

**MINUTES
YORK COUNTY PLANNING COMMISSION**

Regular Meeting
York Hall, 301 Main Street
May 8, 2013

MEMBERS

Christopher A. Abel
Alexander T. Hamilton
Melissa S. Magowan
Todd H. Mathes
Timothy D. McCulloch
Richard M. Myer, Jr.
Mark B. Suiter

CALL TO ORDER

Chair Richard M. Myer, Jr. called the meeting to order at 7:00 PM.

REMARKS

Chair Myer stated that the Code of Virginia requires local governments to have a Planning Commission, the purpose of which is to advise the Board of Supervisors on land use and planning issues affecting the County. The responsibility is exercised through recommendations conveyed by resolutions or other official means and all are matters of public record. He indicated that the Commission is comprised of citizen volunteers, appointed by the Board, representing each voting district and two at-large members.

ROLL CALL

The roll was called and all members were present.

PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA

Chair Myer led the Pledge of Allegiance.

APPROVAL OF MINUTES

Mr. Hamilton moved to adopt the minutes of the regular meeting of April 10, 2013, and the motion was approved (7:0).

CITIZEN COMMENTS

Captain Lowell Crow, 904 St. Michaels Court, Chesapeake, Commanding Officer, Naval Weapons Station Yorktown, said he would like to comment on the draft Comprehensive Plan update. He noted that the Comprehensive Plan acknowledges the military's significant role in local and regional economy, and he stated that there needs to be a collaborative partnership in order to ensure the continued viability of the military installation and ensure land uses compatible with the Naval Weapons Station and Cheatham Annex. He stated that the Navy's specific concerns have to do with the existing and proposed Mixed Use overlay designation in the area of Jones Pond, which is used for various training activities that are not compatible with residential development. He expressed concerns about the possibility of light intrusion, electromagnetic interference, and trespassing that could be associated with residential uses in this area. In addition, he noted that there is a demolition area on the south side of Route 199 and that any noise-

sensitive uses on the adjacent property, which is designated Economic Opportunity, should be discouraged.

P. Daniel Smith, 605 Main Street, Yorktown, Superintendent of the Colonial National Historical Park, said he would like to make a comment regarding the draft Comprehensive Plan. He noted that the area in question abuts the Colonial Parkway, and he stated that he shares some of the Navy's concerns about mixed-use development in the area, particularly with regard to trespassing, and he added that the National Park Service would not allow utilities to be extended underneath the Colonial Parkway to serve the property in question. Mr. Smith stated that he supports the original staff recommendation that this area simply be designated Economic Opportunity.

PUBLIC HEARINGS

Application No. UP-825-13, Patrice Janene (Jan) Wiener: Request for a Special Use Permit, pursuant to Section 24.1-306 (Category 3, No. 2) of the York County Zoning Ordinance, to authorize the establishment of home crafts sales with customer contact as a home occupation in conjunction with an existing single-family detached home on a 2.25-acre parcel located at 101 Old Dare Road (Route 644) and further identified as Assessor's Parcel No. 30A-4-1. The property is zoned R20 (Medium Density Single-Family Residential) and is designated Medium Density Residential in the Comprehensive Plan.

Earl Anderson, Planner, summarized the staff report to the Commission dated May 1, 2013, in which staff recommends that the Commission forward the application to the Board of Supervisors with a recommendation for approval of the proposed Resolution No. PC13-8.

Mr. Mathes asked what the parking concerns for this application are and if five vehicles would detract from the residential character of the neighborhood.

Mr. Anderson responded that most previously approved home occupations have been allowed to have no more than two customers on site at the same time in order to maintain the residential character.

Mr. Abel asked if the intent of this condition is to limit the number of people or the number of vehicles allowed on the property. He noted that in this case, all customer transactions would take place outside.

Mr. Anderson said the intent is to limit the business to two vehicles and no more than two people at a time.

Mr. Abel asked if the proprietor would be committing a zoning violation if there were two vehicles on the property with more than one person per vehicle.

Mr. Anderson responded that the proposed resolution would limit the number of vehicles and customers to two at one time.

Mr. Abel noted that the previous occupations involved indoor activities and we were trying to limit the number of people in a home at one time. He stated that his understanding is that in this case the transactions would take place outside on a large piece of property.

