

At a regular meeting of the Caroline County Planning Commission, held Wednesday, June 17, 2009, in the Community Services Center, located at 17202 Richmond Turnpike, Milford, Virginia, at the hour of 7:00 p.m.

Present

Pete Davis, Chairman
Milton Bush, Vice-Chairman
Ray Piland
Joseph Brown

Absent

Leon Smith

Also Present

Michael A. Finchum, Director of Planning & Community Development
Lisa Zech - Planning & Zoning Technician
Ann Neil Cosby - County Attorney

1. **CALL REGULAR MEETING TO ORDER**

Chairman Davis called the regular meeting to order at 7:00 p.m.

2. **APPROVAL OF MINUTES (MAY 4, 2009 & MAY 20, 2009)**

Dr. Bush moved and Mr. Brown seconded to approve the minutes of May 4, 2009, as presented.

Voting yea: Brown, Bush, Davis, Piland.

Dr. Bush moved and Mr. Piland seconded to approve the minutes of May 20, 2009, as presented.

Voting yea: Brown, Bush, Davis, Piland.

PUBLIC HEARINGS

3. **RZ-05-2008 - Conley and Maxie Booth, Owner/Applicant:** Request a Rezoning from RP, Rural Preservation (with a density of one dwelling unit per ten acres of land) to M-1, Industrial (with no specified density), on tax map #94-A-6A, 94-13-1, 94-13-2, consisting of 23.534 acres, more or less. This property is located on the west side of Route 654 (Signboard Road), approximately ¼ mile north of Route 652 (Ruther Glen Road), Reedy Church Voting District. **Proposed Use:** Offices/Warehouses. The 2006 – 2026 Comprehensive Plan identifies this area as Agricultural Preservation with a density of one dwelling unit per twenty-five acres of land.

Lisa Zech presented the following staff report:

DISCUSSION

The applicant is requesting a rezoning from Rural Preservation to M-1 Industrial on 23.534 acres, consisting of three lots, located on the west side of Signboard Road (Route 654) approximately a ¼ mile north of Ruther Glen Road (Route 652). The applicant proposes a variety of uses such as truck and freight terminals for light trucks; manufacture or assembly of electronic components, blacksmithing and welding shops; and mini-warehouse.

Two existing buildings as shown on the General Development Plan (GDP) will remain on the property together with six new buildings totaling 63,000 +/- sf. This property is bounded on the north, east and west by residentially zoned properties and to the south by property zoned M-1.

The site is to be served by private water and sewer. Three proposed drainfield locations are shown on the GDP; two of which appear to be located under the proposed roadway. Those drainfields were cited during the subdivision process and those two shown under the roadway are actually residential drainfields. Discussions with the AOSE indicate that they have not located all of the drainfields necessary to support the GDP as proffered. Thus, it may be premature to proffer a GDP which may change. A water supply for fire protection in the amount of 180,000 gallons minimum must be available on site per code. A tank or other water source meeting the volume requirements such as a pond may be utilized.

The applicant will install the required commercial entrance as well as road improvements as per VDOT standards on both Signboard Road and Hutcheson Road. Trip generation data was not provided by the applicant.

Staff has received petitions in opposition to this proposed rezoning.

COMPREHENSIVE PLAN:

The 2006 – 2026 Land Use Plan designates this area as Agricultural Preservation. While an industrial zoning is generally inconsistent with the Comprehensive Plan it should be noted that an adjacent 12 acre parcel, currently vacant, was rezoned in 1986 from A-1 Agricultural to M-1 Industrial for use as a wholesale bakery and warehouse.

PROFFER ANALYSIS:

Staff has reviewed the proffers submitted by the Applicant and offers the following comments:

General Proffer #1: The language of this proffer places the potential uses over the site limitation of the GDP. An increase in the number and size of buildings as shown could result in increased traffic and/or noise and be detrimental to the surrounding residential neighborhood.

Operations Proffer #3: Hours of operation are shown as 6 am to 9 pm. Consideration should be given to limited hours of operation on the weekend.

Uses Proffer #1: The by-right uses of blacksmithing and welding and the manufacture of tools, dies machinery, etc. are inconsistent with the stated goal of limiting the property to businesses described as light industrial.

