

PLANNING COMMISSION
August 17, 2005

THE REGULAR MEETING OF THE GREENE COUNTY PLANNING COMMISSION WAS HELD ON WEDNESDAY, AUGUST 17, 2005, AT 7:30 PM IN THE COUNTY MEETING ROOM.

Those present were: Gary Lowe, Chairman
Brent Wilson, Vice-Chairman
Jim Davis, Member
Mickey Cox, Ex-officio Member
Bart Svoboda, Zoning Administrator
Marsha Alley, Secretary

The chairman called the meeting to order.

Mr. Lowe welcomed everyone to the meeting. He advised that RZ#05-162 Mary Newton/Wayne Homes was withdrawn by the applicant.

PUBLIC HEARING: Dofflemyer/Spangler—Rezoning Request #05-163

Mr. Lowe read the request: Dofflemyer Development, LLC/Harvie & Frances Spangler request a re-zoning from A-1, Agriculture to R-1, Residential on a 29.24 acre tract located on Spring Hill Road and identified on County Tax Maps as 65-(A)-35. (RZ#05-163)

Mr. Lowe advised anyone wishing to speak tonight to please sign the sign-up sheet and described the public hearing process. He asked Bart Svoboda to read the staff report.

Mr. Svoboda gave a report and presentation describing the request. He reported that the applicant is requesting that the land be rezoned from A1 to R-1, noting that there is 29.24 acres with public water and no public sewer. He added that the property is in the designated growth area of the Future Land Map and is in keeping with the surrounding area. He stated that the roads would be adopted into the VDOT system and that interconnectivity with Parcel 23 has been requested. He pointed out that the lake on the property will need to be maintained and that applicant is waiting on the outcome of the re-zoning request for the completion of the soil work. He stated that staff finds this property compatible with the area and recommends approval.

Barry Dofflemyer addressed the Commission expressing his appreciation and consideration to them for their time in allowing him to address this issue. He stated that this development would be less dense than the surrounding developments and added that he would be incorporating a recreation facility. He advised that the interconnectivity is being addressed on the subdivision plat. He stated that this project would be an attractive development for Greene with prices ranging from \$350,000-\$400,000. He added that the AOSE believes that the land will support any septic requirements. He stated that the recreation facility would include picnic areas, trails, and a tot lot. He stated that buffering would be in place and the existing residence would be enhanced. He stated that he believes these issues

have been addressed to the best of his ability. He noted that he would be available for any questions.

The public hearing was opened.

Carl Schmitt addressed the Commission. He distributed a memo to the members which addressed the following issues:

- (1) Impact assessment based on last census. Assuming that 1 child per household is low assumption especially for homes of this nature.
- (2) Cash Proffers could address some of these impacts.
- (3) Open space requirement should be maintained and maintenance plan included.
- (4) Low Impact Development (LID) techniques would be encouraged.
- (5) Interconnectivity to enhance community
 - Pedestrian
 - Biking
 - Road Construction
- (6) Lighting should be addressed to avoid lighting the night sky
 - Suggested "lighting language" was submitted.

There being no further public comment, the public hearing was closed.

Mr. Davis asked if proffers were submitted.

Mr. Svoboda stated that proffers have not been submitted at this time.

Mr. Davis pointed out that these issues (recreation facility, interconnectivity, etc) are only on the word of the applicant since nothing has been submitted in writing.

Mr. Svoboda said that these issues are tied in with the Preliminary Plat approval as well.

Mr. Lowe wanted to clarify that the applicant has both a rezoning request and a preliminary plat review for a subdivision to be heard tonight.

Mr. Davis asked if fire protection had been addressed.

Mr. Svoboda stated that he estimated that there were 2 fire hydrants on the road.

Mr. Davis agreed with the concerns regarding the impact and the figures that were used. He added that Low Impact Development (LID) techniques should be encouraged.

Mr. Wilson asked Mr. Svoboda what the Future Land Use designation was in the Comprehensive Plan.

Mr. Svoboda stated that the Future Land Use Map designates the area as residential.

Mr. Wilson asked if there were any VDOT comments.

Mr. Svoboda stated that none had been received to date.

