

AT A MEETING OF THE MONTGOMERY COUNTY PLANNING COMMISSION ON NOVEMBER 18, 2009 IN THE BOARD ROOM, SECOND FLOOR, COUNTY GOVERNMENT CENTER, CHRISTIANSBURG, VIRGINIA:

CALL TO ORDER:

Mr. Miller, Chair called the meeting to order and Mr. Seitz established the presence of a quorum.

Present: Robert Miller, Chair
William Seitz, Secretary
Frank Lau, Member
David Moore, Member
John Tuttle, Member
Ryan Thum, Member
Malvin Wells, Member
Steve Sandy, Planning Director
Dari Jenkins, Planning & Zoning Administrator
Brea Hopkins, Zoning Technician
Jamie MacLean, Development Planner
Marty McMahan, County Attorney

Absent: Walt Haynes, Vice Chair
John Muffo, Board of Supervisors Liaison
Bryan Rice, Member

CALL TO ORDER:

DETERMINATION OF A QUORUM:

PUBLIC ADDRESS:

Mr. Carl McNeil, Jr., Montgomery County Farm Bureau President, stated the Farm Bureau had met with the planning commission previously; however, have not been given the opportunity to meet with staff to discuss proposed amendments to the Montgomery County Zoning Ordinance. The 100 ft. setback for trailer storage is not appropriate, and five (5) trailers is not a good number. The number should reflect the amount of acreage worked. Ordinances should not be changed

Mr. Dan Graham, stated there had not been many changes to the language previously proposed. The definition of premise has not been stipulated in the proposed amendment. A premise in agriculture terms is not limited to one parcel. If premise is properly defined in the ordinance all uses that have occurred would be legal.

Mr. Bruce Stanger, stated the whole issue started with a couple complaints. Now site specific changes to the ordinance were being considered; however, those changes would influence all properties. If homeowners plant a buffer then they would not be impacted by agriculture operations. The agriculture uses control the viewshed. A bad precedent will be set if the ordinance changes because of a complaint. There are many in attendance that opposes the proposed language.

There being no additional speakers or comments, Mr. Miller closed the public address.

APPROVAL OF AGENDA:

On a motion by Mr. Moore, seconded by Mr. Tuttle, and unanimously carried the agenda was approved as amended by conducting old business after the approval of the consent agenda.

APPROVAL OF CONSENT AGENDA:

On a motion by Mr. Seitz, seconded by Mr. Moore, and unanimously carried the consent agenda was approved.

OLD BUSINESS:

Agriculture Accessory Use Ordinance Amendment

Ms. Jenkins stated the Board of Supervisors had requested the Planning Commission to "study the by-right accessory use of storing agricultural products in trailers on land zoned Agricultural (A-1), including the current restriction that only agricultural products produced on premises may be stored in the trailers and advise the Board of Supervisors of any recommended change to the current Zoning Ordinance to address this accessory use in A-1." Numerous conversations have taken place and many comments have been made in regards to this amendment. She reviewed possible options for amendments to address the concerns of the Board. The ordinance does not specifically define the term premise and it may be necessary to provide a definition. Staff has intentionally not made any changes until direction from the Planning Commission is obtained. Once that information is gathered staff will meet with the Farm Bureau representatives and local farmers to work on possible revisions. The commission has the following broad options regarding a proposed amendment:

1. Recommend no changes
 - a) No change to the Zoning Ordinance text and the use of trailers to store agricultural products produced off premises (not on the lot or parcel where the trailer is stored) would not be allowed.
2. Recommend amendment of the Zoning Ordinance
 - a) To allow the storage of agricultural products in trailers produced on or off premises with or without setbacks, buffering or density requirements.
 - b) The purpose of having setback, buffering or density requirements is to address any impact the use of trailers may have on adjoining property owners especially properties that have different uses such as residential.
 - c) The Commission could also recommend a change defining the term premises which would allow a more liberal interpretation of agricultural goods produced on premises but not allow agricultural products from off premises.

Mr. Seitz stated it may not be possible to police the issue of on/off premise items for storage and a definition of premise may be necessary.

Ms. Jenkins noted it would be more difficult to police and would require an inspection of the contents of each trailer. Currently, staff considers each tax map lot separately regardless of whether they are contiguous.

Mr. Moore stated the current ordinance in relation to accessory uses requires that the goods have to be produced on premise. Does this apply to any accessory structures as well?

Mr. McMahon stated the reason trailers are allowed as storage is because they are customarily used; however, the ordinance has limited storage to the product has been grown on site. The term premise has to be defined. Currently the zoning administrator is defining it as each lot and that is the only determination available at this time. The term could be defined to include all lots owned/leased in the county, contiguous parcels, etc.

