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Bath County Planning Commission

Bath County Courthouse – Room 115

June 22, 2015

MEMBERS PRESENT: Chairman John Cowden, Vice-Chair Jason Miller, Trudy Woodzell, John Loeffler, Monroe Farmer

MEMBERS ABSENT:

PUBLIC IN ATTENDANCE: Mike Bollinger (press), Mike Collins (County Attorney), Bill Jones, Faye Cooper

STAFF PRESENT: Sherry Ryder

CALL TO ORDER:

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

Chairman Cowden acknowledged the public in attendance.

PUBLIC COMMENT—MATTERS UNRELATED TO THE AGENDA: None

ADDITIONS OR CORRECTIONS TO THE AGENDA: None

PUBLIC HEARING(s): None

CHAIRMAN’S REPORT: None

STAFF REPORT:

Sherry Ryder: A copy of my report is in your packet.

Sherry Ryder gave an overview of the progress that had been made in updating the Tax Maps. There is still work to be done.

Sherry Ryder: This is Faye Cooper, she works as an advisor for the owners, Boyd and Melody Simpson. She has met with myself, the County Administrator, Bruce McWilliams, John Loeffler and Cliff Gilchrest on this matter. Mrs. Cooper also helps with the Virginia Outdoor Foundation and with conservation easements. She can help give you a background on conservation easements. They may be presenting an application for a Comp Plan amendment.

When Laura Thurman has a customer with property who may be interested in requesting a conservation easement, she sends out an email with a list of questions for the County to answer. Like, will there be a conflict with the County's Comprehensive Plan or Transportation in the area, etc.? The biggest thing for us is yes, the property is in our designed growth area. Another property, a while back, on Rt. 39 was presented through the Planning Commission and Board of Supervisors that was in our designed growth area and had public infrastructure in place was turned down. So Mrs. Cooper did some research and homework and wants to present her findings.

Mrs. Cooper: I am here as an advisor for the Simpsons, the owners of Boxwood Farm. The Simpsons desire to protect Boxwood Farm from future development that might damage its unique historic and conservation assets. According to the 2008 DHR survey, "Boxwood Farm is one of the oldest homes, 1790, in the Warm Springs Valley and is a well-known landmark in Bath County that has had such prominent residents".

From a prepared report Mrs. Cooper then pointed out references in the Bath County Comprehensive Plan 2014-2019 in support of the Boxwood Farm conservation easement.

Mrs. Cooper: The Simpsons approached VA Outdoors Foundation about this about a year ago. That is when they found out about the County's Comprehensive Plan and potential growth area. So I am here to get your guidance and advice on this. I took the time to do a thorough review of your Comprehensive Plan. I feel you did quite a good job at preserving and protecting what you thought was important. The other easement request, was a little different, it was undeveloped open land and no structures or historic aspects on it. Ours has a historic home. The lay of the property at Boxwood Farms drops off Rt. 220 into a drainage area then up to a plateau where the historic structures are. It's clearly a historic site, visible from the road and enjoyed by visitors and natives. I am here for your guidance on whether or not you can recommend and support my asking for this easement without going through an amendment process. Here are copies of letters, by other localities that had provisions for historic preservation in their Comprehensive Plan that approved the conservation easement in their growth area without going through an amendment process. Does anyone have any questions? Here are some booklets published by Shenandoah Valley Conservation with more information on easements and some background.

Sherry Ryder: How many acres does Boxwood Farm have?

Mrs. Cooper: 65 acres, give or take.

Chairman Cowden thanked Mrs. Cooper for her time.

Mike Collins stated that he had read the Code of Virginia and what was in the Comprehensive Plan and felt that the Simpsons request was on sound ground with the direction they wanted to go. He didn't feel that area of the Rt. 220 corridor at Boxwood Farms was very developable. He wouldn't recommend amending the Comprehensive Plan to make an exception for this one piece of property and making it look like you made a special exception for one person. That's not what anyone of us are trying to say. The house was built in 1790 making it historical unique and he felt that the piece of property didn't fit the developmental standards with the topography of the land. It does fit into the Code of Virginia and the vision of the Comprehensive Plan with preserving the historical architectural and archaeological enhancements of the County.

Vice-Chair Miller: What happens if they do get a conservation easement and the next owner doesn't want it?

Mrs. Cooper: It's permanent. Conservations are forever.

Vice-Chair Miller: What happens when you want to sell it and for ten years no one wants it because of the easement?

Chairman Cowden: It's a decision to lower your property value in exchange for preservation for the future of the property.