Transportation Proffer #4 and #6: The property does not have access on Ruther Glen Road. Corrections should be made to reflect Hutcheson Road (Route 744) and Signboard Road (Route 654).

Transportation Proffer #7: The road design as shown on the GDP does not meet VDOT standards (location of parking and the turn radius). This may be an issue in the future if the property is subdivided.

Site Development Proffer #12 and #13: Signage is not consistent with current regulations are per Article XIV of the Zoning Ordinance.

Staff suggests the following proffers be added:

1. A proffer to restrict future subdivision of the property. The road design as currently shown meets the standard for development of existing lots. However, should the property be further subdivided, the road design will not meet the standards for VDOT and/or Caroline County.
2. A proffer to limit the gross square footage consistent with the GDP may be appropriate

STAFF RECOMMENDATION

Staff does not recommend that the Planning Commission forward this request for rezoning to the Board of Supervisors as submitted. Issues such as drainfield location and road standards could significantly change the layout of the General Development Plan. Generally, staff does not feel this GDP reflects the intended use of this property.

In addition, the application package did not appear to include a narrative describing the intent for the development of this property and how it would meet the Comprehensive Plan and meet necessary standards. To staff's knowledge, no renderings of what the buildings would look like have been received. The GDP itself did not show any clearing or grading or the topography nor did it provide a clear picture of how the site will be developed.

Mr. Gary Mitchell, representative for Mr. Booth, Applicant, said the proffers have been redrafted and now address many of the issues pointed out by Ms. Zech. He said traditionally, this property has been the site of an intensive agricultural, commercial use. He said it was an old orchard and packing house and traditionally had a lot of truck traffic associated with it. He said south of the subject property is industrial property, with little or no proffers or controls as to what could go there and is by-right as to what could go on those properties.

Mr. Mitchell said based on the County's past rezoning actions in this location, the character of the neighborhood and the immediate area has changed from that of a rural intersection to that of a more small scaled commercial intersection. He said the subject property will serve as a buffer or transition from potential intense development to residential structures that exist around the property. He said Mr. Booth is proposing a small business incubator type buildings that could offer as many as 25 jobs and put this rundown property back into productive use and provide new tax revenue for Caroline County. He said many small businesses that need to expand cannot afford to purchase industrial lots such as the ones in Ladysmith, but still have a great growth potential for the local economy. He said these types of businesses may include small welding or machine shops, route sales or vendors, and similar types of low intensity business uses.

Mr. Mitchell stated Mr. Booth has been contacted by several individuals interested in using this property for their businesses. He said one interested individual stores tents for the State Fair of Virginia and other types of functions associated with the State Fair. He said in addition, another interested individual is a subcontractor for the State Fair to provide other services. He said that Caroline has the State Fair now in the County and he believes it would be ill advised for the County to let the supporting businesses that go with the State Fair, to locate elsewhere, when the County could capture those businesses here.

Mr. Mitchell gave a brief overview and explanation of the handout provided to the Planning Commission. He said this property has had a checkered past in terms of zoning violations and crime associated with the area. He said the applicant is proposing to clean up the property, repair the buildings, install landscaping, and construction of a private internal service drive to VDOT specifications. He said the applicant is willing to work with the County and community to provide a clean, safe place for small businesses to expand and increase the tax revenue to the County.

Chairman Davis declared the public hearing open.

- ◆ Mr. Don Davenport, 26755 Ruther Glen Road, came forward and thanked the Commission for allowing him to speak. He said he is a building contractor and that the rezoning request states:

RZ-05-2008 - Conley and Maxie Booth, Owner/Applicant: Request a Rezoning from RP, Rural Preservation (with a density of one dwelling unit per ten acres of land) to M-1, Industrial (with no specified density), on tax map #94-A-6A, 94-13-1, 94-13-2, consisting of 23.534 acres, more or less. This property is located on the west side of Route 654 (Signboard Road), approximately ¼ mile north of Route 652 (Ruther Glen Road), Reedy Church Voting District. Proposed Use: Offices/Warehouses.

The 2006-2026 Comprehensive Plan identifies this area as Agricultural Preservation with a density of one dwelling unit per ten acres of land.

