

County of Dinwiddie Board of Supervisors

MINUTES

Regular Meeting – February 20, 2018, 3:01 PM
 Board Meeting Room, Pamplin Administration Building
 14016 Boydton Plank Road, Dinwiddie, Virginia

Supervisors Present:

Dr. Mark E. Moore, *Chair*
 William D. Chavis, *Vice Chair*
 Harrison A. Moody
 Daniel D. Lee
 Brenda Ebron-Bonner

Election District 2
 Election District 3
 Election District 1
 Election District 4
 Election District 5

Administration Present:

W. Kevin Massengill, *County Administrator*
 Anne Howerton, *Deputy County Administrator, Finance and General Services*
 Tammie Collins, *Deputy County Administrator, Planning and Community Development*
 Tyler Southall, *County Attorney*

1. ROLL CALL

2. INVOCATION

After the invocation, the Board held a moment of silence for the Parkland High School shooting victims and their families.

3. PLEDGE OF ALLEGIANCE

4. AMENDMENTS TO AGENDA

W. Kevin Massengill, County Administrator, asked that an item “4” be added under 11.A. Closed Session be added to include Design Review Board.

Upon motion of Mr. Moody, seconded by Mr. Lee,

BE IT RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia that the agenda was adopted as amended.

AYES: Mr. Lee, Mr. Moody, Ms. Ebron-Bonner, Mr. Chavis, Dr. Moore

NAYS: None

5. CONSENT AGENDA

A. SUMMARY AND CLAIMS

CLAIMS	January 15, 2018	January 19, 2018	January 31, 2018	February 2, 2018	February 2, 2018	February 2, 2018	TOTALS
	1102933-1102954	1102955-1102983	1102984-1102997 Payroll	1102998	1102999-1103004	1103005-1103079	
101 - General Fund	\$42,437.49	\$180,078.68	\$1,151,153.73	\$56,175.37	\$180.00	\$207,565.80	\$1,637,591.07
103 - Jail Commission							\$0.00
105 - Recreation							\$0.00
209 - Litter Grant Fund							\$0.00
210 - Economic Developmt			\$1,466.60			\$1,500.00	\$2,966.60
211- Community Service							\$0.00
219 - CSA							\$0.00
226 - Law Library						\$168.31	\$168.31
228 - Fire Programs & EMS				\$1,468.10		\$363.84	\$1,831.94
229 - Forfeited Asset Sharing Program							\$0.00
305 - Capital Projects Fund	\$14,690.00			\$580.89		\$6,999.32	\$22,270.21
401 - County Debt Service						\$16,709.00	\$16,709.00
402 - School Debt Service							\$0.00
724 - Abraham Scholarship							\$0.00
	\$57,127.49	\$180,078.68	\$1,152,620.33	\$58,224.36	\$180.00	\$233,306.27	\$1,681,537.13

B. MINUTES: DECEMBER 19, 2017 REGULAR MEETING, JANUARY 3, 2018 ORGANIZATIONAL MEETING, JANUARY 16, 2018 REGULAR MEETING

C. VRA 2016 BOND REQUISITION #20

TO: The Board of Supervisors
 FROM: Anne Howerton
 DATE: February 20, 2018
 SUBJ: VRA 2016 Bond Requisition #20

BACKGROUND

VRA 2016B Requisition #20 is ready for submission to US Bank for payment to AHP Construction, LLC for site work and building construction; Davidson Brown for construction management services; Atlantic Geotechnical Services for special inspections and testing; and Hefty Wiley & Gore PC for legal services. The requisition and invoices are attached for review.

REQUESTED ACTION

We are asking for approval of the following resolution.

RESOLUTION

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of Dinwiddie County, Virginia, does hereby authorize payment of VRA 2016B Requisition #20 to the various vendors for \$1,104,508.80.

SCHEDULE 1
 Form to Accompany Requisition

Requisition #: **20**
 Recipient: Dinwiddie County - VFPF Series 2016B
 Local Representative: Anne R Howerton
 Title: Deputy County Administrator
 Date: 20-Feb-18

Cost Category	Total Project Costs	Previous Disbursements	Disbursement This Period	Disbursements to Date	Remaining Balance
Construction	\$ 25,000,000.00	10,003,825.29	1,104,508.80	11,108,334.09	13,891,665.91
Local Costs of Issuance	130,000.00	129,784.80		129,784.80	215.20
Contingency / Additional Proceeds	415.52	-	-	-	415.52
TOTALS	\$ 25,130,415.52	\$ 10,133,610.09	\$ 1,104,508.80	\$ 11,238,118.89	\$ 13,892,296.63

Upon motion of Mr. Moody, seconded by Mr. Lee, the consent agenda was approved as presented.

AYES: Mr. Lee, Ms. Ebron-Bonner, Mr. Moody, Mr. Chavis, Dr. Moore
 NAYS: None

6. REPORTS:

A. VIRGINIA DEPARTMENT OF TRANSPORTATION

Katie McCann provided the following report to the Board.

DINWIDDIE COUNTY
 February 20, 2018 – Monthly Report

MAINTENANCE				
Dinwiddie Area Headquarters for the month of January 2018				
<ul style="list-style-type: none"> Performed debris cleanup and repaired signs along various primary and secondary roads. Patrolled primary roads throughout the county for drainage issues, potholes, etc. Removed trash bags picked up by Adopt -A- Highway citizens and Dinwiddie Sheriff's Department inmates on primary and secondary roads. Machined shoulders on Routes 1 (Boydton Plank Rd.), 605 (Old Vaughan Rd.), 626 (Flatfoot Rd.), 654 (Rainey Rd.), and 675 (Vaughan Rd.). Patched potholes on various primary and secondary roads county wide. Performed tree trimming along Route 40 East and West, Routes 618 (Halligan Park Rd.), 627 (Courthouse Rd.), 647 (Nash Rd.), 703 (Carson Rd.), 1510 (Chesdin Blvd.), 1515 (Edrie Dr.). Removed dead trees from various locations throughout the county. Repaired driveway culverts in various locations. Machined dirt roads as needed throughout the county. Repaired alligator cracking on Route 632 (Butterwood Rd./Olgers Rd.). Repaired a hole and boards as needed on the bridge on Route 631 (Claiborne Rd.). Performed pavement repair on Route 754 (Anderson Mill Rd.) at dead end. Performed snow removal throughout the county during inclement weather. 				
LAND DEVELOPMENT & PERMITS				Paul Hinson, P.E.
Dinwiddie County				
Plans with outstanding comments or under review (Activity within last 90 days)				
<ul style="list-style-type: none"> Elite Business Center, 2018-Phase 1 Development, Route 460 (Airport St.) – Site plan and Access Management Exception request submitted for review on 1-25-18. Patton Commerce Park, Chapter 527 Traffic Impact Analysis, Route 1 (Boydton Plank Rd.) – Chapter 527 Traffic Study and fee submitted for review and approval for a proposed commercial mixed use development adjacent to the Aldi facility on 12-11-17 and comments issued to the County on 1-25-18. 				
Plans approved				
<ul style="list-style-type: none"> Dominion Energy Lock Yard IV, US 1 (Washington St.) – Revised site plan for proposed infrastructure improvements for proposed Dominion Energy office building and warehouse facility submitted for review on 12-21-17 and found acceptable on 1-24-18. 				
Other				
<ul style="list-style-type: none"> None 				
LUP Permits Issued and Completed				
Permit Number	Permittee	Dinwiddie	Permit Issuance	Permit Completion

		County	Date	Date
58234	DanRich Homes	26	12-28-17	
58235	Mid-Atlantic Broadband Communities Corp.	26	12-29-17	
58238	Verizon Virginia, LLC	26	1-11-18	
58243	Giancarlo Buffa	26	1-23-18	
58236	Glen R. Leblanc	26	1-22-18	
58239	Crites Investment Corp.	26	1-23-18	
57906	Austin & Sons Logging Inc.	26	5-24-16	1-24-18
58126	Arthur D. Bostic, IV	26	6-16-17	12-29-17
58200	Dinwiddie County Water Authority	26	10-20-17	12-29-17

CONSTRUCTION	Susan Warr, P.E.
<p>UPC 93092 / Order K99 / Project: (NEO)0708-026-577, C501, B662 Contractor: English Construction Co., Inc. Name: 708 Bridge Replacement over Namozine Creek CM: Miller Fixed Completion Date: 1-10-18 Comments: Project Complete. Final Acceptance made 1-11-18.</p> <p>UPC 108311 / Order J81 / Project: (NEO)9999-964-431, N501 Contractor: M.D. Miller Co., Inc. Name: On-Call Bridge Maintenance CM: Miller Task Order: #4 – I85 over 319 Completion Date: TBD Comments: All work has stopped for winter. Contractor will return in Spring to place epoxy overlay.</p> <p>UPC 93094 / Order 144 / Project: (NEO)0001-026-576, C501, B607 Contractor: Corman Construction, Inc. Name: Rt. 1 SB Bridge Rehab over CSX RW CM: Andersen Completion Date: 4-23-18 Comments: The contractor is continuing placement of bridge deck concrete. Two individual placements remain. At this time 85% of the Bridge Deck has been cast. Contractor forming for BR27D Railing</p>	
TRAFFIC STUDIES/SPECIAL REQUESTS	
<ul style="list-style-type: none"> The Residency is currently reviewing a request for a study on Route 632 (Butterwood Rd./Clairborne Rd.). 	