Mr. Wilson asked when those comments could be expected.

Mr. Svoboda stated that the agency has been notified but had no idea when comments might be received.

Mr. Wilson said he feels uneasy to decide without having the VDOT information.

Mr. Wilson asked Mr. Dofflemyer where his construction business is located.

Mr. Dofflemyer stated that the business is owned and operated by a company in Albemarle County and the local area. He stated that he was a life long resident of Albemarle County. He added that his company is currently building in Guildford Farm and practicing LID techniques there and is interested in addressing the environmental issues. He added that the figures used for the impact study were figures that were available and they believed them to be accurate.

Mr. Wilson asked how many bedrooms would be in the homes.

Mr. Dofflemyer stated that there would be 3-4 bedrooms.

Mr. Wilson asked what type of families would be targeted to purchase these homes.

Mr. Dofflemyer stated that the targeted purchasers would be in an upper income market, likely professionals.

Mr. Wilson stated that he would like to see more sensitization of impact here to have a better idea for comparing different analysis scenarios.

Mr. Dofflemyer stated that he would be happy to address that. He added that the interconnectivity is being addressed even in regard to the water sources. He noted that it is difficult to connect to existing developments as they were not planned for interconnectivity. He agreed that the access is an important issue.

Mr. Wilson agreed. He asked Mr. Svoboda if there were any adjacent property owner comments or concerns.

Mr. Svoboda said that some property owners had come in to see the file but there were no comments.

Mr. Lowe said that he was glad to hear about the Low Impact Development interest.

Mr. Dofflemyer stated that they had used LID techniques in other sites and that they are interested in incorporating them here as well.

Mr. Lowe asked if Mr. Dofflemyer would be doing the construction in the development.

Mr. Dofflemyer said that they may have to sell a few lots for financial reasons but added that they want to develop most of the lots themselves.

Mr. Lowe asked if there were any covenants and restrictions.

Mr. Dofflemyer said that they could be provided, adding that there will be stringent covenants and restrictions for the development.

Mr. Lowe asked if the community area would be for residents only.

Mr. Dofflemyer stated that it would be for the development only and not a public park.

Mr. Lowe asked if the volleyball and tot lots would be lit.

Mr. Dofflemyer responded that he would like to minimize lighting as much as possible but there may be some lighting at night.

Mr. Lowe addressed the open space calculations. He pointed out that the lots could be 30,000 square feet but most are larger.

Mr. Dofflemyer agreed. He stated that he would like to keep the open area "open", noting that it can be reduced when a recreation facility is provided.

Mr. Lowe said that overall he liked what he saw in this proposal, but he shares concerns regarding children and the impact on the schools, etc.

Mr. Dofflemyer said he would like to point out that surrounding developments are more dense, but added that Mr. Lowe's point was well taken.

Mr. Wilson asked Mr. Svoboda how many homes could be built on the property by right.

Mr. Svoboda estimated that 8 homes could be built by-right as currently zoned A-1.

Mr. Lowe restated that there are to be 34 additional lots and 1 existing home with 35 lots as a total. He added that it seems like a nice plan but noted that he is concerned about the impacts and the lack of proffers.

There was discussion regarding the impacts that would be caused by the development.

Mr. Wilson made a motion to defer RZ#05-163 due to the following:

1. Lack of VDOT comments,
2. Need for more complete financial analysis,
3. Definition of interconnectivity, and
4. Assurance that LID practices should be in place.

Mr. Davis seconded the motion.

The vote was taken.

AYE

Mr. Wilson

Mr. Davis

Mr. Lowe

NAY

The motion carried by a unanimous vote.

PUBLIC HEARING: Leon Taylor—Ordinance Revision OR#05-019

Mr. Lowe announced that Leon Taylor has made application for a Zoning Ordinance revision to Article 22-3 regarding “Accessory Use or Structure”. He asked Mr. Svoboda for a report.

