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## **Bath County Planning Commission**

**Bath County Courthouse – Room 115 – 7:00 P.M.**

**September 26, 2016**

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

**MEMBERS ABSENT:** Trudy Woodzell

**PUBLIC IN ATTENDANCE:** Geoff Hamill (press), Dennis Alexander, Cindy Slagle, Thomas Burns, Shelton Burns, Roy Burns, Mark Forbes, Mason Cauthorn, Richard Roberson, Janice O'Farrell, Joe Murray, John C. Singleton (Attorney), Mike Collins (County Attorney)

**STAFF PRESENT:** Sherry Ryder

### **CALL TO ORDER:**

**Chairman Cowden** called the meeting to order at 7:00 p.m. He welcomed everyone there and was glad to see so many had turned out for the meeting.

**PUBLIC COMMENT—MATTERS UNRELATED TO THE AGENDA:** None

**ADDITIONS OR CORRECTIONS TO THE AGENDA:** John Loeffler asked to have "Discussion" placed under New Business.

### **PUBLIC HEARING**

**Sherry Ryder:**

- (a) Industrial Development Authority/Economic Development Authority – (TM#87-135) – Rezoning application to rezone the portions currently zoned A-2 Agricultural General and B-2 General Business of the Millboro Industrial Park to M-1 Industrial. This would make the entire 144.66 acres +/- zoned as M-1 Industrial. The property is situate in the Millboro Magisterial District.

**Sherry Ryder:** Tax Parcel #87-135 known as Bath County Industrial Park, currently owned by Bath County Industrial Development Authority/Economic Development Authority comprises appx. 144.66 acres. The current zoning comprised M-1 Industrial, A-2 Agricultural General, B-2 General Business and R-2 Residential.

In the Bath County's Comprehensive Plan (page 11-2), in the Millboro District it says: "The primary concentration of land zoned M-1 (Industrial) in the County was found here in the Millboro District in the Millboro Industrial Park. A portion of the park was rezoned to B-2. The County should consider returning it to its original designation in order to attract suitable industry for economic development purposes. "The County has not returned the parcel to the M-1 Zoning designation.

At my suggestion and speaking with their attorney the IDA/EDA has made application to rezone the parcel in its entirety to M-1. This should follow the Comprehensive Plan that was adopted in 2014. The property is located within a designed growth area.

Relevant Sections for your motion would be, Bath County Land Use Regulations 802.05, et seq and 612.03-2 page 4-3 Economy Goal#1, page 4-5 g and page 11-2 of the Bath County Comprehensive Plan.

As of today I have not received any complaints. A question was asked on how many trucks would be visiting the facility, once it is up and at full capacity. What would that volume be? What would be the impact to the roads? Would anything need to be done? I did speak to VDOT and they said, without knowing, that the road was put in for an industrial park and at this time don't foresee any changes unless it would be some widening at the intersection of TC Walker and Rt. 39 so a school bus or truck could turn around without swinging crossing the other lane. Would all the trees be coming from the County? Neighboring Counties? If so, how many trees do you foresee being cut from the County? Would this cause a viewshed problem? Is it going to cause a wildlife problem? They really don't know what to expect from a Stave Mill, but they were in support of the Rezoning and Conditional Use Permit and supportive.

You got your zoning map that shows the four different zonings that are there. The place where the Stave Mill wants to take place is part A-2 and part B-2. That was the specific focus but when we got to looking at it, and with four different zonings, it doesn't make good sense to have property owned by an Industrial Development Authority/Economic Development Authority, zoned that way. It would make better zoning practice to have it as industrial zoning.

**Chairman Cowden:** Is that your recommendation?

**Sherry Ryder:** Yes it is.

**Chairman Cowden:** I now open this for Public Comment.

**Shelton Burns:** (Williamsville District) I live in the Mill Creek area. I want to support this rezoning to bring this business to Bath County.

**Chairman Cowden:** Thank you. Anymore?

**Mark Forbes:** I connect to this property and I have no objections as far as rezoning. All I ask is I don't want to go through what I went through before. The last time, mine was rezoned without my knowledge and I would like mine to stay like it is now. I came to the meeting before and they rezoned it back. As long as I stay zoned as I am now, I have no objections to this project.

