Building, Planning & Zoning
P.O. BOX 216
WARM SPRINGS, VIRGINIA
24484

COMMONWEALTH OF VIRGINIA
COUNTY OF BATH

PHONE: 540.839.7236
FAX: 540.839.7222

Bath County Planning Commission

Bath County Courthouse – Room 115

August 24, 2015

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

MEMBERS ABSENT: Trudy Woodzell,

PUBLIC IN ATTENDANCE: Mike Bollinger (press), Mr. & Mrs. Burwell, County Attorney Michael Collins, Attorney John C. Singleton

STAFF PRESENT: Sherry Ryder

CALL TO ORDER:

Chairman Cowden called the meeting to order at 7:00 p.m. He welcomed everyone in attendance.

PUBLIC COMMENT—MATTERS UNRELATED TO THE AGENDA: None

ADDITIONS OR CORRECTIONS TO THE AGENDA: None

PUBLIC HEARING(s): None

CHAIRMAN'S REPORT:

STAFF REPORT:

Sherry Ryder: A copy of my report is in your packet. If you have any questions let me know.

Chairman Cowden: Would you introduce Mr. Singleton and his request?

Sherry Ryder: Mr. Singleton would like to present to the Planning Commission a piece of property owned by Mr. and Mrs. Burwell. The property is off of Dunn's Gap road in Mitchelltown. They are asking for a green light from the Planning Commission and the Board of Supervisors for compliance with the Comprehensive Plan in order that the property may be placed under a conservation easement. Mr. Singleton will elaborate more. You have a letter in your packet that Mr. Singleton addressed to myself that I forwarded to you. Behind that there is a map showing the designated growth area for parcel number 72-54. That whole parcel on the map isn't theirs. The Burwell's house is not in the growth area. Then you have the pasture that goes towards Dunn's Gap and some mountainous land that is his as well. The next map shows that his property is zoned A2 that fronts Dunn's Gap and the mountainous part is A1. The last one shows zoning lines without the overlay so you can get a good idea of the aerial. The property is very steep. You can see the property, if you are going toward Mitchelltown on the right.

Attorney Singleton: Thank you Sherry for the introduction. I sent a letter to Sherry that you have in your packet. The Burwells sent a letter to the Virginia Outdoors Foundation the first of August. I'd like you to look at a copy. It gives you a better idea where the Burwells are coming from. They are going to be moving here after Mr. Burwell retires. They have children up in northern Virginia and grandchildren. [Mr. Singleton passed out a copy of the letter to the Commissioners].

Chairman Cowden: OK, just give us a few minutes to read this.

Mr. Burwell: If I might add, I wrote this letter at the request of the Virginia Outdoor Foundation. They wanted a letter on why we wanted to do this and this letter is the response to their request.

Chairman Cowden: Chris, are there other comments?

Attorney Singleton: First, I'd like to say, this timing may be unfortunate, we didn't mean to piggy back on the Boxwood's proposal you had a few weeks ago. The Burwells were planning this well before then. We hadn't actually filed anything with Mrs. Ryder, but I had introduced Mrs. Ryder to the Burwells before the Boxwood thing. I was unaware of the Boxwood Farm proposal. But I will use them as an example anyway. Boxwood does follow 220. The growth plan spot basically sprawls from north to south down the 220 corridor. There wasn't anything scientific about it. It wasn't surveyed in. Some of these areas encompassed would be impossible to build under due to the steepness of the slopes, etc. The Burwells property doesn't front 220, it's a good quarter mile off 220 on Dunn's Gap Road. As I stated in the letter sent to Mrs. Ryder, it also joins the Gramercy Farm property, probably down its entire southern boundary. Probably the most significant place on this side of the mountain. Not unlike Fort Lewis in Millboro, but for this side of the mountain. The last thing you would like to see is development looking down on Gramercy. So it's one of those things, as the Comprehensive Plan said, it's a guide, for decision making, not an ordinance or something set in stone. I feel like the Burwell's property has more reason to be accepted out of this growth area. You couldn't build there. The Burwells are up on top, the slopes are very steep. They plan to enhance the property by putting it under the Conservation Easement Plan. It would be totally under the Virginia Outdoors Foundation Conservation plan. Under the plan the property would be 100% easement. They wouldn't be able to build anymore homes or development at all. It would be there forever, the way it is right now.

Having that been said, I would like to ask for your recommendation to the Board of Supervisors to state that parcel is not a conflict with the Comprehensive Plan and they be allowed to proceed with the conservation easement request. I will answer any questions you have and if I can't then Mr. Burwell can.

