

VIRGINIA: AT THE REGULAR MEETING OF THE DINWIDDIE COUNTY BOARD OF SUPERVISORS HELD IN THE AUDITORIUM OF THE DINWIDDIE COUNTY HIGH SCHOOL IN DINWIDDIE COUNTY, VIRGINIA, ON THE 1st DAY OF JULY, 2003, AT 7:30 P.M.

PRESENT: ROBERT L. BOWMAN IV - CHAIR ELECTION DISTRICT #3
DONALD L. HARAWAY - VICE CHAIR ELECTION DISTRICT #2
HARRISON A. MOODY ELECTION DISTRICT #1
EDWARD A. BRACEY, JR., ELECTION DISTRICT #4
AUBREY S. CLAY ELECTION DISTRICT #5

OTHER: PHYLLIS KATZ COUNTY ATTORNEY

=====

IN RE: INVOCATION - PLEDGE OF ALLEGIANCE - AND CALL TO ORDER

Mr. Robert L. Bowman, Chair, called the regular meeting to order at 7:36 P.M. followed by the Lord's Prayer and the Pledge of Allegiance.

IN RE: AMENDMENTS TO THE AGENDA

Mrs. Wendy Ralph, County Administrator, commented Tidewater Quarries, Inc., withdrew its rezoning application P-02-6 and conditional use permit application C-02-8; therefore, those two items need to be removed from the agenda. She commented there is also a need for a Closed Session for Legal Consultation to discuss the two Wilcot Partner Cases (P-03-2 and P-03-3).

Upon motion of Mr. Moody, Seconded by Mr. Clay, Mr. Bracey, Mr. Moody, Mr. Clay, Mr. Haraway, Mr. Bowman voting "Aye," the above amendment (s) were approved.

IN RE: MINUTES

Upon motion of Mr. Haraway, Seconded by Mr. Clay, Mr. Bracey, Mr. Moody, Mr. Clay, Mr. Haraway, Mr. Bowman voting "Aye,"

BE IT RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia, that the minutes of the June 17, 2003 Regular Meeting are hereby approved.

IN RE: CLAIMS

Upon motion of Mr. Haraway, Seconded by Mr. Clay, Mr. Bracey, Mr. Moody, Mr. Clay, Mr. Haraway, Mr. Bowman voting "Aye,"

BE IT RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia that the following claims are approved and funds appropriated for same using checks numbered 1035546 through 1035789 (void check(s) numbered 1035625, 1035545, 1035283, and 1035618)

Accounts Payable:

| | |
|-------------------------------|---------------|
| (101) General Fund | \$ 185,205.63 |
| (103) Jail Commission | \$.00 |
| (104) Marketing Fund | \$.00 |
| (209) Litter Control | \$ 6,274.00 |
| (222) E911 Fund | \$ 1,708.49 |
| (223) Self Insurance Fund | \$.00 |
| (225) Courthouse Maintenance | \$.00 |
| (226) Law Library | \$.00 |
| (228) Fire Programs & EMS | \$.00 |
| (229) Forfeited Asset Sharing | \$.00 |

| | |
|-----------------------------|----------------------|
| (304) CDBG Grant Fund | \$ 613.52 |
| (305) Capital Projects Fund | \$ 2,196.07 |
| (401) County Debt Service | \$ <u>25,927.30</u> |
| TOTAL | \$ 221,925.01 |

PAYROLL 02/28/03

| | |
|--------------------|----------------------|
| (101) General Fund | \$ 437,228.81 |
| (222) E911 Fund | \$ 3,459.52 |
| (304) CDBG Fund | \$ <u>3,783.07</u> |
| TOTAL | \$ 444,471.40 |

ACCOUNTS PAYABLE: JULY 1, 2003

| | |
|--------------------|----------------------|
| (101) General Fund | \$ 130,777.14 |
| TOTAL | \$ 130,777.14 |

IN RE: CITIZEN COMMENTS

Mr. Bowman asked if there were any citizens signed up to speak or present who wished to address the Board during this portion of the meeting.

1. Michael Bratschi - 23500 Cutbank Road, McKenney, Virginia voiced his displeasure for the Citizens for a Better Dinwiddie Group.
2. Eva Bratschi – 23500 Cutbank Road, McKenney, Virginia – came before the Board to voice her oppositions to the High Speed Rail coming through Dinwiddie County.
3. Geri Barefoot – Frontage Road, Petersburg, Virginia – expressed her gratitude to the Board members who were in opposition to the quarry and admonished the other Board members to be more responsive to their citizens.
4. Rowland Powell – Boynton Plank Road, Dinwiddie, Virginia - commented on the issues of a telephone survey he received regarding the Tidewater Quarry application.

