

EXCERPTED MEETING MINUTES
November 18, 2020

The Regular Meeting of the Rockingham County Board of Supervisors was held on Wednesday, November 18, 2020, at 3:00 p.m., at the Rockingham County Administration Center, Harrisonburg, Virginia. The meeting was open to the public at reduced capacity and broadcast online, to reduce the spread of COVID-19.

The following members were present:

- DEWEY L. RITCHIE, Election District #1
- SALLIE WOLFE-GARRISON, Election District #2
- RICK L. CHANDLER, Election District #3
- WILLIAM B. KYGER, JR., Election District #4
- MICHAEL A. BREEDEN, Election District #5 participated via conference call

Also present:

- BRYAN F. HUTCHESON, Sheriff
- STEPHEN G. KING, County Administrator
- THOMAS H. MILLER, JR., County Attorney
- CASEY B. ARMSTRONG, Assistant County Administrator
- RHONDA H. COOPER, Director of Community Development
- PATRICIA D. DAVIDSON, Director of Finance
- KIRBY W. DEAN, Director of Parks & Recreation
- ANN MARIE FREEMAN, Director of Court Services
- JEREMY C. HOLLOWAY, Fire & Rescue Chief
- JENNIFER J. MONGOLD, Director of Human Resources
- TERRI M. PERRY, Director of Technology
- PHILIP S. RHODES, Director of Public Works
- BRADFORD R. R. DYJAK, Director of Planning
- KELLY S. GETZ, Zoning Administrator
- TAMELA S. GRAY, Deputy Clerk
- DONALD F. KOMARA, Residency Administrator
Virginia Department of Transportation
- C. BURGESS LINDSEY, Assistant Residency Administrator
Virginia Department of Transportation

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CALL TO ORDER
PLEDGE OF ALLEGIANCE
INVOCATION.

Chairman Kyger called the meeting to order at 3:00 p.m.

Supervisor Chandler provided the invocation, and Public Works Director Rhodes led the Pledge of Allegiance.

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CHAIRMAN.

Chairman Kyger welcomed Dewey L. Ritchie, newly elected District Number 1 Supervisor, to the Rockingham County Board of Supervisors.

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APPROVAL OF MINUTES.

On motion by Supervisor Chandler, seconded by Supervisor Wolfe-Garrison, and carried by a vote 5 to 0, voting recorded as follows: BREEDEN – AYE; CHANDLER – AYE; KYGER – AYE; RITCHIE – AYE; WOLFE-GARRISON – AYE; the Board approved the minutes of the regular meeting of October 28, 2020.

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PUBLIC HEARINGS.

Chairman Kyger called the Board meeting back to order at 6:00 p.m., and announced that the following ordinance amendments were withdrawn from the public hearing and would be rescheduled:

20-246, Amendment to Chapter 16 (Subdivision), Section 16-9, regarding division of a parent tract that is served by a pit privy; and

20-247, Amendment to Chapter 17 (Zoning), Table 17-806.01, Area, Setback and Height Standards; and Section 17-607, Supplemental Standards for Certain Land Uses - Dwelling, accessory

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PUBLIC HEARING – REZONING.

Chairman Kyger opened the public hearing at 6:30 p.m.

Director of Planning Dyjak reviewed the following rezoning request, noting that this rezoning was continued from the October 28, 2020 public hearing:

REZ20-138 Bluestone of Harrisonburg, LLC. (JVP Development and currently referenced as Ashby Centre), c/o Michael McGinnis, P.O. Box 300, Lyndhurst, VA 22952. Request to amend existing master plan and proffers to increase residential density from 384 to 730 units (133 ac). Existing Zoning R-5C & B-1C. Situated approximately ¼ mile south of Covenant Drive, directly west of South Main Street, and north of Pike Church Road (VA 701). Tax Map Parcels 123-(A)-L118, L118A, L118B totaling 107.35 acres of 132.987 acres. Election District 2.

Supervisor Wolfe-Garrison indicated that because of issues with the public notice, this rezoning needed to be continued from the October 28, 2020 Public Hearing. She noted citizens attended the October 28th meeting in support of the rezoning. She requested that anyone in the audience who did not attend the October 28th meeting or had additional information to provide, be allowed to speak.

The representatives of the applicants were present.