Statement of Intent

The general intent of this district is to recognize the predominant rural character of Caroline County, much of which is devoted to open space type uses, such as, but not limited to, crop farms, non-intensive agricultural operations and forests. This district is established for the specific purposes of maintaining the rural character and facilitating existing and future crop farms and non-intensive agricultural operations, the conservation of natural resources and discouraging suburban sprawl. This district encompasses generally rural areas where urban services such as water and sewer are not planned.

In the "Industrial District (M-1) Manufacturing"

Statement of Intent

The general intent of this district is to encourage the development of industrial parks and individual manufacturing facilities. Some types of industry, however, are not compatible with residential uses due to potential nuisance or hazard.

He said he would like to submit the following 69 petition signatures to add to the 58 signatures already on file for a total of 125. He asked the citizens in the audience how many people where there in opposition to this request – approximately 37 people stood up.

He said their petition states:

We the undersigned object to the proposed change from Rural to Industrial because:

1. These properties are zoned "Rural Preservation". The proposed M-1 Industrial Development is not consistent with the rural and residential character of the area. This proposal would open up all types of industrial development, seeking to change the character of the neighborhood. The Rural preservation Status has been in effect for over twenty years and has had a positive affect on the Reddy Creek District residents.
2. There would be a negative impact on the community of homes around this site. The added truck traffic for warehousing impacts on these families, especially their children, who often play in close proximity to the road.
3. There would be a negative impact on the rural nature of this community. This proposal opens the potential for over development. It would make changes to a rural residential

neighborhood, which is inappropriate to existing values. This is exactly what we are trying to avoid. We value our rural way of life.

4. There would be a negative impact on the quality of life with the added traffic problems. We have to fight heavy traffic at 207 and Ruther Glen Road, (coming from the Truck Stops) the heavy truck traffic at Route 30 and Signboard Road (coming from the fair grounds, Kings Dominion, and heavy truck traffic in general). We will now be forced to deal with a new traffic problem right between them both.
5. We also think that there will be a negative impact on Reedy Creek. The land owners already use the banks of Reddy Creek as a dump site. How can we be assured that there wouldn't be industrial abuse of Reedy Creek? What about our drinking water?

Here is what we are facing:

1. There is a planned truck entrance 100 feet from the Second Baptist Church property line.
2. There is a planned truck entrance right into the heart of the small community on Signboard Road.
3. There is a day care center 100 feet from that entrance.
4. Route 652 has already become a shortcut for many people who live elsewhere.
5. No one has addressed the fact that the train crossing at Kings Dominion interrupts the flow of traffic on Route 30 at 16 times a day.
6. The fair grounds will be open year-round for conventions, meetings, and more. That is how they make their money. Fair Ground traffic will be competing with Kings Dominion traffic and will ultimately take 652 to get to Interstate 95.
7. Last, but not least, there is a dump site on the property of Mr. Booth. From my property I can see the vandalized mobile homes that was pushed back to the edge of Reedy Creek. There are piles of tires, truck parts, refrigeration units, broken down machinery, and much more. Not only does it pollute the waters of Reedy Creek, it also pollutes our well water by draining into the aquifer, which supplies our wells.
8. How can we be sure that Mr. Booth and company will be good stewards of the land when their history shows a different picture?

If we don't stop this re-zoning:

- We will have more large trucks on our roads.
- We will worry more for our children.
- We will see more properties turn commercial.
- We will see an increase in property values; ... which means: higher taxes.

This re-zoning would be a negative impact on my way of life.

1. I do not want to see warehouses and delivery trucks in my front yard.
2. Wildlife on my property has already decreased due to the ongoing building and clearing happening at Mr. Booth's property.
3. I moved to the country to get away from all the inconveniences imposed by commercial growth that once started, often spirals out of control.

4. As a contractor, I have seen development first hand. This request is not good for our neighborhood.
- ◆ Mr. Charles Unger, 26755 Ruther Glen Road, said he was next door to the property that is being asked to be rezoned. He said he is firmly against this request because the 2006-2026 Comprehensive Plan identifies this area as Agricultural Preservation, with a density of one dwelling unit per ten acres of land.

