

**MINUTES OF**  
**FAUQUIER COUNTY PLANNING COMMISSION**

**MARCH 27, 2001**

*The Fauquier County Planning Commission held its Regular Meeting on Tuesday, March 27, 2001, (rescheduled from February 22, 2001, due to inclement weather) in the Meeting Room of the Warren Green Building, 10 Hotel Street, Warrenton, Virginia. Those members present were Mr. Bob Sinclair, Chairman; Mr. Richard Robison, Vice Chairman; Mr. Serf Guerra, Secretary; Mr. Mark Rohrbaugh and Mrs. Ann McCarty. Also present at the meeting were Mr. Rick Carr, Mrs. Elizabeth Cook, Mrs. Carolyn Bowen, Mr. Doug Morgan, and Mrs. P.J. Gallagher, Clerk.*

On motion made by Mr. Sinclair and seconded by Mr. Guerra, it was moved to change the order of the agenda to allow Item #5 to be discussed after Item #3. The motion carried unanimously.

1. **CITIZENS TIME**

No one spoke.

2. **ZONING ORDINANCE TEXT AMENDMENTS**

- a. Amend Section 3-315.13, Wholesaling and Processing, and Section 5-1504, Additional Standards for Outdoor Auctions for Automobiles, Trucks, Heavy Equipment, Farm Equipment, Boats, RV's and Trailers.

Mrs. Bowen reviewed her staff report, a copy of which is attached to and made a part of these official minutes.

Mr. Sinclair opened the public hearing.

In that no one appeared to speak for or against the request, Mr. Sinclair closed the public hearing.

On motion made by Mr. Guerra and seconded by Mr. Robison, it was moved to recommend approval of the text amendment. The motion carried unanimously.

- b. Amend Section 3-314.5 to permit auto body/painting establishments to be a permitted use with site plan approval in Industrial-2 (I-2) zoning district.

Mrs. Bowen reviewed her staff report, a copy of which is attached to and made a part of these official minutes.

Mr. Sinclair opened the public hearing.

Mr. Robin Gulick, attorney representing MCM Corporation, stated that this is an appropriate use in the I-2 zone.

In that no one else appeared to speak for or against the request, Mr. Sinclair closed the public hearing.

On motion made by Mr. Sinclair and seconded by Mr. Rohrbaugh, it was moved to recommend approval of the text amendment. The motion carried unanimously.

- c. Amend Section 3-318 by adding number 23 to allow the manufacture of distilled spirits as a special exception use with site plan approval in the Rural Agricultural (RA) zoning district. Also add Section 5-1814, Additional Standards for the Manufacture of Distilled Spirits, and adding definitions of distillery and distilled spirits to Section 13-300, Definitions.

Mrs. Bowen reviewed her staff report, a copy of which is attached to and made a part of these official minutes.

Mr. Sinclair opened the public hearing.

Mr. Rick Mossman, Marshall District, stated that he started Copper Fox Distillery and would like to open a small distillery in Fauquier County. He stated that it will be a small agricultural use that will support small farms and be an asset to the County. He stated that he feels that this is consistent with the desires of the County to bring agriculture and business together.

Mr. Guerra asked if this will be ethol alcohol and was told that it will be beverage alcohol.

The following citizens spoke in opposition to the text amendment:

- Donald Morrow, Delaplane, and
- Tom Rawlings, Delaplane.

In that no one else appeared to speak for or against the request, Mr. Sinclair closed the public hearing.

On motion made by Mrs. McCarty it was moved to postpone the request until the April meeting.

Mr. Robison stated that a citizen has offered information and asked for 60 days, and that we should honor his request.

Mr. Guerra agreed with Mr. Robison, that we have a citizen that has offered to give us information at no cost to the County and I don't think 60 days would hurt one way or the other.

Mrs. McCarty amended her motion to postpone the request until the May meeting. The motion was seconded by Mr. Guerra, and carried unanimously.

### 3. ***SUBDIVISION ORDINANCE TEXT AMENDMENT - HABU***

**DEVELOPMENT, LLC, OWNER/APPLICANT** - applicant wishes to amend Section 5-10 of the Subdivision Ordinance to allow alleys in a residential subdivision.

Mrs. Cook reviewed her staff report, a copy of which is attached to and made a part of these official minutes.

Mr. Sinclair opened the public hearing.

Mr. Ben Tissue, Engineer representing the applicant, stated that he favors the staff comments, that he will agree to help defining the design criteria and to work to something agreeable as to what an alley should be.

In that no one else appeared to speak for or against the request, Mr. Sinclair closed the public hearing.