Neal Sacra indicated he was not at the October 28th public hearing, but he knows about the project. He asked that the Board deny the request to add acreage to the already-approved request. Mr. Sacra stated that according to the *Daily News-Record*, the applicant purchased property many years ago and the Board approved the applicants’ rezoning based on their request. He did not know if the additional acreage in the current rezoning request was purchased at the same time or later. Mr. Sacra stated, if the applicant purchased the property in the current request later, the Board should not approve another parcel to increase the density of housing.

Mr. Sacra said, when the applicant purchased the land they currently want approved after the original request was approved, they should not have assumed that parcel would be

approved as well. He said the public knows the County will grow and citizens invite individuals and families to come to the County and stay. However, Bluestone of Harrisonburg, LLC offers rentals, whose occupants are more transient, younger with young family members and lower incomes. He said many apartments are being built in the area and he thinks there are plenty of apartments in Harrisonburg and the surrounding areas. Mr. Sacra noted that the apartments may be rented by college students. Mr. Sacra said the developer may not hire local contractors, and the housing will be erected rapidly. There will be increased expenses for fire and rescue, law enforcement, schools, and roads. He stated the development will add to the traffic congestion in that area.

Mr. Sacra said if the rezoning for the additional property is approved, that will open the County for other complexes and businesses, which will drive up land prices in the County. He asked the Board to consider denying the current Bluestone of Harrisonburg, LLC rezoning request; stating they will not be able to develop the land at this time, or they can sell it. Mr. Sacra stated that if Bluestone of Harrisonburg, LLC wants to do something positive with the property, instead of building apartments or townhouses, he said they should build single family homes where people will come and stay.

Attorney Todd Rhea spoke on behalf of the applicant, noting that the Planning Commission and Board of Supervisors held lengthy public hearings. He noted the land is zoned correctly, and no acreage has been added to the original development since it was rezoned in 2009. Mr. Rhea said this parcel of land contains more open space reserve designed to be more usable open spaces where residents will want to continue living. He noted everyone is frustrated with the traffic congestion near the I-81, Exit 243 interchange, but noted a year-long traffic impact study was conducted and analyzed by the County, City and VDOT. While the current development does not contribute funding toward road improvements, the current proposed rezoning application will contribute \$700,000 toward I-81, Exit 243 interchange improvements. Mr. Rhea also explained that agreements have been initiated which will potentially provide federal and state matching funds toward the Exit 243 interchange. He reiterated that the rezoning before the Board will greatly improve and enhance funding and opportunities for future funding in that area. This is an urban growth area, which will be preserved by adding density within this area and next to the city limits, to preserve the quality of life in Rockingham County. He stated the developer tried to tailor their request to address concerns.

Chairman Kyger indicated substantial VDOT funding is being provided for road improvements, with work on the stretch of I-81 through the City and County beginning in October 2024. Administrator King stated the total cost is expected to be \$360 million and the project will take about four years for that portion.

Chairman Kyger stated the I-81 improvements will be a phased-in project to allow schools and other County services to absorb the increased housing and population.

Mr. Rhea said if the project is approved, with the site planning issues involved and phasing incorporated into the proffers, it will take a minimum of eight years to complete the project, and it will likely be a 10 to 12 year build-out project.

Ms. Cooper indicated the current Bluestone of Harrisonburg, LLC project will have substantially less trip generation than the proposal approved in 2009. Mr. Rhea noted the trip generation is 50 percent less. The property, as currently zoned, will transition more area away from commercial, preserve more open area and convert some of the commercial area to residential, which will generate substantially less traffic than what could be built there under the current zoning.

Supervisor Ritchie asked if the proffers remain with the land if it is resold or if a new landowner could change the proffers. Ms. Cooper stated proffers are considered part of a legislative action and become the zoning of the property. Therefore, if this proposed rezoning is approved with the proposal to amend the master plan, the new proffers will replace the old proffers. Ms. Cooper stated there are substantial transportation improvements with this rezoning that were lacking in 2009.

In response to a question from Supervisor Ritchie regarding more density with this proposal than with the 2009 rezoning, Ms. Cooper indicated the market can no longer support the big box commercial stores proposed in the 2009 rezoning. The increased number of housing units not only generates less traffic than big box stores, it increases the ability to fill the need in the market for more affordable housing. Ms. Cooper indicated housing is being sold rapidly in the area and, in many cases, purchasers are paying more than the asking price, so there is a need in the market for housing.