Mr. Unger made the following points:

1. This rezoning would be in opposition to the rules that the rest of us have to follow.
2. There is an industrial park on Route 207, about 5 miles from this location and one at Ladysmith, about 10 miles from this location. There is no imminent need to place another one here.
3. This rezoning would create a new traffic problem in an area that is already impacted with long-standing and forthcoming congestion dilemmas.
4. This rezoning would be in a district that sewer and water are not planned.
5. That would mean any spillage from stored materials, leakage from heavy trucks or any waste materials will go directly into the ground and ultimately into Reedy Creek.
6. Once in the ground it will seep into the aquifer, which supplies the drinking water for everyone who lives in this area.

He respectfully asked the Commission to turn down the request for re-zoning.

- ◆ Gary Hartman, resident of this area, said he uses Ruther Glen Road any time he's leaving this property or coming home. He asked the Commission to consider all of the people in the room tonight. He said he moved here because of the location and because it was safe. He said he has noticed already the traffic is dangerous trying to get on Route 207 off of Ruther Glen Road. He said we have a situation where the dust has not settled on previous decisions that were made. He said there are dangerous situations on these roads that are really made for tractors.

He said people have made decisions to retire here and put down roots here and he asked that the Commission please consider the traffic situation and crime potential before making a decision.

- ◆ Dr. Arthur Wertz, Pastor of Second Baptist Church, 26725 Ruther Glen Road, said the impact of the decision that the Commission will make on them, is that they are 100 feet from the entrance of the truck way. He said they believe this will have a significant impact on their church, because of the traffic situation. He said on Wednesday night they have bible study, Friday night they have prayer meetings, Saturday they have food ministry where they deliver food to the needy in the area and more traffic coming into this area will definitely impact their operation.

He said in addition they have 200+ members, some of whom have property that back up to this proposed rezoning. He said those people have already seen the dumping that goes on in the area. He said the church uses well water and are concerned about having to have the water tested.

Dr. Wertz said on behalf of Second Baptist Church, they have serious concerns about the impacts from this rezoning and that it would have a negative impact on the church and community.

- ◆ Jane Paulette Anderson, 26301 Signboard Road, said she has almost been hit three times trying to get out of her driveway to go to church. She said they have tractor trailers and dump trucks going to Bear Island and they have had problems with traffic because of that. She said they also have problems with crime, traffic, trash, water, et cetera. She said she hopes the Commission will be considerate of these problems when making a decision.
- ◆ John Rutledge, 26532 North Anna Drive, said he uses Ruther Glen Road daily and he came to speak against the proposed rezoning. He said he makes his living in real estate and he has always been pro development. He said this looks like a nice project, however, the traffic is impossible and will only get worse. He said we might think we need this development, but they just cannot bear the increased traffic and what it is going to do to their rural way of life. He said this area needs to stay rural and this project is not appropriate for their neighborhood.
- ◆ Lovely Duncan, 26761 Signboard Road, said she lives about 100 feet down from the property that is being proposed to be rezoned. She said she has lived in the area all of her life and was born on the property that they are talking about for rezoning. She said she was from a family of sharecroppers and loves the rural way of life. She said the project is located on a very curvy road and the road already needs repair. She said she was concerned about the children and the elderly people that live in the area of the proposed rezoning because of the additional traffic that will be added because of this project. She said when industrial comes into a neighborhood, things change a lot and some times people have to sell their homes and move because of it. She asked the Commission to please consider all of these things in making a decision.
- ◆ Jack Wilcox, 26715 Ruther Glen Road, said his property adjoins Mr. Booth's property. He said he originally bought his 30 acres from Mr. Booth. He said if this is rezoned it will reduce his quality of life. He said the noise from the clearing on the property has been consistent noise for a week. There is the security issue because of illegal activities that go on in that area. He too there is also the "light" pollution and they can no longer see the stars at night that they have enjoyed in their rural life. He said he would suggest that the Planning Commission find business to go into the vacant buildings that are already there, and not add more buildings. He asked that the Commission deny this rezoning request.
- ◆ Pam Mastropaolo, 24462 Ruther Glen Road, said she lives north of the proposed rezoning. She said she sees two important things here, one is the Comprehensive Plan that is the bible for development, and second, is their way of life. She said the Commission has already heard what a precious thing their rural way of life is here and how they, as neighbors and friends, have worked hard to preserve it. She said the development, as proposed, is so speculative at this point that she is afraid there is no justification for any variance from the Comprehensive Plan. She said they did not know what the plans were for the development were it is going to be and there are already places there for small businesses to locate without building new ones. She said to put this development here is an unnecessary departure from the Comprehensive Plan.
- ◆ Elmer Harris said he lives right across from the project. He said they are country people and quiet people and there is enough traffic and noise already and things need to stay peaceful the way they are now.
- ◆ Ray Scher, Madison District, said he did not live adjacent to this property, but he is familiar with the site and has friends that are adjacent property owners. He questioned Mr. Mitchell's description of this vibrant business district that is going on there right now, because he has

