

**A. COMPREHENSIVE PLAN AMENDMENT  
ANTHONY W. AUSTIN**OPENING STATEMENT

This public hearing is held pursuant to § 15.2-2204, Code of Virginia, 1950, as amended to receive public comment on a request by Anthony Austin, owner, requesting a change in the Comprehensive Plan designation from Agriculture/Forestry/Open Space/Rural Residential to Commercial for approximately 0.5 acres of a 1.505 acre tract. The parent tract is located on Barrow Road (Rt. 658) approximately 1,500 feet west of its intersection with Meherrin Road (Rt. 35). The property address is 22419 Barrow Road, Capron, VA 23829. The applicant seeks to establish the Austin Cycle Company on the site, using an existing garage building. The residential use on the remainder of the site would remain. The property is know as Tax Parcel 74-8C and is located in the Capron Voting District and the Capron Magisterial District.

The notice of this public hearing was published in the Tidewater News on April 10 and April 17, 2011 and all adjacent property owners were notified in writing by first class mail as required by law.

After conclusion of this public hearing, the Board of Supervisors will consider the comments offered this morning and may act upon the matter or defer action until such time as it deems appropriate.

**MOTION REQUIRED:** A motion is required to accept the Planning Commission recommendation and amend the Comprehensive Plan.

**CPA 2011:01**

Anthony W. Austin, owner

Application Request: Comprehensive Plan Amendment

**IDENTIFICATION AND LOCATION INFORMATION**

Current Comprehensive  
Plan designation: Agriculture/Forestry/Open Space/Rural Residential

Requested Plan  
Designation: Commercial

Current Zoning: A-1, Agricultural

Acreage: Parent parcel - 1.505 acres  
Area proposed for amendment - 0.5 acres MOL

Proposed Use: Automotive/truck/ATV/motorcycle/farm equipment  
repairs, tires and muffler sales and installation

Tax Map No.: 74-8C

Location: 22419 Barrow Road, Capron. The tract is on the north  
side of Barrow Road (Rte 658) approximately 1,500 feet  
west of its intersection with Meherrin Road (US 35).

Magisterial District: Capron

Voting District: Capron

Adjacent Plan  
designations: North: Agriculture/Forestry/Open Space/Rural  
Residential  
South: Ag/Forestry/OS/RR  
East: Ag/Forestry/OS/RR  
West: Ag/Forestry/OS/RR

Adjacent Land Use: North: Agriculture  
South: Agriculture  
East: Agriculture  
West: Applicant's residence, agriculture

## **LAND USE ANALYSIS**

### Overview

The property is in the Capron area. The applicant seeks to amend the Comprehensive Plan designation of approximately 0.5 acres of his 1.5 acre lot from Agriculture/Forestry/Open Space/Rural Residential to Commercial so as to be able to use an existing garage on site for his business that is now located in Courtland, the Austin Cycle Company. He plans to provide automobile, motorcycle, ATV, truck, lawnmower, and farm equipment repairs, and sell and install mufflers and tires. The accompanying request for a zoning map amendment includes the conditions the applicant has offered in conjunction with the operation of the business.

### Site Topography and Characteristics

The property in whole is now used as a residence with a detached shop/garage building. The applicant will continue to use the residence, and the current garage/shop will be used for the planned business. The property is fairly flat, and surrounded by agricultural uses.

### Transportation

The property is accessed by Barrow Road, a two-lane State maintained secondary roadway. One driveway from Barrow Road serves both the residence and the garage/shop building. Southampton County has forwarded the request to VDOT for review and comment.

### Environmental

A survey provided by the applicant indicates that the property is not within a flood zone. The property is now being used as a residence and therefore has been cleared of vegetation except for a wooded area at the rear of the parcel.

### Utilities

The property is served by existing overhead lines for electricity, and private water and sewer systems.

### Community Comments

None received.

## **CONCLUSION**

### Strengths of application:

- The size of the requested amendment, a half-acre, may not permit a business of a size large enough to negatively impact the surrounding agricultural properties.

- The closest residence is over 1,700' from the subject property.
- Repair shops, especially farm equipment repair as listed in the accompanying zoning map amendment request, may be considered as an appropriate use in an agricultural area. In fact, were the repairs performed at the shop limited to farm equipment, the business could operate as a home occupation and require no Comprehensive Plan or zoning map amendment.

Weaknesses of application:

- Although the applicant operates an existing business and is known in the community, and the accompanying zoning map amendment restricts the business to the conditions supplied, a Comprehensive Plan amendment would permit a different owner, with a different business approved through the Conditional Use Permit process, to operate on this site in the future. Unlike the zoning map amendment process, there is no Conditional Use Permit process for Comprehensive Plan amendments.
- This would be a departure from the Comprehensive Plan in that all other properties with a Commercial plan designation are confined to Planning Areas.