Mr. Svoboda stated that the applicant has requested an Ordinance Revision to change the definition of “accessory use or structures” to allow an accessory use or structure to be located on a vacant lot prior to the construction of a primary structure. He explained that on January 11, 2005, the Board of Supervisors adopted ordinance revision OR#04-015 and noted that Section 22-3 Accessory Use or Structure was included in that revision. He stated that the Board of Supervisors adopted the language as follows:

22-3 ACCESSORY USE OR STRUCTURE:

A subordinate use or structure customarily incidental to and located upon the same lot occupied by the main use or building; garages or other accessory structures, such as carports, porches and stoops attached to the main building or detached but directly accessible from the main structure, shall be considered part of the main building. (Revised 1/11/05)

Mr. Svoboda added that the Comprehensive Plan does not directly address this issue. He noted that staff is concerned about “storage” being considered as a primary use. He presented three (3) options for review.

Option 1:

A subordinate use or structure customarily incidental to and located upon the same lot **or any other lot that may be occupied by a** main use or building; garages or other accessory structures, such as carports, porches and stoops attached to the main building or detached but directly accessible from the main structure, shall be considered part of the main building.

Option 2:

A subordinate use or structure customarily incidental to and located upon the same lot main use or building; garages or other accessory structures, such as carports, porches and stoops attached to the main building or detached but directly accessible from the main structure, shall be considered part of the main building. **If the lot is located in C-1, A-1 or any residential district, then a garage and/or storage shed shall be allowed provided that the garage or storage structure shall meet main structure setbacks for those zoning districts.**

Option 3:

A subordinate use or structure customarily incidental to and located upon the same lot main use or building; garages or other accessory structures, such as carports, porches and stoops attached to the main building or detached but directly accessible from the main structure, shall be considered part of the main building. **If the lot is located in C-1, A-1 or any residential district, then one garage or storage structure shall be allowed provided that the garage or storage structure shall meet main structure setbacks for that zoning district and be no larger than 576 square feet.**

Mr. Svoboda pointed out that an accessory structure could be a storage shed, garage, or swimming pool. He added that this proposed revision could allow an accessory use or structures on any parcel that would allow a main or principle structure or use in the C-1, A-1 and residential zoning districts. He explained that currently an accessory use or structure is allowed in all zoning districts, noting that on commercially zoned property, uses are regulated by site plan. He stated that this ordinance does not affect commercially zoned property. He added that in order to maintain continuity throughout the C-1, A-1 and residential districts, it is important to limit the type of use allowed. He stated that staff recommends the use of caution because the revision opens an accessory structure to become a primary use.

Mr. Lowe asked if the Commission could make changes to the suggested language.

Mr. Svoboda informed him that the Commission has the flexibility to make changes to the suggestions.

Leon Taylor addressed the Commission and thanked them for their time. Mr. Taylor

explained that he is in the business of building barns, etc. Mr. Taylor said that there are folks who own lots and want accessory structures on lots adjacent to their houses because they need storage. He said he did not want to add any burden to the county but noted that limiting this type of use would be helpful. He added that he made the application to try to have the issue addressed because property owners want to build accessory structures on their adjacent lots.

The public hearing was opened.

Sandy Barber addressed the Commission. She said that she bought a house in Country Meadows 17 years ago and bought the lots on each side for more acreage, garage, etc. She said that her landscaping makes the property look like 1 parcel. She said that she would like to build a garage to match her current home and would also like to be able to build a house on the lot for ailing parents if needed. She asked the Board how this would hurt the county and that she did not see a problem in doing so. She also said that she was in support of Mr. Taylor.

Steve Barber addressed the Commission and said that he agreed with Sandy Barber's comments and also is in support of Mr. Taylor.

Linwood Gibson addressed the Commission and agreed with Ms. Barber's comments to the Commission. He said he recently purchased a 2 acre lot and would like to build a shed to help with storing tools for maintaining the lot. He also said he was in support of Mr. Taylor.

Carl Schmitt addressed the Commission and commented that he did not see this as a zoning issue. He suggested that the issue might be addressed by Special Use Permit instead of a case by case basis. He felt that an Ordinance Revision should not be considered.

Elnora Powell addressed the Commission commenting that she would like to have a shed built on her lot next door. She said that she hoped to get this issue addressed.

Sherri Powell, who owns the property, asked the Commission to consider making the shed possible.