**John Loeffler:** In conversation with Mason, trying to learn about the project, the issue of trucks came up and he said there would be a 7-10 trucks per day. That doesn't significantly seem much per day. Is there a way to do the zoning so it doesn't need a Conditional Use Permit?

**Mike Collins:** Sherry and I debated a little about that, but the rezoning needs to happen first to M-1. We can discuss the CUP after.

**Chairman Cowden:** That makes sense. Do I hear a motion?

**Mr. Farmer:** I make a motion to have the Industrial Development Authority/Economic Development Authority, TM#87-135 with 144.66 acres be rezoned to M-1 in its entirety.

**John Loeffler:** Seconded the motion.

**VOTE 4-0**

## **PUBLIC HEARING**

(b) Industrial Development Authority/Economic Development Authority – (TM#87-135) – Conditional Use Permit to operate a stave mill on property known as the Millboro Industrial park near 223 Industrial Park Road, Millboro, VA 24460. The property comprises 57 acres situated in the Millboro Magisterial District and is zoned M-1 Industrial and B-2 General Business.

**Sherry Ryder:** They have made an application for a Conditional Use Permit for a stave mill. The property will be divided with the applicant owning 57 acres within the industrial park to operate their business. The stave mill will be receiving logs, placing them in a laydown area, and then bringing them indoors to process or convert the raw material of white oak into barrel staves and barrel ends for the assembly of wooden barrels. The barrels will not be assembled here, but the pieces will be shipped out for assembling elsewhere.

I have referred to section 612.03-2 as this is similar to a sawmill, however, it is a specialized sawmill. Again it is in our designated growth area. Relevant sections, Bath County Land Use Regulations 612.03-2. Page 4-3 Economy Goal #1 and 3, and page 4-5 of the Bath County Comprehensive Plan.

I have not had any complaints, just support.

I am unsure what the attorney will say, but I would make the recommendation that this be placed with an indefinite without any conditions, and leave the conditions in the hands of the IDA, since they are spearheading it and it is being conveyed by the IDA to this company.

**Chairman Cowden:** I would like to open the Public Hearing for public comment.

**Mr. Singleton:** I talked to Mrs. Ryder about this issue. If you go back in 1981, when this property was deeded to the IDA, I was involved back then. IDA bought it from the Woods family. It was purchased for an industrial park. Regardless of the zoning, it was supposed to be an industrial park. It got funky over the years. Other than the Bacova facility, we haven't had anything out there, really. If you look at the "Intent" under the light industrial district, and it's the strongest definition we have for manufacturing in this County, the intent of the M-1 Industrial District is to accommodate industrial uses that provide desirable employment consistent with the goals of maintaining environmental quality. These folks said they will initially employ 30 people. M-1 is to promote the manufacturing of processing and/or treatment of finished or semi-finished products from previously prepared material. I didn't read the whole list but it includes wood. If you go back to the definition section under Ordinance. Manufacturing is even broader. It says, the process of and/or converting of raw, unfinished materials, or products, or either of them, into articles of substances of different character, or for use for a different purpose.

"A stave is a narrow length of wood with a slightly beveled edge, used to form the sides of barrels." A stave mill receives cut logs which are measured and purchased by stave size amountson each log, and that meansspecified lengths. One tree will provide enough wood for approximatelythree barrels which is twenty percent of the tree. When logs are ready to be cut, they are cut into short bolts using cutoff saws, optimizing lengths for stave manufacturing. It's a specialized system. More like a cabinet shop or making bird houses. They are going to make these specialized staves to form barrels. This group is going to cut out templates and ship them out to wherever these barrels are going to be made. So that would not be a sawmill. It's more like a woodworking shop. We have a clause for cabinet shops under permitted uses, but I am concerned as well as the EDA, if you put a Conditional Use Permit on it. These people are going to spend five million dollars out there. I wouldn't want to risk five million dollars on a Conditional Use Permit. Right now the EDA is very favorable with this project, but like everything else around here, things change. It's a risk. I would ask the Planning Commission to consider allowing this to go into this ordinance as a permitted use. There is no reason you couldn't. Just because there were no stave mills when this ordinance was enacted in 2004. I haven't even heard of one until this project came along. I would like you guys to consider that.