Chairman Cowden: Thank you for your input. We will now have a discussion. I think it is interesting that, like you said, this was brought up right on the tail of the Boxwood request, which this Commission was divided on. We are here to interpret the Comp Plan and the fact is, it is located in our growth area. As far as Boxwood, there is some difference. Yours has some historic properties and adjoins historic property, but isn't significantly historical. It's not on the 220 corridor. The County did invest money in public water and sewer. That is one of the aspects of a development zone.

Vice-Chair Miller: It's also next to R2, right?

Chairman Cowden: Sherry is there any restriction on building on that degree of slope?

Sherry Ryder: When you get to A1, you do if you plan on building more than five parcels. Then you have ten acre parcels, if served by public. Five acre parcels would be A2 but are served by public. If it were to be divided out. So with that being said, they would have the potential for a fifty nine acre lot to have possibly twenty seven parcels or more. You could go down to half acre parcels and if you could put in a road, but considering the slope of the property.

Chairman Cowden: So there is not ordinance?

Sherry Ryder: We do not have any restrictions that I am a where of that prohibits development of that property. Unless it is in their deed. Do you have any restrictions?

Mr. Burwell: Not that I'm aware of

Sherry Ryder: From a zoning point, if you do a cookie cutter kind of thing you can. We have had some of those that should not have happened in the distant past. The Combata's is one of those. Preferably that property should not be developed any more than it is because of the slope. It's pretty steep and gets steeper.

Vice-Chair Miller: But that's at the back part of the property.

Sherry Ryder: Yes, in the back toward the wooded part. In front there's still a hill. Less steep but still a slope. Just in case you don't know, when he said Gramercy Farm, he is talking about the large rock house that sits along Dunn's Gap Road. Beautiful piece of property.

Mr. Farmer stated he didn't know where the Gramercy Farm was.

Chairman Cowden asked if anyone else had any thoughts or comments. I know you all are concerned about setting a precedent like we discussed the last time. We need to evaluate each one independently.

Mr. Farmer: What drew me to this County is exactly the same that brought them here. 1) There is so much land. I wasn't aware about easements. 2) 27 parcels in the Chesapeake. 3) To me, if someone has invested into property, unfortunately in our growth area, they still have the right to do whatever they want with their property.

Chairman Cowden: I think that's true, you can say, the freedom to use your property, however, zonings been around for a long time.

Vice-Chair Miller: It's our responsibility to look forward to the future generation and when we are long gone. When you look at the maps in the Comp Plan, the tiny specks of land we have spent money, tax payers money, in sewer and water compared to the eighty six conservation easements that we already have, we don't have much land left.

Mr. Farmer: The flip side to that, Jason, is what if that property isn't developed?

The cost of people putting in twenty seven houses, the expense for putting in and servicing the utility would be more expensive for the County. It's more expensive to develop.

Chairman Cowden: I don't think we should discuss twenty seven houses. But there could be several.

Vice-Chair Miller: The last easement was for historical and slope reasons?

Mr. Farmer: Did the easement prevent development?

Sherry Ryder: The slope from 220 at Boxwood Farm goes down into the water shed and then back up. So you have a collection of water. When the Board of Supervisors made their decision, they focused on was, "Was it in conflict with the Comp Plan", even though we had a potential growth area, they concentrated on the conflict.

Vice-Chair Miller: We agreed on the Comp Plan. If you put too much personal feelings in everything, if you keep redefining what's growth area, the County needs to get serious, tax money was put it there. Everybody invested to put it there, so we could have an area where in thirty to forty years from now we have somewhere to grow. Otherwise we have nowhere to go.

John Loeffler: We're trying to. We also said we need to concentrate on growth centers and not sprawl around everywhere.

Attorney Singleton: If you look at that growth plan, I think we all know that was set up years ago. It's a broad area. You know well if we go down 220 or 39 in these areas, carve out where you could grow, you wouldn't just go shooting down this way and you wouldn't take in this piece of property. Now you talk about growth areas with water and sewer. There's no expensive water or sewer line anywhere along the 220 corridor from Warm Springs to Mitchelltown. I don't know where it comes back in, somewhere up here. But there's no sewer line along there. Why would there be a sewer line running down Dunn's Gap? Well it's to take sewer down to, I don't know, I guess to a sewer plant. It wasn't for development. There's no sewer line down your growth area corridor. That's where it should be. These folks shouldn't be punished for this. There's not going to be any growth down the Dunn's Gap road. We all know that.

Chairman Cowden: Then we could say, why do you need a conservation easement?