There being no further public comments, the public hearing was closed.

Mr. Wilson asked Mr. Taylor how many customers intend to build homes on the parcel when asking for this type of accessory building first.

Mr. Taylor said that most usually do except where 2 lots adjoin. He said that he would be interested in knowing what the past problems may have been.

Mr. Wilson asked if there was any way to tie the construction of an accessory building to the building of residence.

Mr. Svoboda said that in the past, that could only be done if you apply for a residence permit at the same time. He pointed out though that problems could arise if the house is not completed before the building permit expires.

Mr. Wilson asked how surrounding counties addressed this issue.

Mr. Svoboda said that the counties that he was familiar with would not allow this.

Mr. Wilson asked if currently a special use permit would be the best avenue.

Mr. Svoboda said that the Commission could change the ordinance to allow this type of use by special use permit.

Mr. Davis asked for the definition of an accessory structure.

Mr. Svoboda read Article 22-3: ACCESSORY USE OR STRUCTURE

A subordinate use or structure customarily incidental to and located upon the same lot occupied by the main use or building; garages or other accessory structures, such as carports, porches and stoops attached to the main building or detached but directly accessible from the main structure, shall be considered part of the main building.
(Revised 1/11/05)

Mr. Davis said that this was a complex issue. He said that the property owner has the right to use their own property, but the property owner/neighbor, who also has rights, may not want a shed next door without a house being there. He agreed that the special use permit may be the best avenue.

Mr. Lowe asked what size storage buildings are normally built.

Mr. Taylor said that normally a 24' x 30' and added that he could understand that the size may need to be controlled.

Mr. Lowe said that the property owner should have rights within limits.

Mr. Svoboda stated that this would apply to "residential" type lots of less than 5 acres.

Mr. Lowe said he was more inclined to consider Option #3.

Mr. Svoboda said that Option #3 restricts the square footage to 576 sq. ft, requires that main structure setbacks be met due to the possibility of adding a residence later, and stipulates the use to 1 garage or shed in order to eliminate pools, etc.

Mr. Wilson asked how many of these requests have been received this year.

Mr. Svoboda replied that there are 3 or 4 requests per year.

Mr. Wilson said that with such few requests, he has concerns about making an ordinance revision.

There was discussion on the issue regarding covenants and restrictions, the special use permit alternative, and limiting the square footage of the structure.

Mr. Wilson made a motion to revise the Greene County Zoning Ordinance, Article 22-3 Accessory Use or Structure to read as follows:

A subordinate use or structure customarily incidental to and located upon the same lot occupied by the main use or building; garages or other accessory structures, such as carports, porches and stoops attached to the main building or detached but directly accessible from the main structure, shall be considered part of the main building. **If the lot is located in C-1, A-1 or any residential district, then one garage or storage structure may be allowed by special use permit.**

Mr. Davis seconded the motion.

The vote was taken.

AYE

Mr. Davis

Mr. Wilson

NAY

Mr. Lowe

The motion carried by a 2-1 vote.

PRELIMINARY PLAT REVIEW

Whispering Ridge

Mr. Svoboda stated that a preliminary plat review is necessary for Whispering Ridge Subdivision. He described the rural area subdivision as a 14 lot by-right use, on 2 parcels which total 42.53 acres. He stated that the subdivision is to be located off of Route 667 and added that it will be served by a state road. He pointed out that there are two outstanding items that must be addressed prior to final approval, noting that they are VDOT Comments and Drain field information.

David Blankenbaker addressed the Commission and said that he felt this plan was very attractive. He stated that the usage of the Low Impact Development techniques, etc. will be incorporated. He added that there will be 50' buffers in place. He noted that he

had spoken with VDOT engineers and that their concerns have been addressed. He also stated that the AOSE has no reservations regarding the drain fields even as shown in the road right-of-way.

Mr. Lowe asked if there were any covenants and restrictions.

Mr. Blankenbaker answered that there will be covenants and restrictions.

Mr. Lowe asked if the Low Impact Development techniques would be used.

Mr. Blankenbaker said that LID was included in the Covenants and Restrictions too.