Mr. Rhea explained that the proposed development is a mix of housing, which will include rentals and homes for sale, as well as housing for the aging population. Although apartments have bad reputations, Mr. Rhea said it is inaccurate to characterize them under one broad heading, as most renters do not move in and out frequently; many of them live in the same rental for years.

REZ20-254 Faraway Farms, Inc., c/o Keith Sheets, P.O. Box 336 McGaheysville, VA 22840. Request to retain the R-5C zoning district with revised Overbrook subdivision Master Plan to alter layout and allow up to 230 total dwelling units (62 additional units) without amending existing proffers. Situated west side of Power Dam Rd. (Rt. 651) approximately 0.4 miles south of McGaheysville Rd. (Rt. 996). Tax Map Parcels 141-(A)- L137, portion of 142-(A)- L61A totaling 43.77 acres of 102.57 acres. Election District 5.

At 7:05 p.m., Chairman Kyger closed the rezoning public hearings.

Supervisor Wolfe-Garrison stated she was surprised by the density of Bluestone of Harrisonburg, LLC at first. After extensive discussions with staff and the applicant, she realized the use for the land, as proposed now, is more reasonable with a diverse range of available housing options. She has been assured that the developer builds quality houses.

Supervisor Wolfe-Garrison stated there is a need for housing at a lower socio-economic level than \$275,000, which is not sustainable for the majority of residents in the County. She is pleased that 20 percent of the development is required to be housing for people to age in place. Supervisor Wolfe-Garrison also stated she is more comfortable with the development occurring over a 10-year timeframe. She knows there is a need for housing, since homes in that area are listed for \$300,000 or more, and are not on the market longer than 24 hours.

Supervisor Wolfe-Garrison, made a motion to approve REZ20-138, Bluestone of Harrisonburg, LLC

Supervisor Chandler said he appreciates the developer addressing traffic congestion and willingness to provide money toward the improvement of the Interstate 81, Exit 243 exchange. He also likes the 20 percent age-in-place component, which encourages people to remain in their home long term. Supervisor Chandler seconded the motion to approve REZ20-138, Bluestone of Harrisonburg, LLC.

Supervisor Ritchie said he would abstain from the vote since he is new to the Board, is not familiar with the project and was not involved in the process for this rezoning request.

Carried by a roll call vote of 4 to 0 to 1, voting recorded as follows: BREEDEN – AYE; CHANDLER – AYE; KYGER – AYE; RITCHIE – ABSTAIN; WOLFE-GARRISON – AYE; the Board, subject to the following amended master plan and proffers, approved REZ20-138, bluestone REZ20-138, Bluestone of Harrisonburg, LLC (JVP Development and currently referenced as Ashby Centre), c/o Michael McGinnis, P.O. Box 300, Lyndhurst, VA 22952. Request to amend existing master plan and proffers to increase residential density from 384 to 730 units (133 ac). Existing Zoning R-5C & B-1C. Situated approximately ¼ mile south of Covenant Drive, directly west of South Main Street, and north of Pike Church Road (VA 701).

Tax Map Parcels 123-(A)-L118, L118A, L118B totaling 107.35 acres of 132.987 acres. Election District 2.

PROFFERED CONDITIONS:

1. Development of the Property shall be designed in general conformance with the Master Plan of Development associated with this rezoning request, as prepared by Monteverde Engineering & Design Studio and dated June 12, 2020 ("Master Plan").
2. Residential development on the Property shall consist of no more than 728 total combined residential units.
3. Business / Commercial zoned acreage in the Total Development shall be limited such that the Total Development will not generate Average Daily Traffic (ADT) for any given weekday exceeding 20,720 vpd. Total Development ADT shall be calculated and submitted as part of each approved commercial site plan within the Total Development, utilizing daily traffic counts, ITE Trip Generation rates (inclusive of internal capture deductions), or any combination thereof as deemed acceptable by VDOT and County Staff at time of site plan approval. Total Development as used in this Proffer shall include all residential plus commercial development inclusive of acreage located inside City limits (totaling 132.232 acres) analyzed as part of the Traffic Impact Analysis reviewed and approved by the City and VDOT prior to the date of this rezoning.
4. The primary entrance road (to be named later) and the extension of Emmaus Road (Route 1131) shall be designed and dedicated for public ownership, use and maintenance. Such dedication shall occur following completion of construction and subsequent VDOT acceptance. All other roads on the Property may be private or public at the option of the Developer.
5. A shared-use path shall be constructed along the primary entrance road between South Main Street (U.S. Route 11) and the duplex section of the residential development, as generally depicted on the Master Plan. The shared-use path may be located on HOA or POA (non-public) property, but shall not be restricted against public usage.
6. Common areas shall be improved, concurrent with immediately adjacent units, by a combination of hardscaped pathways, landscaped areas, and other amenities as follows:
 - a. Park A, measuring at least 3.0 acres in area (inclusive of stormwater management facilities), shall include a 10'-wide, hard-surfaced trail circumnavigating the stormwater management pond and connecting to adjacent sidewalks and/or shared-use path, a minimum of six (6) benches or comparable seating options, a minimum of three (3) picnic tables, and plantings to include a minimum of twelve (12) large deciduous shade trees and six (6) ornamental trees. Trees shall be in addition to street trees associated with Proffer #7.
 - b. Pocket Parks B and C, each measuring at least 7,000 square feet in area, shall each include a 5'-wide, hard-surfaced trail connecting roadside sidewalks and/or shared-use path, a minimum of two (2) benches or comparable seating options, and plantings to include a minimum of one (1) large deciduous shade trees and three (3) ornamental trees. Trees shall be in addition to street trees associated with Proffer #7.
 - c. Park D, measuring at least 1.0 acre in area (inclusive of stormwater management facilities), shall include a 5'-wide, hard-surfaced trail connecting residential parking areas to the shared-use path, a minimum of four (4) benches or comparable seating options, and plantings to include a minimum of eight (8) large deciduous shade trees and four (4) ornamental trees. Trees shall be in addition to landscaping requirements for parking areas, as outlined in the County Zoning Ordinance.
 - d. Additional amenities located in the apartment section shall be scaled as generally shown on the Master Plan and shall include, at a minimum, two (2) multi-purposed turf lawns, a playground, and varied seating options.

- e. Portion of property located north of the existing power line easement, labeled as "Forest I Open Space" on the Master Plan, shall be preserved as passive, non-planned open space in order to provide viewshed protection.
7. Street trees shall be provided along the primary entrance road and the extension of Emmaus Road at the minimum rate of one (1) tree per seventy-five (75) linear feet of roadway frontage, and along residential and commercial side streets at the minimum rate of one (1) tree per one hundred (100) linear feet of roadway frontage.
8. At least ten per cent (10%) of commercial development area located within the Property shall be common area, as defined in Sec. 17-700.02 of the Rockingham County Code of Ordinances at the time of this rezoning.
9. Commercial lots with frontage on the primary entrance road and/or the extension of Emmaus Road shall allow for no more than one (1) parking bay to be located between the building and the public roadway. Primary structures on these lots measuring greater than one hundred fifty (150) feet in length, measured horizontally along frontage, shall have facades broken into smaller planes limited to fifty (50) feet in width via incorporation of landscaping, wall plan projections or recesses, arcades, display windows, entry areas, etc. Such structures shall also incorporate varied roof lines through the use of eaves, parapets, pop-outs, entrance features, height variations, etc.
10. Bus stops, serving both school system(s) and public transportation services, shall be placed in strategic locations throughout the Property, if/as deemed acceptable by the governing transit authority at the time of site plan approval.
11. Up to fifty (50) linear feet of Right-of-Way (R/W) along Pike Church Road (Route 701), measured from roadway centerline, shall be dedicated to VDOT within 180 days of request. Dedication shall be conditional upon affiliated roadway widening project being placed upon the approved VDOT 6YP and/or Rockingham County Capital Improvement Program in advance of request.
12. An initial residential portion of development of the Property ("Phase I"), containing up to 236 residential units, may be accessed exclusively onto Pike Church Road without public roadway improvements. Phase I may only be modified to add additional units above 236 residential units if an amended TIA, approved by VDOT and Rockingham County Staff, adequately shows that such modified development is reasonably accommodated by existing roadway infrastructure, or is accompanied by mitigation measures or improvements deemed necessary under the amended TIA and provided at the sole cost to the Developer. Absent an amended TIA, roadway improvements associated with Proffered Conditions #12-#14 shall be provided by the Developer in advance of the issuance of building permits for any development of the Property beyond the 236 Phase I residential units, or at such later time as dictated by the terms of each specific Proffer.
13. Prior to the opening of the Emmaus Road extension and connection to Covenant Drive as shown on the Master Plan, Covenant Drive (Route 1130) shall be re-stripped to accommodate a westbound left-turn lane at its intersection with Emmaus Rd. The turn lane shall measure a minimum of 100 linear feet of storage plus 100 linear feet of taper, or as otherwise acceptable to VDOT and Rockingham County Staff at time of site plan approval for Emmaus Road extension construction.
14. A right-turn lane, conforming to VDOT minimum standards or as otherwise deemed acceptable by VDOT and Rockingham County Staff at time of site plan approval, shall be provided to serve the eastbound West Mosby Road approach to its intersection with Pike Church Road.
15. The Developer shall contribute \$700,000.00 towards improvements to the intersection of South Main Street and the 1-81 Exit 243 Ramps, or to the Exit 243 Interchange, or any combination thereof ("Interchange Improvements"). The Developer contribution shall be made in the amount of \$3,000 at the time of the sale or issuance of a building permit for any residential lot within the Property until an aggregate amount of \$700,000