IN RE: CLOSED SESSION

Mr. Bracey stated I move to close this meeting in order to discuss matters exempt under section:

Consultation with Legal Counsel - §2.2-3711 A. 7 of the Code of Virginia – to discuss legal issues regarding the two Wilcot Partner Cases P-03-2 and P-03-3.

Mr. Clay seconded the motion. Mr. Moody, Mr. Clay, Mr. Haraway, Mr. Bowman, Mr. Bracey, voting "Aye", the Board moved into the Closed Meeting at 7:56 P.M.

A vote having been made and approved the meeting reconvened into Open Session at 8:28 P.M.

IN RE: CERTIFICATION

Whereas, this Board convened in a closed meeting under §2.2-3711 A.7 of the Code of Virginia – to discuss issues regarding the two Wilcot Partners Cases P-03-2 and P-03-3.

And whereas, no member has made a statement that there was a departure from the lawful purpose of such closed meeting or the matters identified in the motion were 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. Clay, Seconded by Mr. Haraway, Mr. Bracey, Mr. Moody, Mr. Clay, Mr. Haraway, Mr. Bowman voting "Aye," this Certification Resolution was adopted.

**IN RE: PUBLIC HEARING – P-03-2 – WILCOT PARTNERS
REQUEST TO AMEND LOT AREA REQUIREMENTS**

This being the time and place as advertised in the Monitor on June 18, 2003 and June 25, 2003, for the Board of Supervisors of Dinwiddie County, Virginia to conduct a Public Hearing to receive public comment on an amendment request from Wilcot Partners, applicant, who is seeking to amend conditions established by case P-79-5. The applicant is seeking amendment of the lot area requirement from 200' to 100'.

Mr. Scheid read excerpts from the following Summary Staff Report:

Planning Summary Report

File: P-03-2
Applicant: Wilcot Partners
Property Address: Route 1 and White Oak Road intersection
Existing Zoning: Residential, Limited R-1 (w/ proffers)
Water Source: public (proposed)
Sewer Disposal: public (proposed)

The applicant, Wilcot Partners, is seeking an amendment to conditions (now referred to as proffers) established by case P-79-5 that was heard by the Planning Commission and Board of Supervisors in 1979. The property is currently owned by Robert G. Ragsdale but is under a purchase contract with Wilcot Partners, LLC. The location of the property is at the northwest corner of the Route 1 (Boydton Plank Road) and Route 613 (White Oak Road) intersection. The parcel is a portion of Tax Map/Parcel 33-3 and contains approximately 101 acres. The County Comprehensive Land Use Plan identifies this parcel as bordering the Urban Planning and Community Planning Area.

Considerable zoning activity occurred on this land parcel in the 1970's. In 1970, the entire tract of land referred to as the Lake Jordan property was zoned as Agricultural, general A-2. At that time properties having this zoning classification could be subdivided into 1-acre parcels with 150' of frontage on a State maintained road. A rezoning request, P-73-1, was submitted to the County in 1973 on behalf of American Logistics Association (also know as Defense Supply Association) to have the property rezoned from Agricultural, general A-2 to Residential, general R-2. The Board moved to approve rezoning case P-73-1 at their January 16, 1974 meeting. Shortly thereafter, the American Logistics Association filed a rezoning application, P-74-2, seeking to have the entire tract rezoned from Residential R-2 to Planned Residential Development, PRD. The purpose of the rezoning was to obtain the type of mixed residential development sought at the desired density. At the April 17, 1974 meeting of the Board of Supervisors, the Board unanimously voted approval of rezoning request P-74-2.

On May 15, 1979, Mr. Ragsdale filed a rezoning application, P-79-5, with the Planning Department seeking to change a 101-acre portion of the PRD property to Residential, Limited R-1 with two (2) proffers attached. The Planning Commission heard the case at their June 6, 1979 meeting and sent the matter to the Board of Supervisors with a recommendation for approval. It was noted at the Planning Commission meeting that it was not feasible to develop this property as high density housing since central water and sewer is required and it is not economically feasible to provide this service at this time. The Board heard the case at their July 18, 1979 meeting and voted to approve rezoning case P-79-5 with the following conditions (proffers) attached: lot size shall be a minimum of 2 acres; and a minimum of 200' road frontage shall be required. The property has remained undeveloped to this date.

