code while not violating other parts. This ordinance protects farm wineries' right to farm, manufacture, market, and sell their wines. It also provides citizens who reside near or adjacent to farm wineries and elsewhere in the county some level of assurance that the peace and tranquility associated with our rural areas will be maintained and that rural enclaves will not become destination roadhouses or worse. I believe this Ordinance considers and accounts for the economic viability of the wineries while protecting the neighboring communities.

I heartily support sending this ordinance to the BOS, in the fervent belief that all the energy that farm winery owners have expended on this ordinance can now shift back to the business at hand, which is to make great wines and propel Virginia firmly onto the global stage."

On motion made by Ms. McCarty and seconded by Mr. Meadows, it was moved to forward this item to the Board of Supervisors with a recommendation of approval, with minor revisions from the work session and also with staff to clarify the text.

The motion carried unanimously.

- b. Initiation of a text amendment to the existing Adaptive Use Zoning Ordinance Section 5-700 Category 7 Adaptive Uses to make it a more usable economic development tool that capitalizes on the County's rich array of historic resources and landscapes.

For purposes of good zoning practice, convenience, as well as public general welfare, on motion made by Mr. Alm and seconded by Mr. Stone, it was moved to initiate this text amendment to the Zoning Ordinance.

The motion carried unanimously.

4. BOARD OF ZONING APPEALS AGENDA

On motion made by Mr. Stone and seconded by Ms. Garreau, it was moved to send a letter, a copy of which is attached to and made part of these official minutes, to the Board of Zoning Appeals regarding the Zambrana/Mendez small contracting business (SPPT09-CR-038) conveying their view that the proposed use is not in conformance with the Comprehensive Plan.

Mr. Meadows recused himself from any discussion or vote on this matter.

The motion carried 4 to 0, as follows:

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

NAYS: None

ABSTENTION: Mr. Meadows

ABSENT: None

5. TRANSPORTATION COMMITTEE AGENDA

No comment.

<p><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. Mr. Stone announced that there would be a Planning Commission meeting held on Friday, September 11, 2009 at 10:00 am. The commissioners will make two site visits to the following properties:

- TWSE09-MA-002 – Jackie Shay McNeal (Owner)/T-Mobile Northeast, LLC (Applicant) – T-Mobile WAW312B GTP Delaplane
- CPAM09-MA-002 & REZN09-MA-003 – Douglas E. & Sharon Y. Darling and Eidolon Capital Partners II, LLC (Owners)/Douglas E. Darling (Applicant) – Cannon Ridge

7. **CITIZENS' TIME**

No one spoke.

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

- a. **Zoning Ordinance Text Amendment to Section 13-600 related to civil penalties. (Andrew Hushour, Staff)**

Mr. Hushour 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. Chuck Floyd, Carson, Ashley & Associates, stated that he is a frequent visitor to the zoning office. He stated this text amendment would benefit a lot of people who are not in compliance.

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

On motion made by Mr. Alm and seconded by Ms. Garreau, 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 3-314.6 and 5-1407 relating to motor vehicle impoundment and towing businesses. (Andrew Hushour, Staff)**

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

Mr. Stone opened the public hearing.

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

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

The motion carried unanimously.

9. TELECOMMUNICATIONS SPECIAL EXCEPTION

- **TWSE09-MA-002 – Jackie Shay McNeal (Owner)/T-Mobile Northeast, LLC (Applicant) – T-Mobile WAW312B GTP Delaplane** – Applicant wishes to obtain a Category 20 Special Exception to install a ten (10) foot extension to an existing seventy-eight (78) foot monopole and add nine (9) panel antennas. The applicant also wishes to place three (3) ancillary equipment cabinets at the base of the pole. The property is located at 3175 Aspen Dale Lane off John Marshall Highway (Route 55), Marshall District. (PIN #6031-63-0308-000) (Melissa Dargis, Staff)

Mrs. Dargis reviewed the staff report, a copy of which is attached to and made part of these minutes.

Mr. Stone opened the public hearing.

Mr. Jim Michal, applicant, stated that he agrees with the request for the additional balloon test and he stated that they want to add on to an existing structure, not build a new one.

Mr. Kerry Hines, Marshall District, stated that he lives east of this existing tower. He stated that the tower should not be higher than 10 feet from the top of the surrounding trees. He asked the commissioners to come to his house to see the balloon test done.

Dr. Kitty Smith, Marshall District, stated that she is opposed. She stated that this tower is in a historic district.

Mr. Chuck Medvitz, Scott District, stated that the existing tower is surrounded by conservation easements owned by the county. He urged the applicant to delay the process.

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

On motion made by Ms. McCarty and seconded by Ms. Garreau, it was moved to postpone action on this item for 30 days with the public hearing left open, at the applicant's request.

The motion carried unanimously.

10. **REZONINGS**

- a. **REZN08-LE-005 – Donald R. Tharpe, Trustee & Toll Land X Limited Partnership (Owners)/Donald R. Tharpe (Applicant) – White Marsh (Formerly Colonial Crossing) Mixed Use** – Applicant wishes to rezone approximately 97.13 acres from Rural Agriculture (RA), Commercial-Neighborhood (C-1), and Residential - 4 (R-4) to the Mixed Use Special District – Bealeton Service District (MU-Bealeton). The property is located on the east side of Marsh Road (Route 17) at its intersection with Old Marsh Road (Route 837), Lee District. (PIN #6990-10-5075-000, 6899-19-6609-000, 6899-29-1470-000, and 6990-20-9359-000) (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. Jim Downey, representative, stated that this proposed project would bring jobs to the area.