B. DEPARTMENT AND OUTSIDE AGENCY REPORTS:

The following departments and outside agencies provided reports to the Board:

1. Virginia Department of Health;
2. Dinwiddie Chamber of Commerce;
3. American Red Cross;
4. CARES;
5. Youth Workforce Development; and
6. Department of Social Services: Benefits Programs Specialist.

7. CITIZEN COMMENTS

There was no one signed up to speak.

8. COUNTY ADMINISTRATOR COMMENTS

Mr. Massengill shared how similar the agencies that provided reports are to each other and thanked them for what they are doing. He then shared highlights of the annual employee recognition program. Finally, he spoke about the Live Well Expo which is scheduled for March 17th at the Dinwiddie High School. The Live Well Expo is the result of the Resource Council’s desire to create a healthier community.

9. BOARD MEMBER COMMENTS

Ms. Ebron-Bonner stated that she learned some interesting things from the agencies that reported and what they provide for the community. She then spoke of the shooting in Parkland, and that she feels we should never turn a blind eye when someone shows signs of mental illness or threat.

Mr. Lee stated that at a previous VACo conference, one of the speakers stated that communities are often defined by how they respond to disasters, and a community needs to be aware of its surroundings. He shared his hope that we can be the community that keeps things from happening or react appropriately when they do and everyone needs to work together to keep the community safe.

Mr. Moody echoed the sentiments regarding the Parkland shooting, stating that it is important to have training in place, and do as much as we can to know what’s going on in the community and keep communicating.

Dr. Moore agreed that communication is an important part in preventing and protecting. He then stated that there is an article in the *Richmond Times Dispatch* talking about the Go Virginia projects which have been fully funded and encouraged everyone to read the article as it will impact workforce development in the Tri-City area.

10. TOUR: NEW GOVERNMENT COMPLEX

The Board was provided a tour of the new public safety building and new health and human services/administration building that are under construction.

11. CLOSED SESSION

At 5:46 PM, upon the motion of Mr. Chavis, seconded by Ms. Ebron-Bonner,

The Board convened into a closed meeting under:

A. §2.2-3711 (A) (1) Personnel:

- Appointments
 - i. Dinwiddie Airport and Industrial Authority
 - ii. Dinwiddie County Industrial Development Authority
 - iii. Social Services Advisory Board
 - iv. Design Review Board

B. §2.2-3711 (A) (5) Business and industry development:

- Prospective business and industry

AYES: Mr. Lee, Ms. Ebron-Bonner, Mr. Moody, Mr. Chavis, Dr. Moore

NAYS: None

At 6:49 PM, upon motion of Mr. Chavis, seconded by Mr. Moody, the Board reconvened into open session.

AYES: Mr. Lee, Ms. Ebron-Bonner, Mr. Moody, Mr. Chavis, Dr. Moore

NAYS: None

CERTIFICATION

Whereas, this Board convened in a closed meeting under:

A. §2.2-3711 (A) (1) Personnel:

- Appointments
 - i. Dinwiddie Airport and Industrial Authority
 - ii. Dinwiddie County Industrial Development Authority
 - iii. Social Services Advisory Board
 - iv. Design Review Board

B. §2.2-3711 (A) (5) Business and industry development:

- Prospective business and industry

And whereas, no member has made a statement that there was a departure from the lawful purpose of such closed meeting or of the matters identified in the motion discussed.

Now be it certified, that only those matters as were identified in the motion were heard, discussed or considered in the meeting.

Upon motion of Mr. Lee, seconded by Mr. Moody, the Certification Resolution was adopted.

AYES: Mr. Lee, Ms. Ebron-Bonner, Mr. Moody, Mr. Chavis, Dr. Moore

NAYS: None

12. SPECIAL RECOGNITIONS:

A. 2017 EMPLOYEES OF THE YEAR

Mr. Massengill presented the 2017 Public Safety Employee of the Year award to Floyd Crowder of the Dinwiddie County Sherriff's Office. He then presented the 2017 County Employee of the Year award to Morgan Ingram, Director of Economic Development.

B. 2018 BLACK HISTORY MONTH HONOREES

Dr. Moore recognized the following 2018 Black History Month Honorees:

Ms. Ruby Williams Evans for her contribution in government;

Mr. Legert Hamilton for his contribution in education;

Ms. Hattie Walker for her contribution in education; and

Mr. Harold Walker for his service on the School Board, Dinwiddie Medical Center Board, and countless other activities.

13. PUBLIC HEARINGS:

A. CASE C-17-2, OUTDOOR RECREATION FACILITY

Ms. Jamie Sherry, Zoning Administrator, presented the following to the Board.

MEMORANDUM

TO: W. Kevin Massengill, County Administrator and Board of Supervisors
FROM: Mark Bassett, Planning Director
DATE: January 23, 2018
SUBJECT: February 20, 2018 Board of Supervisors Public Hearing for C-17-2

Please find the attached Planning Commission meeting summary report for Conditional Use Permit (CUP) request, C-17-2. The applicant, John Bogue, is seeking a conditional use permit to operate an outdoor recreation facility, eco-tourism/tree top adventure, on the following described property containing approximately 58.63 acres. The property is located on the west side of Quaker Road (Rt. 660) in the general area of the intersection of Blackwell Rd. (Rt. 704) and Quaker Rd. (Rt. 660), and is further designated as Tax Map Nos. 46-1Z and 46-1Y. The property is zoned A-2, Agricultural General, which may allow such use upon receiving a conditional use permit. The County's Comprehensive Land Use Plan places this property within the Planned Growth Area which allows commercial and service development for this general area.

After the Planning Commission heard the request for the subject CUP at their November 8, 2017 meeting; the Planning Commission recommended disapproval of the request for a conditional use permit to the Board of Supervisors by a vote of 7-0.

Planning Staff Report

File #: C-17-2
Applicant: John Bogue
CUP Request: An outdoor recreation facility for a treetop adventure park
Property Location: West side of Quaker Road (Rt. 660) in the general area of the intersection of Blackwell Rd. (Rt. 704) and Quaker Rd. (Rt. 660)
Tax Map Parcel #'s: 46-1Z and 46-1Y
Property Size: Approximately 58.63 acres
Current Zoning: A-2, Agricultural General
Magisterial District: Rowanty
P.C. Hearing Date: November 8, 2017
BOS Hearing Date: February 20, 2018

CASE OVERVIEW

The applicant, John Bogue, is seeking a conditional use permit to operate an outdoor recreation facility, eco-tourism/tree top adventure, on the following described property containing approximately 58.63 acres. The property is located on the west side of Quaker Road (Rt. 660) in the general area of the intersection of Blackwell Rd. (Rt. 704) and Quaker Rd. (Rt. 660), and is further designated as Tax Map Nos. 46-1Z and 46-1Y. The property is zoned A-2, Agricultural General, which may allow such use upon receiving a conditional use permit. The County's Comprehensive Land Use Plan places this property within the Planned Growth Area which allows commercial and service development for this general area.

RELATED ATTACHMENTS

- CUP Application
- GIS Location Map
- Pictures of the subject property

LAND USE AND ZONING ANALYSIS

The subject property is primarily wooded and undeveloped. The adjacent properties include the abandoned CSX rail line on the north west boundary and farm related and forestal land uses i.e., cropland, pastureland, forestland bordering the rest of the property, with single-family residential uses in close proximity. The rail line is zoned Business, limited, B-1 and the rest of the surrounding properties are zoned A-2, Agricultural General.

As designated by the Comprehensive Land Use Plan, the subject property is within the Planned Growth Area which allows commercial, service development at a density defined by the Zoning Ordinance. The A-2, Zoning

District allows an outdoor recreational use upon the Board of Supervisors granting approval of the use under a conditional use permit.

OVERVIEW OF IMPACTS

Public Utilities, & Public Safety Impacts

The proposed a treetop adventure park would utilize on-site well and septic systems and Fire & EMS indicated that the impact of the proposed use on public safety services is minimal, but expressed the need for the road to meet minimum requirements for emergency vehicles and a condition associated with this request addresses this concern.

Transportation Impacts

The subject property has one main entrance on Quaker Road that has an existing easement to access the subject property. There are several single-family houses and farm properties that also utilize this easement. As the treetop adventure park would be a seasonal operation, traffic impacts will be differ depending on the time of year. When in operation, the number of trips generated by the proposed use on the subject property will be based on the day of the week and weather conditions. It is anticipated that the weekends would generate the most traffic. In general, the road system in this particular area is adequate to handle the traffic generated by the subject use. However, staff has some concerns related to the impact on residents along the easement and long-term maintenance of the easement. If the proposed use is granted a conditional use permit, the applicant will be required to comply with all VDOT commercial entrance requirements.

SITE AND USE ANALYSIS

This request is for a treetop adventure park, which would offer a variety of obstacle courses through the trees that may include, but not limited to, rope climbing and zip-lines activities. The applicant is also proposing a snack bar, which will be intended for park visitors.

Given the total acreage available for the treetop adventure park and the zoning pattern this is an appropriate use of the subject property. The intensity of the proposed use is consistent with that of any agritourism use of the property, which is permitted by right and the impact to the surrounding neighbors is lessened based on the proposed conditions.