Mike Collins was asked questions on the restriction it may have on developing neighboring land. He said there would be none.

Chairman Cowden is in agreement that the Comp Plan provides plenty historic basis for conservation easements. The problem is a precedent of having an exception in a designed growth area, this is yet another request. Our challenge is in not evaluating this property. The larger picture is, are we willing to start picking out this farm and that farm along the Rt. 220 corridor in a designed growth area that the County has already invested in infrastructure.

Vice-Chair Miller is concerned that the first request was for land, this one is due to historic reasons. What is going to be the next reason? Along that corridor. How can you be consistent on making decisions if you keep accepting exceptions?

Sherry Ryder: If you were to do it from a historic stand point, think about the Homestead. They have a lot of land. I don't know if they would do it for that, but when you start doing something different you are setting a precedent. I would do a Comp Plan amendment and take that Tax Map number out of the growth area.

Bill Jones: I am on the board of the Conservation Council. I can answer some of your question. A Conservation Easement is considered a gift to the State and County. What the owner gets is lower property taxes that will go on forever. They will also get for a period of time the rights to sell their tax credits. To know how much that is, you have an appraiser come in and estimate the value of the property. Most of the time, in rural areas, what drives the value up is the possible development value. What you are doing is selling or giving your development potential away. You can make it as restrictive or open as you want, but someone has to accept the property. VOF doesn't accept every property people want to put into easement by a long shot. VOF's main

concern is the conservation value. You need to get an approval to find the value today without restriction on it. Then put the easement on it, which reduces its value. Then you go to the Federal Government and State with the value difference. They will give you a percentage on the dollar, about eighty cent on the dollar. State tax credits last for around eleven years.

For this property the development value isn't that great so the value lost isn't that great. The property is situated in a Karst Valley, a limestone valley that is normally dry. The water that drains under there comes out at Dunn's spring in Dunn's Gap.

Mr. Loeffler said in his hometown he has seen what development can do to an area when valued land is not protected. He would not return there due to what they did.

Chairman Cowden asked what the by-right value of Boxwood Farm would be.

Sherry Ryder: There is around 65 acres. You could put about one hundred lots there. Public water and sewer is already there. A subdivision can have half acres lots.

Vice-Chair Miller reminded the Commissioner that we didn't have an application to approve.

Trudy Woodzell: So, what we are being asked to do at this point, is to give you (Sherry Ryder) permission or Mr. Harrison permission to write a letter to VOF recommending. Or recommend a letter to be written?

Mike Collins: We are asking you to recognize that this property is or is not in conflict with the Comprehensive Plan and with the general development precedent to its unique features and topography.

Trudy Woodzell: Parts of the Preserve property are in a conservation easement, right? This is not new to the County.

Sherry Ryder: yes

Chairman Cowden: Personally, I am not against it, but being on the Planning Commission looking at the bigger picture down the road for five years, ten years, I am very concerned at setting a precedent, at making exceptions for property owners in the County's designed growth area where we have invested in infrastructure and then the next application. How many historic areas do we have in our growth area?

The Commission discussed the small number of historic homes in the area. They also discussed the lack of an application and what they were being asked to do. How do you separate, "a letter of recommendation", with "a motion of approval", was asked by Vice-Chair Miller.

Trudy Woodzell: I make a motion we send this Conservation Easement request for Boxwood Farm to the Board of Supervisors with recommendation by the Planning Commission that after review, request is found in compliance with the Comprehensive Plan and it would be in conformance with the Comprehensive Plan.

Chairman Cowden: Is there any discussion?

Vice-Chair Miller: How do you separate those motions? One is the request to send a letter the other is to send a recommendation. You need to tag along with the request that you approved it as well. Yes, you want them to look at it, but like he said, they could walk away from it or go along with it without anybody's approval.

Chairman Cowden: It doesn't do any good to send it without the approval.

Mike Collins: They could get on the agenda with the Board of Supervisors on their own if they wanted to. As soon as the Board looks at this they are going to want to know what the Planning Commission thought about it. Was it in compliance with the Comp. Plan? Did they look at it favorably or negative. This is what they will want to know.

Sherry Ryder was asked by Chairman Cowden to read back Trudy Woodzell's motion.

Trudy Woodzell made the motion to send the Conservation Easement request for Boxwood Farm to the Board of Supervisors with recommendations by the Planning Commission, that after review of the request it's found in compliance with the Comprehensive Plan and it would be in conformance with the Comprehensive Plan.

Mr. Loeffler seconded motion

Chairman Cowden: We have a motion and a second, is there was any more discussion.