**Chairman Cowden:** Any other comment? I now close the Public Hearing.

**Mike Collins:** Like Mr. Singleton said, there's nothing in here that states a stave mill, or what zoning a stave mill is in. Is it a Conditional Use Permit, automatic or what? We don't have it in here and nobody can predict every potential business or plant that can be built and put it into a zoning ordinance. State Code recognizes that and says ordinances should have procedures for uses that are not provided for. Where you can add uses when they come up. This is kind of like this case. As Mr. Singleton points out, this is very similar in his mind, he said to cabinetry/upholstery but also, to the manufacturing or compounding assembling of something out of products including wood 612.02-6. Not to improve on his remarks, if I were Chris, I would have said, not a bird house, but said a rocking chair. It has a base with a beveled edgesand a nice curves on it. It would be pretty clear, if you were making the components to a rocking chair that you would think it was like manufacturing furniture or projects from a cabinet shop. I thought you might like to ask the Board to consider rather than approving a Conditional Use

Permit, like I hope you are, given the magnitude of this project, you would do. In addition to that, sense there is a timing issue to keep thing moving, I would add to the permitted uses under “Light Industrial District M-1” a stave mill. Like you have laboratories, automobiles, you have a lot of things by specific names and then a lot by generality. That would resolve this debate on, is a stave mill closer to a sawmill or closer to cabinet building, or manufacturing out of wood products. This is going to be big to the County and should have its own category. You can still recommend a Conditional Use place or a permitted use place, whatever you think. I would think a stave mill ought to be recommended to the Board to be added to this particular district.

**Chairman Cowden:** Thank you, that’s food for thought.

**Mike Collins:** One more thing to clear up anything that I may have said and may have been confusing. Sherry said that I confused her at one point. I think what’s on the table right now, based on her recommendations that this is similar to a sawmill, the CUP. You have to vote up or down on that. But adding it to the ordinances would require amending the ordinance, which we do from time to time. I would ask that you make that recommendation if you think it appropriate. As a different, second motion.

**Vice-Chair Jason Miller:** As a second motion?

**Mike Collins:** As a different second motion. So both thing move parallel.

**John Loeffler:** CUP on the first motion and second add to the light industrial the stave mill to the M-1.

**Chairman Cowden:** Mr. Singleton, your thoughts are, they may be reluctant to a Conditional Use Permit? Or comfortable with both?

**Mr. Singleton:** They haven’t said that and I think that the ideal of letting the EDA be in charge of the monitoring of the Conditional Use Permit is more preferable than having it monitored by the County. My thought would be, just from the investment perspective, I think the ideal thing would be to make recommendation, like Mr. Collins said, to have this put under permitted uses. But have it preceded as we discussed earlier, with Mrs. Ryder, to have a Conditional Use Permit, but controlled by the IDA /EDA

**Vice-Chair Jason Miller:** I think what he is asking is, we just want to make sure we just don’t do one thing and have it turn around and come back. We don’t want it to interfere with each other.

**Mr. Singleton:** Let me give you a little back ground on that. When all of this sort of hit the fan on the fist of September. Mrs. Ryder was kind enough to let me know that we had to do something promptly, and had to file an application no later than the noon on the sixth of September. So I met with her and we filed for Rezoning and at that time a Conditional Use Permit. I wanted to make sure we got stuff docketed so we weren’t dragging into February or March on this thing. But after looking at the ordinance, with much more detail and State Code, I think this business fits right into permitted use.

**Chairman Cowden:** If you want to say something, I will reopen the Public Hearing for public comment.

**Roy Burns:** I would like to give a perspective from a business standpoint as far as a Conditional Use Permit. I've been doing business since 1985. For the first four or five years, we were under a conditional Use Permit. A yearly or bi-annually condition for the Conditional Use Permit. We fought vigorously to get something more permanent. We were unsure. We were under a conditional use, trying to support three different families with our business and it was an unsure concept. Would we be renewed when it came up? When we paid to come before the Board again, would we be able to follow all the guidelines that were put in front of us, if anyone complained, would the permit be taken away from us? Stopping us from doing business. It is a deterrent to a company to have a Conditional Use Permit, unless it is an indefinite. Or under permitted use, like Mr. Singleton said. My business isn't huge, but it is to me. This company may feel the same way. This company is huge to Bath County. It may not be the largest one they have, but it is going to be big to them. So I think we need to keep that in mind when making this decision because we don't want this business to be deterred in any way. It's for the benefit of the County. Thank you.