Mr. Miller stated with that determination if grain is obtained from somewhere else and stored in a grain storage facility on site then that would be a violation of the ordinance.

Mr. Seitz asked if it is usual to have setbacks and buffers for non-permanent structures.

Ms. Jenkins stated that recreational vehicles are required to meet current setbacks, as do small storage buildings, pools, etc. In addition, they are not allowed to be located in the front yard.

Mr. Moore asked if a special use permit could be required for accessory uses or is that prohibited under Right to Farm Act.

Mr. McMahon stated the Right to Farm Act prevents special use permit requirements that would affect production. Storing is not production but could also be considered a gray area. To prevent that possible issue the requirements should be based on surrounding uses and acreage.

Mr. Thum stated it was clear some type of ordinance amendment is necessary. The hard question is what, how many, etc. Arbitrary numbers could create a headache. The commission needs to consider amendments pertaining to various factors of each case such as acreage and surrounding uses. It is necessary to help farmers succeed but there is also the need to recognize legitimate complaints.

Mr. Tuttle stated the farmers need to support their business. It is necessary to consider their perspective. A few people are complaining; however, they moved to that area. Addressing the issue and working with the farmers is the best course of action. The parcel should be used as the basis and determine a compromise that does not impede their ability to function.

Mr. Lau noted he would like to see a consensus/solution to the problem with as few regulations as possible. The trailers are not aesthetically pleasing. The farmers should work together to come up with a solution to the problem. There will always be people moving closer to viewsheds and raise objections. How should these issues be handled? With cooperation maybe the need for legislation could be eliminated.

Mr. Miller stated that in more recent years people are moving to the area. As the county becomes more urbanized there are going to be more issues. It is necessary to hear from the farmers.

Mr. Wells stated there is not a clear answer. There needs to be a decision to benefit all persons involved.

Mr. Seitz stated farmers are struggling in this economy. Anytime regulations are passed that limit the farm industry, it becomes one step closer to nonexistence. The ordinance should be amended to allow the containers regardless of where item is produced. Setback or buffer restrictions may/may not work. Density requirements may be useful; however, may not work unless all acreage for the working farm regardless of tax parcels is included.

Mr. McMahon stated he would suggest staff discuss the term premise and define that clearly. Maybe we need to use another term "working farm" etc. in order to be easier to enforce.

Mr. Thum stated staff should discuss a limit on the number of trailers, how that number should be determined either arbitrarily or based on acreage, etc. with the Farm Bureau.

Mr. Moore stated instead of defining premise and limit storage to produced on premise, maybe more flexibility is needed. Remove premise and define this high density use better under the truck terminal definition. This will prevent any legislation from impacting every farmer in the county.

On motion by Mr. Seitz, seconded by Mr. Thum and unanimously carried, the Planning Commission directed staff to consult with the Farm Bureau and others to offer for consideration amendments to the ordinance in order to make the regulations more fairly enforceable, limit the broad impact to all farming operations, and address the more industrial type agriculture activities. A definition for premise or development of another term should also be considered.

A request by Henry & Sarah Ann Brabham and Brabham Enterprises, LLC (Agent: Gay and Neel, Inc.) to rezone approximately 6.832 acres from Agriculture (A-1) to General Business (GB), with possible proffered conditions, to allow hotel and restaurant uses. The property is located on the northeast corner of the intersection of North Fork Road (Rt. 603) and Interstate 81, Exit 128, identified as Tax Parcel No(s). 046-A12E, 046-A12B, 046-A6C, 046-A6A (Acct Nos. 030792, 015955, 035144, 035143), in the Mt. Tabor magisterial district. The property currently lies in an area designated as Village in the Comprehensive Plan and further identified as Mixed Use in the Elliston/Lafayette/Ironto Village Plan with an allowable density of two units per acre.

Mr. Sandy stated the rezoning request was discussed at the October meeting and tabled to allow the applicant an opportunity to address some issues. The proposed concept plan has not been proffered and does not show the road realignment discussed in the TIA. The proposal does comply with the comprehensive plan designation. Proffers have been offered by the owner to offset concerns.

Mr. John Neel, Gay & Neel, reviewed the proffers submitted. The property will be served by public water and sewer. The realigned Reese Mountain Road would have to be constructed and approved prior to closure of the existing road and shall be completed prior to obtaining building permits for adjoining properties.

Mr. Seitz asked if the alignment of the road is dependent upon the development of the properties.

Mr. Neel stated that the development would require realignment. Once the road is closed, it would be desirable to vacate the state maintained portion of Reese Mountain Road; however, that is a lengthy process. The concept plan has not been proffered for that exact reason. The easement may also be used for utility lines.