Mr. Loeffler: If you have been able to see other places that didn't manage their growth space well, I would rather be over cautious, to distract from your County, strip malls, gas stations

Vice-Chair Miller Talked about a situation that happened in Roanoke County. Roanoke County Planning Commission received a request to rezone a piece of property for an adolescent youth psychiatricsite. It was supported by the people around it. They all wanted it. They all knew they needed it. The reason they voted it down was because the property was in an industrial zone. At the time they only had a small amount of industrial land left. They knew they would never get that land back.

We set this area up as our growth area and now we don't? You want to take this piece out, then the next piece out? We are not going to have much left for growth. We can't get land in the growth corridor back. We have changed what we said and if we set a precedent, we will have a hard time explaining why we can't accept the next one that comes in.

Mr. Loeffler: It sounds like it's hard to get this far with VOF. With the requirement they have, there doesn't appear to be a slew of new conservation easement proposed. The benefits for it just aren't there.

Chairman Cowden: It is, they have their requirements and we have our guidance there are two separate books.

Mr. Loeffler: This property is historic and you can't develop that site.

Vice-Chair Miller: Yes but what's next? If not conservation for this type, then what?

Chairman Cowden: The County attorney said we are in compliance with the Comp Plan

Mr. Farmer: It says right here that the County acknowledges the important role historic assets play in the area's culture, economy and tourism and encourages local preservation. This request sets right into that.

Mike Collins talks about the property the Tourism Department bought in Mitcheltown. They are going to set up a welcome center or something.

Vice-Chair Miller: But Boxwood is something you drive by right, no tours, not a B&B?

Mike Collins: At this point and so far it has been a private property. It's a very large property and in the future it's hard to tell what could be done with it publicly.

Chairman Cowden: Can they still conduct weddings, have a B&B, or something of that nature on the property? Could they have a private business?

Yes.

Mr. Farmer: I think Jason is concerned that this can be used as a precedent, but remember, we have the recommendation authority and the precedent is easy to defer to this. How many people have a house that is 1790? Can you overcome 1790? You discuss that. Piece by piece. That's our responsibility whether it's here or in Fairbanks. These things come up in front of the boards and you do take them and challenge them, this is an easy one to stand by. Yes, this is in our growth area, but it's easy to stand by.

Vice-Chair Miller: If one comes that's 1840, it will have as much importance to them as this one.

Mr. Farmer: But it wouldn't to us. Maybe if Grant stayed somewhere in 1840. Then it would be a tourism thing. I don't think we have to be afraid we're setting a precedent on this kind of thing.

Vice-Chair Miller: Will the Simpsons still be able to rent out the land to the guy that has cows there now?

Ms. Cooper: Yes

Chairman Cowden: I call for a vote.

VOTE:3-2(Chairman Cowden and Vice-Chair Miller dissenting)

Chairman Cowden thanked those in attendance for their time.

OLD BUSINESS:

Capital Improvement Plan

Sherry Ryder: Your joint work meeting with the Board of Supervisors is August 11th in this room. We need to be gathering a list of your questions and ideas. If you have any please send them to me. We will discuss this matter more at our July meeting.

Sherry Ryder will send Mr. Farmer an electronic copy of the CIP question from last year's questionnaire. The others also asked her to send one to them too.

The Commissioners, discussed some of the requests that were on the forms last year. List of things discussed: 1) Planning Commission should not be asked to make decisions on maintenance issues. 2) What is the threshold, minimum amount of a CIP request? 3) What is the definition of a Capital Improvement? 4) On list request, not part of the Planning Commissions charge to dissect dollar value for each request.

They felt the forms were hard for the applicants to fill out and hard for the Planning Commission to dissect. Hopefully they, with the help of the Board of Supervisors, can come up with a better application.

Gas Drilling & Hydrofracturing Ordinance

Sherry is still waiting on information from Mike Collins.

Architectural Standards

Sherry Ryder: I am still researching. Ms. Holberg will be here August 11th.

NEW BUSINESS

Sara Holberg will be at the joint work session on August 11 to give a presentation on conservation easements, architectural standards, development standards, etc.

MINUTES

Chairman Cowden: We have the minutes for May 26, 2015

Vice-Chair Miller: I make a motion to approve the May 26th Minutes.

Mr. Farmer seconded the motion

Vote: 5-0

ADJOURN

Vice-Chair Miller made a motion to adjourn the meeting.

John Loeffler seconded the motion

Meeting adjourned

Chairman John Cowden

Date