traveled these roads for 9 years and the stores look abandoned and rundown. He said he was in opposition to this project because it is against the rural nature of the property and against the Comprehensive Plan. He said the Commission needs to look at rural preservation, one dwelling on 25 acres. He said there is too much traffic and he would hope that the Commission would not approve this request.

- ◆ Cary Deffenbaugh, 26721 Ruther Glen Road, said his property is directly across from the proposed rezoning. He said he was new to this community and he and his wife fell in love with the property because of the rural preservation and the community. He said this rezoning would change their entire way of life, because they bought their property because of the rural way of life and the piece and quiet. He said if this goes through they will have to decide whether or not to move again. He said he really hopes that the Commission denies this request.

Chairman Davis declared the public hearing closed.

Gary Mitchell said he wanted to address a couple of points and point out a couple of things as well. He said the new proffers that were submitted, i.e., no business enterprise that would be located within this facility, would use tractor trailer type trucks. He said they also proffered in terms of the amended hours, no operations on Sundays and only 12 to 6 on Saturdays. He said several people spoke about crime and abandoned buildings, and said that continued inactivity in abandoned buildings invites crime. He said activity and cleaning up the buildings and getting activity there, tends to reduce crime. He said in terms of trips per day, they estimate about 25 employees and according to the ITE trip generation manual, that would be about 50 trips per day. He said with regard to the references made about dumping, to his knowledge, Mr. Booth did not dump there. He said other people have dumped there and Mr. Booth has hauled off several loads of stuff already and is still trying to get the stuff cleaned up. He said with regard to the light pollution, the County already has a lighting standard to address that and there should be nothing shining up in the air.

Mike Pintz, Virginia Real Estate Development, said he was the person directing the development of this property representing Mr. Booth. He said they gave thought to the Comprehensive Plan and its origin and the fact that these additional lots were not part of the Comprehensive Plan. He said when they looked at this property, they looked at the general physiological nature of it, which by nature, you almost have a square there. He said it was no mystery that this property is a transitional property and has been in transition for a long time. He said the Fair Grounds have come and the Cheese Factory and traffic has come up consistently and by nature, unless something is done to change the traffic pattern, you have 652 dumping out onto Route 30 adjacent to the Fair Grounds, and so life is going to change unless they manage it. He said what they were proposing to do was to manage and presently, there is no management there. He said they have a day care, church and kennel there. He said he will also testify that they do have a dump site there that they knew nothing about and did not contribute to. He said unless they do something to manage this property, as property owners, then there will be more of the same, unregulated. He said they would like to regulate it. He said they met with Dennis Jones of VDOT and this is not a high traffic road and they are suggesting that they down tone the traffic nature to be of a manageable sort so it will be in compliance with the County's wishes.

Mr. Pintz stated that he would insure to the County, as property owners, regardless of the outcome on this rezoning request, that they would stop the boats being on their property, hunting on their property and dumping. He said they were here to say that they want to bring change and manage this property.

Dr. Bush said he knew there was a problem with the drainfield location and the road standards, et cetera. He asked if the applicant knew that he had 100 percent opposition to this project. He said based on everything he has heard, there is no one in the community that wants this project.

Mr. Pintz stated that they were unaware of the level of opposition. They had contacted the Planning Office several times and were aware that there were some concerns, but did not know it was to this level.

Dr. Bush said he appreciated and understood what Mr. Pintz was saying, and asked if anyone involved with this rezoning request had taken the time to speak with any of these residents to find out their feelings and thoughts about this project.

Mr. Pintz responded yes.

Dr. Bush asked if the applicant lived in the area.