Mr. Kevin Clark, representative, stated that he is the architect with Historical Concepts located in Georgia. He explained the history between the applicant's property and his firm.

Ms. Amy Trotto, Scott District, stated that she is opposed. She stated that this proposed project is very similar to Mintbrook which is a project proposed across the street. She voiced concerns about having duplicate hotels, movie theaters, etc.

Mr. Todd Benson, Piedmont Environmental Council, expressed gratitude towards the applicant for reaching out to the community. However, he stated that this application is not ready for any further public hearings until access issues are resolved. Also, he stated that when an application is not ready, it is a waste of citizens' time to attend the public hearings.

Mr. James Flanagan, Lee District, stated that he is in favor of this application. He stated that he would like to have more stores in the area where he lives for convenience purposes. He supports growth in the county.

Ms. Beverly Flanagan, Lee District, stated that she is in favor of this application. She stated that she would like the southern end of the county to grow like Warrenton has.

Mr. Jason Armistead, Lee District, stated that he is opposed. He stated that traffic, potential contamination of well water, and run-off would be issues. He expressed concerns about schools overcrowding in years to come.

Mr. Joel Barkman, Cedar Run District, stated that he is in favor. He stated that mixed use is good for the county and the proposed application would work in Bealeton.

Mr. Chuck Medvitz, Scott District, stated that this is the best proposal on this property that the Planning Commission has seen. However, he has concerns that there are no proffers for schools.

Mr. Don Tharpe, applicant, first stated that he appreciated the comments. He stated that he has provided a fiscal impact analysis and Bealeton is the only other town in the county that is designated to grow commercially. He stated that the proposed project would bring revenue to the county. He stated that he would build the commercial portion first and the residential part second. He has worked two years on the mixed use text which this project is based upon. Mr. Tharpe requested the application be postponed until the September meeting.

Mr. Gar Schulin, Marshall District, stated that he is in favor. He stated that the applicant, Mr. Donald Tharpe, is a native and citizen of Fauquier County unlike other developers.

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

On motion made by Mr. Meadows and seconded by Ms. Garreau, it was moved to postpone action on this item for up to 90 days with the public hearing left open, at the applicant's request.

Mr. Meadows instructed the applicant not to return for another public hearing until he has a complete application.

The motion carried unanimously.

- b. **REZN09-SC-004 – Beights Development Corporation (Owner)/Collins Engineering (Applicant) – Mill Run Business Park – Pepsi Expansion** – Applicant wishes to rezone approximately 3.2982 acres from Residential - 1 (R-1) to Industrial Park (I-1) in order to allow the expansion of an existing warehouse and the parking area. The property is located on the south side of Lee Highway (Route 15/29), approximately 1,200 feet north of the intersection of Telephone Road and Lee Highway (Route 15/29), Scott District. (PIN #7906-21-3506-000 and 7906-21-1470-000) (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. Peter Karanovich, Scott District, stated that he has no problem with Pepsi but he has concerns about run-off from their parking lot into a stream that is on his property.

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

On motion made by Ms. Garreau and seconded by Mr. Stone, it was moved to postpone action on this item for 30 days with the public hearing left open, at the applicant's request.

The motion carried unanimously.

11. 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)

Mrs. Eddy 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 the project details.

Mr. Bill Clark, Marshall District, stated that he is opposed. He also stated that he was confused why the applicant needed to change the zoning on the proposed property. He stated that there is no water or sewer and he has concerns about the increase in traffic.

Mr. Ronald Leonard, Marshall District, stated that he is opposed. He is concerned about run-off water onto his property and feels traffic would be an issue.

Dr. Kitty Smith, Marshall District, stated that the applicant still has a lot of work to do before this should come back to a public hearing.

Mr. Jack Whiting, Marshall District, stated that this site is not ready to be developed. He also stated that water is an issue and access to Route 55 and sewer capacity are also issues.

Mr. Harold Petty, Marshall District, stated that he is opposed. He stated that progress needs to be controlled better in the county.

Ms. Meredith Whiting, Marshall District, stated that she is opposed. She stated that she urges smaller developments in the area.

Mr. Doug Darling, applicant, responded to the public's comments and questions.

Mr. Duke Yowell, Marshall District, stated that he is opposed. He stated that access to water and entrances could be problems.

Mr. Paul Lawrence, Marshall District, stated that he is a member of the Marshall Comprehensive Planning committee and stated that the developer is willing to work with them.

Ms. Ellen Owens, Marshall District, stated that she is opposed. She also stated that she lives on land that has been in her family for years and does not want this development near her.

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

On motion made by Ms. McCarty and seconded by Mr. Meadows, it was moved to postpone action on this item for up to 90 days with the public hearing left open.

Mr. Meadows instructed the applicant not to return for another public hearing until he has a complete application.

The motion carried unanimously.

In that there was no further business, the meeting was adjourned at 9:00 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.