Mr. Anderson said allowing more people on the property would be more visible than if they were inside the home.

Mark Carter, Assistant County Administrator, added that the goal is to not change the character of the property from residential to commercial. He explained that the intent of the proposed condition is to restrict the number of vehicles on site at a given time, with each vehicle effectively representing one "customer" without regard for the number of people within the vehicles. He noted that the enforcement of the customer limit in conjunction with other approved home occupations has not involved counting persons accompanying the "customer" as, for example, a child accompanying a home beauty shop customer.

Mr. Abel stated that the showroom is the yard. He asked if the applicant would be obligated to ask customers driving by to leave if they showed up without an appointment.

Mr. Carter said that there would be nothing to prevent a person from stopping by and make an on-the-spot appointment if it did not conflict with an existing appointment. He stated that staff's opinion is that the proposed conditions will protect the residential character of the neighborhood.

Mr. Abel asked if any of the neighbors have expressed concern about the application.

Mr. Anderson responded that none of the neighbors have expressed any concerns.

Mr. Hamilton asked if there would be any signage on the property.

Mr. Anderson said none would be allowed.

Mr. Hamilton asked if there would be any restroom facilities located on the property and if the applicant would be teaching landscaping classes at her residence.

Mr. Anderson deferred the question about restroom facilities to the applicant.

Mr. Carter added that the applicant can teach classes for up to four students at one time as a matter of right home occupation.

Ms. Magowan said the lot is very big and can accommodate more than two parked vehicles and felt it would be more reasonable to allow her to have five customers at a time than to limit her to only two customers at a time.

Mr. Suiter asked how the County would enforce the limited hours of operation and prevent customers from stopping there at all hours of the day and night.

Mr. Anderson responded that the Zoning and Code Enforcement office has a yearly inspection program and also responds to citizen concerns or complaints. He added that if the applicant were found to be in violation of the conditions, the applicant would have to come into conformance.

Mr. Carter stated that commercial plant nurseries and greenhouses are not a permitted use in the R20 district and that based on previously approved home occupations, staff was not comfortable recommending a condition to allow more than two vehicles at one time.

Chair Myer asked if there would be any employees other than the applicant and if lack of restroom facilities was acceptable to the Building Code Official.

Mr. Anderson responded that the only employee would be the applicant and that the Building Code Official had found the applicant to be in compliance with the Building Code.

Chair Myer commented that the applicant's lot is one of the larger R20 lots in the County.

Chair Myer opened the public hearing.

Ms. Jan Wiener, 101 Old Dare Road, spoke as the applicant and thanked staff for their help with this application and she said Earl Anderson is an asset to the County. Ms. Wiener said she has been a Master Gardener since 2010 and a volunteer for York County. She said her home has been on two garden tours. She said she would be the sole employee and is the only one who cares for the property. She explained that her hope is to take customers through her yard and teach them about perennials, and that once the customer decides which perennials they would like to grow, there will be a display area where the plants can be purchased. There is no propagation in the green house and no plants are grown over the winter months. The green house is used to store containers used over the summer. Ms. Wiener said limiting her customers to two at a time would allow her to give each customer her personal attention. She said her objective is personal, there have been many hours of work put into her yard and she wants to share with individuals who want to learn about perennials. She said all customers would be encouraged to make appointments so each customer can benefit from a one-on-one experience. She said she would have no objection to allowing customers to use the restroom in the house if necessary. She also said she has no interest in teaching landscaping classes at this time.

Mr. Suiter asked the applicant how people will know she is open for business.

Ms. Wiener said she has a website letting customers know the hours of operation and encouraging them to make an appointment in advance. She added that as a Master Gardener she has many contacts and her customers have been advertising for her through word-of-mouth.

Mr. Suiter asked what the business would be selling.

Ms. Wiener said she would be selling perennials which would come directly from her yard.

Chair Myer asked what yard art would be sold.

Ms. Wiener said she constructs trellises and arbors that would be sold.

Mr. McCulloch asked about the proposed condition limiting the number of customers.

Mr. Mathes asked the applicant if she would prefer to have up to three customers at one time since the original application requested five to ten vehicles at one time.

Ms. Wiener said she would not be averse to having three vehicles at one time but that in order to give each customer her personal attention, two vehicles would be fine.

Mr. Abel asked the applicant how many customers she can handle at one time.

