

AT A MEETING OF THE MONTGOMERY COUNTY PLANNING COMMISSION ON AUGUST 14, 2013
IN THE BOARD ROOM, SECOND FLOOR, COUNTY GOVERNMENT CENTER, CHRISTIANSBURG,
VIRGINIA:

CALL TO ORDER:

Mr. Rice, Chair, called the meeting to order.

DETERMINATION OF A QUORUM:

Ms. Disney established the presence of a quorum.

Present: Bryan Rice, Chair
 Joel Donahue, Vice-Chair
 Cindy W. Disney, Secretary
 Coy Allen, Member
 Bryan Katz, Member
 Scott Kroll, Member
 Chris Tuck, Board of Supervisors Liaison
 Brea Hopkins, Development Planner
 Dari Jenkins, Planning & Zoning Administrator
 Erin Puckett, Senior Program Assistant
 Steven Sandy, Planning Director
 Martin M. McMahon, County Attorney

Absent: None

APPROVAL OF AGENDA:

On a motion by Mr. Donahue, and seconded by Ms. Disney, and unanimously carried the agenda was approved with the addition of liaison appointments under old business and the removal of liaison reports.

PUBLIC ADDRESS:

Mr. Rice opened the public address; however, there being no speakers the public address was closed.

PUBLIC HEARING:

Request by **Anthony R. Graves** to expand meat cutting and processing operations by amending a special use permit, approved on May 14, 2001, that permitted a custom meat cutting and processing operation currently known as Hunters Burden LLC, located on 41.194 acres in

Agricultural (A-1) zoning district. The proposed addition will increase the total area of the building to allow additional space for meat cutting and processing and to allow an attached accessory apartment use. The property is located at 2701 Flatwoods Rd. and is identified as Tax Parcel No. 045-A-33E (Acct # 031845) in the Mount Tabor Magisterial District (District C). The property currently lies in an area designated as Rural in the 2025 Comprehensive Plan.

Mr. Rice introduced the request.

Ms. Jenkins explained that the request was to expand an existing special use permit which would provide additional space for the meat processing operation, as well as a second floor accessory apartment. The original special use permit approved in 2001 limited the size of the building to 1000 square feet, so a new permit is needed for any addition.

Ms. Jenkins went on to discuss past violations on the property, most being cases of the property owner not meeting one of the eight (8) conditions set forth by the approved SUP in 2001. These included burning of animal carcasses, construction of freezer buildings without a permit, and removal of the required vegetative buffer. Ms. Jenkins added that since the notice of violation, these violations have been corrected – the buffer was replanted, freezer buildings were removed, and a six (6) foot privacy fence was erected voluntarily by the applicant. He also had eliminated the burning area.

Ms. Jenkins indicated that the area was zoned agricultural and there appeared to be an existing demand for the meat processing services. She also noted that the new SUP would not require a transportation review. Private well and septic already exist on site. However, if the SUP is amended as requested, she will require that the Virginia Department of Health take a look at the existing system to see if upgrades are needed, especially as the proposed addition will include an accessory dwelling unit. Ms. Jenkins has determined the requested SUP to be in line with the Comprehensive Plan.

Ms. Jenkins added that the orientation of the proposed addition would help to screen customer traffic from neighboring properties. The applicant has assured her that there will be no on-site employees. He also has said that he will need a freezer, should the SUP be approved. Ms. Jenkins has recommended that the applicant work with the Building Official to determine how best to add the residential component to the building. Additionally, site plans and zoning permits will be required if the SUP is approved.

Ms. Jenkins noted that all adjoining property owners have been notified, one of whom requested information on the nature of the application. Another called having seen the notice of public hearing sign, but had no comments.

Ms. Jenkins recommended approval of the requested SUP, with the following conditions:

1. This Special Use Permit (SUP) reauthorizes use of the existing building identified as 2703 Flatwoods Road for custom meat cutting and processing only. No other business use of this structure is allowed. This Special Use Permit also authorizes an expansion of the building to an overall size of approximately 3,600 sq. ft. to be constructed in conformance with the Concept Development Plan, prepared by Highland Surveys P. C., revised June 19, 2013, and in conformance with the building plans included with the application materials depicting an expansion of the business on the first floor and the addition of an accessory dwelling on the second floor.
2. There shall be no retail sales on the property.
3. All processing activities shall be conducted indoors; only loading and unloading of animals shall be conducted outdoors.
4. All waste shall be contained in a leak-proof container and kept in a secure area. Containers shall be collected on a regular basis for proper disposal.