**Chairman Cowden:** Any more thought? I now close the Public Hearing for comment.

**John Loeffler:** My confusion is, if we added the stove mill to the permitted M-1 uses, then why would we need to recommend a Conditional Use Permit?

**Chairman Cowden:** If you want to say something, I will reopen the Public Hearing for public comment.

**Mike Collins:** You don't have the authority to add it. That requires amending the ordinance. That requires giving notice and having a Public Hearing. You could at least have a Conditional Use Permit that would be in place up until the ordinance puts it in a permitted place.

**Mr. Singleton:** What I was trying to say initial, under our definitions of M-1, you don't have to do anything if we do it now. It just isn't spelled out as a stove mill. You can do a lot of things under manufacturing and nobody will take issue with as long as it complies with the intent of the ordinance and definitions. That's mine point.

**Mr. Farmer:** Then if we don't do anything, then a higher authority may take that as a point we don't want it.

**Chairman Cowden:** If we don't do anything then we can fall back on it being a sawmill.

**Mike Collins:** Due respect to Chris, the Zoning Administrator has the first call on this, and Sherry has made this call that she thinks it is similar to a sawmill and has to come under a Conditional Use. That's a decision that can be appealed to the Board of Zoning Appeals. They would either, agree with her or disagree with her and this argument he is making would fall with this particular group. But you, Planning Commission, don't have the power to amend or change the decision of an Administrator. Only the Board of Zoning Appeals can do that.

**Mr. Singleton:** Or the Zoning Administrator.

**Mike Collins:** Yes. And you heard her report. That's why I think you are limited to recommending or adding it to the ordinances for permitted use and considering the granting of a CUP.

**Vice-Chair Jason Miller:** Even if we do that and add it to permitted use, that still doesn't stop Mr. Singleton from going to the BZA to have her opinion vetoed.

**Mike Collins:** You have thirty days to appeal the decision Sherry, right?

**Sherry Ryder:** The BZA meets again on October 17<sup>th</sup>, but if my decision is appealed, and the BZA says they ok, but we think that she was going in the right direction, then you still fall back on the CUP, because he isn't withdrawing the CUP. But if you go forth with the CUP and when we amend our regulations as we progress and if it ends up being a permitted use then the CUP dies.

**Chairman Cowden:** I now close the Public Hearing again. Do I hear a motion?

**Mr. Farmer:** I make a motion to approve the Condition Use Permit with an indefinite time period to the Industrial Development Authority/Economic Development Authority TM#87-135 for the 57 acres with conditions that would be set forth and controlled by the EDA for operation and construction of a stave mill.

**John Loeffler:** Seconded the motion.

**VOTE: 4-0**

**Vice-Chair Jason Miller:** I make a motion to recommend an amendment and adding stave mill to the permitted uses in M-1 by Public Hearing by the Planning Commission, if needed. If not needed, then to the Board of Supervisors.

**John Loeffler:** Seconded the motion.

**VOTE: 4-0**

## **PUBLIC HEARING**

- (c) Section 706.00 Bath County Land Use Regulations "Sign" – Incorporates new signage laws to reflect changes set forth in Supreme Court ruling.

**Sherry Ryder:** I tried to capture everything that was in our regulations as far as the Zoning and what we have on record along with the new legislation that has been on the books for two years. We haven't gotten our Signage Ordinance to where it fits in with the Code of Virginia with the new legislation.

**Chairman Cowden:** I now open Public Hearing for comment.

**John Loeffler:** I motion to table the sign ordinance to next month.

**Vice-Chair Jason Miller:** I second the motion.

## **PUBLIC HEARING**

(d) Section 6-1 Bath County Code “Removal of Trash” revised to “Trash and Weeds” – expands definition of trash and sets forth section weed.

**Mike Collins:** The Authority in everything we can adopt comes from State Code and if you read the State Code, the whole thing is on things considered by the general population or enforcement people as a nuisance issue and it can go beyond that to a health hazard or safety hazard. But there is a grey area of nuisance. I don't know if it is worded right in this draft ordinance but I do know we are really supposed to be talking about things that present a nuisance to the remaining people around. That sort of controls a good part of it.

**Chairman Cowden:** I now close the Public Hearing. I think we have heard that it is pretty hard to define the ordinance as we have it now. Trash, litter portion, weeds. Can we dividethe two?