Ms. Wiener responded that she could handle no more than five customers at one time.

There being no one else wishing to speak, **Chair Myer** closed the public hearing.

Ms. Magowan opined that two vehicles at one time is too low and that she would be open to raising the number to at least three and up to five since the activity would be taking place outdoors.

Mr. Suiter said this is a home occupation and not a commercial business and that he would support the application as long as it stipulates a limit of two vehicles.

Mr. Hamilton said he was leaning toward allowing more vehicles instead of limiting the number of people and that he supports the application.

Mr. Abel said there could be five people but no more than two vehicles.

Ms. Magowan said the County cannot control the number of people in a vehicle but it can control the number of vehicles.

Mr. McCulloch asked why the Commissioners are trying to change the application.

Mr. Mathes suggested that the resolution be changed to allow up to three vehicles and not address the number of customers at all.

Mr. Abel moved to amend the resolution to allow up to three vehicles at a time.

Mr. Anderson said this could be accomplished by revising condition #4 by eliminating the reference to the number of clients.

Mr. Abel said the first sentence in condition #4 would need to be removed and that the number of vehicles would need to be changed to three.

Mr. Suiter asked if customers would be parking on the street.

Mr. Anderson said parking on the street should not be necessary and that there is room on the applicant's property to add more parking spaces if necessary.

Mr. Suiter asked if the Commission is trying to limit the number of parking spaces.

Mr. Abel responded that if there is parking on the street that is out of the Commission's jurisdiction.

Mr. Abel moved adoption of Resolution No. PC13-8(R).

A RESOLUTION TO RECOMMEND APPROVAL OF AN APPLICATION TO
AUTHORIZE HOME CRAFT SALES AS A HOME OCCUPATION WITH
CUSTOMER/CLIENT CONTACT AT 101 OLD DARE ROAD

WHEREAS, Patrice Janene (Jan) Wiener has submitted Application No. UP-825-13 requesting a Special Use Permit, pursuant to Section 24.1-283(b) of the York County Zoning Ordinance, to authorize the establishment of home craft sales as a home occupation with customer/client contact in a single-family detached home on a 2.25-acre parcel located at 101 Old Dare Road (Route 644) and further identified as Assessor's Parcel No. 30A-4-1 (GPIN T07c-1476-1209); and

WHEREAS, said application has been transmitted to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has carefully considered the public comments with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 8th day of May, 2013, that Application No. UP-825-13 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval to authorize a Special Use Permit, pursuant to Section 24.1-283(b) of the York County Zoning Ordinance, to authorize the establishment of home craft sales as a home occupation with customer/client contact in a single-family detached home on a 2.25-acre parcel located at 101 Old Dare Road (Route 644) and further identified as Assessor's Parcel No. 30A-4-1 (GPIN T07c-1476-1209), subject to the following conditions:

1. This use permit shall authorize home craft sales (yard art and landscape plants) as a home occupation with customer/client contact in a single-family detached home on a 2.25-acre parcel located at 101 Old Dare Road (Route 644) and further identified as Assessor's Parcel No. 30A-4-1 (GPIN T07c-1476-1209).
2. The home occupation shall be conducted in accordance with the provisions of the York County Zoning Ordinance, Sections 24.1-281 and 24.1-283(b), except as modified herein.
3. Any storage of yard art and retail sales shall be confined to the existing potting shed and the display area of the yard art and landscape plants shall not exceed four hundred (400) square feet. All shall be located as depicted on the sketch plan received by the Planning Division on March 29, 2013, a copy of which shall remain on file in the office of the Planning Division. While yard art and landscape plantings may be located throughout the remainder of the residential property, none located outside of the "display" area noted above shall be identified with a sales price tag, label or sign.
4. A maximum of three (3) off-street parking spaces, ~~No more than two (2) customers/clients, by appointment only, shall be served at any one time. A maximum of two (2) off-street parking spaces,~~ in accordance with all applicable Zoning Ordinance standards and limitations, shall be provided on the premises (i.e., off-street) to accommodate customers/clients by appointment. These spaces shall be in addition to the two (2) spaces that are otherwise required for the single-family residence.
5. The days and hours of operation shall be limited to no more than two (2) days per week between March 1 and October 31 between the hours of 10:00 am and 2:00 pm. The applicant's appointment book shall be made available for inspection by the Zoning Enforcement Officer, upon request, in order to verify compliance with the days of the week and customer contact conditions.
6. Prior to establishing the home occupation, the applicant shall demonstrate compliance with the applicable minimum standards of the Virginia Uniform Statewide Building Code, subject to the approval of the Building Code Official.
7. Approval of this Special Use Permit shall not be construed to supersede or negate the effect and application of any private covenants that may be applicable to the proposed use/activity nor the authority of any property owners' association to enforce compliance with any applicable covenants.
8. In accordance with Section 24.1-115(b)(7) of the York County Zoning Ordinance, a certified copy of the resolution authorizing this Special Use Permit shall be recorded at the expense of the applicant in