Mr. Pintz responded he lived in Ashland, in Hanover County.

Mr. Booth stated that he was a proud resident of the Commonwealth of Virginia.

Dr. Bush asked if they would want this project in their backyard.

Mr. Pintz said it would not bother him.

Chairman Davis said in support of Dr. Bush's questions, that it was traditional that if there was a piece of property that was somewhat controversial, that the applicant speak to the neighbors and then address those concerns and questions in the application.

Chairman Davis said he believed the application package had a lot of problems and the zoning was not in compliance with the Comprehensive Plan. He said there was a traffic study issue and the quality of the plans, demands a re-submittal.

Dr. Bush moved and Mr. Piland seconded that RZ-05-2008, Conley and Maxie Booth, Owner/Applicant be returned to staff for corrections and re-submittal.

Voting yea: Brown, Bush, Davis, Piland.

ANY & ALL MATTERS

• ***COMPREHENSIVE PLAN UPDATE***

Michael A. Finchum, Director of Planning & Community Development, said there were seven of the ten finished staff drafts of the update to the Comprehensive Plan. He said previously they had provided four or five chapters to the Commission. He said he expects to have two more chapters completed Monday and hopefully the last chapter completed by next Friday, so that the Commission will then have all ten chapters. He asked the Commission to please continue to review the chapters and provide comments to him. He said he has asked Chairman Davis to move the next worksession of the Commission to June 29th to allow staff an extra meeting between now and the July 17th Planning Commission meeting so that they can work on these chapters of the plan and then take them to public hearing in the near future.

Mr. Finchum said he has a staff report that will be presented at the June 29th meeting that outlines all of the changes to the Plan. He said most of the changes are in format and have tried to significantly improve the graphics and consistency of the Plan. He said the previous Plan has been updated 8 or 9 times as a result of all of the sub area plans that have been adopted, all with different writing styles from different authors. He said they are trying to do a better job of making sure that the Plan is consistent in format, style and to improve the overall readability of the Plan.

Chairman Davis asked Mr. Finchum to briefly speak about the methodology of integrating the various sections.

Mr. Finchum said as an example, using the sub areas, the last major update of the entire Plan was 1994. He said since that time, different sections of the Plan have been updated, primarily with the adoption of the Sub Area Plans. He said they have adopted six Sub Area Plans since 2000 and Ladysmith was adopted twice. He said each one of those were written at a different time with input from different committees and by different staff members. He said each of the Sub Area Plans were different in terms of the format that was used for that specific Sub Area Plan. He explained that what they have done is gone through each of the Sub Area Plans and re-written the Plan, not to change its content in any way or its goals, objectives or strategies, but so that the Plan is written in the same language, in the same format, throughout the entire Plan. He said a lot of their effort has been spent on reformatting and rewriting the plan so it would appear as a single document and read as a single document and be consistent as a single document. He said also as part of this process, they have tried to bring the background information up-to-date, so that it is as current as possible with the cutoff date being the end of 2008 for any technical information.

Mr. Finchum said there were two new chapters in the Plan, Economic Development chapter and Housing chapter. He said while they have discussed that information in various sections of the Plan previously, Economic Development is an area where the County has placed a lot of emphasis in the last five or six years. He said they felt now was the time to reflect the emphasis on Economic Development and how that fits with planning, identify the strengths and weaknesses of our Economic Development Program. He said frankly, there were more weaknesses than strengths and they have tried to identify that and give the Commission some information that they can go forward and prepare an Economic Development strategy that will allow the County to be competitive. He said with regard to the Housing chapter, this chapter looks at all the issues that are facing the County.

- ***SCHEDULE WORKSESSION - June 29, 2009 - E.O.C. - ROOM 3***

A worksession was scheduled for Monday, June 29, 2009, to further discuss the Comprehensive Plan update.

- ***STATUS REPORT ON REZONING AND SPECIAL EXCEPTION REQUESTS***

The status report on rezoning and special exception requests were provided to the Planning Commission for informational purposes only.

ADJOURNMENT

There were no further issues, Chairman Davis adjourned the meeting until June 29th, 2009.

Respectfully Submitted,

Michael A. Finchum
Director of Planning & Community Development

MAF:pfa