5. There shall be no burning or disposal of animal parts or animal waste of any kind.
6. There shall be no outdoor display or storage.
7. No trash, litter or debris shall accumulate or be stored on the property.
8. Any lighting installed on the property shall be dusk to dawn, shielded fixtures to avoid glare onto adjacent properties and night sky, and shall comply with Montgomery County Zoning Ordinance 10-46(9) Performance Standards.
9. A minimum 15-foot vegetative buffer shall be maintained or replanted with evergreen trees (six (6) feet in height at 12 to 15 ft. spacing) for 100 feet along the property line in the area of the building and proposed expansion as shown on the Concept Development Plan, revised June 19, 2013.
10. The existing six (6) ft. privacy fence shall be maintained along the property line as shown on the Concept Development Plan, revised June 19, 2013.
11. The existing entrance permit shall be reviewed by VDOT to determine whether or not entrance revisions are required prior to approval of the site plan.
12. All septic system and well permits shall be reviewed by Virginia Department of Health (VDH) prior to issuance of building permits for the expansion.
13. Facility shall be inspected as required by the VA Department of Agriculture.

Ms. Jenkins asked for questions.

Mr. Rice asked if meat cutting and/or processing is allowed by right in any zoning district, or if it would always require an SUP.

Ms. Jenkins stated that this would most likely fall under the definition for slaughterhouse and as such would require a SUP in A1 (Agricultural) and M1 (Manufacturing) districts, and would not be allowed by right in any district.

Mr. Rice asked why the original SUP was limited to 1,000 square feet.

Ms. Jenkins said the applicant could answer in more detail, but she believed the building had not yet been built at the time of the SUP request which may have had something to do with it.

Mr. Donahue said he believes the property borders two (2) Agricultural and Forestal Districts (AFDs) and inquired as to their location.

Mr. Sandy indicated on the displayed map that he believed the parcel directly south of the applicant's parcel and possibly the one across the street were in an AFD.

Mr. Katz inquired about the existing privacy fence.

Ms. Jenkins said that she does not believe it will be a concern any time soon.

Ms. Disney inquired as to where the septic system was located on the site.

Ms. Jenkins indicated that there are two (2) septic drainfields located close to the existing building. Her concern is that they may not be large enough to serve the proposed addition.

Mr. Kroll said that condition number four (4), which references storage of waste, is somewhat ambiguous in that it says waste should be stored in a secure area but does not specify indoors. He recommended modifying the condition to specify a secure indoor area.

Mr. Katz added that this may need to be clarified further to specify processing waste.

Mr. Kroll also asked about the nature of the existing waste burning area and whether it was an incinerator.

Ms. Jenkins indicated that it was just a small area on the ground.

Mr. Kroll asked about the volume of animals processed, especially during peak times. He also asked about the smoker shown on the floor plan, noting that smoke and odor may be of concern to neighbors. He inquired as to the frequency and nature of its use during the busy season and if the impact on adjacent property owners had been considered.

Ms. Jenkins said that the applicant would need to answer those questions.

There being no further questions or comments, Mr. Rice asked the applicant to speak.

Mr. Graves first expressed his appreciation to the Commissioners for hearing his request. He then noted that, to answer the previous question about the size limitation of the original approved SUP, he initially did not request more than 1,000 square feet, having not foreseen the need for more space. He noted that in hindsight he would have requested a greater size limit. In regards to the smoker, the applicant explained that it is actually a smoker rotisserie oven, similar to a grill, is electric powered, and puts out a little smoke but not even as much as a campfire.

Mr. Graves next addressed the comments about burning waste on the property, saying that since notice from the DEQ, he has been taking the waste to an off-site disposal facility himself and has removed the fire pit altogether.