the name of the property owner as grantor in the office of the Clerk of the Circuit Court prior to issuance of a Certificate of Compliance and Occupancy for the home office use.

BE IT FURTHER RESOLVED that this Special Use Permit is not severable, and invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

Yea: (5) Abel, Mathes, Hamilton, Magowan, Myer
Nay: (2) McCulloch, Suiter

Application No. UP-826-13, Redline Performance Motorsports: Request for a Special Use Permit, pursuant to Section 24.1-306 (Category 12, No. 5a) of the York County Zoning Ordinance, to authorize the expansion of an existing motorcycle sales and service facility located at 7325 and 7331 George Washington Memorial Highway (Route 17). The properties are located on the west side of Route 17 approximately 250 feet south of its intersection with Greene Drive (Route 1290) and are further identified as Assessor's Parcel Nos. 24-127 and 24-126. The parcels are zoned GB (General Business) and are designated for General Business development in the Comprehensive Plan.

Amy Parker, Senior Planner, summarized the staff report to the Commission dated May 1, 2013, in which staff recommends that the Commission forward the application to the Board of Supervisors with a recommendation for approval of the proposed Resolution No. PC13-7.

Mr. Suiter asked why the applicant needs a Special Use Permit.

Ms. Parker responded that any motor vehicle sales business in the General Business district, whether automobiles, trucks or motorcycles, requires a Special Use Permit.

Mr. Suiter asked about the roll-up door on building that is facing Route 17.

Ms. Parker responded that there is a roll-up door proposed and it will need to be screened based on the requirements of the Route 17 Corridor overlay district provisions.

Ms. Magowan said the roll-up door appears to have glass panels and stated that the mitigating fence or berms might be more unattractive than the door itself.

Ms. Parker said that screening/buffering options could include landscaping, berms or decorative fencing, or combinations thereof.

Mr. Carter said the Firestone store in the Washington Square Shopping Center is a good example of a business with a berm with landscaping to screen bay doors.

Ms. Magowan said she did not want the landscaping to be bigger than the door with a giant berm and giant fence in front of the roll-up door.

Ms. Parker said the intent is not to completely screen the roll-up door but rather to provide an attractive landscape buffer to mitigate the visual impact.

Mr. Hamilton asked what type of lighting the business has.

Ms. Parker said there was no lighting indicated on the sketch plan but that any lighting for the business would have to meet the Zoning Ordinance requirements.

Mr. Hamilton asked Ms. Parker to confirm that there will be no painting but there will be service allowed on the motorcycles.

Ms. Parker responded that servicing of motorcycles will be allowed at the business but that the applicant has not requested authorization to do body work or painting.

Mr. Abel asked why the business is required to have 52 parking spaces.

Ms. Parker said the number of parking spaces is based on the square footage of the business and Zoning Ordinance standards, which do not differentiate between automobile and motorcycle sales.

Mr. Abel questioned the need for 52 customer and employee parking spaces for this business, stating that the result could be a giant parking lot because it is a big building.

Ms. Parker said the applicant can submit a parking study with site plan to request a reduction in the number of required spaces.

Chair Myer asked when in 2012 was the applicant was cited and whether the applicant resolved the problem for which he was cited.

Ms. Parker said she does not know the exact month and, at this time, there are still vehicles parked on the vacant lot.

Chair Myer opened the public hearing.

David Lillard, 120 Land Grant Road, Yorktown, owner of Redline Performance Motorsports and DML Properties, spoke as the applicant. He said he moved to Yorktown in 1982 and he established his businesses 1994. Mr. Lillard said he submitted the application because his business is growing and he needs the space. He said he would meet all zoning requirements and use permit conditions applicable to his expansion proposal. He said he was cited earlier this year for grading and using the adjacent lot, which he said he has been doing every year since 2003. He stated that he was not cited until 2012. He said he needs the additional space to carry more volume and this would also allow for better placement of various brand names.