The Planning Commission heard this zoning amendment request at their June 11, 2003 meeting. In consideration of the County amending the previous proffers established by case P-79-5 (i.e. deleting the 2 acre minimum lot size and 200' frontage requirements), the applicant proposed substituting a new set of proffers to insure the County of a quality single-family dwelling subdivision. The proffers are attached to this summary report. Additionally, it was stated that the applicant has submitted a down zoning request for the remaining lands contained in tax map/parcel 33-3 located north of Lake Jordan. The case, P-03-3, seeks to change the zoning from PRD to R-1. By doing so, the total number of single lot residential dwellings would be reduced in portion to the number of lots relocated to the property south of the lake. After a discussion among the Planning Commissioners and comments from area residents (see extract of Planning Commission minutes), the Planning Commission voted unanimously (7-0) to recommend approval of P-03-2 to the Board of Supervisors. (NOTE: A committee was formed to refine the proffers to be sent to the Board. The committee met on June 20th and refined the proffers as instructed.)

Since this is a zoning matter, the standard statement regarding your action must be read.

Mr. Dan Smith - 939 Street, Newport News, Virginia, agent for Wilcot Partners, LLC came forward stating that Wilcot Partners were contract purchasers for the Lake Jordan property. The reason for the request was to develop a residential subdivision. He added that case P-03-2 would allow a zoning that would require smaller lot sizes. He said the history of the property has demonstrated that residential housing units have long been the plan for the property.

Mr. Smith said they believed the 75-acre lake is a beautiful amenity to the property. The anticipated price range of the houses to be sold would be between \$160,000.00 and \$250,000.00 to \$350,000.00 on the lake. Mr. Smith believed this subdivision would bring in people from as far away as Richmond and Chesterfield. He stated that he envisioned approximately 200 single-family 20,000 square foot lots and approximately 150 single-family 20,000 square foot lots on the P-03-2 rezoning.

Mr. Smith introduced Mr. Derrick Johnson, Timmons Engineering, and Mr. Michael Cotter, Wilcot Partners, LLC. He said they would be able to answer any questions relating to the requests.

Mr. Smith requested that the Board approve the rezoning application for P-03-2.

Mr. Bowman opened the public hearing portion of the meeting. He asked if there was anyone signed up to speak. The following persons came forward to address the Board:

1. Charlotte Carnes - spoke in support of the request.
2. Ralph Mangum - 9013 Dabney Road, Petersburg, Virginia - spoke in opposition to the request.

3. Stan Chappell – 22212 White Oak Road, Petersburg, Virginia – spoke in opposition to the request.
4. Donald Turner – 21903 White Oak Road, Petersburg, Virginia – spoke in opposition to the request.
5. George Whitman – 13010 Old Stage Road, Petersburg, Virginia – spoke in opposition to the request.
6. Robert Ragsdale – 8511 Boydton Plank Road, Petersburg, Virginia - spoke in support of the request. He also requested that the Board, if it should decide to approve the rezoning request, condition the approval on the sale of the property occurring on or before October 31, 2003.

Mr. Haraway asked Mr. Ragsdale if there was a contract dispute between him and Wilcot Partners, LLC? Mr. Ragsdale stated he did not feel there was a need for a proffer in the rezoning request to address the Virginia Motorsports Park noise issue because there is a State law, which requires the seller to inform the buyer of the existence of a noise issue.

The County Attorney was asked if she knew of a State law or ordinance, which required a seller to inform a buyer of the existence of a noise issue? Mrs. Katz responded she was not familiar with any code section that required a property owner to disclose environmental factors off the property. What may be offensive to one person may not be offensive to another. However, she did not know of any code, which required a person to disclose that there is a permitted use that may be bothersome on an adjacent piece of property.

Mr. Haraway also asked Mr. Ragsdale if he agreed to the addendum to the contract. Mr. Ragsdale commented yes he did. Mr. Haraway stated it was his understanding that both parties, the buyer and seller, agreed to the addendum.

Mr. Bowman closed the public hearing.

Mr. Bowman asked Mr. Smith to come forward and address the issues brought up by the citizens during the public hearing session.

Mr. Smith commented some of the concerns had been addressed in the proffers. Mr. Derrick Johnson with the Timmons Group will answer the technical questions you might have regarding the impact on the schools and traffic issues at the intersections of Boydton Plank Road (US Route 1) and White Oak Road (Rt. 613). Mr. Smith requested that the Board approve the rezoning application for P-03-2.

Mr. Johnson came forward and commented that this rezoning is actually a down zoning and addressed the number of lots and sizes of the houses expected to be built in the subdivision. As far as the transportation concerns, raised by Mr. Bracey, on Rt. 1, he stated that he was working with VDOT to determine the location of the entrances. He said the first entrance on Rt. 613 would be about 1,200' away from the Rt. 1 intersection. He added that the second entrance to serve those lots would be about 1,500' going west on Rt. 613. This development would be phased out over a five-year time period. In order to satisfy the number of homes that will be built in the subdivision, there needed to be two entrances on Rt. 613. He said with the topography and the lay of the land it would affect where the homes can and cannot be built so there might be fewer homes than they proposed. Other considerations that must be noted related to public services generated by the subdivision. It would appear that emergency services would not be compromised due to the location of the proposed subdivision and access from the existing road system. It does not appear that the school system would be impacted to any greater degree than it would be if the property were developed under the current zoning classifications of PRD and R-1 (w/ conditions).