Mr. Kroll asked how many animals were processed per season.

Mr. Graves said 450-500 animals are processed per year. He also works with Hunters for the Hungry in the off season. November is the peak season for his business, before and after which time he tends to have more visitors than customers.

Mr. Allen asked if the applicant processed any other animals.

Mr. Graves said he is permitted to process beef, pork, and deer, and pays a facility inspection fee to USDA for this.

Mr. Rice opened the public hearing, but there being no comments, the public hearing was closed.

Mr. Rice opened the issue for discussion among commissioners.

Mr. Kroll said that the business seems like a good service for community, and it appears that previous violation issues have been addressed by the applicant. Mr. Katz voiced his agreement.

Mr. Rice expressed some reservations about the second story accessory dwelling, but remarked that he was in favor of the business.

A motion was made by Mr. Kroll seconded by Mr. Katz to recommend approval of the request by Anthony R. Graves for a Special Use Permit on 41.194 acres in an Agricultural (A-1) zoning district to allow expansion of an existing Special Use Permit that permits a custom meat cutting and processing operation with the conditions as recommended by staff, including the modification to condition number four (4) to specify the type and location of waste.

Ayes: Allen, Disney, Donahue, Katz, Kroll, Rice

Nays: None

Abstain: None

OLD BUSINESS:

Liaison Appointments

Mr. Kroll agreed to be the liaison to Parks and Recreation.

Mr. Sandy said that the Commission should have new appointees next month to fill the remaining vacancies.

NEW BUSINESS:

Ordinance Amendment: Amateur Radio Tower

Ms. Jenkins noted that at the Board of Supervisor's meeting on July 22nd they requested that the Planning Commission determine if amateur radio towers needed to be specifically defined in the ordinance. She reminded the Commission that as per the State Code, amateur radio towers must be allowed up to seventy-five (75) feet in height. She has looked at several other municipalities' ordinances, including Blacksburg, which regulates the maximum height to 75 feet, requires a setback equal to the height, and allows them only in rear yards.

Mr. Rice asked how this would impact the ordinance we just passed indicating an antenna cannot be placed on a fixed private pole.

Ms. Jenkins indicated that while an ordinance prohibiting antennae on private flagpoles, etc. was passed, the State code would still take precedent in regards to amateur radio.

Mr. McMahon added that municipalities are still able to restrict amateur radio towers, just not to a height of less than 75 feet. For this reason, we need a definition for this kind of tower/antenna. There also needs to be requirements for where they would be allowed by right. State Code says that reasonable restrictions can be placed on these towers.

Mr. Donahue suggested making amateur radio towers a special exception, and thus a sub-definition under "telecommunication tower".

Mr. McMahon noted that we are still allowed to reasonably restrict them and that they are different than a telecommunications tower.

Mr. Donahue expressed concern that the state does not provide procedural guidance for how to restrict them, and furthermore noted that the State Code implies that localities should not regulate these towers unless absolutely necessary.

Mr. Sandy suggested taking a look at the Blacksburg example, which could guide our potential amendment. It is possible to develop one set of regulations and then determine which districts to allow the towers in.

Mr. Rice asked if someone owned a large property, would they be able to get a SUP for a 200 foot tower; Ms. Jenkins said yes.

Mr. Kroll asked if there had been a specific situation that prompted the Board to want this definition.

Mr. McMahon said that yes, the issue with telecommunication towers trying to circumvent the ordinance led to the realization that a separate definition was needed for amateur radio tower.

Mr. Tuck added that the Board wanted to make sure HAM/amateur radio was not regulated too much, but also ensure that towers won't fall on adjoining property, etc.

Mr. Allen said that Blacksburg's ordinance seemed like a good starting place.

Mr. Donahue agreed that Blacksburg has made good start, but having better fall zone definitions/restrictions would allow amateur radio towers to be allowed in all zoning districts. Over-

restricting these towers is a bad idea. He offered to send additional information about amateur radio stations to Mr. Sandy.

Mr. Kroll asked about the reason for guywires requiring setbacks.

Mr. Sandy noted that just like any other use requiring setbacks, it was mostly for safety reasons.