Planning Staff Recommendation:

The Planning staff reviewed the conditional use permit request and believe the conditions reduce the impacts of the proposed outdoor recreation facility and the land use is appropriate. Staff concerns related to the impact on residents along the easement and long-term maintenance of the easement have been lessened by limiting the hours of operation, and it is recommended a maintenance agreement be made between the applicant and the residents along the easement. The issuance of the permit, with conditions, would be in compliance with the intent, purpose and design of this Chapter and/or Section 22-2 of this Code.

Staff's recommendation of APPROVAL of the request for a conditional use permit to allow for the use of the existing property to provide for an outdoor recreation facility subject to the following conditions:

1. Any buildings constructed as part of the outdoor recreation facility shall meet the applicable Fire Code as set forth in the Fire Code as amended and Building Code requirements as set forth in the Building Code as amended.
2. Any site lighting installed shall be directed downward and inward to the site to preserve the night sky and shall not directly cast light onto the adjoining properties.
3. Access to the subject property must be through a legal deeded easement.
4. All outdoor activities associated with the treetop adventure park shall be conducted Monday through Thursday between the hours of 10:00 AM and 5:00 PM and on Friday, Saturday and Sunday between 9:00 AM and 7:00 PM and may also be conducted on official State of Virginia holidays between 10:00 AM and 5:00 PM. Notwithstanding the foregoing, the treetop adventure park shall be closed to the public on Thanksgiving Day and Christmas Day.
5. A 100-foot buffer for the entire perimeter of the 58.63 acre property extending from the perimeter exterior property lines inward to the property shall be permanently maintained where clearing of vegetation shall not be allowed and where treetop adventure park activities shall not be permitted. Additionally, the exterior property boundaries shall be marked every 100 feet with no trespassing signs.
6. Adequate sanitary sewer and potable water facilities shall be provided per Dinwiddie County Health Department requirements and all applicable Dinwiddie County Health Department permits shall be obtained as part of the outdoor recreation facility business operations.
7. Snack bar hours shall be limited to the hours of operation for the treetop adventure park and must meet all Commonwealth of Virginia food safety requirements.

8. The easement shall meet minimum standards for fire and rescue apparatus access. This includes 20 feet of unobstructed width on a surface capable of holding 75,000 pounds in all weather conditions and the clearance in height for the entire width of the roadway must be no less than 13' 6".
9. No alcohol is permitted on the property associated with the treetop adventure park.
10. Safety instructions shall be given by a treetop adventure park employee to each and every treetop adventure park participant prior to their going on the course. The safety talk may be given to participants either individually or in groups.
11. No hunting shall be allowed on the property during business hours.
12. The maximum number of persons on the property shall not exceed 200 at any one time. Any gatherings of more than 200 persons on the property for the treetop adventure park, must obtain a special event permit or any other activity or event not related to the treetop adventure park and shall be subject to the entirety of Chapter 3, Article 2 of the Dinwiddie County Code, Special Events, as it may be amended from time to time.
13. All participants under the age of 18 years of age must have written permission from a parent or legal guardian to participate.
14. The treetop adventure park shall comply with all applicable federal, state, and local codes.
15. The operator of the treetop adventure park (or in his/her failure, the owner of the property) shall post and maintain a sign at the entrance to the treetop adventure park property that outlines safety rules for participants, the final text of which shall be pre-approved by the Planning Director.
16. This conditional use permit shall be reviewed by the Zoning Administrator of Dinwiddie County on an annual basis from the date of issuance of the conditional use permit. In addition, on the date of the Zoning Administrator's annual inspection the outdoor recreation, the facility operator shall submit a statement indicating that the operator has complied with the conditions of the conditional use permit.

PLANNING COMMISSION RECOMMENDATION

The Chairman asked the Planning members if they had any questions for Ms. Sherry.

Mr. Tucker asked if Mr. Bogue had to cross other properties in order to get to his property. He also asked what the road condition was past the properties. Is it state maintained and is it wide enough to meet the requirements in our Code to support emergency vehicles?

Ms. Sherry said Mr. Bogue does have to cross other properties to get to his. The road is privately maintained and based on Fire and EMS standards the road does not meet their standards.

Mr. Titmus asked Ms. Sherry if she said the applicant had to make an agreement with the land owners along that private road to maintain the property.

Ms. Sherry said that was actually a recommendation. We do not have a condition in the staff report currently for that to occur.

Mr. Titmus asked Mr. Southall if we could legally ask the applicant to add that condition.

Mr. Southall said tonight, what you have in front of you is a Conditional Use Permit application, so we are not quite in the proffer context. I think you could express a significant concern to the applicant that without a road maintenance agreement, the Conditional Use Permit may not be in compliance with the purpose, intent and design of the zoning ordinance in light of 22-22 and 22-2 of the Dinwiddie County Code. So again, I think you could express some concern to the applicant to see if there is a way to satisfy that this is agreeable with those land owners.

Mr. Titmus asked if there has been any market research done to see how many vehicles are coming and going on the road.

Ms. Sherry said she thinks that would be a question better answered by the applicant. She has not been given that information.

Mr. Cunningham asked if staff had received any information or questions from those who share the easement.

Ms. Sherry said we have received a number concerns involving individuals who use the easement.

Mr. Cunningham asked who is responsible for inspecting the easement.

Ms. Sherry said she is, but ultimately she would bring someone with a professional opinion to determine if it meets the standard.

Mr. Prorise asked what the total length of the easement is, and if there are any wetlands involved.

Ms. Sherry said she doesn't have the exact length, but where the easement is improved it's approximately 2200 feet and she is not aware of any wetlands.

The Chairman asked if there were any other questions for Ms. Sherry.

Mr. Southall ask the Chairman if he could say something before the applicant comes forward. He said as the County's Attorney he would like to provide a little legal framework in conducting this questions pertaining to item (8).

There are two sections in the Dinwiddie County Code that come into focus, with respect to the Conditional Use Permit. The first one is Section 22-22 in the last sentence of subsection (a) says: any provisions of this chapter which allow a use with a conditional use permit shall not prohibit the Board of Supervisors from denying an application for a particular permit upon a finding, after public hearing, that the issuance of such permit would not be in compliance with the intent, purpose and design of this chapter and/or section 22-2 of this Code. The second one is Section 22-2, which gives six reasons that the chapter is designed for:

- (1) To provide for adequate light, air, convenience of access and safety from fires, floods and other dangers;
- (2) To reduce or prevent congestion in the public streets;
- (3) To facilitate the creation of a convenient, attractive and harmonious community;
- (4) To expedite the provision of adequate police and fire protection, disaster evacuation, civil defense, transportation, water, sewerage, schools, parks, forests, playgrounds, recreational facilities, airports and other public requirements;
- (5) To protect against destruction of or encroachment upon historic areas; and
- (6) To protect against one or more of the following: Overcrowding of land, undue density of population in relation to the community facilities existing or available, obstruction of light and air, danger and congestion in travel and transportation or loss of life, health or property from fire, flood, panic or other dangers.

So if you feel like it is not a way to get conditions where you can feel comfortable that the purpose, intent and design of the Zoning Ordinance is still being met then you can recommend to the Board of Supervisors denial. Mr. Southall concluded by saying he just wanted to give the members some legal framework before they moved forward and made a decision.

The Chairman then asked the applicant to come forward and shed some light on some of the questions posed by the Planning members.

Mr. John Bogue, 2482 Miry Run Road, Sutherland VA came forward and said he has read the recommendations from staff and there is a 50' wide deeded easement from this property to Quaker Road. I think there is plenty of room to come into compliance as far as the twenty foot requirement. It would be my intention to take over the maintenance of the road and bring the entrance it into compliance with VDOT. I would also be interested in beautifying the roadway by planting some shrubbery and ornamental fencing as a buffer. I mentioned to a few neighbors that I would like to fix up the mailbox area as well. As long as the tree top adventure park was in operation we would certainly maintain the road so that the neighbors would not have to deal with that burden anymore.

Mr. Hayes asked for clarification concerning Mr. Bogue comments on taking care of the maintenance of the road. Does that mean you plan on paving the road? The road is about half a mile long and that would mean several hundred thousand dollars of work.

Mr. Bogue said the dialogue he has had with VDOT is that maintaining the road could be done without asphalt. The entrance coming in from Quaker Road would have to be construction to commercial standards and will have to be paved. It also would be my intention at some point continue to pave the road, making any improvements, all the way to my property. It would be done in stages obviously.

Mr. Hayes asked in your conversations with VDOT did you all talk about the possibility of building the road to standards so as to have it turned over to the Commonwealth at some point.

Mr. Bogue said he has not had that conversation with VDOT.

Mr. Hayes said the reason he asked the questions was because anytime we have an opportunity to try and eliminate a private road it is a good thing. That's kind of the context for me asking you that question.