Mr. Moore asked if a proffer had been submitted regarding the proposed road construction, such as conformance to VDOT standards.

Mr. Neel stated the road would most likely be constructed exceed VDOT requirements and be classified as a rural local road. There is not a steep grade; therefore, there should not be any grade related issues. The turning radius would most likely meet VDOT standards.

Mr. Brabham, owner, stated his plans were to put in a fourteen (14) foot wide turn lane to prevent traffic issues. This would be necessary due to possible tractor trailer traffic.

On a motion by Mr. Wells, seconded by Mr. Tuttle and carried by a 7-0 vote (Haynes & Rice absent) the Planning Commission recommended approval of the request to rezone approximately 6.832 acres from Agriculture (A-1) to General Business (GB) to allow hotel and restaurant uses with the following proffers dated November 12th including minor editorial changes:

1. All development shall be served by Montgomery County PSA sanitary sewer and water. The rezoning of the property does not allocate or reserve water and sewer capacity for the proposed

development. Site plan approval for the development shall be conditioned upon adequate water and sewer capacity being available. The applicant may be responsible for bearing the cost of any necessary utility infrastructure improvements needed by the PSA both on site and off site to accommodate the requested capacity based on the proposed use for the Property.

2. A detailed site plan/subdivision plan in conformance with zoning ordinance requirements shall be submitted and approved by the zoning administrator and all other necessary local and state agencies prior to issuance of building permits for this development.
3. The realigned Reese Mountain road shall be constructed and a new entrance permit approved prior to the closure of the existing Reese Mountain Road. All VDOT Standards, Specifications, and Regulations shall be adhered to in the closure of the existing Reese Mountain Road entrance. Reese Mountain Road shall be realigned prior to the issuance of building permits on Tax Parcels 46-A-12B & 46-A-12E. The realignment of Reese Mountain Road shall consist of the closure of the existing entrance to Reese Mountain Road at North Fork Road (Route 603) and the design and construction of a new access route from the Norfolk & Southern Railroad crossing to North Fork Road.

The realigned portion of Reese Mountain Road shall be paved and provide a direct connection to North Fork Road. The realigned portion of Reese Mountain Road shall not contain off-street parking or other impediments to free access to North Fork Road. Maintenance and upkeep of the realigned portion of Reese Mountain Road shall be the responsibility of the property owner(s) of Tax Parcels 46-A-12B, 46-A-12E, 46-A-6A and/or 46-A-6C. The realigned Reese Mountain Road will be a minimum of twenty-four (24) feet wide paved with a cross section of 8" 21A Base Stone and 2" SM-9.5A Asphalt.

4. Tax Parcels 46-A-12B & 46-A-12E may each have one entrance onto the realigned Reese Mountain Road. Should these tax parcels be combined, only one entrance shall be allowed.
5. Tax Parcel 46-A-6C may have no more than three entrances onto the realigned Reese Mountain Road.
6. Tax Parcel 46-A-6A may have one entrance onto the realigned Reese Mountain Road.
7. Tax Parcels 46-A-6C & 46-A-6A may be developed prior to the realignment of Reese Mountain Road if no access to the existing Reese Mountain Road is provided.
8. Grading will be performed as approved by VDOT on Tax Parcels 46-A-5D and 46-A-5A as needed to achieve sight distance in accordance with the Traffic Analysis recommendations prior to the issuance of a commercial entrance permit for the development of Tax Parcels 46-A-12B, 46-A-12E, 46-A-6C, and 46-A-6A. In addition, Reese Mountain Road shall not be realigned until such grading has been completed.
9. Stormwater management shall be in accordance with all State and Local stormwater management (Quantity and Quality) standards.

10. The following architectural standards of the development will be incorporated into the development to provide compatibility with commercial uses at other I-81 interchanges within Montgomery County:
 - a. No heating, air conditioning or mechanical equipment shall be placed on the roof of any building unless screened from ground level. Flat roofs shall have a parapet wall tall enough in height to screen any roof mounted mechanical equipment.
 - b. The exposed portions of all exterior wall surfaces of each building on the Property (excluding rooftop screening materials for mechanical equipment) shall be designed and constructed of similar materials. This proffer shall not preclude the use of a design that alternates a combination of permitted materials for architectural effect. Building materials shall consist of brick, stone, split face block, EIFS such as Dryvit or cementitious siding.
 - c. Roofing materials for pitched roofs shall be metal, natural or composite shingle. Buildings with flat roofs shall have a decorative cornice at the top of all walls.
 - d. When a building is adjacent to a public right of way, architectural detail shall be incorporated to create architectural character on the building faces that are visible from that public right of way. Details may include highlighting foundations, lintels, sills and cornices with contrasting materials and breaking up the mass of the building with bands at floor levels or projections at entries.
 - e. Windows and doors shall have a regular pattern of solids and voids that are consistent throughout individual buildings when visible from a public right of way.
 - f. Building elevations shall be included with all site plan submittals.
 - g. Prefabricated metal buildings with vertical metal siding shall be prohibited.