Mr. Mathes asked about a reference to underground storage and if he has a fallback plan in the event that is not allowed because of environmental conditions.

Mr. Lillard said the proposed stormwater management system will include underground vaults (tanks) for stormwater storage.

Mr. McCullough asked if the applicant would be doing any body or paint work at his business.

Mr. Lillard said he has no interest at this time in doing body or paint work at his business.

Mr. McCulloch asked if the parking lot is the right size for the business.

Mr. Lillard said there would be a lot of extra spaces. He said the Zoning Ordinance parking standards do not distinguish between motorcycle dealerships and automobile dealerships and that his business doesn't need that many parking spaces but that he would comply with the resolution.

Mr. Abel asked if empty parking spaces could be put to some other use such as an outdoor display area.

Mr. Lillard said he could use the area for outdoor display.

Mr. Abel asked if there will still be an outdoor display in the front of the business or will most of the inventory be maintained inside the business.

Mr. Lillard said there will still be an outdoor display but that it takes a lot of effort and time moving the motorcycles outdoors and vice versa. Mr. Lillard said he would like to keep the majority of his inventory inside.

Mr. Hamilton asked if the storage area is going to be in the back of the building.

Mr. Lillard said the front part of the building is the showroom and the storage area would be in the back of the building. He said he handles over 500 units a year, so the trash dumpster is full of discarded shipping crates and boxes every day. He said trucks are there every day delivering parts to building the motorcycles.

Mr. Hamilton asked if the building would have an elevator.

Mr. Lillard said the building would be split with a mezzanine for offices and the main display floor would be a very open area.

There being no one else wishing to speak, **Chair Myer** closed the public hearing.

Mr. Hamilton said he supports the application and any business that is growing in the County.

Mr. Suiter said this is a very appropriate land use for the County and supports the application.

Mr. Hamilton moved adoption of Resolution No. PC13-7.

A RESOLUTION TO RECOMMEND APPROVAL OF AN APPLICATION TO AUTHORIZE EXPANSION OF AN EXISTING MOTORCYCLE SALES AND SERVICE USE LOCATED AT 7325 AND 7331 GEORGE WASHINGTON MEMORIAL HIGHWAY

WHEREAS, Redline Performance Motorsports, Inc. has submitted Application No. UP-826-13 to request a Special Use Permit, pursuant to Section 24.1-306 of the York County Zoning Ordinance (Category 12, No. 5a), to authorize expansion of an existing motorcycle sales and service use on a 1.87-acre site located at 7325 and 7331 George Washington Memorial Highway (Route 17) and further identified as Assessor's Parcel Nos. 24-127 (GPIN R08c-0391-0721) and 24-126 (GPIN R08c-0364-0799); and

WHEREAS, said application has been forward to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has carefully considered the public comments with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 8th day of May, 2013 that Application No. UP-826-13 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval of a Special Use Permit, pursuant to Section 24.1-306 of the York County Zoning Ordinance (Category 12, No. 5a),), to authorize expansion of an existing motorcycle sales and service use on a 1.87-acre site located at 7325 and 7331 George Washington Memorial Highway (Route 17) and further identified as Assessor's Parcel Nos. 24-127 (GPIN R08c-0391-0721) and 24-126 (GPIN R08c-0364-0799), subject to the following conditions:

1. This Special Use Permit shall authorize expansion of an existing motorcycle sales and service use on a 1.87-acre site located at 7325 and 7331 George Washington Memorial Highway (Route 17) and further identified as Assessor's Parcel Nos. 24-127 (GPIN R08c-0391-0721) and 24-126 (GPIN R08c-0364-0799).
2. This Special Use Permit shall not be construed to authorize sales, rental, or service of automobiles, light trucks, or recreational vehicles.
3. A site plan, prepared in accordance with the provisions of Article V of the York County Zoning Ordinance, shall be submitted to and approved by the Department of Environmental and Development Services, Division of Development and Compliance prior to the commencement of any site modifications on the subject parcels. Said site plan shall be in general conformance with the sketch plan and floor plans received by the Planning Division on April 1, 2013, except as modified herein. Copies of said sketch plan and floor plans shall remain on file in the office of the Planning Division.
4. Construction of the proposed addition shall be in conformance with the architectural elevations submitted to the Planning Division on April 1, 2013 and with the provisions of Zoning Ordinance Section 24.1-378, *Route 17 corridor overlay district*. Copies of said elevations shall remain on file in the office of the Planning Division.
5. Off-street parking for the proposed use shall be provided in accordance with the standards set forth in Zoning Ordinance Section 24.1-606, *Minimum off-street parking and loading requirements*.
6. Access to the site shall be via the existing driveway located on Assessor's Parcel No. 24-126 (GPIN R08c-0364-0799), as shown on the sketch plan referenced in Condition #3 above. Said driveway entrance shall be designed and reconstructed in accordance with applicable Virginia Department of Transportation standards for commercial entrances. Use of the existing driveway located on Parcel No 24-127 (GPIN R08c-0391-0721) shall be discontinued, and the area shall be landscaped in accordance with Zoning Ordinance Section 24.1-244, *Landscape yards*.
7. At the time of application for site plan approval, a plat consolidating Assessor's Parcel Nos. 24-127 (GPIN R08c-0391-0721) and 24-126 (GPIN R08c-0364-0799), prepared in accordance with County Code Chapter 20.5, Article V, *Final Plats*, shall be submitted for approval to the Department of Environmental and Development Services, Division of Development and Compliance.
8. At the time of site plan submission, a Natural Resources Inventory, prepared in accordance with provisions of County Code Chapter 23.3-6, *Chesapeake Bay Preservation Areas, Natural Resource*

Inventory requirements, shall be submitted for approval to the Department of Environmental and Development Services, Stormwater Division.

9. The motorcycle sales establishment shall be operated in conformance with the provisions of Zoning Ordinance Sections 24.1-473, *Standards for all motor vehicle and transportation related uses* and 24.1-477, *Standards for auto fuel dispensing establishments, service stations and auto repair garages*.
10. Use of the property shall be in conformance with Zoning Ordinance Section 24.1-376, *Watershed Management and Protection Area overlay district* and County Code Chapter 23.3, *Stormwater Management*.
11. Prior to issuance of a Certificate of Occupancy for the site, landscaping shall be provided in accordance with Zoning Ordinance Article II, Division 4, *Landscaping, Buffer, and Greenbelt Regulations*.
12. Evergreen landscaping, fencing, and/or earthen berms shall be utilized to screen the proposed overhead bay door to be located in the front building façade from view of Route 17.
13. Body work and painting of motorcycles shall not be permitted on the subject property.
14. No portion of the site shall be used as a motor vehicle graveyard or junkyard as defined in Section 24.1-104 of the Zoning Ordinance or for storage of inoperable motorcycles, other than those waiting for repair, or for other inoperable motor vehicles.
15. Outside storage of parts and/or supplies shall be prohibited.
16. In accordance with Section 24.1-115(b)(7) of the York County Zoning Ordinance, a certified copy of the resolution authorizing this Special Use Permit shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court prior to application for site plan approval.

BE IT FURTHER RESOLVED that this Special Use Permit is not severable, and invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

Yea: (7) Hamilton, Abel, McCullough, Mathes, Suiter, Magowan, Myer
Nay: (0)

Application No. ST-20-13, York County Board of Supervisors: Consider amendments to Section 20.5-93 of the York County Subdivision Ordinance (Chapter 20.5, York County Code) to exempt boundary line adjustments from the requirement to dedicate one-half of the right-of-way width deficiency for any street abutting the subject property.

Mark Carter, Assistant County Administrator, summarized the issue and staff report and noted that staff recommends that the right-of-way deficiency dedication requirement continue to apply to any undeveloped lot/parcel involved in a Boundary Line Adjustment proposal which has frontage on a width-deficient right-of-way. This alternative proposal is shown in proposed Resolution No. PC-13-9A. He noted that the language that would exempt both developed and undeveloped lots was shown in proposed Resolution No. PC-13-9.

Ms. Magowan asked about the example given; the property owner that had the eve overhang would not have to give up right of way but property owner with the undeveloped lot would have to give up some right of way.