Mr. Bogue said the gentlemen from VDOT did indicate to him that the existing VDOT regulations count each dwelling for a certain number of vehicles, which is ten trips a day. With that being the case, the existing easement is not in compliance with VDOT's standards. VDOT could technically, even if I don't open the tree top park, come in and say this road needs to be brought up to the states standards. I would also add that if the sole argument is this Conditional Use Permit should not be approved based on traffic, I would have to argue that a comparable amount of traffic would be generated from me just using my property for weddings, hayrides, the tree farm and other Agritourism activities. I know that one of the neighbors has put out a petition

and stated in the petition that a similar tree top park in Williamsburg is generating a hundred thousand visitors a year. I certainly don't think you can compare the tourism that exists in Dinwiddie with the tourism that exists in Williamsburg. I would also add that the safety of this type of adventure at no time puts someone at extreme danger. The zip lines for adults is higher than the ones for children, but at no time are you not locked in with redundant systems to the guide wires. Even if you throw yourself in the tree you will do nothing more than dangle from a line. It should also be noted that this activity is not something you do alone. For parks like this that are not in high tourist areas like Williamsburg, you would be doing some pretty good numbers if you managed to do a hundred (100) people a day. More realistically the first couple of years you may on have 50 to 75 people a day. The park will be in the center of the property because it is nice and hilly and noise will not be a problem either. I have cranked up the music and from where the orchard will be you could not hear anything.

Mr. Prosize asked how many private entrances do you pass by before getting to your property and do the property owners of those easements use the private road to get to their homes.

Mr. Bogue said there are five and they all use the easement to get to their property.

Mr. Tucker said I heard you when you said it would be your intention to take over the maintenance of the road and bring the entrance into compliance with VDOT. The problem I have is that nothing before me says that in writing. You can stand and tell me all day long what you are going to do, I look for what is in black and white. That is the only thing I can hold you to.

Mr. Bogue said he simply felt that would be premature, because he was certainly not willing to assume maintenance of the entire easement without being granted the Conditional Use Permit. He asked what his incentive would be to burden that expense and not have the opportunity to generate revenue that would help cover that expense. He stated that if the Conditional Use Permit doesn't go through, he intends to reverting back to plan A. Plan A is continuing with the orchard, doing hayrides, having a pumpkin patch and doing other sorts of Agritourism things, which will generate just as much traffic and he does not need permission for that. He stated that he has permission by right and was simply trying to offer something back to the community in return for allowing him to advance with the tree park.

Mr. Titmus asked if he was correct in understanding that the Conditional Use Permit is reviewed yearly and if they are not meeting the conditions, it can be taken away.

Ms. Sherry said that is correct.

The Chairman said if there are no other questions for the applicant he was opening the public hearing portion of the case. After reading the standard statement, he asked if anyone was signed up to speak.

Jessie Blackwell Jr., 11116 Blackwell Road, Dinwiddie VA said he was concerned about all the additional traffic that would be generated by this business. I have a family member with a disability and I'm concerned that her coming and going from my house safely. I am not in agreement with the Conditional Use Permit C-17-2.

Thelma Blackwell, 10916 Quaker Road, Dinwiddie VA said she is speaking against granting a Conditional Use Permit on the property John Bogue purchased from her. He informed me when he purchased the land that he wanted to put a fruit orchard on the property and nothing else. I understand that this property is within the planned growth area, which allows commercial and service development for this general area. However, the short term tree top adventure park and the long term development for the future is a major concern for us on Quaker Road. The many, many problems seen right now and unseen will be a nightmare for us to go through.

Jean Lutz, 10860 Quaker Road, Dinwiddie VA said she agrees Thelma Blackwell. She said even if there is a paved road with children and young adults riding bikes it will be very dangerous. I too am not in agreement with the Conditional Use Permit C-17-2 and I urge you to consider this project for some other location.

Mark Reason, 10868 Quaker Road, Dinwiddie VA said his concern is traffic. I have animals that run free. I like private roads and that is why I brought this property.

Calvin Brown, 10852, Quaker Road, Dinwiddie VA said just like Mr. Reason, I like the privacy of where I live and I would like to keep that way.

Barbara Brown, 10852 Quaker Road, Dinwiddie VA said she is concerned with some of the statements Mr. Bogue has made. He said he met with several residents that live on the road. We are the first residents after Ms. Blackwell and I have never met Mr. Bogue nor do I know him. The first time I found out about what he wanted to do was when I received a letter. Another concern I have is the children that walk up and down the road going to and coming from the school bus stop. My final concern is the dangerous curve that's in the road. It is very hard to see cars coming around that curve. This business is going to create a lot of traffic and a lot of problems on the road. This is a quite environment and I think a business like this might bring a lot of crime to the area. I am not in agreement with this case. It's quite where I live and I would like to keep it that way.

Ronald Seagrave, 10860 Quaker Road, Dinwiddie VA said he has a signed petition of every home owner on the north easement and south easement. I also have a signed petition of home owners in the area stating their denial of this project. He asked the Chairman if he would read his statement into the minutes, because he was a diabetic and he was struggling with his breathing.

Mr. Titmus agreed and read the following:

Applicant's Land Use Amendment Application page 4, Notice

I never authorized this personal letter to be made part of his application. Nor is it to be interpreted as endorsing the Applicant's application in anyway.

I'm absolutely against this proposal, and desire no one take over this private right of way, on our private property, or put us at additional risk for liability to uncontrolled and un-predictable public migration of unknown individuals across our private property; for this applicant's sole commercial personal gain. This proposal comes as quite a surprise, not too long ago this applicant told myself and others that his recent purchase of this property was to grow apples and peaches.

This proposal and planning review is lacking in many ways:

Ref. Book 5 Page 33 October 11, 2017; Concerning applicant, "The Property is land locked and he has only an easement to access the property from Quaker Rd." There are in fact two! (*Hands them the petitions of both right of ways.*)

There is no general layout of the proposed features of the site. There should be a full disclosure from the applicant of future activities, such as a wedding chapel, reception/meeting- hall, vineyard, greenhouse(s), ponds, trails, hayrides, whether liquor will be allowed anywhere on the premises, etc., as he has revealed to myself and others verbally.

The sixteen proffers listed appear more of a gift list; when compare to the zip-line operation at James City's Freedom Park. Where is the:

Proposed environmental protection requirements. (EIR?)

Noise mitigation measures to be employed. We can already hear the traffic from I-85

Total site occupancy allowed, and maximum number of vehicles on site allowed. Who will enforce it? What happens when it's exceeded?

Given that this proposed project would be open to the public, ADA compliance needs to be required.

There is no mention of signage and where will it would go.

How would notice of closure, and capacity reached be given?

School and Commercial bus travel needs to be prohibited since and enforce by the County.

No parking along the right away should ever be permitted. If there is a gate over the right of way, users would be required to open and close the gate after using it. (See Virginia Code 33.2-110).

A speed limit should to be applied; an ordinance written, adopted by the county and put in place to enforced on this road by the county. Or the speed limit would default to 55mph.

There should be on site fire, first aid, and safety provisions and personnel, as at Freedom Park. AEDS should be mounted throughout grounds. How will the applicant screen for drugs, liquor, and firearms on premise, and how would that be enforced?

The exterior perimeter of the property should be fenced; to prevent lost children from wandering on to the upcoming adjacent high-speed rail lines, swamp/wetlands, or adjacent property owner's property, causing possible liability to them.

There should be required posting of warning signs for copperheads and other dangerous animals, etc., etc., etc., etc. I could go on all night.

The applicant told me that everyone in the county administration/planning board was laughing at me over my possible attendance figures I quoted of similar operations, to what he is proposing. He stated to me he had gotten the green light to do whatever he want to do there. Well, given that this packet wasn't released until

11/2/2017 I had no idea what to expect, nor did my neighbors. Those quoted estimates clearly had and have merit.

Your attempt to limit the participants at this so-call adventure/amusement park, (Ref. #12) to 200 at any time is vague and misleading, do not consider those waiting elsewhere or taking part in something else on this complex. With an average 2hr visit (see GoApe.com) for this one activity could exceed the population of Dinwiddie County in just one season. The "200 at any time" has nothing to do with so-call special events, wedding receptions, parties, meetings, and other activities going on at this complex. Comparing 200 to Free Park which has 14 child 18 adult max per hour, you're 200 limit is nearly a 7x increase!

Both the Applicant, and Dinwiddie County need to agree to defend, release, and indemnify all right of way land owners of all liabilities, damages, civil suits, both foreseeable and unforeseeable injuries resulting from anyone traversing across their property to or from this commercial site.

Right of way easements historically extend only for reasonable use for travel through others' lands to holders of the easements. However, this is clearly an unreasonable use. Also, this area is where in fact the owners of cattle, horses and other livestock which have a right to enjoy un-restricted open range grazing.

This two-lane access road the applicant is currently attempting to bulldoze through, needs to be stop immediately. It needs to be accomplished in accordance with VDOT standards. Since the anticipated traffic volume will exceed that of its current feeder road, Rte. 660, Quaker Road and this purposed complex has also serious fire and responsive EMS needs.

Virginia code 55-50.4 needs to be applied.

The Board of Supervisors need to accept this street from the Applicant/developer and require VDOT to operate and maintain it before any conditional use permit is issued.

But first the applicant needs to purchase the right away from each land owner prior to any road construction. Or, the applicant can simply acquire property somewhere else to build his commercial complex.