He added that VDOT would have to do a traffic study to determine if a light would be needed at the Rt. 1 and Rt. 613 intersections. The biggest concern there would be the left hand turn off Rt. 613 headed North on Route 1.

He also commented on the flood and drainage issues that might exist in the subdivision. He said an analysis of the pond and the dam would be looked at as a part of the site plan. The drainage issues would be addressed with roll face curb and gutters.

Mr. Bracey stated he still felt there would be a big increase in the traffic at the intersections of Boydton Plank Road and Rt. 613, White Oak Road that would cause problems when making a left turn onto Boydton Plank Road off White Oak Road.

Mr. Haraway commented he did not understand why the term "financially feasible" was included in proffer number 12 which, states, "If financially feasible, the applicant shall install, for the exclusive use of families living in the subdivision, playground equipment for children who live there." He pointed out that the cost of playground equipment should not exceed \$5,000, which is immaterial for the total price of this project. Continuing he commented he would like to see "financially feasible" excluded from proffer 12. The applicant agreed to remove "financially feasible" from proffer number 12.

Mr. Bowman asked Mr. Scheid what PRD stands for? Mr. Scheid responded it is a planned residential development district that is designed to provide for medium and large-scale developments incorporating a single type or a variety of residential and related uses, which are planned and developed as a unit. It may also provide reservation of areas for retail shops and it may include educational and governmental facilities wherever these are deemed necessary by the County. Mr. Bowman questioned whether the rezoning from PRD to Residential, Limited R-1 (w/ proffers) was really a down zoning. He voiced his concern regarding the number of lots the R-1 rezoning would allow compared to the PRD zoning. There was a lengthy discussion regarding the permitted uses in the PRD zoning.

The County Attorney commented that this is a rezoning at this time; it is not an approval of the subdivision or the units. Mr. Bowman reiterated his concern.

Mr. Bowman asked Mr. Smith if he had been on the site when the Virginia Motorsports Park drag cars were racing? Mr. Smith responded he personally had not but one of the Wilcot partners Mr. James E. Wilson has and he said, to him a noise is a noise. He added that he had talked with the land manager for Ryan homes which is a national real estate development builder and he advised him that in recent years Ryan Homes had built a subdivision next to Colonial Downs racetrack where there is also drag racing, and in spite of the noise factor there has not been any adverse effect upon the marketing of the homes in that subdivision.

Mr. Bowman asked if the owners of the homes were comfortable with the noise level and then did they feel comfortable selling them the homes. Mr. Smith stated that they were comfortable and with proper disclosure to potential purchasers there would not be an adverse effect upon the marketing of the subdivision.

Mr. Bowman stated that if there was no more discussion, he would entertain a motion on the request.

Mr. Haraway stated, 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 P-03-2 be (approved with the proffers submitted by the applicant) with "financially feasible" being removed from proffer number 12, by the Board of Supervisors; and

Be it further resolved that the rezoning request is based upon the condition that the rezoning would not go into effect unless Wilcot Partners, LLC consummates the purchase pursuant to the agreement no later than October 31, 2003.

The motion was seconded by Mr. Bracey, Mr. Bracey, Mr. Moody, Mr. Clay, Mr. Haraway, Mr. Bowman voting "Aye," rezoning request P-03-2 was approved with the conditions from the Planning Commission and the following proffers.

"June 25, 2003

Re: Land Use Amendment Applications P-03-03

To: Mr. Guy Scheid, Director
Dinwiddie County Planning Department
Dinwiddie, Virginia

With reference to the above Land Use Amendment Application, Wilcot Partners, LLC proffers the following:

1. A minimum 25 foot buffer consisting of the existing tree cover and open space shall remain on the lands adjacent to Route 1, Route 613, and on the proposed subdivision lots adjacent to land parcel 33(4)IN in the name of Katie R. Williams Estate. Along Routes 1 and 613, this buffer shall extend from the point of beginning of the existing tree line 25 feet into the interior of each subdivision lot (and specifically not from the line of cleared easement area).
2. The subdivision road will access the property from Route 613 only. All lots having frontage on Route 1 and Route 613 shall have driveway access to the subdivision road, only.
3. The asphalt roads serving the subdivision will have a roll curb/gutter system for storm water management.
4. The property will be served by the public water and sewer system operated by the Dinwiddie County Water Authority.
5. All lots within the development will be provided access to Lake Jordan through a common area located on the property which is the subject matter of this Land Use Amendment Application.
6. The minimum square footage (SF) of finished floor space (exclusive of such things as attached garage, enclosed screen porches, etc.) for a single story family dwelling shall be 1500 SF and for all other dwellings 1750 SF.
7. A pedestrian footbridge shall be constructed between the North and South portions of the properties which are the subject matter of referenced Land Use Amendment Applications P-03-02 and P-03-03, to grant pedestrian access for subdivision lot owners and their invited guests between the those properties.
8. A Homeowners Association shall be provided for in the Deed Covenants and Restrictions for the maintenance of the common areas.
9. A provision shall be made in the Deed Covenants and Restrictions requiring builders, on initial sales of homes in the subdivision, and all subsequent property owners, on resale of their properties, to disclose to their purchasers the existence of the VMP, and the potential noise generated by activities there.

10. A provision shall be made in the Deed Covenants and Restrictions requiring all driveways to be constructed with concrete.
11. "Red tip" bushes, or a similar evergreen bush, shall be planted along the entire length of the property line along Route 613, and along the private property lines contiguous with subdivision on the property owned by Stan Chappell on route 613. The bushes shall be planted prior to completion of construction of on- and off-site improvements (water and sewer facility installation, curb and gutter installation, roadway construction, etc.) to the property, which is the subject matter of this Land Use Amendment Application.
12. The applicant shall install, for the exclusive use of families living in the subdivision, playground equipment for children who live there.
13. If financially feasible, the applicant shall consider constructing a "boulevard" type entrance to the subdivision on Route 613, rather than two separate entrances there.
14. If financially feasible, the applicant shall install public water and sewer hook-ups along an interior lot line in the subdivision to the property owned by Mr. Stan Chappell at no cost to Mr. Chappell.

WILCOT PARTNERS, LLC

By,

 Managing Member"

IN RE: RECESS

The Chairman called a recess at 9:50 P.M. The meeting reconvened at 10:09 P.M.

**IN RE: PUBLIC HEARING – P-03-3 – WILCOT PARTNERS
 REZONING REQUEST**

This being the time and place as advertised in the Monitor on June 18, 2003 and June 25, 2003, for the Board of Supervisors of Dinwiddie County, Virginia to conduct a Public Hearing to receive public comment on a request from Wilcot Partners to rezone a 136-acre parcel (a portion of which is within Lake Jordan) of land from Planned Residential Development, PDR, to Residential, Limited R-1.

Mr. Scheid read excerpts from the following Summary Staff Report:

Summary Staff Report

File: P-03-3
Applicant: Wilcot Partners
Property Address: Route 1 north of White Oak Road
Existing Zoning: Planned Residential Development, PRD
Water Source: public (proposed)
Sewer Disposal: public (proposed)

The applicant, Wilcot Partners, is seeking a down zoning of a portion of Tax Map/Parcel 33-3 containing approximately 136 acres (Lake Jordan being part thereof) from Planned Residential Development (PRD) to Residential, limited R-1 (with proffers). The property is owned by Robert G. Ragsdale and is located on the west side of Route 1 approximately ¼ mile north of Route 613 (White Oak Road). The County Comprehensive Land Use Plan identifies this parcel as bordering the Urban Planning and Community Planning Area. The current zoning allows the applicant to have a density exceeding five (5) single family dwelling lots per net acre.

Considerable zoning activity occurred on this land parcel in the 1970's. In 1970, the entire tract of land referred to as the Lake Jordan property was zoned as Agricultural, general A-2. At that time properties having this zoning classification could be subdivided into 1-acre parcels with 150' of frontage on a State maintained road. A rezoning request, P-73-1, was submitted to the County in 1973 on behalf of American Logistics Association (also know as Defense Supply Association) to have the property rezoned from Agricultural, general A-2 to Residential, general R-2. The Board moved to approve rezoning case P-73-1 at their January 16, 1974 meeting. Shortly thereafter, the American Logistics Association filed a rezoning application, P-74-2, seeking to have the entire tract rezoned from Residential R-2 to Planned Residential Development, PRD. The purpose of the rezoning was to obtain the type of mixed residential development sought at the desired density. At the April 17, 1974 meeting of the Board of Supervisors, the Board unanimously voted approval of rezoning request P-74-2.

The Planning Commission heard this rezoning request at their June 11, 2003 meeting. The applicant has offered to downzone the zoning on this property with proffers since they were seeking an amendment to the zoning on the property located to the south of Lake Jordan. The proffers are attached to this summary report. After a brief discussion among the Planning Commissioners (see extract of Planning Commission minutes), the Planning Commission voted unanimously (7-0) to recommend approval of P-03-3 to the Board of Supervisors. (NOTE: A committee was formed to refine the proffers to be sent to the Board. The committee met on June 20th and refined the proffers as instructed.)