Mr. Suiter said Ms. Magowan is correct regarding the example given under the staff's option, but that the language sponsored by the Board of Supervisors would exempt both

Mr. Carter said the Board of Supervisors felt that this requirement should be revised based on concerns expressed by a surveyor involved in preparing a BLA plat. The language sponsored by the Board of Supervisors would completely eliminate the dedication requirement for any boundary line adjustment property. PC-13-9A is the staff's recommended version which would differentiate between a developed lot and an undeveloped lot, with the developed lot not responsible for dedication but the undeveloped lot would be.

Mr. Suiter said if the Board of Supervisors is going to make the final decision even though another option has now been identified.

Mr. Carter said staff is presenting an option that wasn't identified when the issue was first presented for sponsorship. He said the objective was to retain at least part of the current requirement, thus helping to secure necessary right of way without costing the general public.

Mr. Hamilton said a property owner who has not developed the land would be penalized, but land that is developed would not be penalized.

Mr. Carter said when property is subdivided that will add traffic to the road, thus creating a possible need for eventual widening. The same could be true with an undeveloped lot that may be made more developable by the boundary line adjustment.

Mr. Hamilton said he is looking down the line and could this type of requirement be challenged.

Mr. James Barnett, County Attorney, said there is case law which indicates that land extraction must relate to the development of the property and needs generated by that development; one lot divided into many will generate more traffic but a simple boundary line adjustment may not generate any more traffic so there may not be a discernable impact on the adjoining roadway.

Mr. Abel and **Mr. McCulloch** declined comment until the Commission's discussion.

Mr. Mathes said the option should be given to the Board of Supervisors.

Mr. Carter said the original sponsored language will go to the Board of Supervisors for consideration regardless of what is recommended by the Planning Commission. If the Commission recommends any changes, then that version would also go to the Board of Supervisors.

Chair Myer opened the public hearing.

There being no one wishing to speak, **Chair Myer** closed the public hearing.

Mr. Abel said his concern regarding the amended proposal is that we are treating the property owners differently and it could be argued that they should have equal protection. **Mr. Abel** said that this amended

proposal could actually discourage property owners from making boundary line adjustments so they won't want to lose part of their property. **Mr. Abel** has no problem with the original proposal.

Chair Myer asked the Commissioners to please refrain from making a motion for a particular resolution until all the Commissioners have had an opportunity to at least talk and discuss the resolution.

Mr. McCulloch and **Mr. Mathes** said they agree with **Mr. Abel's** statement and support the original proposal.

Mr. Suiter, Ms. Magowan, and Mr. Hamilton said they support the original proposal.

Chair Myer said there seems to be a fairness problem with the staff's proposal. The Commissioner's are supporting the original proposal.

Mr. Abel moved adoption of Resolution No. PC13-9.

A RESOLUTION TO RECOMMEND APPROVAL OF APPLICATION NO. ST-20-13 TO AMEND SECTION 20.5-93 OF THE YORK COUNTY SUBDIVISION ORDINANCE (CHAPTER 20.5, YORK COUNTY CODE) PERTAINING TO BOUNDARY LINE ADJUSTMENTS

WHEREAS, Application No. ST-20-13 has been sponsored by the Board of Supervisors to allow consideration of amendments to eliminate the deficient right-of-way dedication requirement that applies to properties involved in Boundary Line Adjustment proposals; and

WHEREAS, said application has been forwarded to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has carefully considered the public comments with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 8th day of May, 2013, that Application No. ST-20-13 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval to amend the York County Subdivision Ordinance (Chapter 20.5, York County Code) to incorporate the following amendments:

Amend section 20.5-93 as follows:

Sec. 20.5-93. Rights-of-way.

All subdivisions, with the exception of boundary line adjustments which merely relocate a boundary line without an increase in the number of lots, shall be subject to the following requirements:

- (a) Where a subdivision abuts an existing public right-of-way which has a width deficiency created either because it is less than fifty feet (50') in width or because adopted plans

show that a greater width will be necessary to accommodate those plans, the subdivider shall be required to dedicate additional rights-of-way as follows:

- (1) Where the subdivision abuts one (1) side of the right-of-way, the subdivider shall dedicate one-half (1/2) of the right-of-way deficiency along the frontage of the subdivision.
 - (2) Where the subdivision abuts both sides of the right-of-way, the subdivider shall dedicate all of the right-of-way deficiency along the frontages of the subdivision.
- (b) Where the subdivision embraces any part of an arterial or collector street or thoroughfare shown on an approved Comprehensive Plan, official map, or state or regional transportation plan, such street or thoroughfare shall be platted for dedication in the location and width indicated on such plan or map or as deemed necessary by the Virginia Department of Transportation (VDOT) and, except in the case of a limited or controlled access facility, shall be constructed and integrated as a part of the subdivision.
- (c) The minimum right-of-way width shall be fifty (50) feet, or such greater width as may be specified by the Virginia Department of Transportation.