Mr. Wilson asked what concerns VDOT had mentioned.

Mr. Blankenbaker listed the following VDOT comments which have been addressed:

- (1) Vertical curve has been redesigned.
- (2) Pipes to be shown on sheets.
- (3) Erosion stone to be shown.
- (4) Protective ditch covering corrected on drawing.
- (5) Drainage easements shown on plat and road plans.
- (6) Pavement design to be shown.

He said that all of the above issues had been addressed in the office, pending tonight's outcome.

Mr. Wilson asked if VDOT would be giving a final report to staff.

Mr. Svoboda said usually staff is notified and reminded the Commission that the final plat cannot be approved without VDOT's approval.

There was discussion on the VDOT comments.

Mr. Davis asked what the price range would be for the homes.

Mr. Blankenbaker said that he was unsure. He anticipates 3-4 bedrooms with an estimate of \$300,000-400,000 price range.

Mr. Lowe asked if the lots were to be sold to other developers or contractors.

Mr. Blankenbaker said that he believes the subdivision is planned to be developed by one builder.

Mr. Lowe reminded the Commission that it is a by-right use.

Mr. Wilson asked if VDOT comments were required for tonight.

Mr. Svoboda said no, but pointed out that VDOT approval will be required for final approval.

Mr. Wilson made a motion to approve the preliminary plat for Whispering Ridge (SDV#05-400).

Mr. Davis seconded the motion.

The vote was taken.

AYE

Mr. Wilson
Mr. Davis
Mr. Lowe

NAY

The motion carried by a 3-0 vote.

**PRELIMINARY PLAT REVIEW
Wexford Subdivision**

Mr. Svoboda stated that the preliminary plat review could be done tonight but it will be pending the outcome of the rezoning request. He stated there is public water and no public sewer available on the property. He noted that there are modifications of the open space requirements have been shown in tabulation in the Statement of Justification. He added that the area is designated as residential in the Comprehensive Plan. He pointed out that there are some outstanding items that must be addressed prior to final approval such as VDOT comments, Health Department comments, and future connections to the adjoining parcel 23.

Kirk Gloeckner, of Gloeckner Engineering, addressed the Commission. He described the area as a gently rolling, nicely wooded area. He stated that the charge is to keep the pond as a central point of the subdivision, noting that the pond services many uses such as sediment control and as an amenity. He added that interconnectivity to parcel 23 is being addressed. He explained that there would be a buffer from road traffic and other amenities. He added that the roads would be constructed under state road standards.

Mr. Lowe stated that he was encouraged to hear about the interest in interconnectivity to parcel 23 via Longford Drive.

Mr. Davis asked if the pond would be considered open space.

Mr. Svoboda said yes.

Mr. Lowe said that it appears to be a nice development with nice amenities.

Mr. Dofflemyer explained that it is difficult to invest funds for a road design without rezoning assurance but stated that it would definitely be done for final plat approval.

Mr. Davis asked why the tot lot would be located in front.

Mr. Dofflemyer explained that he did not want it near the dam for safety reasons.

Mr. Davis asked how close it would be to Spring Hill Road.

Mr. Dofflemyer estimated that it would be about 75'-80' from the deceleration lane.

Mr. Wilson asked if the entrance would have a line of sight.

Mr. Dofflemyer stated that he had met with Charles Baber, of VDOT, who issued the entrance location.

After the discussion, it was determined that the preliminary plat review would be revisited once the Planning Commission has made a recommendation on the rezoning request.

OLD/NEW BUSINESS

Mr. Lowe stated that Davis Lamb, the newest member, needs to attend the Planning Commissioner's program.

Mr. Davis asked about the status of the Rural-Residential zoning.

Mr. Svoboda explained that the Planning Commission priorities are dictated from the Board of Supervisors and currently the CIP is priority one, then other issues follow.

Mr. Lowe stated that he would like to see Time-Based zoning on the next agenda. He asked if there would be very much controversy.

Mr. Svoboda said that it is hard to tell.

Mr. Wilson asked in regard to the CIP if the Planning Commission should develop a template for proffering.

Mr. Lowe said that he would like to see that go with CIP.