Mr. Kroll asked if it would be possible to bring an expert in for next week's meeting.

Mr. Donahue offered to look into that and provide some contact information to Mr. Sandy.

Mr. Sandy stated that staff would do some additional research on the topic and draft some ideas based on the Blacksburg example for review on August 21st.

Ordinance Amendment: Park and Ride Lot

Ms. Jenkins was contacted by Donna Sawyers regarding construction of a park and ride lot to be associated with her bus operation. The parcel is zoned Industrial, which would allow a park and ride lot by right, but the ordinance definition restricts its use to commuters only. Ms. Sawyers hoped to offer vacation and shopping trips, and is requesting that the definition be changed.

Mr. Kroll wanted to know if this definition applied to VDOT lots.

Ms. Jenkins indicated that those cannot be regulated.

Mr. Kroll asked if we have non-state owned park and ride lots in the county.

Mr. Sandy said he knows of at least one at Exit 114.

Mr. Katz asked if what Ms. Sawyers is proposing would just be a normal parking lot due to the use.

Mr. Kroll said that under the current definition, it would seem that this is just a commercial lot, rather than a commuter lot. He further stated that one person's request should not be reason to change a definition; a broader context is needed.

Mr. Katz asked if the proposed lot could be considered an accessory use if the place of business is located elsewhere.

Ms. Jenkins was unsure but said she would ask Mr. McMahon.

Mr. Kroll asked if park and rides are restricted to certain zoning districts.

Ms. Jenkins indicated that they are allowed by right in GB, CB, M-1, and M-L, but must be unlighted in CB.

Mr. Kroll said that he would consider this a commercial lot since it is part of someone's business.

Ms. Jenkins said that the issue is there are no buildings related to the business on the site; it would only be a lot.

Mr. McMahon stated that the reason for defining park and ride was to allow it as its own use (rather than an accessory) by right in some areas.

Mr. Kroll suggested that maybe we need a definition for satellite parking instead.

Mr. McMahon reminded the Commission that the zoning ordinance is restrictive; hence, if a use is not spelled out, nobody can do it.

Mr. Donahue suggested that this requires a subcategory to the existing definition for short-term and long-term parking.

Mr. Rice asked if it wouldn't be easier just to expand the park and ride definition.

Mr. Katz suggested just removing "to and from place of work".

Mr. Donahue agreed, and said that a sub-definition should be included specifically for overnight parking.

Mr. Katz asked if overnight parking could be restricted under the existing regulations, and would there be issues with people arriving in the middle of the night.

Ms. Jenkins said that overnight parking was not currently restricted. There could be issues with bus noise late at night.

Mr. Sandy noted that part of the issue was that the proposed Sawyers lot was across the street from a residential area.

Mr. Kroll suggested possibly allowing day parking by right and overnight parking by special use. He asked that staff look at what others are doing and come back with more information.

Mr. Sandy stated that staff would research the issue further and provide additional information and recommendations for review on August 21st.

Ordinance Amendments: Annual Review

Ms. Jenkins discussed seven proposed ordinance amendments based on changes to the Code of Virginia. These included the following:

An amendment to Section 10-54(1)(d)(1) to require the Planning Commission to inform military installations of development that may impact them. This is relevant due to the proximity of the Radford Army Ammunition Plant (RAAP).

An amendment to Section 10-41(2A)(1) and (9) to allow occupancy by a married couple, and to extend the time by which a temporary family health care structure must be removed after it is no longer in use, from 30 to 60 days.

An amendment to Section 10-43(5)(a) to add cemeteries to the uses requiring the planting of trees such that ten (10) percent tree canopy is provided within ten (10) years.

A possible amendment to Section 10-51(5) to include new State Code regulations for e-participation in meetings.

An amendment to Section 10-51(5)(b) to clarify BZA voting requirements.

A multi-part amendment to Section 10-55 to amend certain BZA processes.

The Commission agreed with the majority of these changes, with the exception of the recommended e-participation change to Section 10-51. Mr. McMahon stated that he would not recommend this particular amendment as it would be covered by State Code anyway. The Commission agreed.