Yea: (7) Mathes, Hamilton, Magowan, Suiter, Abel, McCulloch, Myer
Nay: (0)

OLD BUSINESS

Chair Myer said he was concerned and had questions about the Mixed Use overlay designation discussed by Captain Crow earlier in the meeting. He said that after meeting with the Navy and hearing their concerns, he is not inclined to support the Mixed Use designation. Chair Myer asked Mr. Cross what the property around Jones Pond is zoned currently.

Mr. Timothy Cross, Principal Planner, responded the privately-owned property around the Navy's Jones Pond parcel is zoned Economic Opportunity.

Chair Myer said he visited the property. He stated that the Navy's concern has to do with the unique training that takes place in the Jones Pond area and that the Navy had expressed no concerns about the Economic Opportunity zoning but rather that their concern was about the possibility of housing being built on the property. He stated that after visiting the property, he cannot envision that it would be viable for mixed-use development. Chair Myer stated that he no longer supports the Mixed Use overlay designation in this area.

Ms. Magowan said she has not meet with the Navy yet but that she does have concerns regarding the firing of weapons in the area and the safety field that surrounds the property.

Chair Myer said the firing range is actually on the other side of the property.

Ms. Magowan said she would have to reserve comment because she does not yet have enough information to make a decision.

Mr. Suiter said he is scheduled to meet with Captain Crow on Friday, and he asked what types of uses are allowed on the property in question.

Mr. Cross responded the Navy's main concern is the residential component but that there are a wide range of retail, tourist-oriented, and light industrial uses permitted on this property, along with senior housing with a Special Use Permit.

Mr. Abel said he met with Captain Crow and while he is sympathetic to the military needs, he felt the Navy is limiting the development of a private land owner. The problem is the Egger property which is located by Jones Pond; the Navy doesn't want their training to be disturbed by a possible development. The property could be bought or condemned so the military could use it as it wants.

Chair Myer said he would like to continue this discussion after each of the Commissioners has had a chance to meet with Captain Crow. He asked how this might affect the schedule for voting on the Comprehensive Plan.

Mr. Carter responded that the Commission had previously decided to take action on the Plan in June, so the hope had been to have the discussion at this meeting so the staff would have time to prepare any changes to the document and still present it at the June meeting. In addition, Mr. Carter explained that the Mixed Use overlay designation does not convey a right to establish a mixed-use development. Rather, the overlay designation simply provides an opportunity for someone to propose a mixed-use development through a Planned Development application.

Chair Myer said the Commissioners need to meet with the Naval Weapons Station Commanding Officer individually so that everyone can make an informed decision.

Mr. Suiter asked if the Commission can make changes and approve the Comprehensive Plan at the June meeting.

Mr. Carter said the changes could be made to the Comprehensive Plan and then it could be approved by the Planning Commission at the June meeting.

Mr. McCulloch said it seemed to him that the Commission is seeking to undo a decision that had been made at the previous work session.

Chair Myer said new information has come to the Commissioners' attention and he felt that since the Navy has expressed concerns to the Commissioners, it is their duty to listen to those concerns and make a group decision.

NEW BUSINESS

There was no new business.

STAFF REPORTS

Mr. Carter referred to the Development Activity Report dated May 8, 2013, and offered to answer any questions.

COMMITTEE REPORTS

There were no committee reports.

COMMISSION REPORTS AND REQUESTS

There were no Commission reports and requests.

ADJOURN

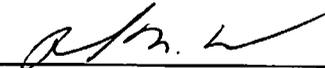
The meeting was adjourned at 9:02 P.M.

SUBMITTED:



Lisa N. Swartz, Secretary

APPROVED:



Richard M. Myer, Jr., Chair

DATE:

12 June 2013