Since this is a zoning matter, the standard statement regarding your action must be read.

Mr. Dan Smith- 939 Street, Newport News, Virginia, agent for Wilcot Partners, LLC came forward to speak to the request. He thanked the Board for approving the P-03-2 application. He stated that this request was for the north side of the property that is currently zoned PRD, which will allow a higher density than what is being asked for. He said they were basically asking for a down zoning on the property. He said they did present proffers, which were presented

to the Planning Commission and included in the request tonight. He requested that the Board approve the rezoning application.

Mr. Bowman opened the public hearing. No one spoke in opposition to the rezoning request.

Mr. Bowman closed the public hearing.

Mr. Haraway asked Mr. Smith about the "financially feasible" term included in proffer number 11 which, states, "If financially feasible, the applicant shall install, for the exclusive use of families living in the subdivision, playground equipment for children who live there." He commented he would like to see "financially feasible" excluded from the proffer. Mr. Smith agreed to strike "financially feasible" from proffer number 11.

Mr. Moody stated, 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 P-03-3 be (approved with the proffers submitted by the applicant) with "financially feasible" being removed from proffer number 11, by the Board of Supervisors; and

Be it further resolved that the rezoning request is based upon the condition that the rezoning would not go into effect unless Wilcot Partners, LLC consummates the purchase pursuant to the agreement no later than October 31, 2003.

The motion was seconded by Mr. Bracey, Mr. Bracey, Mr. Moody, Mr. Clay, Mr. Haraway, Mr. Bowman voting "Aye," rezoning request P-03-3 was approved with the conditions from the Planning Commission and the following proffers.

PROFFER

June 25, 2003

Re: Land Use Amendment Applications P-03-03

To: Mr. Guy Scheid, Director
Dinwiddie County Planning Department
Dinwiddie, Virginia

With reference to the above Land Use Amendment Application, Wilcot Partners, LLC proffers the following:

1. A minimum 25 foot buffer consisting of the existing tree cover (if any) and open space shall remain on the lands adjacent to Route 1. This buffer along Route 1 shall extend from the point of beginning of the existing tree line (if any) 25 feet into the interior of each subdivision lot (and specifically not from the line of cleared easement area). This buffer shall not apply to any side lot line along Route 1.
2. The subdivision road will access the property from Route 1. All lots shall have driveway access to the subdivision road, only.
3. The asphalt roads serving the subdivision will have a roll curb/gutter system for storm water management.
4. The property will be served by the public water and sewer system operated by the Dinwiddie County Water Authority.
5. All lots within the development will be provided access to Lake Jordan through a common area located on the property which is the subject matter of Land Use Amendment Application P-03-02.
6. The minimum square footage (SF) of finished floor space (exclusive of such things as attached garage, enclosed screen porches, etc.) for a single story family dwelling shall be 1500 SF and for all other dwellings 1750 SF.
7. A pedestrian footbridge shall be constructed between the North and South portions of the properties which are the subject matter of Land Use Amendment Applications P-03-02 and P-03-03, to grant pedestrian access for subdivision lot owners and their invited guests between the those properties.

8. A Homeowners Association shall be provided for in the Deed Covenants and Restrictions for the maintenance of the common areas.
9. A provision shall be made in the Deed Covenants and Restrictions requiring builders, on initial sales of homes in the subdivision, and all subsequent property owners, on resales of their properties, to disclose to their purchasers the existence of the VMP, and the potential noise generated by activities there.
10. A provision shall be made in the Deed Covenants and Restrictions requiring all driveways to be constructed with concrete.
11. If financially feasible, the applicant shall install, for the exclusive use of families living in the subdivision, playground equipment for children who live there. If constructed, this playground equipment shall be located in a common area on the property, which is the subject matter of Land Use Amendment Application P-030-2.

WILCOT PARTNERS, LLC

By,

Managing Member

IN RE: PUBLIC HEARING – DINWIDDIE COUNTY PLANNING DEPARTMENT – A-03-3 – AMENDMENT TO CHAPTER 22, ZONING, DIVISION 11, BUSINESS, GENERAL DISTRICT B-2, SECTION 22-185, TATTOO PARLOR

This being the time and place as advertised in the Monitor on June 18, 2003 and June 25, 2003, for the Board of Supervisors of Dinwiddie County, Virginia to conduct a Public Hearing to receive public comment on a request by the Dinwiddie County Planning Department, at the request of Bryan E. Wallace, is seeking the addition of a tattoo parlor with a conditional use permit to the B-2 (Business, General) district, section 22-185, Permitted Uses.

