

# LANCASTER COUNTY PLANNING COMMISSION

## Minutes

August 18, 2011

The regularly scheduled meeting of the Lancaster County Planning Commission was called to order at 7:00 p.m. in the Board meeting room of the Lancaster County Administration Building, Lancaster, Virginia.

Present were David Jones, Chairman, Robert Smart, Tara Booth, Steve Sorensen, Ty Brent, David Chupp and Glenn Pinn.

Also present were Butch Jenkins, Board of Supervisors Representative, Don Gill, Planning/Land Use Director, Joe Thompson, Northern Neck Land Conservancy, Charlie Costello, Neil Payne, Robin Payne, Nick Ferriter, and others.

Mr. Jones asked if there were any corrections or additions to the minutes of the July 21, 2011 regular meeting.

Mr. Jones moved to approve the July 21, 2011 minutes as submitted. **VOTE: 7-0.**

### **PUBLIC HEARING #1**

#### **APPLICATION FOR ZONING ORDINANCE AMENDMENT ARTICLE 4, A-2 AGRICULTURAL GENERAL DISTRICT- NEIL AND ROBIN PAYNE**

Mr. Jones asked Mr. Gill to present the issue.

Mr. Gill stated that the issue was an application for zoning ordinance amendment by Neil and Robin Payne to add the following permitted use to Article 4, the A-2 Agricultural General District: 4-1-7A, Abattoir (commercial slaughterhouse), with a special exception.

Mr. Gill stated that the Paynes own a farm, zoned A-2, near Miskimon and have been slaughtering and processing their own animals, as well as deer for Hunters for the Hungry for several years. He stated that slaughtering and processing your own animals is a by-right permitted use under the general definition of agriculture as a means of disposition of a farm raised product and that the processing of deer for Hunters for the Hungry has also been viewed as a by-right permitted use under the home occupation definition.

Mr. Gill stated that the Paynes have recently constructed a state-of-the-art slaughtering and processing building, on an adjacent A-2 farm they own, to expand this business into a custom operation in which they not only slaughter and process their own animals, but livestock owned by others as well. He further stated that the Paynes plan to custom cut meat for sale to the public and are in the process of obtaining state and USDA certification to do so. He stated that the expansion of this business to a custom operation that slaughters and processes animals not raised on their own farm, for sale to the public, is a commercial venture that exceeds what is allowed by-right under the general definition of agriculture. As a result, the Paynes seek to amend the zoning ordinance by adding “abattoir (commercial slaughterhouse), with a special exception” as a permitted use in the A-2, Agricultural General District to enable them to accomplish their goals.

Mr. Gill stated that the term “abattoir” was chosen as it describes the proposed operation and is already defined in our zoning ordinance, even though it is not listed as a permitted use in any zoning district. He further stated that the special exception provision was included to allow each prospective parcel to be considered on its own merits for this potential use and to allow the public a voice in the decision process.

Mr. Gill stated that staff views this request to amend the zoning ordinance as reasonable and appropriate. He stated that a commercial slaughterhouse is a commercial business that should be located in an agricultural district and that it belongs in farm country and not in downtown Kilmarnock. He further stated that it is needed in this area since local farmers have had to take their livestock hundreds of miles away for processing at facilities in Fauquier or Suffolk counties. Mr. Gill stated that the local foods movement has gained momentum with the popularity of farmers markets over the past several years and there is growing interest in locally produced meat. He also referred to a letter from Mr. Kelly Liddington, Agriculture Extension Agent for Richmond County, documenting the need for local slaughtering facilities.

Mr. Gill stated that the Planning Commission’s job is to forward to the Board of Supervisors one of the following recommendations: 1) a recommendation to approve, 2) a recommendation to deny or 3) no recommendation, concerning the application to amend the zoning ordinance by adding “abattoir (commercial slaughterhouse), with a special exception” as a permitted use in the A-2 Agricultural General District. He further stated that the Planning Commission is not deciding whether or not the Paynes can have a commercial slaughterhouse on their property. He stated that that decision can only be made by the Board of Supervisors, if the zoning ordinance is amended as requested, and when the Paynes submit a special exception request to operate a commercial slaughterhouse on their property.

Mr. Gill stated that advertising had been conducted as required by law and to date he had received ten calls from people in favor of the amendment and two that were against.

Mr. Chupp asked what the opposition was based on.