Ms. Jenkins described another ordinance amendment to address a mistake found in the ordinance in which temporary sawmill is listed as both a by right and special use permit use in C-1 districts. The special use case should be changed to sawmill (implying that it is permanent).

The Commission agreed that this change should be made.

Comprehensive Plan Amendment Discussion

Mr. Sandy stated that two proposals for comprehensive plan amendments had been received one of which was just received today. Amendment requests are only accepted twice a year in February and August.

Mr. Sandy said that the former Prices Fork Elementary School property currently has a future land use designation of Civic. Since the property will no longer be a school and is now up for sale, the County

is proposing changing the future land use to Mixed Use to better match the surrounding area. There are four (4) criteria for a comprehensive plan amendment, and only one needs to be met to justify the change. In this case, certain conditions have changed since the last comprehensive plan update, since it is no longer a school, and since the County hopes to sell the property there is no reason to keep the Civic designation. Should the Commission decide to schedule the hearing, a sample resolution is included in the packet.

Mr. Kroll asked if there is any downside to this change.

Mr. Sandy explained that the Mixed Use designation is actually more inclusive and so will not prevent a civic use. Since the property is zoned A-1, any future rezoning would still need to come to the Planning Commission and the Board for review.

Mr. Sandy described the second request, which applies to the former Elliston-Lafayette Elementary School site. SHAH Development has just purchased the property at auction, and it has a future land use designation of Planned Industrial/Commercial. SHAH wants to build residential units on this property, and is requesting a future land use change to Medium Density Residential. Furthermore, it may be worth looking at changing the designation for all nearby properties in the area (bounded by North Fork Road, 460, and the railroad), as they all currently have residential uses on them.

Mr. Kroll asked if this meant they would still need to apply for a rezoning to put in residential units.

Mr. Sandy indicated that yes, they would need to apply; the land use change would just make rezoning easier.

Mr. Kroll said that this seems different than the Prices Fork property scenario because adjacent areas are a future land use of Industrial/Commercial.

Mr. Rice asked if staff would be alerting the other property owners whose land is being considered for the change.

Mr. Sandy said that staff can let them know by letter.

Mr. Rice said this would be a good idea as it would allow adjoining property owners to give input as to whether they want the change before an official public hearing.

Mr. Kroll expressed concern as to the potential issues caused by a residential property surrounded by industrial/commercial.

Mr. Sandy said that the Commission could advertise a hearing to potentially change all of those properties but then would not have to recommend changing them all based on public hearing feedback, or staff can send letters to affected property owners and see what response we get before we advertise for public hearing.

Mr. Donahue suggested that if it was not necessary to schedule this request for a September hearing, to only schedule the Prices Fork change at this time.

On a motion by Mr. Donahue and seconded by Ms. Disney and unanimously carried, the resolution to schedule a public hearing to amend the Comprehensive Plan for the Old Price's Fork Elementary School Property from Civic to Mixed Use was approved.

Mr. Katz asked if buyers know the stipulations regarding these properties when they purchase them?

Mr. Tuck said that they buy the property as is, which is made clear.

Mr. Sandy clarified that the Prices Fork property will be sold contingent on the proposed change (and will not go through auction), whereas the Elliston property has already been sold at auction.

Mr. Kroll asked if at the next meeting staff could provide additional information about the Elliston site for further discussion.

Mr. Sandy said that staff will proceed with sending letters to affected property owners and the Commission will not have to advertise for public hearing right away.

Mr. Donahue moved to table the discussion and Mr. Kroll seconded.

Mr. Kroll asked for further clarification, asking if a rezoning or SUP request is not consistent with the comprehensive plan, then is that basis for denial.

Mr. Sandy said yes, but it is not necessarily a deal breaker.

Mr. Rice explained that the comprehensive plan amendment would come first, then the rezoning request

Mr. McMahon added that if a rezoning is not in line with the comprehensive plan, it would be considered arbitrary and capricious and could open up more issues.

Mr. Sandy stated that a letter would go out before the end of the week. They would then be able to call or write in their concerns and/or attend the meeting on August 21st.

There being no further business the meeting was adjourned at 9:43 pm.