**Sherry Ryder:** I think we should take the trash out.

**Chairman Cowden:** Do I hear a motion to table this weeds and grass?

**John Loeffler:** I motion we table weed/trash for edits.

**Mr. Farmer:** I second it.

**VOTE: 4-0**

**CHAIRMAN'S REPORT:** None.

## **STAFF REPORT:**

**Sherry Ryder:** I will be at a Zoning Conference this coming week. It appears that my report didn't make it to the packet. I apologize.

**OLD BUSINESS:**None

## **NEW BUSSINESS – Discussion on recent actions of the Board of Supervisors and how it impacts the Comprehensive Plan.**

**Chairman Cowden** read a little back ground on how the Comprehensive Plan was developed and deemed most important as the County's plans for the future.

## **On Personnel and the Comprehensive Plan**

- 1) Tourism/Economic Director Maggie Anderson –Because of the Board of Supervisors, we seem to be heading in a different direction. People ask about the Tourism Department, Celine is an exceptional capable woman but does she have the seasonal experience to handle that program on her own. Maggie put Bath County on the map. Because of her, her contacts and hours of work we may now have a Stave Mill in Millboro.
- 2) County Administrator Ashton Harrison - He a capable man, but has a lot on his hands. Just hearing all about what went on with Speyside. I don't see where he would have time to sleep or see his family. You can't do a project like that and everything else he has in the County.
- 3) In the Comprehensive Plan, and points that relate to the Economic Development and Tourism and under the Demographics chapter. One of the goals was to encourage young adults to stay in Bath County and seek to attract young families with children. Another goal is to reduce the number of families living under the poverty level. All of this shows the importance of the Economic development. It is imperative that leadership be more committed and devoted to that end. - I don't think the Boards recent moves and the realignment of their staff fill those post holes.
- 4) The Comprehensive Plan and Economic Development Plan – Many people have come asking our opinion, being a member of the Planning Commission and knowing the hard work that was put in the Comp Plan in 2014. We are afraid it will get lost, even if you don't want it to. If it gets put on the shelf, because somebody doesn't have time, it will collect dust.
- 5) Concerns on the economic value for the young people. - Four very capable college graduates have moved back into the community all in the last six months and all are now looking for jobs. They want to stay here and make it their home but there has to be opportunity and I think that should be one of the most foremost objective.

## **The Economic Section**

It clearly states:

- 1) To continue to promote and market tourism in Bath County. That's a major goal in our Economy. - With the realignment there. They aren't following through with that.
- 2) To retain or expand existing business/industry. - We are that and Speyside factory is crucial. I hope that will go through.
- 3) Continue to attract new businesses and small industry that have a low impact on Bath County's environmental, scenic and rural character but provide jobs and revenue to the County. - At the meeting in Millboro, it was brought to our attention that Maggie's outreach to all sorts of organizations is what put Bath County on the map. The Stave factory would have never found Bath County, if she hadn't reached out. That is a huge economic advantage we had. So we really need to keep that going. And like you said with the County Administrator, there is not enough hours in day for him to promote the County as it should be.
- 4) Work to diversify Bath County's economy and lessen its reliance on the tourism/service industry sector. – As important as Tourism is I think Bath County should have its own economic base. We know the Homestead is our largest employer and very influential and

we appreciate everything they do but Bath County citizens need to start to have our own independent economy. I think that is where some of those Tourism/Economic dollars are well spent.

**Under Objectives**

- 1) Continue to support the marketing efforts of the Bath County Office of Tourism designed to attract tourism dollars to the County. Support local tourism and link it to the region's many tourism programs. – The decisions made, seem to be going in the opposite direction. We need to be committed to this plan. What good is it to put all of this effort in it if we are now, going to turn away. A significant amount of investment and time has been put into it already. We targeted what we needed the most and now it is not being supported. And has been put back on the shelf.

Why would a Board disassemble a group, The Economic Development, that's doing a great job? The Planners drew up a plan, but the Departments did all the hard work. They hope Speyside doesn't second guess their decision to come to Bath County or discourage other small businesses from coming to Bath.

**MINUTES**

**John Loeffler:**made a motion to approve the minutes of August 22, 2016.

**Vice-Chair Jason Miller** seconded.

**VOTE: 4-0**

**ADJOURN**

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

**John Loeffler** seconded the motion

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Chairman, John Cowden

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Date