Mr. Gill replied that basically it was the “NIMBY” factor of not wanting it in one’s backyard.

Mr. Jenkins stated that all though the two complainants own property adjacent to the Paynes, their house is not that close to the property lines.

Mr. Gill stated that the complainants’ house is in the center of their property and a long way from the Payne’s building.

Mr. Smart asked if the slaughterhouse would be state and federally inspected.

Mrs. Payne replied that the state inspector would be meeting with her on the upcoming Monday. She stated that they have to go through a process in order to be state certified and that the state has the same standards as USDA. She further stated they want to obtain state certification first and then apply for the USDA certification.

Mr. Brent asked if the slaughtering was done inside or outside.

Mr. Payne replied that all of the slaughtering is done inside of the building.

Mr. Smart stated that he liked the letter from the Richmond County Extension Agent. He stated that it explained a lot and he thought that much is to be gained for the community by having a local slaughterhouse.

Mr. Jones opened the floor for public input.

A District 2 citizen, Susan Marsh, stated that she lives a quarter of a mile from the Payne’s building and she supports the Paynes fully.

Another District 2 citizen, Polly Hinton, stated that the slaughterhouse is very much needed and she wanted to support it in any way she could.

Charlie Costello, a District 2 citizen, stated that he has spoken to people who have to take their animals out of the area for slaughtering and how inconvenient it is. He stated that the slaughterhouse is in a perfect place and it would be helping the economy and our community. He further stated that he could not see why anyone would be against it.

Nick Ferriter, a District 1 citizen, stated that he agreed with Mr. Costello. He stated that a slaughterhouse was overdue for the County and thought it was a great idea.

Charlotte Barber, a District 2 citizen, stated that she was in favor of the slaughterhouse and it was important to the local economy.

Neil Payne stated that he had previously been in the construction business. He stated that he and his wife decided to start up their own slaughterhouse business because it was something he had always enjoyed doing. He stated that he appreciated all of the

support from the community and invited anyone who wanted to come see the operation to do so.

Mr. Brent asked about the issue of noise and the disposal of the carcasses.

Mr. Payne replied that he has a service that picks up the carcasses once a week and that the carcasses are kept in sealed containers and stored in a separate refrigerated room.

Mr. Jenkins pointed out that that is a requirement to keep the state and USDA certification.

Mr. Payne agreed.

Mr. Payne added that the water is tested twice a year and the septic is pumped three times a year.

Mrs. Payne stated that the building is concrete with solid walls, so there should be no issue with noise.

Mr. Jones asked what happens if they loose electrical power.

Mr. Payne replied that they have a generator that runs the whole building.

Another District 2 citizen, Bernadette Barber, stated that she owns a small farm and knows that a lot of people have to travel to places such as Fredericksburg or Culpeper for a butcher. She stated that a lot of people would like to have access to local meat and the slaughterhouse is needed for the local economy.

Mr. Jones closed the floor to public input.

Mr. Smart made a motion to recommend for approval to the Board of Supervisors the addition of abattoir (commercial slaughterhouse), with a special exception to the Zoning Ordinance Article 4, A-2 Agricultural General District. **VOTE: 7-0.**

#### **DISCUSSION ITEM #1**

### **CONSERVATION EASEMENT ORDINANCE**

Mr. Jones asked Mr. Gill to present the issue.

Mr. Gill stated that at last month's meeting, the Planning Commission requested several changes to the draft conservation easement ordinance modeled after the Fluvanna County Conservation Easement Program. He stated that those changes have been made

and are highlighted on the revised draft that was included in the Commission members' packets.

Mr. Gill stated that a copy of the revised draft had been forwarded to Jim Cornwell, the County attorney, as well as the Northern Neck Land Conservancy (NNLC) for review and that he had received the County attorney's comments and that Joe Thompson of the NNLC was present to answer any questions.

Mr. Gill stated that the item would need to be docketed for public hearing once the County attorney's comments have been reviewed and the Planning Commission feels it has been discussed and tweaked satisfactorily.

Mr. Gill passed around the County attorney's comments to the Commission members.

Mr. Jones stated that he wanted to review the comments from the County attorney.

Mr. Gill stated that the first comment concerns Section 10.1-1701 of the Code of Virginia, which talks about term limits for a conservation easement as opposed to being perpetual. Mr. Gill stated that he thought the easements should be perpetual and that the tax benefits that would accrue to the applicant would be almost nil if there were term limits.