Mr. Thompson read excerpts from the following Summary Staff Report:

Planning Summary Report

Planning Summary Report

File: A-03-3
Applicant: Dinwiddie County Planning Department
Amendment to Code: Business, General, B-2

The applicant, Dinwiddie County Planning Department, at the request of Bryan E. Wallace, is seeking the addition of a tattoo parlor with a conditional use permit to the B-2 (Business, General) district, section 22-185, Permitted Uses. The

Dinwiddie Zoning Ordinance does not provide for such a use in any zoning district. A review of other zoning codes in adjacent jurisdictions reveals that this type of use is generally permitted in the General Business district with a conditional use permit.

The Planning Commission reviewed this amendment at their May 14th meeting. It was noted that tattoo parlors and body piercing is a fast growing business. Staff expressed concerns about the issue of health, contamination and other health related problems. It was mentioned that adding a section to the County Code that addressed the health concerns would provide a stronger foundation for controlling these concerns. Additionally, the Health Department could be utilized in enforcing the regulations. No one present spoke in opposition to the amendment. The Planning Commissioners voted unanimously to recommend approval of A-03-3 to the Board of Supervisors but directed staff to prepare a definition of Tattoo Parlor for the Planning Commission to review at their June meeting before sending the amendment to the Board of Supervisors.

Mr. Thompson commented that Mr. Wallace was present if the Board had any additional questions for him.

Mr. Bowman opened the public hearing for A-03-3. The following persons came forward to address the Board:

1. Michael Bratschi – 23500 Cutbank Road, McKenney, Virginia – spoke in opposition to the amendment. He also read a section of the Planning Commission minutes regarding, “if an individual is intoxicated or under the influence of drugs Mr. Wallace would tattoo them”.
2. Eva Bratschi – 23500 Cutbank Road, McKenney, Virginia – spoke in opposition to the amendment.
3. Mr. Dean McCray – 2600 Oxford Drive, Sutherland, Virginia – spoke in support of the amendment and commented that the minutes Mr. Bratschi was referring to were “draft” minutes, which have not been approved by the Planning Commission.

Mr. Bowman closed the public hearing for A-03-3.

Mr. Bryan E. Wallace, applicant, came forward and addressed the issues raised in the citizen comment period. He stated he had been in business for over 13 years in the Tri-City area and never had any problems with the police or the health department. He also commented about 50% of his business was military and he had not heard of the policy Mrs. Bratschi read from. He requested that the Board approve the request.

Mr. Bracey commented in the future any minutes for the Planning Commission or the Board of Supervisors, which had not been approved, should be marked “draft”.

Mr. Moody stated, 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 Zoning Amendment A-03-3 be approved by the Board of Supervisors. There was no second.

The Chairman declared that the Motion died.

IN RE: A-03-4 - TATTOO PARLOR DEFINITION

This being the time and place as advertised in the Monitor on June 18, 2003 and June 25, 2003, for the Board of Supervisors of Dinwiddie County, Virginia to conduct a Public Hearing to receive public comment on the request of the Planning Department to add an amendment to section 22-1 of the Code of Dinwiddie, to add the definition of a tattoo parlor to section 22-1, Definitions.

Planning Summary Report

File: A-03-4

Applicant: Dinwiddie County Planning Department

The applicant, Dinwiddie County Planning Department, at the request of the Planning Commission, is seeking the addition of a tattoo parlor definition to section 22-1, Definitions. The Planning Commission reviewed this amendment at their June 11th meeting. After a brief discussion by the Commissioners, the Planning Commission voted unanimously to recommend approval of A-03-4 to the Board of Supervisors.

Mr. Thompson came forward and stated that the draft copies of the staff report for tonight meeting have been made available to the public on the table out front.

He read the following definition:

TATTOO PARLOR: Any permanent place or establishment in which is offered or practiced the placing of designs, letters, scrolls, figures, symbols or any other marks upon or under the skin of any person with ink or any other substance resulting in the permanent coloration of the skin, including permanent make-up, by the aid of needles or other instruments designed to touch or puncture the skin. This definition shall not include medical doctors, veterinarians, registered nurses or other medical services personnel licensed pursuant to Virginia Code Title 54.1, who conduct tattooing in the performance of professional medical services. Tattoo parlors shall be established and operated in accordance with applicable provisions in Chapter 22, of the County Code. In order to operate a tattoo parlor in Dinwiddie County, a tattooist shall be a state licensed and certified tattooist as of July 1, 2004. Body piercing is considered an accessory use and is further defined as any place in which it is offered or practiced the act of penetrating the skin to make a hole, mark, or scar, generally permanent in nature. "Body piercing" does not include the use of a mechanized, pre-sterilized ear-piercing system that penetrates the outer perimeter or lobe of the ear or both. In order to perform body-piercing in Dinwiddie County, a tattooist shall be a state licensed and certified body piercer as of July 1, 2004. Additionally, all tattooing and body piercing must be done in an enclosed portion of the establishment not visible by the public.