Attorney Singleton: They want a conservation easement to tie it up into perpetuity, so no one can develop.

Michael Collins: Chairman, can I also make one comment? The Board of Supervisors, like Sherry said, focused on the fact "would the granting of this easement conflict with the Comp plan, not just, would it be the best thing"? But on conflicting with the plan. I think, and we would never do it, I made the point to Sherry Ryder that if we were drawing the growth area so precisely, that we had a surveyor on staff going down the road and making the lines as we went along. The lines would have a lot of zigzags with property's that would and wouldn't be included. When you say, does this conflict with the growth area and I don't really know the area, but I think you should visualize this piece of property and say, does this conservation easement conflict with the Comp Plan. On this particular piece of property. That is if you were doing it that way. Your consideration should go through that reason. Not just the written word or maps, but the content of the Comp Plan.

Vice-Chair Miller: Isn't it a conflict when everybody that comes in from that area, say, we are in growth area but.... Are we going to keep chiseling away from our growth areas? Isn't it a conflict when the purpose was to provide for the opportunity for growth in Bath?

Michael Collins: If what you are chiseling away is land out of a reasonable growth area and I'm not saying that this is or isn't. I'm not that familiar with it. Then it is a conflict. But if you are defining the boundaries on what was designated as a growth area by allowing a conservation easement here and not there, on a piece of property, then it's not a conflict. That's your call.

Chairman Cowden: I think all of us are in favor of conservation easements. We are the fifth in the state?

Vice-Chair Miller: Out of the thirty eight hundred (3800) easements the Virginia Outdoors Foundation own in the state of Virginia, we are number ten (10), with eighty five (85) being in Bath County.

Chairman Cowden: A number of them are in Williamsville, where I am from and all over. I support the concept. I'm just not in support when it comes to chiseling out fifty (50) acres here and there. It sets a precedent to repeat again. This County invested in sewer and water whether it was the logical track or not. Regardless it is there.

Attorney Singleton: Another point that Jason made is that with the Virginia Outdoors Foundation and the Nature Conservancy, this property is almost the smallest that they will take. Going down our corridor you have a few good size farms, but most are small, too small for the conservations.

Vice-Chair Miller asked again what the requirement for a conservation easement was.

Others said the requirements were mostly; over fifty acres with a view shed or historical aspect, etc.

Attorney Singleton: I know you want growth and want jobs but I don't think you would want to see fifteen to twenty (15-20) townhouses perched upon the hill side of that mountain, along 220, or in this location.

Vice-Chair Miller: No I don't think we would ever see that. Regardless of an easement or not.

Mr. Loeffler: I get this easement with this property. As Mr. Singleton said, I don't want to go down 220 and see townhouses along there. Protecting hillsides and views are important, that's what brought people here. I understand what you mean about growth areas. I don't want to turn into a Pigeon Forge. They have lots of jobs, but it's not a place I want to go.

Vice-Chair Miller: It's fine to say, not in my back yard. We have nowhere else. I have been here for eighteen years and there has been no cluster of townhouses built, that we can talk about. Once the easement is done, you can't go back.

Mr. Loeffler believes that when development happens it will go quickly. He feels that downtown Hot Springs will grow near the Firehouse.

Vice-Chair Miller: But where are they going to live? Build at?

Mr. Loeffler: It's not feasible to build houses on that property. In Hot Springs, at the gravel lot, you will probably see a lot of mixed use. Retail, restaurant on the bottom, whatever and residents at top. When you see that happen, the Virginia building would look like a great project for restoration. I think once that starts happening, it's going to be a snowball effect. You've seen how quickly towns can change in ten years.

He said, he uses the place he grew up all the time. It went from farms to homes over night with development. Now twenty years have passed and all those developments are falling apart. Towns have lost their feeling of country and charm. Half of the stores are empty. We need to be careful on where we grow.

Sherry Ryder: I got the letter from Mr. Singleton, I didn't bring it or put it into the packet. At the time I didn't think it was really relevant. When the Board had their last meeting and took action on the last Conservation Easement request. Mr. Harrison wrote a letter to Virginia Outdoors Foundation. Just so you know a precedent has been set. Even though it's for different properties. To summarize, he talks specifically about the Comp Plan and supports the use of conservation easements to preserve historic properties. The key points they point out were, 1) to maintain farm/ forest land and, 2) viewshed easements around important sites. Those were the two bullets he set out from what he understood from the Board of Supervisors. The Board has made a ruling, in a sense that if they meet the criteria of protection farm/forest land, view sheds and important view shed/ historic sites, then they do not feel it is a conflict with the Comp Plan to have a conservation easement. The Board of Supervisors have set that precedent

Vise-Chair Miller asked if the owners would still be paying taxes afterward.