11. The following uses shall not be permitted as by right uses on Tax Parcels 46-A-12B, 46-A-12E, 46-A-6C, and 46-A-6A; however, they may be permitted by Special Use Permit.
 - a. Cemetery
 - b. Church
 - c. Civic Club
 - d. Crematorium
 - e. Custom meat cutting, processing and sales, excluding slaughtering
 - f. Funeral Home
 - g. Homeless Shelter
 - h. Public Utility Lines, other distribution or collection facilities
 - i. Radio Station
 - j. School
 - k. Telecommunication tower, attached

12. Pedestrian access shall be provided between all developed Tax Parcels. This access shall consist of a minimum of a four (4) foot wide paved trail system or sidewalk. Access shall be developed in conjunction with the development of the individual parcels.

13. All site lighting shall be outfitted with a cut-off style fixture to minimize glare onto adjacent properties.

14. A LOMA/R-F shall be submitted for approval to FEMA within 90 days of the rezoning approval of Tax Parcels 46-A-12B, 46-A-12E, 46-A-6C, and 46-A-6A. No development shall occur on these parcels until such time as FEMA approves the Letter of Map Revision (LOMR).

NEW BUSINESS:

Renewal of the following properties within Agricultural and Forestal District #6 (South of Shawsville):

Givens Land Associates	145.3 acres
Estate of Ann Gardner Gray	185.136 acres
Mary Rordam	232.06 acres
Macon Sammons, Jr.	483 acres
Jimmy Yopp	123.7194 acres
C.M. Yopp	34.05 acres
Robert Williams	125.732 acres
Total Acreage	1330.213 acres

Mr. Sandy stated all the property owners have submitted required paper work to renew their designation within the Agricultural and Forestal District #6 (South of Shawsville). In addition to renewal paperwork, Mr. Sammons, Jr. is submitting an application to add two (2) additional properties in February. That request will appear before the Planning Commission separately at a later date. Mr. Sandy reviewed the location of the parcels comprising AFD #6. The majority of this AFD is forestry uses and a plan is on file for those uses. The AFD committee met on Nov. 10th and recommended renewal with the same terms. The Rordam property is also located within a conservation easement.

On a motion by Mr. Moore, seconded by Mr. Thum, and carried by a 7-0 vote (Haynes & Rice absent) the planning commission recommended renewal of Agricultural and Forestal District #6 (South of Shawsville).

Nominating Committee Report

Mr. Wells stated the nominating committee met to discuss officers for the upcoming year. All officers are at the end of the two (2) years of service. The following names are offered:

Bryan Rice- Chair

Bill Seitz- Vice Chair

Ryan Thum-Secretary

On a motion by Mr. Moore, seconded by Mr. Tuttle and carried by a 7-0 vote (Haynes & Rice absent) the Planning Commission accepted the nominations as presented.

WORKSESSION:

None

LIAISON REPORTS:

Board of Supervisors

No report.

Agriculture & Forestal District

No report.

Blacksburg Planning Commission

No report.

Christiansburg Planning Commission

No report.

Economic Development Committee

No report.

Public Service Authority

Mr. Wells stated the Public Service Authority met on November 2nd. They discussed and approved the corridor agreement with City of Radford and the crossing agreement of 114 bridge.

Parks & Recreation

No report.

Radford Planning Commission

No report

School Board- Bill Seitz

Mr. Seitz reported the School Board discussed two (2) items of interest. There was an announcement that they are close to hiring a new superintendent. They also had a discussion regarding a resolution to declare the Blacksburg Middle School in excess of needs and the conveyance of title to the Board of Supervisors.

Transportation Safety Committee- Malvin Wells

No Report

Planning Director's Report

Mr. Sandy reminded members to complete and submit their disclosure forms prior to January 15th. He announced a new bus service will be available on Monday in Christiansburg.

Mr. Lau discussed the new bus routes for Christiansburg.

Mr. Sandy stated the Board of Supervisors had approved the Obiso rezoning request and the comprehensive plan amendment previously discussed by the Planning Commission. Grant funding has been offered for designating the urban development areas and accompanying ordinance amendments. Staff has submitted an application for the grant.

There being no further business, the meeting was adjourned at 8:45 pm.