**SUPPORT INFORMATION AND ATTACHMENTS**

- 1) Staff Analysis
- 2) Application
- 3) Notification of adjacent landowners
- 4) Site map

Sign posted 4/18/2011

Letters mailed 4/15/2011

Legal ad Tidewater News 4/10/2011, 4/17/2011

**PLANNING COMMISSION ACTION**

Chairman Edwards announced that the first public hearing was to consider the following:

Request by Anthony Austin, owner, requesting a change in Comprehensive Plan designation from Agriculture/Forestry/Open Space/Rural Residential, to

Commercial for approximately 0.5 acres of a 1.505 acre tract. The parent tract is located on Barrow Road (Rt. 658) approximately 1,500 feet west of its intersection with Meherrin Road (Route 35). The property address is 22419 Barrow Road, Capron, VA 23829.

Mrs. Beth Lewis, Secretary, advised that the owner was seeking the change in Comprehensive Plan designation to enable him to relocate his business, Austin Cycle Company, from Courtland to an existing garage on his residential property in Capron. He planned to provide automobile, motorcycle, ATV, truck, lawnmower and farm equipment repairs, and to sell and install mufflers and tires. The subsequent request for a zoning map amendment (which was the subject of the next public hearing this evening) included conditions the applicant had offered in conjunction with operating the business.

Chairman Jones opened the public hearing.

Mr. Michael Evans spoke. He advised that he had been a friend of "Wayne" Austin, owner/applicant, for over 30 years. They had been riding Harley Davidson's together for that long. Wayne used to live next to him in Suffolk for about 6 years. He had been an asset to Southampton County, Franklin, and Suffolk. He had always gone above and beyond to help people in anything they may need – be it mechanical, motorcycles, farm equipment, welding, machine work or whatever. Anything you could think of that needed to be fixed, that man could fix it. He would be an asset to the people, especially farmers, out in that area of the County, even after hours. After everyone else had closed their doors at 5:00, Wayne was always open to help. If a farmer's tractor broke down in the field in the middle of the night and they didn't know where to turn, Wayne would get them out of a bind. He was always willing to help any and everybody. He asked the Commission to give him a chance to make his business work in that location.

Secretary Lewis pointed out that the Agricultural, A-1 zoning district permitted farm equipment repair as a home occupation. So if Mr. Austin's business was limited to farm equipment repair, we wouldn't be here tonight.

Mr. Harvey Hubbard of Sedley spoke. He stated that he had known Wayne for quite a while. He understood the Comprehensive Plan, but if Wayne wasn't allowed to relocate his business from Courtland to the subject property, the County may lose a business. With the economic situation, the County could not afford to do that. Wayne helped everybody – not just motorcycle riders. His door was always open. He was a true asset to the County.

Mr. Anthony "Wayne" Austin, owner/applicant, spoke. He stated that he was under the impression that this was a conditional rezoning.

Secretary Lewis clarified for Mr. Austin that this was a 2-step process. The first step was a Comprehensive Plan amendment, and the second step was the conditional rezoning amendment.

Mr. Austin commented that the previous gentlemen who spoke had talked enough about him – he was not going to toot his own horn.

Vice-Chairman Barham asked how many people did he employ? Mr. Austin replied one currently, but he had 2 more in the wings to operate the business during regular daylight business hours.

Mr. Austin clarified for Commissioner Drake that he had not yet relocated his business from Courtland. He noted that he had done a lot of internal improvements to the existing garage on his residential lot in Capron in anticipation of relocating the business there.

Commissioner Drake stated that Mr. Austin had worked on his children's 4-wheelers on numerous occasions. He didn't realize all the other work that Mr. Austin did. He asked Mr. Austin if he indeed would be willing to do work on farm tractors and pickup trucks? Mr. Austin replied absolutely – just as he had always done in Courtland.

Chairman Edwards asked what percentage of farm equipment and what percentage of motorcycles did he typically work on? Mr. Austin replied about 50/50.

Commissioner Chesson advised that he was not clear as to what portion of the parcel we were considering. He confirmed with Secretary Lewis that the ½ acre they were considering would not include the house.

Commissioner Tennessee asked if the next step was a straight rezoning? Secretary Lewis replied no – it was a conditional rezoning, and Mr. Austin had provided specific conditions. Commissioner Tennessee stated that he thought Mr. Austin was an asset to the community.

Commissioner Chesson stated that Mr. Austin had a good reputation and he was certain he would have a neat and clean shop. However, if the property changed hands, there could be problems. From an aesthetics standpoint, he thought we needed some requirements.

Chairman Edwards advised that he was looking at the map of the property included in the agenda and it did not indicate where the ½ acre they were

considering was located on the property. He could not see approving this application until we determined that.

Mr. Austin drew a line on the map showing where the ½ acre was located.

Mr. Richard E. Railey, Jr., County Attorney, advised that Mr. Austin's drawing of the line on the map was acceptable.

Chairman Edwards stated that spot zoning was ok if it was needed and it benefited people.

Commissioner Jones noted that we would be keeping a valuable business in the County.

Chairman Edwards closed the public hearing.

Vice-Chairman Barham moved, seconded by Commissioner Harrell, to recommend amending the Comprehensive Plan accordingly. All were in favor.