On motion made by Mr. Guerra and seconded by Mr. Rohrbaugh, it was moved to postpone the request until the April meeting for further review. The motion carried unanimously.

4. **REZONING REQUEST (#RZ01-L-01) - HABU DEVELOPMENT, LLC, OWNER, APPLICANT** -applicant wishes to amend an approved rezoning (#RZ98-L-09) to modify Proffer #2 to allow 48 lots to be recorded in the Year 2001. The property is zoned Residential-2 (R-2) Cluster, contains 55.63 acres, and is located on Clarkes Road (route 608), Lee District. (PIN #6981-42-5489-000)

Mr. Doug Morgan reviewed his staff report, a copy of which is attached to and made a part of these official minutes.

Mr. Sinclair opened the public hearing.

In that no one appeared to speak for or against the request, Mr. Sinclair closed the public hearing.

Mr. Guerra asked if we need to postpone action on this request and wait until action is taken on the Subdivision Ordinance Text Amendment and was told by Mr. Morgan that the Subdivision Ordinance Text Amendment is a separate issue.

On motion made by Mr. Guerra and seconded by Mr. Robison, it was moved to recommend approval of the request.

Mr. Rohrbaugh asked if this is put off for another year would the applicant come in and ask for 72 next year, and does this mean that they should be allowed to do 100 in a year.

Mr. Morgan stated that if the applicant wishes to do more than the 48 in a year he would have to file to amend the proffers again.

Mrs. Cook stated that the applicant has not completed all requirements for the subdivision approval, and that it is possible that all 48 will not be done this year.

The motion carried 4-1 with Mr. Rohrbaugh voting against the motion. The motion carried unanimously.

5. ***SPECIAL EXCEPTIONS***

- a. ***#SE00-M-28 - Fauquier County Water & Sanitation Authority, owner/applicant*** - applicant wishes to obtain special exception approval under Category 20 of the Zoning Ordinance which would allow for improvements to the Marshall Wastewater Treatment Plant. The property is zoned Rural Agriculture (RA), contains 5.8 acres, and is located on Scotts Road (Route 719), Marshall District. (PIN's #6969-55-9790-000, #6969-65-1619-000, #6969-65-1881-000, #6969-65-2430-000 and #6969-65-3715-000)

Mrs. Cook reviewed her staff report, a copy of which is attached to and made a part of these official minutes.

Mr. Sinclair opened the public hearing.

Ms. Kitty Smith, Marshall District, stated that this will enlarge and increase the amount of efficiency. She asked if this will flow into Carter's Run as it does today or if it will be pumped to go farther downstream?

In that no one else appeared to speak for or against the request, Mr. Sinclair closed the public hearing.

Mrs. McCarty stated that the facility upgrade and expansion are needed and good for the community.

On motion made by Mrs. McCarty and seconded by Mr. Sinclair, it was moved to recommend approval of the request subject to the following conditions:

1. If toxic or hazardous chemicals are used in the operation, all on-site drainage should be directed into the pond.
2. The applicant shall submit Erosion and Sedimentation Control plans to the County Engineer and the John Marshall Soils & Water Conservation District for their review and approval.
3. The applicant shall submit a site plan for review and approval prior to issuance of building and zoning permits.

Mr. Sinclair stated that he cannot answer Ms. Smith's questions and suggested that she contact Barney Durrett at the WSA.

Mr. Robison stated that questions will be forwarded to WSA.

The motion carried unanimously.

- b. ***SEA01-L-01 - Bealeton Landmarks, LLC, owner/applicant*** - applicant has

filed a special exception amendment application under Category 1 of the Zoning Ordinance which would allow for a revision of the 24 planned patio homes to 24 two-bedroom apartment units. The property is zoned R-4 Cluster, contains 101.4 acres, and is located on Marsh Road (Route 17), Lee District. (PIN's #6899-34-4286-000, #6899-33-2589-000, #6899-33-4760-000, #6899-33-6881-000, #6899-33-9142-000, #6899-32-8789-000, #6899-32-6874-000, #6899-43-2092-000, #6899-43-7426-000, #6899-54-6556-000, #6899-44-4581-000, and #6899-33-8433-000)

Mrs. Cook reviewed her staff report, a copy of which is attached to and made a part of these official minutes.

Mr. Sinclair stated that the stormwater management was an issue that he brought up last month, so for clarification, he asked if the issue was something that will be cared for at the time of the final plat.

Mrs. Cook replied yes, and the applicant has indicated that they are aware that there are issues that will continue to be brought up until they are resolved. One of them is the placement of stormwater management facilities, regional stormwater management facilities and then the capacity of those facilities. There are two more opportunities where we will actually get into the real design work, the site plan and construction plans.