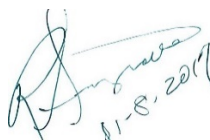
Lastly, I just must ask about #11 of the Planning Staff Report which states, "No hunting shall be allowed on the property during business hours." How will it be determined that the site is clear of all children and personnel at the end of business hours on this nearly sixty-acre site if hunting is to be allowed after hours. A fired bullet could damage safety lines or cables. Also, the requirement for posting of no trespassing every 100 feet is for what actual purpose?

A fence would have made way more sense and the property gated.

How does this proposal fit the planning board's basic mission? "Land use conflicts, coordinates the provision of community facilities and public services, and optimizes the quality of life for all county residents?" That includes mine and my neighbors?

This conditional use permit needs to be denied

Appomattox Riverside Park, Virginia Motorsports, or Pamplin Park in Dinwiddie, would be an excellent location for such an undertaking.



Amy Williams, 1050 Temple Ave #213, Colonial Heights VA said it seems to me that the very first step in this process was grossly ignored, which is Virginia Code 55-504. It says anyone who proposes to use a private road for public use, must obtain the written consent from every lot owner who is serviced by the private road. The applicant hasn't made any attempt to such conversation with anybody on the easement that I am aware of. I understand he wants to be a good neighbor and I'm not willing to deny that, because I don't know him, have not seen him nor have I met him. But when you are going to cut down trees that are on someone's property, even if they are in the public easement and you don't show that someone the courtesy of what you are doing, I find it hard to believe that you want to be a good neighbor. So I strongly oppose this Conditional Use Permit and request it be denied.

The Chairman said if there is no one else signed up to speak he was closing the public hearing portion of the case. He asked the Commission if they had anything else they wanted to add.

Mr. Titmus said he has a half a mile road that he has to maintain. It has six houses that access it. It also has as another land owner who owns 20 plus acres and is unwilling to do anything to help maintain it. I can tell you it is a constant effort to keep the road maintained. This is the problem with private and having a private drive.

I'm hearing a lot of issues with this easement and there are a lot of things going on. I can't be fully on board with this Conditional Use Permit until all those things get worked out.

Mr. Prorise said one of the things that strikes me about this particular situation is that it's similar to another case that came before this Planning Commission. The idea was compatible but the location turned out to be wrong. It was incompatible with the community, which turned out to be incompatible with the growth direction that the County had identified. The Company was Luck Stone. They wanted to build a quarry. They were an excellent company and were very reputable. They would have brought many jobs to the County, but their location was wrong for the County and for the community. It was ultimately recommended to the Board of Supervisors with a disapproval. To me this case is similar to that one. On the surface there is the idea to provide good wholesome family entertainment is real, but that is between the owner of the business and the people who participate. The bottom line that concerns me is the impact on the community and the safety of those living in that area.

Mr. Prorise speaking to the County Attorney, said apparently there is a need to have a conditional use permit for this particular enterprise. Mr. Bogue mentioned that if this conditional use permit does not go through he would have a pumpkin patch, hay rides, orchard and a wedding venue. Why would this require a conditional use permit and that wouldn't? It seems to me the issue is not what they are doing with the property, but what they are doing to get to the property. So is the conditional use permit required for a commercial enterprise in Agritourism?

Mr. Southall said the issue here with respect to Agritourism activities is, there is state code section that basically allows Agritourism activities as a matter of right. With some activities it's difficult to say where the line of right is as it pertains to a matter of right. Hay rides and pumpkin patches are two that come to mind. The position that staff takes on the ego tourism park with the trees is that it's not Agritourism, which makes it different from the Agritourism such as the hay rides and the pumpkin patch.

Mr. Prorise said so regardless of where it is located and the impact to the community he could still have the Agritourism portion of his operation. Even though he would have to travel through portions of another person's property.

Mr. Southall said the distinction you are making is a very interesting one. However, the law allows for Agritourism activities and says no conditional use permit shall be required for Agritourism activities. Once the activity leaves the realm of what an Agritourism is, a conditional use permit can then be required. It is something the General Assembly did in 2014. It is a rule that County's and City's must live by. Now your question of, "does it really make sense because they all come down the same road", is a good question. However this is one of those cases where the law says what it says.

Mr. Cunningham said he heard one of the speakers bring up a Virginia Code 55-50.4. Can Council clarify the need to address that code or not.

Mr. Southall said the code deals with private roads, public use, maintenance and improvements. In short the code section is saying if everyone on the road agrees, it could be taken into the state system of secondary highways.

Mr. Cunningham said to Mr. Bogue he feels the same way as some of those who spoke against this case. I think you should do your due diligence anytime you are going to affect the lives of a group of people. You should at least talk to all the people involved. In this case I don't believe you have done that. If I was one of those person I would be here as well speaking against what you are trying to do. What you are trying to do I think is great and I will tell you just like I told the people from Luck Stone, "we would love to have you here, but the place you have chosen is wrong." That being said, I don't know at this point if I could vote yes for your case.

Mr. Hayes said he would like to add a few comments. As for the private road situation. I too live on a private road, but if there were others on the private road with me I would like for us to share the upkeep. So I respect the fact that you are willing to take care of the upkeep if this case goes through. However you taking care of the upkeep doesn't address my concern for safety with kids having to walk to and from Quaker Road to get on and off the school bus. If you had direct access to Quaker Road I would be a lot more favorable with what you are wanting to do.

Mr. Harvell said there has been several residents who came forward tonight and spoke for a disapproval of this application. I don't believe anyone has come forward in favor of it. That speaks a lot toward my consideration of this case.

The Chairman said if there are no other comments from the Commissions' he would entertain a motion.

Mr. Prorise made a motion and read the following: BE IT RESOLVED, that in order to assure compliance with Virginia Code Section 15.2-2286(A) (3) & (7) and Zoning Ordinance Sections 22-22 and 22-2 it is stated that the public purpose for which this Resolution is initiated is to fulfill the requirements of public necessity,

convenience, general welfare and good zoning practice, I move that conditional use permit request, C-17-2, as presented, be recommended for disapproval to the Board of Supervisors as the issuance of a conditional use permit would not be in compliance with the intent, purpose, and design of the Dinwiddie County Zoning Code. It was seconded by Mr. Tucker and with Mr. Simmons, Mr. Prorise, Mr. Tucker, Mr. Cunningham, Mr. Hayes, Mr. Harvell and Mr. Titmus voting "AYE" C-17-2 was disapproved.

DEVELOPMENTS SINCE THE NOVEMBER PC MEETING

Mr. Bogue has informed staff that he has legal access to the subject property via an easement on the western portion of the property.

BOARD ACTION

Since this is a zoning matter, the standard statement regarding action on this zoning matter must be read. In order to assist, the following motion is attached as follows:

BE IT RESOLVED, that in order to assure compliance with Virginia Code Section 15.2-2286(A) (7) it is stated that the public purpose for which this Resolution is initiated is to fulfill the requirements of public necessity, convenience, general welfare and good zoning practice, I move that conditional use permit, C-17-2, be (approved with conditions OR disapproved) by the Board of Supervisors.

Mr. Moody asked if the property is on private road. Ms. Sherry replied yes.

The applicant, Mr. Bogue, stated that he was only aware of the northern easement at the time of the application and that the protests from the neighbors on the northern easement are due to the potential of increased traffic. He stated that the neighbors on the southern easement do not seem to be in protest and the southern easement is also within a 35 miles per hour zone. He then presented a document which lists additional conditions that he is proposing in order to address some of the neighbors' concerns. Regarding traffic, he stated that he understands the concern, however the property is zoned for agritourism. Mr. Bogue stated that he wanted to create a park like entry way and is receptive to what the community wants.

Mr. Lee asked how many people use the southern entrance. Mr. Bogue replied that four people use that entrance and six use the northern entrance, plus farm traffic.

Dr. Moore opened the public hearing on this case.

Thelma Blackwell spoke against allowing the CUP due to the traffic and safety of children who walk the road to catch the bus.

Jean Lutz also spoke against the CUP due to the issue of traffic, road maintenance, and animals that are on the street. She feels that there are areas of the county that are better suited for this, and she is not against park itself, just location.

Amy Seagrave-Williams also spoke against the CUP as the property has a right of way through her property and Mr. Bogue took it upon himself to chop up the right of way without contacting her. She also stated that she has concerns about the noise and change in the ambiance of the neighborhood.

Ronald Seagrave, Jr. also spoke against the CUP citing all of the research he has done on similar tree top adventure parks. He shared his concern regarding wandering children, traffic, safety, and lights.

Barbara Brown shared that she and her family are also against the CUP and she fears for the neighborhood's safety. She also stated concerns of road maintenance and traffic increase.

Dr. Moore asked the applicant to come forward to address the citizens' concerns.

Mr. Bogue reiterated that everyone speaking in opposition tonight are residents living on the northern entrance, and he feels that the southern entrance neighbors are excited for prospect of improving the roadway over there.

Dr. Moore asked if his intention was to use both north and south entrances to the property.

Mr. Bogue said no. Originally, he had proposed enter from north, exit from the south. Since there is opposition on the northern end, he intends to use only the southern.

Mr. Lee asked Ms. Sherry and Mr. Southall if the applicant has to show legal right of way, and with that can he do a maintenance agreement by himself or would he need it to be signed by all of those who need it.