Since this is a zoning matter, the standard statement must be read by the Board as part of your motion.

Mr. Bowman opened the public hearing for public comments. The following persons came forward to speak regarding A-03-4:

1. Michael Bratschi – 23500 Cutbank Road, McKenney, Virginia – spoke in opposition to the amendment
2. Eva Bratschi – 23500 Cutbank Road, McKenney, Virginia – spoke in opposition to the amendment.

Mr. Bowman closed the public hearing.

Mr. Bracey questioned Mr. Thompson where he got the definition of a tattoo parlor. Mr. Thompson stated it was drawn from a survey of 9 other localities in the State. The County Attorney informed the Board that the definition mirrors the State definition of a tattoo parlor.

Mr. Bowman called for a motion. There being no motion the Chairman declared the issue dead.

Mr. Moody stated he personally would not get a tattoo, but many people do. He said he felt the County would lose revenue because they would go to Colonial Heights or Petersburg to get them.

IN RE: BOARD MEMBER COMMENTS

- Mr. Haraway He asked the County Administrator if any progress had been made to arrange a meeting with the School Board to address the school issues? Mrs. Ralph replied she had not received any response from the correspondence she sent regarding any rebuttal or replies to the letter that was sent to the Superintendent summarizing the recommendations from the Board. Mr. Haraway commented he found it hard to believe that there has been no communication because the Board was led to believe there was a dire need to move forward as quickly as possible with building the new schools. He stated he hoped a meeting could be arranged soon. Mr. Bracey agreed and requested that the Chairman, County Administrator, Assistant County Administrator, Chairman of the School Board, Superintendent, and Dr. Lanham meet to discuss the recommendations from the Board. Mr. Moody echoed the need to meet with the School Board to get the projects going. He commented they might not like what this Board had to say but there is a need to move forward and get something done for the schools. Mr. Bowman agreed and requested that the County Administrator set up a meeting with them.
- Mr. Bowman He commented there are some issues in the Comprehensive Land Use Plan that needed to be discussed and looked at very closely. He instructed the County Administrator to place it on the Agenda for the July 15, 2003 meeting.
- Mr. Bracey He stated our County Code does need to have something in place about tattoo parlors. He requested that the Planning Department and the County Attorney work together and bring something back to the Board.
- Mr. Bowman He stated in January the Board voted to try holding its meetings on Tuesdays instead of Wednesdays. He asked if the other members were satisfied with them being held on Tuesday? Mr. Bracey commented he preferred Wednesday meetings but the Board voted to try the Tuesday meetings for a year, not six months. Several Board members commented it was an issue for the organizational meeting in January.

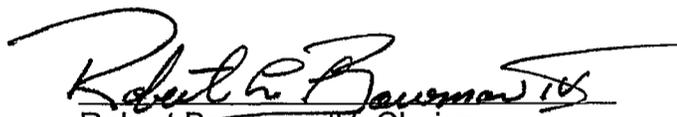
IN RE: INFORMATION IN BOARD PACKET OR DISTRIBUTED

1. Letter from the Superintendent of Schools to the County Administrator regarding the Board's nonpayment of Requisition #13.
2. Memo from Dean A. Lynch to James D. Campbell, Executive Director, VACo regarding the establishment of a Rural Caucus.
3. Memo from Dean A. Lynch to County Administrators regarding the establishment of VACo's Rural Caucus and scheduled meeting and agenda for Tuesday, August 12 at 9:00 A.M., at Norfolk Convention Center in conjunction with LGOC.
4. Letter from Adelpia introducing Ms. Jean Baker of Elizabeth City, NC as the new district manager of operations for Adelpia effective June 2, 2003.
5. Letter to the County Administrator from Robert L. Turner, Jr., Vice President for Development, Virginia State University, to schedule a

meeting to discuss matters of mutual interest, and visit the campus on Wednesday, August 13, 2003 for breakfast.

RE: ADJOURNMENT

Upon motion of Mr. Bracey, Seconded by Mr. Haraway, Mr. Bracey, Mr. Moody, Mr. Clay, Mr. Haraway, Mr. Bowman voting "Aye," the meeting adjourned at 10:59 P.M.


Robert Bowman, IV, Chairman

ATTEST: 
Wendy Weber Ralph
County Administrator

/abr