There was discussion regarding the CIP and proffering and how other localities address

the issue.

Mr. Lowe suggested that a task force address this issue and asked Mr. Wilson to be head of the task force.

Mr. Wilson said he would be glad to head the task force.

Mickey Cox stated that the CIP and Time-Based zoning are needed now.

APPROVAL OF MINUTES

The minutes of the May 18, 2005 meeting were unanimously approved as submitted.

OTHER PLANNING MATTERS

Appeal to the Planning Commission

Mr. Lowe explained that this is not a public hearing and that the applicant will be the only person to speak addressing the request.

Mr. Svoboda said that the applicant and the potential buyer are present to answer any questions. He explained that Joyce Marshall proposes to divide and convey 2.00 acres of property from the 4.00 acre family division (SDV#04-269) to a person other than a family member within the designated five (5) year period. He stated that they are requesting a waiver from the 5 year family division requirement. Mr. Svoboda presented a PowerPoint presentation and staff report. He stated that the waiver request is made under Zoning Ordinance Section 5-3-3 which reads:

The exemption granted herein shall be for a bona fide family purpose and shall not constitute a circumvention of this ordinance by enabling any further division of such lots created by this section, by providing ingress and egress to other than a dedicated recorded public street or by the transference of such lots, except by law, to a person other than a member of the immediate family or the transferor for a period of five (5) years; provided, however, that the Planning Commission may approve a conveyance within such five-year period where the grantor demonstrates a financial or economic hardship or disaster which necessitates such reconveyance.

Mr. Svoboda explained that the property was willed to the applicant and was originally divided as a Family Division. He stated that the proposed division meets ordinance regulations and that Health Department approval has been received. He added that the VDOT entrance approval is pending approval of the new easement.

Joyce Marshall addressed the Commission. She said that she wants to sell 2.00 acres of the property for financial reasons and plans to keep the other 2 acres located directly behind her own house. She said that her father's will did not stipulate that there be a 5

year waiting period. She added that she is going through a divorce and other facing other obstacles and asked that the Board consider her request.

Mr. Davis asked what the reason for the time period would be.

Mr. Svoboda explained that when a property is divided as a family division, the time limit is in place to assure that the land stays in the family in order to limit developers from taking advantage of subdivision ordinance in regards to public road standards, etc.

There was discussion on the intent of the Subdivision Ordinance.

Ms. Marshall explained that she waited on the land transfer due to probate and personal issues. She stated that her father was diagnosed with Leukemia and started getting his personal matters, etc. in order.

Mr. Lowe read Section 2-2-16 of the Subdivision Ordinance, the definition of immediate family, which reads: *Immediate Family: Any person who is a natural or legally defined offspring, spouse, parent, or guardian.* He stated that however, the Planning Commission can waive the time requirement. He asked if financial hardship had been demonstrated here.

Mr. Wilson asked Ms. Marshall if her mother lived with her.

Ms. Marshall answered yes, since last July.

Mr. Wilson asked how this effected her financial situation.

Ms. Marshall said that it adds to her expenses adding that she pays all the bills herself.

Mr. Wilson asked her if she needed to sell property to support her household.

Ms. Marshall said that was exactly right.

Mr. Davis commented that he would like to see more documentation of the hardship.

There was discussion regarding financial hardship.

Mr. Lowe asked Ms. Marshall what would happen if her request was not approved.

Ms. Marshall said she would have to sell something that she has owned for longer than 5 years.

Mr. Lowe asked Ms. Marshall to elaborate.

Ms. Marshall said that she may have to sell the home that she lives in.

Mr. Wilson made a motion to grant approval of application PCA#05-002 and SDV#05-399 for the conveyance of 2.00 acres of this family division to a person other than a family member within the designated five (5) year period with the following conditions:

1. Entrance approval must be obtained from VDOT.

Mr. Davis seconded the motion.

The vote was taken.

AYE

Mr. Wilson

Mr. Davis

Mr. Lowe

NAY

The motion carried by a 3-0 vote.

ADJOURNMENT

There being no further business, the meeting was adjourned.

Respectfully submitted,

Kelly Clay

Secretary