Mr. Southall reminded the Board what the code says about a conditional use permit. The conditions placed on the applicant are decided on by the County within certain parameters. We do not know about the legal right of ways, they are recorded at the Courthouse. Maintenance agreements traditionally are entered into by property owners along the road. Neither the Planning Office nor the County Attorney's Office have reviewed the conditions presented this evening, therefore they cannot be a part of the Conditional Use Permit at this time.

Dr Moore stated that he wishes to kick the case back to the Planning Commission because there are things that are presented tonight that have not been reviewed by the Planning Commission or staff. He stated that he feels that the Board cannot vote on that at this time.

Discussion was had regarding sending the case back to the Planning Commission. The Board stated their concerns with the location of the park. Mr. Moody commended the applicant for trying to bring something to the County and provide clean, green entertainment, and encouraged him to keep trying to find the best place for the park.

Upon motion of Mr. Lee, seconded by Mr. Chavis,

BE IT RESOLVED, that in order to assure compliance with Virginia Code Section 15.2-2286(A) (7) it is stated that the public purpose for which this Resolution is initiated is to fulfill the requirements of public necessity, convenience, general welfare and good zoning practice, I move that conditional use permit, C-17-2, be disapproved by the Board of Supervisors.

AYES: Mr. Lee, Ms. Ebron-Bonner, Mr. Moody, Mr. Chavis, Dr. Moore

NAYS: None

B. CASE A-18-1, PROPOSED AMENDMENT TO SECTION 22-71 OF THE DINWIDDIE COUNTY ZONING ORDINANCE

Mark Bassett, Planning Director, presented the following for Board approval.

MEMORANDUM

TO: W. Kevin Massengill, County Administrator and Board of Supervisors

FROM: Mark Bassett, Planning Director

DATE: February 14, 2018

SUBJECT: Proposed ordinance amendment concerning adding laydown yard and hauling facility with a conditional use permit to Sec. 22-71, Permitted uses for the Agricultural, General, District A-2 zoning district.

PROPOSED ZONING ORDINANCE AMENDMENT

As provided for in Zoning Ordinance Sec. 22-5, Amendments to chapter, and as provided for under § 15.2-2286(A)(7) of the Code of Virginia, 1950, as amended, any property owner may initiate by petition to amend the Zoning Ordinance, and as such the applicant, Ogburn & Ogburn Trucking, LLC, and their agent, Hampton Gordon, are requesting to amend the Dinwiddie County Zoning Ordinance by amending Section 22-71 by adding "Laydown yard and hauling with a conditional use permit" as a use permitted upon receiving a conditional use permit in Zoning District A-2.

STAFF RECOMMENDATION

Staff recommends approval of the Zoning Ordinance amendment as submitted.

PLANNING COMMISSION RECOMMENDATION

The Chairman asked if there were any questions for Mr. Bassett.

Mr. Prorise asked if this case was going to grandfather in anyone else in the County who wanted to do a laydown yard.

Mr. Bassett said it would not grandfather them in. They wouldn't have to ask for an amendment to the ordinance, but they would have to apply for a conditional use permit.

Mr. Titmus asked why the applicant didn't apply for a rezoning instead of adding to an already large number of items in the A-2 Zoning district. Doesn't M-1 provide for having a laydown yard with trucking?

Mr. Bassett said yes M-1 does allow for a laydown yard and trucking. There are two parts to your question of why. The first is the applicant initiated the request and staff through our recommendation agrees with that. Also, we feel at the staff level that in A-2 this is an appropriate use of the property and with a conditional use permit it would be appropriate in other areas of the County as well. Staff feels that going through this process

now would alleviate having to do this at a later time, so when other citizens who may want to request a conditional use permit can do so.

Mr. Titmus asked how is M-1 treated any different than A-2 with a conditional use permit other than we can place conditions on the permit when it is in A-2.

Mr. Bassett said in M-1 it is more restrictive because the uses are supposed to fit in with residential uses; where as in A-2 it is less restrictive.

Mr. Prorise asked what the cost was to an applicant when they asked for this kind of conditional use permit versus asking for a rezoning.

Mr. Bassett said it is still \$1,500.00.

Mr. Cunningham asked how many permitted uses are there in M-1 as opposed to A-2, whether by right or with a conditional use permit. Also, do you know how much M-1 zoning we have in the County?

Mr. Bassett said there are about 30 thirty uses in M-1 compared to the 74 uses in A-2 and there is less than one percent of the County zoned M-1.

Mr. Tucker asked if adding this language to the existing zoning ordinance alters the use in A-2. He also asked if the conditional use permit is reviewed every two years.

Mr. Bassett said the existing zoning is not altered and yes conditional use permits are reviewed every two years.

Mr. Prorise asked what happens when the property owner sells the property and the business.

Mr. Bassett said the conditional use permit stays with the property. It does not follow the property owner.

The Chairman asked if there are any more questions for Mr. Bassett. He said if not he was opening the public hearing for the cases. He asked if anyone had signed up. He said since there was no one he closing it. He said he would entertain a motion.

Mr. Cunningham made a motion and read the following: WHEREAS, in accordance with Va. Code §§ 15.2-2285 and 15.2-2286, the Dinwiddie County Planning Commission is of the opinion that the public necessity, convenience, general welfare, or good zoning practice warrant the consideration of the following Zoning Ordinance amendment:

NOW, THEREFORE, BE IT RESOLVED that the Dinwiddie County Planning Commission does hereby recommend approval of the Zoning Ordinance amendment as presented to the Board of Supervisors. Mr. Tucker seconded it and with Mr. Prorise, Mr. Tucker, Mr. Cunningham, Mr. Hayes, Mr. Titmus and Mr. Harvell voting "AYE" the amendment was approved.

The Chairman asked Ms. Sherry to come forward and present case C-18-1.

BOARD OF SUPERVISOR ACTION

WHEREAS, in accordance with Va. Code §15.2-2285 and 15.2-2286, the Dinwiddie County Board of Supervisors is of the opinion that the public necessity, convenience, general welfare, or good zoning practice warrant the consideration of the following Zoning Ordinance amendment:

AN ORDINANCE TO AMEND THE CODE OF THE COUNTY OF DINWIDDIE, 1985, AS AMENDED, BY AMENDING CHAPTER 22, ZONING, ARTICLE IV. DISTRICT REGULATIONS, DIVISION 3, AGRICULTURAL, GENERAL, DISTRICT A-2, SECTION 22-71, PERMITTED USES

BE IT ORDAINED by the Board of Supervisors of Dinwiddie County, Virginia:

(1) That the Code of the County of Dinwiddie, 1985, as amended, is amended by inserting the following language shown underlined and deleting the following language shown in strikethrough:

Sec. 22-71. - Permitted uses.

In agricultural, general, district A-2, structures to be erected or land to be used shall be for one or more of the following uses:

- (1) Single-family dwellings except:
 - a. Travel trailers; and
 - b. Manufactured or mobile homes that do not have a permanent foundation or are not on an individual lot.
- (2) Agriculture.

- (3) Livestock, dairy and poultry facilities, subject to the requirements of article VIII of this chapter.
- (4) General farming.
- (5) Schools.
- (6) Parks and playgrounds, including interpretive and visitor structures or buildings and the required parking per [section 22-237](#).
- (7) Churches.
- (8) Professional offices (within occupant's dwelling).
- (9) Gift shops.
- (10) Antique shops.
- (11) General stores as defined.
- (12) Beauty shops.
- (13) Barbershops.
- (14) Motels, with a conditional use permit.
- (15) Sawmills.
- (16) Planing mills.
- (17) Airports, with a conditional use permit.
- (18) Forestry.
- (19) Small boat docks (with repair).
- (20) Preserves and conservation areas.
- (21) Lodges.
- (22) Hunting clubs.
- (23) Yacht clubs.
- (24) Cemeteries.
- (25) Home occupation type II.
- (26) Manufactured home park with a conditional use permit in accordance with the special conditions and provisions contained in [section 22-238](#).
- (27) Public utility booster or relay stations, transformer substations, transmission lines and towers, pipes, meters and other facilities for the provision and maintenance of public utilities, including railroads and facilities, and water and sewerage installations.
- (28) Off-street parking as required by this chapter.
- (29) Accessory uses as defined, however, garages or other accessory structures, such as carports, porches and stoops, attached to the main building shall be considered part of the main building. No accessory building may be closer than feet to any property line.
- (30) Business signs.
- (31) Church bulletin boards and identification signs.
- (32) Directional signs.
- (33) ~~Reserved.~~ Laydown yard and hauling, with a conditional use permit.
- (34) Location signs.
- (35) The keeping of companion birds outdoors, subject to the requirements of [section 22-244](#).
- (36) Kennel, private.
Kennel, commercial with conditional use permit.
- (37) Nursing homes and homes for the aged, with conditional use permits.
- (38) Sand and gravel operations, with a conditional use permit.
- (39) Asphalt mixing plant, when located at an existing stone quarry site, with a conditional use permit.
- (40) Concrete/cement mixing plant, when located at an existing stone quarry site, with a conditional use permit.
- (41) Storage of seasonal equipment (storage under cover), with a conditional use permit.
- (42) Motor sports complex, with a conditional use permit.
- (43) Governmental offices, with a conditional use permit.
- (44) Veterinary hospital, with a conditional use permit.
- (45) Communication tower with station, with a conditional use permit.
- (46) Reserved.