Michael Collins: With the County, the property is taxed at a lower rate, sometimes. Most of the time these conservation easements are on forest/pasture land and it only drops it to the Land Use

rate. Homes rates and a certain amount of land around it are taxed at the same full rate as everyone else. If the assessor came through and talked to Sherry for the zoning ordinance and said this lot could be built with twenty seven building sites and so it's worth a whole lot. The Conservation would tell him that no it couldn't. He would then place it at the lower tax bracket.

Chairman Cowden: So there is a tax break. But still there is a situation of setting a precedent. This tract does have a viewshed, but not much more. No historical value.

Vice-Chair Miller: We're all are in a view shed.

Attorney Singleton: Your Comp Plan said a lot of things. We have met a lot of the requirements here. Each situation needs to be reviewed separately. I know where Jason is coming from. As you go down that corridor, you may have another easement request, you may not. But you are not going to have development, commercial development or job creation on the sides of these mountains. It's going to be in Hot Springs, or Warm Springs where you can build. This piece of property should not be in the growth area. The house doesn't sit in the growth area.

Mr. Burwell said they had been coming to Bath County for forty years. Ryan Hodge was helping them fish and look for a piece of property for twenty years. After seeing this property we were told by others that this piece of property should be put into Conservation Easement. It's a beautiful site, you can see this piece of property from 220, It borders National Forest on one side and a large farm on the other. So I called this lady from the Virginia Outdoor Foundation and she came out and she said absolutely. She gave them all the same reasons and encouraged them to do it. At that point they became active in this thing. They have been renovating the house and are just starting to move in and want to preserve the house and land for their children and to prevent anyone from building a lot of houses on it after they are gone.

Sherry Ryder asked Mr. Collins if he remembers if Dunn's Gap road is on VDOT's Rural Rustic Route. If so then that road would not be on VDOT's list for future improvements.

No one could remember.

Chairman Cowden thanked everyone on their point of view. This meeting is for considering if this request complies with the Comp Plan or not before sending it on to the Board of Supervisors. Do I hear a motion?

Mr. Farmer: I make a motion that the Conservation Easement request made by the Burwell's is in compliance with the Comprehensive Plan and be sent to the Board of Supervisors with our recommendation for approval.

John Loeffler seconded the motion.

VOTE: 2 - 2

Sherry Ryder: The resolution will go to the Board of Supervisors as a tie from the Planning Commission.

Sherry Ryder asked the other Commissioners to come to the Board meeting to help answer question.

OLD BUSINESS:

Gas Drilling & Hydrofracturing Ordinance – draft to be edited.

Chairman Cowden: Mike, have anything on oil and gas?

Attorney Singleton: No, I don't tonight. Sherry sent me a new Attorney General's opinion study.

This will be on a later agenda.

Architectural Standards

Sherry Ryder: Ms. Sara Holberg would like to come to a meeting and give a presentation on this topic. She needs to set a date. She is with the Valley Conservation Council. She wrote up the booklet on, "Principles for Better Development", which you all have seen. It's on helping to make new business blend with the area. And on how Architectural Standards have worked for other localities.

Michael Collins said in Virginia you can encourage the look of a new building through zoning requirements.
Discussion on what the County wants and how getting information on how to do it correctly will be helpful.

Updating Land use Regulations

Continue to next meeting.

NEW BUSINESS:

Sherry Ryder: Our next meeting will probably be a property rezoning request from a possible new business that will need to be heard before their contract for purchase expires. We need to have a quorum for this meeting, and three Planning Commission members will be out of town. We can't do it earlier due to getting all the advertising requirement in.

The Commissioners discussed what days would be available and came up with the date of, Wednesday, October 7th in the same room for their next meeting date. This meeting will replace the September meeting.

MINUTES

Chairman Cowden: We have the minutes for July 27, 2015. Is there any need for correction?

I have one. The sentence on page two, with me saying, I got the Kelly Book from Mr. Harrison is not correct. Needs to be taken out.

That reminds me. I need to have a copy of the Budget Calendar for the CIP.

Vice-Chair Miller read the calendar off from his phone.

Vice-Chair Miller: I make a motion to approve the Minutes of July 27nd with the deletion.

John Loeffler seconded the motion.

Vote: 4-0

ADJOURN

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

John Loeffler seconded the motion

Meeting adjourned

_____ _____

Chairman John Cowden Date