is contributed by Developer as provided in this Proffer. An equivalent Developer contribution based upon relative traffic counts shall be placed into escrow in the event any commercial lots are sold or building permits issued for commercial lots on the Property up to the \$700,000 aggregate Interchange Improvements contribution amount.

The Developer contributions shall be placed and held in a non-interest bearing escrow account under joint control of the City and Developer until such time that City is able to utilize the funds for the stated Interchange Improvements purpose. If engineering or construction on the aforementioned Interchange Improvements has not commenced within twelve (12) years of deposit, the contribution shall be released and returned to the Developer in full. Treatment of escrow is further described in the associated "Exit 243 Interchange Cost Contribution and Escrow Agreement" dated September 30, 2020.

16. In order to accommodate aging in place, a minimum of twenty percent (20%) of all single-family attached *I* duplex units, to be designated and enumerated on associated site plans, shall incorporate the following accessibility design principles:
 - a. At least one (1) no-step path to a no-step entry to the main level of domicile (<1/2" thresholds shall not be considered "steps"). If ramps are to be used, a landing area in front of doorway shall meet minimum ADA requirements for maneuvering clearance.
 - b. All doorways providing entry/egress and/or room-to-room access measuring at least 36".
 - c. All hallways providing at least 42" of clear passage.
 - d. Clear floor space measuring at least 30" x 48" in front of all appliances, fixtures , and cabinetry.
 - e. At least one bedroom on main level.
 - f. At least one bathroom on main level with a walk-in shower or tub.
17. The applicant will place phasing restrictions on the Phase I and future single family attached and detached development of the Property at no more than sixty (60) townhome, duplex or single family residential structure building permits to be issued for construction on the property during any twelve (12) month period commencing on the date the first building permit(s) for such residential structures are issued for the project. Each consecutive twelve (12) month period starting with the date of the issuance of the first building permits for the project shall be called a "Phased Permitting Period." This phasing restriction will be subject to the following exceptions:
 - a. In any two (2) of the consecutive Phased Permitting Periods duriing the phased build-out of the project, the applicant shall have the option to increase the number of issued permits by twenty (20) for a total of eighty (80) in two of the Phased Permitting Periods during project development.
 - b. In any of the Phased Permitting Periods where there are less than sixty (60) building permits issued for residential structures on the property, applicant or its successors may carry forward a maximum of twenty (20) unissued permits from the previous Phased Permitting Period to the next permitting period for a maximum of up to eighty (80) permits issued in the Phased Permitting Period for which the unissued permit allocations are carried forward.
 - c. Applicant shall not carry forward unused permit allocations in any Phased Permitting Period as provided in section "b" in which it elects to utilize its increased allocation under section "a" above.

The phasing and permit restrictions provided in this Proffer specifically exclude permits for any apartments developed on the Property, in that area of the Master Plan designated for apartments lying east of the future extension of Emmaus Road.