- (47) Agriculturally oriented ethanol plant, with a conditional use permit.
- (48) Farm operation manufactured home subject to [section 22-26](#).
- (49) Open pit mining for minerals or mineral sands (not to include a stone or granite quarry), with a conditional use permit.
- (50) Campgrounds, with a conditional use permit.
- (51) Automotive and/or vehicular body and fender work, painting and upholstering, with a conditional use permit.
- (52) Automobile and/or vehicular sales and services, screened from view and 200 feet from state and road right-of-way, with a conditional use permit.
- (53) Day care centers.
- (54) Borrow area, with a conditional use permit.
- (55) Manufactured housing, for office use only, for mining companies.
- (56) Nursery and landscaping services.
- (57) Computer software development firms, to exclude the manufacturing of such software, screened from view and 200 feet from the state road right-of-way.
- (58) Storage of explosives, with a conditional use permit.
- (59) Propane bulk storage facility, with a conditional use permit.
- (60) Cabinet shops not exceeding a combined area of 5,000 square feet for workshop and storage space.
- (61) Educational retreat center, with a conditional use permit.
- (62) Bed and breakfast, with a conditional use permit.
- (63) Guest house.
- (64) In-law suite.
- (65) Cemetery, pet (limited) with a conditional use permit.
- (66) Group home, small.
- (67) Family day care.
- (68) Family day care, large.
- (69) Truck/tractor hauling and Port-O-John toilet rental with a conditional use permit.
- (70) Outdoor recreation facility, with a conditional use permit.
- (71) Agritourism activities in connection with a conforming agricultural use, subject to the provisions of Article VIII, Division 2 herein.
- (72) Group home, large, with a conditional use permit, subject to the provisions of [section 22-245.2](#) herein.
- (73) Flea market, a maximum of two days within any two-month period.
- (74) Flea market, more than two days within any two-month period, with a conditional use permit.

(Code 1970, § 17-18; Ord. of 8-15-79; Ord. of 3-16-83; Ord. of 6-15-83; Ords. (2) of 1-18-84; Ord. of 7-18-84; Ord. of 1-16-85; Ord. of 9-17-86; Ord. of 1-21-87; Ord. of 3-16-88; Ords. of 3-16-88; Ords. (2) of 4-20-88; Ord. of 5-18-88; Ord. of 6-15-88; Ord. of 9-20-89; Ord. of 6-19-91; Ord. of 12-18-91; Ord. of 12-2-92; Ord. of 3-3-93; Ord. of 6-2-93; Ord. of 1-5-94; Ord. of 8-3-94; Ord. of 3-1-95; Ord. of 5-3-95; Ord. of 9-20-95; Ord. of 9-4-96; Ord. of 4-1-98; Ord. of 6-2-99; Ords. (2) of 1-2-02; Ord. of 7-3-02; Ord. of 6-1-04; Ord. of 6-7-05; Ord. of 9-6-05; Ord. of 7-17-07, § 1; Ord. of 8-19-08, § 1; Ord. of 10-20-09, § 1; Ord. of 11-16-10, § 1; Ord. of 12-21-10, § 1; Ord. of 12-20-11, § 1; Ord. of 9-15-15 [A-15-5], § (1))

(2) That this ordinance shall become effective immediately upon adoption.

NOW, THEREFORE, BE IT RESOLVED that the Dinwiddie County Board of Supervisors does hereby (approve or disapprove) the Zoning Ordinance amendment as presented.

Dr. Moore opened the public hearing on this item.

As there was no one signed up to speak, the public hearing was closed.

Upon motion of Mr. Moody, seconded by Mr. Lee

WHEREAS, in accordance with Va. Code §15.2-2285 and 15.2-2286, the Dinwiddie County Board of Supervisors is of the opinion that the public necessity, convenience, general welfare, or good zoning practice warrant the consideration of the Zoning Ordinance amendment presented.

NOW, THEREFORE, BE IT RESOLVED that the Dinwiddie County Board of Supervisors does hereby approve the Zoning Ordinance amendment as presented.

AYES: Mr. Lee, Ms. Ebron-Bonner, Mr. Moody, Mr. Chavis, Dr. Moore

NAYS: None

C. CASE C-18-1, OGBURN & OGBURN TRUCKING, LLC. CONDITIONAL USE PERMIT

Jamie Sherry, Zoning Administrator, presented the following to the Board for approval.

MEMORANDUM

TO: W. Kevin Massengill, County Administrator and Board of Supervisors
FROM: Mark Bassett, Planning Director
DATE: February 14, 2018
SUBJECT: February 20, 2018 Board of Supervisors Public Hearing for C-18-1

Please find the attached Planning Commission meeting summary report for Conditional Use Permit (CUP) request, C-18-1. The applicant, Ogburn & Ogburn Trucking, LLC, and their agent, Hampton Gordon, are seeking a conditional use permit to operate a laydown yard and hauling facility with welding, on the following described property containing approximately 11.01 acres. The property is located at 9502 Zion Rd. Ford, VA, and is further designated as Tax Map No. 28-36. The property is zoned A-2, Agricultural General, which may be changed to allow such use upon receiving a conditional use permit. The County’s Comprehensive Land Use Plan places this property within the Rural Conservation Area which allows limited commercial, service development at the Ordinance defined density.

After the Planning Commission heard the request for the subject CUP at their January 9 2018, the Planning Commission recommended approval with conditions of the request for a conditional use permit to the Board of Supervisors by a vote of 6-0.

Planning Commission Staff Report

File #: C-18-1
Applicant: Ogburn & Ogburn Trucking, LLC
CUP Request: To operate a laydown yard and hauling facility
Property Location: 9502 Zion Road
Tax Map Parcel #: 28-36
Property Size: approx. : 11.01 acres
Current Zoning: Agricultural, General, A-2
Magisterial District: Darvills
Planning Commission Mtg.: January 10, 2018
BOS Hearing Date: February 20, 2018

CUP REQUEST

The applicant, Ogburn & Ogburn Trucking, LLC, and their agent, Hampton Gordon, are seeking a conditional use permit to operate a laydown yard and hauling facility with welding, on the following described property containing approximately 11.01 acres. The property is located at 9502 Zion Rd. Ford, VA, and is further designated as Tax Map No. 28-36. The property is zoned A-2, Agricultural General, which may be changed to allow such use upon receiving a conditional use permit. The County’s Comprehensive Land Use Plan places this property within the Rural Conservation Area which allows limited commercial, service development at the Ordinance defined density.

RELATED ATTACHMENTS

- CUP Application
- Location Map

OVERVIEW OF PROPOSED LAYDOWN YARD AND HAULING FACILITY

The applicant has been operating Ogburn & Ogburn Trucking, LLC on the subject property since it purchased the property in 2015. Ogburn & Ogburn Trucking, LLC’s primary client is Gerdau Ameristeel of Dinwiddie Co. The business activities include hauling steel products to the subject property with some light assembling and welding of the steel before the products are transported off site.

This request is being made in conjunction with a request for a text amendment to the Dinwiddie County Zoning Ordinance, Article IV, Division 3 – Agricultural, General, District A-2, Section 22-71 – Permitted uses. The applicant, Ogburn & Ogburn Trucking, LLC, and their agent, Hampton Gordon, are requesting to amend the Dinwiddie County Zoning Ordinance by amending Section 22-71 by adding “Laydown yard and hauling with a conditional use permit” as a use permitted upon receiving a conditional use permit in Zoning District A-2. If Case A-18-1 is recommended for approval by the Planning Commission, Case C-18-1 for a conditional use permit to operate a laydown yard and hauling facility can then be considered at the public hearing for a recommendation by the Planning Commission to the Board of Supervisors.

The request for the text amendment and for the subsequent conditional use permit is the result of staff learning that the business was out of compliance with Chapter 22 of the Dinwiddie County Code. The conditional use permit for a laydown yard and hauling facility, if approved, will be located on Tax Map Parcel No. 28-36, addressed as 9502 Zion Road, Ford, VA. The applicant already operates a laydown yard and hauling facility at this location, but is applying for this conditional use permit in order to be in compliance with the Dinwiddie County Zoning Ordinance.

ZONING ANALYSIS

The adjacent properties to the west and south are zoned Agricultural, General, A-2. The adjacent properties to the north and west are zoned Business, limited, B-1 and are owned by the Norfolk and Western Railway Company. With the exception of rail line to the north and west, the surrounding properties consist of a church, single-family dwellings, and large farmland and forestall land uses.

As designated by the Comprehensive Land Use Plan, the subject property is within the Rural Conservation Area. As such, the Comprehensive Plan states that this general area is expected to develop as low density residential, agricultural, and natural conservations areas.

OVERVIEW OF IMPACTS

This request is not expected to cause any new impacts to the surrounding properties as it has been in operation for at least 2 years without any noise or traffic complaints.

Public Utilities, School System, & Public Safety Impacts

The existing utilities are handled on-site and there is no expected impact to the school system, as related to the laydown yard and hauling facility. Any public safety or community issues related with the proposed use are minimized by the proposed conditions associated with this permit.

Transportation Impacts

VDOT has reviewed the request and there do not appear to be any new impacts on the transportation network. Condition #3 requires the applicant meet all VDOT standards for vehicle access.