Mr. Guerra asked about the underpass.

Mrs. Cook asked if he is talking about Willow Drive in conjunction with the stormwater management shown on both sides and Mr. Guerra replied that he is talking about the accessibility to go under Route 17.

Mrs. Cook replied that this has not changed from what was approved.

Mr. Guerra stated that there was some mention to that and Mrs. Cook replied that it has been mentioned in the past but this is not going to impact that in any way, that it is not what the applicant is asking for.

Mr. Sinclair asked about the pedestrian access and Mrs. Cook replied that it is still in place.

Mrs. Cook stated that basically the only change is labeling of 24 patio homes on the special exception plat and adding those units to 108 apartment units.

Mr. Guerra asked if staff had identified what is the unit that is now approved and what the applicant is asking for. My concern is that it does not impact the schools. He further stated that his understanding is these 24, as approved, were set aside for the type of people that will not have children, say restricted to elderly or empty nesters. How do you identify that?

Mrs. Cook stated that the special exception conditions did not specifically restrict those 24 patio homes, but she understands there may have been discussions/agreements, but actually the conditions themselves did not

address the number of bedrooms in the patio homes or how they would be marketed or who would be occupying those units. Looking just at the conditions, staff feels there was not any limit of who would be occupying the patio homes. She further stated, that how the units develop could make a difference to who is actually going to buy them. When there is not restriction on the number of bedrooms in the patio homes, if they came in wanting to build the patio homes, we would not have any method to require that those be for empty nesters or age restricted in any way.

Mr. Guerra asked if there is a possibility, and Mrs. Cook replied that the possibility does exist. She stated that it could be that there is some way that they could market the apartments, but looking at the bare bones conditions there was not any way that staff felt we could limit that.

Mr. Guerra further asked how the County will benefit from this change and if there is a proffer on it?

Mrs. Cook replied that this is a special exception condition amendment, there are no proffers.

Mr. Guerra asked if this is supposed to be an advantage to the applicant, how can it be a disadvantage for the County?

Mrs. Cook replied that she is not sure that it is one way or the other.

Mr. Sinclair opened the public hearing.

Mr. Robert Young, representing the applicant, stated the following: "The reason for the requested change is we found in doing detailed design work that it is much more viable and economic project if we are able to convert patio homes, which are defined in the Code as attached single family units, with no limitations on the number of bedrooms at all, and basically substituting for that a single apartment building as opposed to spread out patio homes. We feel that is an advantage to the County because there would be significantly fewer bedrooms built and likely fewer school children. We are in the midst of trying to get financing through HUD for that project and because of the current market conditions from our point of view, we request the Planning Commission move this forward tonight. What I am really saying is we prefer to know if we are going to build patio homes or apartments. From a timing point of view, we are better off being told no you are not going to build apartments so we can move on with the project. So, if possible, we request that the Commission consider this tonight."

In that no one else appeared to speak for or against the request, Mr. Sinclair closed the public hearing.

Mr. Guerra stated in view of what was mentioned at the work session earlier this evening, he was a little bit confused by some of the terminology and he would like to address it to the applicant that perhaps maybe we should just postpone this for thirty (30) days.

On motion made by Mr. Guerra and seconded by Mr. Rohrbaugh, it was moved to postpone the request until the April meeting for further review. The motion carried unanimously.

- c. **#SE01-M-02 - Dark Horse Capital, Inc., owner/applicant** - applicant wishes to obtain special exception approval under Category 29 of the zoning Ordinance which would allow for a waiver of the required State road frontage or construction of a road to State standards to serve new lots. The property is zoned Village (V), contains 76,664 sq. ft., and is located on Springs Road (Route 802), Marshall District. (PIN #6962-22-0761-000)

Mrs. Cook reviewed her staff report, a copy of which is attached to and made a part of these official minutes.

Mrs. McCarty stated that she would like to have a site visit to the property.

Mr. Sinclair opened the public hearing.

Mr. Jim Carson, Carson, Harris & Associates, Inc., stated that this is a by-right administrative subdivision lot and primary access to the Springs Club. He questioned the turnaround and stated that it would impact the neighborhood. He stated that this would not be detrimental to what already exists.

In that no one else appeared to speak for or against the request, Mr. Sinclair closed the public hearing.

On motion made by Mrs. McCarty and seconded by Mr. Guerra, it was moved to postpone the request until the April meeting for a site visit. The motion carried unanimously.