Mr. Jones stated that he thought everyone would agree with that.

Mr. Gill stated that the second item is that Mr. Cornwell thinks that language should be included that states something to the effect that "the application and all information submitted by the property owner be subject to release to the public and the owner would authorize and acknowledge that release." Mr. Gill stated that that can be added and he did not think the NNLC had a problem with it.

Mr. Thompson agreed that that was fine with the NNLC.

Mr. Gill stated that the third item talks about a list of costs to the property owner that is listed in Section 27-8. He stated that Mr. Cornwell suggests that a specific list be added to the application to avoid a claim that a request for such information under the application was unreasonable. Mr. Gill stated that his contention was that all of that information would be in the documentation report to be provided by the NNLC. He further stated that he did not think it was needed since it would be taken care of by the co-holder who is presenting the application.

Mr. Gill stated that in reference to the cooperative agreement, Mr. Cornwell stated that in paragraph 4, he would like to see language that states something to the effect that "the NNLC hereby consents to the public release of all such information and shall obtain the consent of the owner to such release." Mr. Gill stated that that could also be added.

Mr. Thompson agreed that that was fine with the NNLC.

Mr. Gill stated that in paragraph 6 in reference to the cooperative agreement, Mr. Cornwell would like a sentence added that stated “to impose upon the NNLC the obligation to assist the County in enforcement, including any legal proceedings by providing testimony, investigation, etc.”. Mr. Gill stated that Mr. Cornwell had commented that the County may bear the responsibility in cost, but without the full and complete assistance of NNLC, enforcement would be more difficult and expensive then it needs to be.

Mr. Thompson stated that as co-holder they assume that what Mr. Cornwell referred to would be their responsibility, but if the County would like it in writing, the NNLC is comfortable with that as well.

Mr. Jenkins asked about the County’s fee for the easement that was discussed at last month’s meeting.

Mr. Gill replied that the language in the ordinance states that the amount of such fee shall be established from time to time by resolution of the Board of Supervisors. He stated that the fee for Fluvanna County was \$750.00.

Mr. Brent asked if that fee pertained to all sizes of parcels.

Mr. Gill replied that it is a flat fee for any size parcel.

Mr. Thompson stated that there is a state program and if an applicant meets the income requirements, they can apply for funding to offset the costs associated with placing an easement on their land.

Mr. Smart asked if because the conservation easements would be so infrequent, if each fee would be negotiated in its own right.

Mr. Gill replied that a fee would be set by resolution of the Board of Supervisors and would change from time to time, but that it would not be on a case-by-case basis.

Mr. Jones stated that the fee would be set and then reviewed periodically.

Mr. Gill stated that that is also how the building and zoning permit fees are done, too.

Mrs. Booth asked how Fluvanna County determined their easement fee.

Mr. Gill replied that he did not know how the fee was determined, just the amount.

Mr. Brent asked about the tax break for a property owner entering into a conservation easement.

Mr. Thompson stated that if the land is already “in land use”, the taxes don’t change and if the land were not “in land use”, it would be taxed the same as land that is in land use.

Mr. Gill stated that the requirement for land to be “in land use” was that it had to have five years of agricultural production and be at least five acres.

Mr. Jenkins stated that his concern was that there was a lower limit for which properties could be considered for land use, which is five acres, and that should possibly be considered as a lower limit for the conservation easements as well.

Mr. Gill asked if Mr. Jenkins was suggesting that the minimum parcel size for a conservation easement be five acres.

Mr. Thompson asked for clarification on the minimum lot size.

Mr. Jenkins replied that the first five acres should not pertain to the portion of the property in which the owner would get the land use tax break.

Mr. Chupp asked if this had anything to do with the minimum acreage that could be accepted for a conservation easement.

Mr. Jones replied no, it was just referring to the land use tax breaks and that it doesn’t supercede the County’s legislation.

Mr. Jones made a motion to forward the new conservation easement ordinance to public hearing next month as written with the changes and recommendations from the County attorney. **VOTE: 7-0.**

### **OTHER BUSINESS**

Mr. Gill stated that the public hearing would be held next month for the conservation easement.

### **ADJOURNMENT**

The August 18, 2011 regular meeting of the Lancaster County Planning Commission was adjourned at 7:45 p.m.