SITE AND USE ANALYSIS

Staff feels that the request to operate a laydown yard and hauling facility on the subject property is an appropriate use of the property, and given the configuration of the surrounding land uses and given the surrounding zoning pattern the use is appropriately located. Also, the close proximity of the rail line and subsequent rail line spur adjacent to the subject property presents a unique economic development opportunity. This request does not represent an intensification of the use on the subject property, as this business has already been operational on this site. Additionally, the County has not received any noise or traffic complaints associated with this business.

As designated by the Comprehensive Land Use Plan, the subject property is within the Rural Conservation Area. As such, the Comprehensive Plan states that this general area is expected to develop as low density residential, agricultural, and natural conservations areas.

Although the Comprehensive Land Use Plan does not specially recommend commercial activities within the Rural Conservation Area, staff believes that the impacts of operating a laydown yard and hauling facility on the subject property will be minimized based on adherence to the proposed conditions.

Planning Staff Recommendation:

Planning staff reviewed the request for the conditional use permit and is satisfied that the impacts of operating a laydown yard and hauling facility on the subject property will be minimized based on adherence to the proposed conditions.

Staff's recommendation of APPROVAL of the conditional use permit to operate a laydown yard and hauling facility is subject to the following conditions:

C-18-1 Conditions:

1. Any buildings constructed as part of the laydown yard and hauling facility shall meet the applicable Fire Code as set forth in the Fire Code as amended and Building Code requirements as set forth in the Building Code as amended;
2. Any site lighting installed shall be directed downward and inward to the site to preserve the night sky and shall not directly cast light onto the adjoining properties;
3. All vehicle access to the subject property shall meet Virginia Department of Transportation standards;
4. The property shall meet minimum standards for fire and rescue apparatus access;

5. The property shall meet all required development standards for this type of business as required by Chapter 22 of the Dinwiddie County Code;
6. All outdoor activities associated with the laydown yard and hauling facility shall be conducted between the hours of 7:00 AM and 10:00 PM with no outdoor activities associated with the laydown yard and hauling facility on Easter Sunday, Thanksgiving Day and Christmas Day;
7. All assembling and welding activities associated with the laydown yard and hauling facility will be conducted indoors;
8. Any existing trees within 50 feet of the western property line and the portion of the southern boundary of the property that abuts Route 460/Cox Road shall not be removed. Any existing or new laydown areas shall be screened from the Route 460/Cox Road and the Route 608/Zion Road public-right-of-ways and from the western property line with opaque fencing or with landscaping to be approved by the Dinwiddie County Planning Director;
9. All activities associated with the laydown yard and hauling facility shall comply with all applicable federal, state, and local codes;
10. This conditional use permit is subject to be reviewed by the Zoning Administrator of Dinwiddie County on an annual basis from the date of issuance of the conditional use permit. Failure to abide by these conditions may result in legal action; and
11. The uses shall be limited to the laydown yard and hauling facility with welding as identified in the Land Use Amendment Application.

PLANNING COMMISSION RECOMMENDATION

The Chairman asked the members if they had any questions for Ms. Sherry. He said since there are none at this time would the applicant come forward and add or answer any questions the Commissioners might have.

Mr. Hampton Gordon, 14100 Boydton Plank Road, Dinwiddie VA, the agent for the applicant, said Mr. Bassett and Ms. Sherry have done a fine job presenting the proposed amendment and conditional use permit request. I just have a couple of things I want to address involving the conditions. I would like for the hours of operation under condition six to be removed. It isn't a problem now, but with the rail spur that accesses this property opening up great opportunities, I don't want the hours of operation being a problem in the future. If a train car comes in before 7 a.m. and after 9 p.m. the owner will need to off load it. I am okay with the laydown yard having no activity on the holidays listed. As for condition seven, I would like to eliminate it all together.

The Chairman asked the members if they had any questions for Mr. Gordon.

Mr. Cunningham asked if the applicant came up with the conditions.

Mr. Gordon said they worked with staff on the conditions and some of the conditions are direct from the ordinance.

Mr. Prosis asked if the property between the site and Route 460 is residential property.

Mr. Gordon said there is one residence near the intersection, but for the most part it is all wooded area.

Mr. Cunningham asked if the normal loading and unloading of materials will be done inside or outside of the fence.

Mr. Timothy Ogburn, 16308 Wilkerson Road, Dinwiddie VA said the material sitting outside the fence in the photograph on the screen is material I've cut holes in so it can be shipped out. I staged it there while I moved other things around in the laydown yard. The material is not being loaded onto a truck from that location.

Mr. Cunningham asked Mr. Ogburn who does the cutting of the material.

Mr. Ogburn said he and his company does it.

Mr. Titmus asked Mr. Ogburn what is the percentage of stored material that gets ordered.

Mr. Ogburn said about 35 percent of the stored material gets ordered.

After discussion from Mr. Cunningham and Mr. Prosis concerning screening the welding areas from employees and the public and also screening the overall site from the public and adjoining property:

The Chairman asked the members if they had any more questions for the applicant or his agent. He said if not he was opening the public hearing for the cases. He asked if anyone had signed up. He said since there was no one signed up to speak he is closing the public hearing. He said he would entertain a motion.

Mr. Prosize made a motion and read the following: BE IT RESOLVED, that in order to assure compliance with Virginia Code Section 15.2-2286(A) (7) it is stated that the public purpose for which this Resolution is initiated is to fulfill the requirements of public necessity, convenience, general welfare and good zoning practice, I move that conditional use permit, C-18-1, with the removal of the hours of operation under condition 6 and the elimination of condition 7, to operate a laydown yard and hauling facility with welding be recommended for approval with conditions to the Board of Supervisors. Mr. Tucker seconded it and with Mr. Titmus, Mr. Tucker, Hayes, Mr. Prosize, Mr. Cunningham and Mr. Harvell voting "AYE" the conditional use permit was approved.

DEVELOPMENTS SINCE PC STAFF REPORT

C-18-1 Conditions were recommended for approval as follows:

1. Any buildings constructed as part of the laydown yard and hauling facility shall meet the applicable Fire Code as set forth in the Fire Code as amended and Building Code requirements as set forth in the Building Code as amended;
2. Any site lighting installed shall be directed downward and inward to the site to preserve the night sky and shall not directly cast light onto the adjoining properties;
3. All vehicle access to the subject property shall meet Virginia Department of Transportation standards;
4. The property shall meet minimum standards for fire and rescue apparatus access;
5. The property shall meet all required development standards for this type of business as required by Chapter 22 of the Dinwiddie County Code;
6. All outdoor activities associated with the laydown yard and hauling facility shall be conducted between the hours of 7:00 AM and 10:00 PM with no outdoor activities associated with the laydown yard and hauling facility on Easter Sunday, Thanksgiving Day and Christmas Day;
7. All assembling and welding activities associated with the laydown yard and hauling facility will be conducted indoors;
8. Any existing trees within 50 feet of the western property line and the portion of the southern boundary of the property that abuts Route 460/Cox Road shall not be removed. Any existing or new laydown areas shall be screened from the Route 460/Cox Road and the Route 608/Zion Road public-right-of-ways and from the western property line with opaque fencing or with landscaping to be approved by the Dinwiddie County Planning Director;
9. All activities associated with the laydown yard and hauling facility shall comply with all applicable federal, state, and local codes;
10. This conditional use permit is subject to be reviewed by the Zoning Administrator of Dinwiddie County on an annual basis from the date of issuance of the conditional use permit. Failure to abide by these conditions may result in legal action; and
11. The uses shall be limited to the laydown yard and hauling facility with welding as identified in the Land Use Amendment Application.

BOARD ACTION

Since this is a zoning matter, the standard statement regarding action on this zoning matter must be read. In order to assist, the following motion is attached as follows:

BE IT RESOLVED, that in order to assure compliance with Virginia Code Section 15.2-2286(A) (7) it is stated that the public purpose for which this Resolution is initiated is to fulfill the requirements of public necessity, convenience, general welfare and good zoning practice, I move that conditional use permit, C-18-1, be (approved with conditions OR disapproved) by the Board of Supervisors.

Upon motion of Mr. Moody, seconded by Mr. Lee

BE IT RESOLVED, that in order to assure compliance with Virginia Code Section 15.2-2286(A) (7) it is stated that the public purpose for which this Resolution is initiated is to fulfill the requirements of public necessity, convenience, general welfare and good zoning practice, I move that conditional use permit, C-18-1, be approved with conditions by the Board of Supervisors.

AYES: Mr. Lee, Ms. Ebron-Bonner, Mr. Moody, Mr. Chavis, Dr. Moore

NAYS: None

14. OLD/NEW BUSINESS

A. APPOINTMENTS

There were no appointments made.

15. BOARD MEMBER COMMENTS

There were no comments at this time.

16. ADJOURNMENT

Upon motion of Mr. Lee, seconded by Mr. Chavis, the meeting was adjourned at 9:18 PM.

AYES: Mr. Lee, Ms. Ebron-Bonner, Mr. Moody, Mr. Chavis, Dr. Moore

NAYS: None

Dr. Mark E. Moore
Chair

ATTEST: _____
W. Kevin Massengill
County Administrator
Clerk to the Board

/sbw