6. **OPEN SPACE REDUCTION (#OSR01-M-01) - CURTIN, JR. & ANN H. WINSOR, OWNERS/APPLICANTS** - applicant wishes to obtain an open space reduction under Category 26 of the Zoning Ordinance. The property is zoned Rural Agriculture (RA), contains 39.5 acres, and is located on Pleasant Vale Road (Route 724), Marshall District. (PIN #6032-31-8230-000)

Mrs. Cook reviewed her staff report, a copy of which is attached to and made a part of these official minutes.

Mr. Sinclair opened the public hearing.

Mr. Jim Carson, Carson, Harris & Associates, stated that he has secured a commitment from the applicant to deed restrict the property.

Ms. Kitty Smith, Marshall District, stated that in general she likes to see the ordinance followed, but with this request the County is getting two (2) less lots. She stated that the shared driveway is good and this will not interfere with the floodplain.

The following citizens spoke in opposition to the request:

- Laura Chester, Marshall District,
- William Rodenberg, Delaplane,
- Constance Hauk, resident on Route 724,
- Harry Huberth, Pleasant Vale Road, and
- John Uhar, Pleasant Vale Road.

In that no one else appeared to speak for or against the request, Mr. Sinclair closed the public hearing.

Mrs. McCarty stated that she understands the concerns of the neighbors but with the conditions this will consist of 2 houses rather than 4.

On motion made by Mrs. McCarty and seconded by Mr. Robison, it was moved to approve the request subject to the following conditions:

1. The approximate 39.7 acre parcel may be divided into no more than two (2) lots with the residue lot being no less than 58.016% of parcel. These two lots shall be deed restricted from further subdivision.
2. The main residential access to Lot 1 shall be from the residue lot or from a shared drive along the proposed property.

The motion carried unanimously.

#### **7. *AMENDMENT TO CHAPTER SIX - SERVICE DISTRICTS OF THE FAUQUIER COUNTY***

***COMPREHENSIVE PLAN*** - this proposed amendment revises current plan designations to be consistent with the existing zoning of all residential parcels in the Warrenton Service District.

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

Mr. Sinclair opened the public hearing.

The following citizens spoke in opposition to the request:

- Mr. Ben Jones, Attorney representing Mr. and Mrs. George Elmore and the heirs of Hugo Stribling,
- Mr. Keith Stevens, Gateway Limited Partnership, and
- Mr. Roy Bechner, representing the Rodgers Family Limited Partnership.



In that no one else appeared to speak for or against the request, Mr. Sinclair closed the public hearing.

Mr. Rohrbaugh stated that he spoke in favor of the Citizen Planning Committees at the Board of Supervisors meeting after seeing what was done in the New Baltimore Service District. He also stated that he serves on the Catlett/Calverton/Midland Planning Committee. He stated that nothing like this amendment has been done before the Committee recommendations have been made. He stated that we should not stack the deck, and give a fair playing field. He further stated that Rosser Payne did the original 1967 Comprehensive Plan and it channeled growth to the service districts. He stated that growth is starting to occur in Warrenton and the Comprehensive Plan is working. This proposed amendment should be sent to the Board of Supervisors with a recommendation for denial.

Mr. Guerra stated that he agrees with Mr. Rohrbaugh, that we are putting the cart before the horse, and that is not the way to do anything. He stated that he is on the Lee District Committee and is surprised that the Board of Supervisors recommended that this be done. He indicated that he cannot support this proposal.

Mr. Sinclair agreed with Mr. Rohrbaugh's statements. He indicated that the New Baltimore Citizens Committee dealt with change to the New Baltimore community and that some of the population numbers were astronomically high and they worked to bring them down. He stated that this proposal is ill-conceived as it is presented to us. He felt that the New Baltimore Citizens Committee was successful and no plan changes occurred prior to their effort.

Mr. Robison stated that this request came from the Board of Supervisors and that we cannot tell the Board that they cannot have what they want, and that the final approval comes from the Board.

On motion made by Mr. Robison and seconded by Mrs. McCarty, it was moved to recommend approval of the request. The motion failed 2-3 with Mr. Rohrbaugh, Mr. Sinclair and Mr. Guerra voting against the motion.

Mr. Sinclair asked if we need another motion and Mr. Kevin Burke, Deputy County Attorney, stated that you can either make a motion for denial or to postpone the request.

On motion made by Mr. Rohrbaugh and seconded by Mr. Sinclair, it was moved to recommend denial of the request and that the Commission's comments be forwarded to the Board of Supervisors. The motion carried 4 to 1 with Mr. Robison voting against the motion.

There being no further business the meeting was adjourned at 8:10 P.M.

A tape recording of the meeting is on file in the Department of Community Development, 40 Culpeper Street, Warrenton, Virginia, for a period of one year.