

Clarke County

PLANNING COMMISSION BRIEFING MEETING MINUTES TUESDAY, AUGUST 30, 2016



A briefing meeting of the Planning Commission of Clarke County, Virginia, was held at the Berryville/Clarke County Government Center, Berryville, Virginia, on Tuesday, August 30, 2016.

ATTENDANCE

Present: George L. Ohrstrom, II (Chair); Anne Caldwell (Vice Chair); Robina Bouffault; Mary Daniel; Scott Kreider; Douglas Kruhm; Frank Lee; Gwendolyn Malone; Cliff Nelson; and Jon Turkel.

Absent: Randy Buckley

Staff Present: Brandon Stidham, Planning Director; Ryan Fincham, Senior Planner/Zoning Administrator

CALLED TO ORDER

Chair Ohrstrom called the meeting to order at 3:00PM.

AGENDA

Mr. Stidham requested to add a new item under "Other Business" – an update on the August 24 Telecommunications Subcommittee meeting. Members approved the agenda by consensus with the new item.

Mr. Fincham began the review of the September 2 meeting items with an overview of the Wine/Flaherty minor subdivision request (MS-16-05). He noted that the Commission deferred action on this request at the July meeting because the Virginia Department of Transportation (VDOT) had not provided comments and indicated that there might be issues with sight distance for the proposed driveway entrances. VDOT has since provided comments noting that four trees located on adjacent County-owned property will need to be removed by the applicants in conjunction with the entrance permit issuance. Ms. Bouffault asked how soon the applicants intended to build on the lots. Mr. Fincham replied that a lot will be deeded to one of the applicants' children and that a home is planned for construction in the near future. Mr. Fincham concluded by recommending approval of the plat conditioned upon removal of the four trees prior to issuance of a VDOT entrance permit.

Mr. Fincham reviewed the Harris/Schaffer minor subdivision request (MS-16-06). He noted that the parcel is located in both Clarke and Loudoun Counties, is taxed entirely in Loudoun County, and does not have a Clarke County tax map number. He said the Loudoun County portion of the parcel contains a home and the applicants propose to subdivide the parcel along the county line, resulting in

the Clarke County portion of the lot being a building lot. After consultation with the County Attorney, it was determined that the minor subdivision process is the best approach to establishing the proposed Clarke County parcel as a building lot with a dwelling unit right (DUR). Mr. Fincham noted that Loudoun County has provided a number of comments on the plat, all of which are directed to the applicant's surveyor and do not impact Clarke County's review of the plat. Since the plat is intended to be recorded in both counties, the applicants and their surveyor will have to resolve Loudoun County's concerns before the plat may be recorded there. Mr. Fincham concluded by recommending approval of the plat conditioned upon removal trees noted by VDOT prior to issuance of a VDOT entrance permit. He added that he does not recommend conditioning approval upon resolution of Loudoun County's concerns as those issues do not impact Clarke County's review.

Mr. Stidham noted that the key issue in this request is that the parcel was never assigned a Clarke County tax map number or allocated a DUR. The approach taken with this request will establish a process that can be followed in the event that this situation arises in the future. He noted that the proposed lot in this request meets the minimum lot size requirement for the FOC District. If a similar situation arises in the future where the proposed Clarke County parcel does not meet minimum lot size requirements, the Planning Commission could deny the minor subdivision request on these grounds and refuse to recognize a DUR. Ms. Caldwell recommended creating ordinance language to address these situations.

Mr. Fincham reviewed the Gregory/Cornwell minor subdivision request (MS-16-07), noting a recommendation for approval without conditions. Members had no questions about this request.

Mr. Fincham discussed the request for addition of an 11.61 acre parcel to the Clarke County Agricultural & Forestal District (AFD). He said that this is the first application received to add land to the AFD during the District term since the ordinance was amended to allow such applications per State code requirements. He noted that the parcel meets the requirements for inclusion in the District and that the AFD Advisory Committee voted to recommend acceptance of the parcel at their meeting on August 25. Staff is requesting the Commission to set public hearing for the October 7 meeting. Mr. Ohrstrom asked if the parcel was eligible for the land use taxation program and Mr. Fincham replied that they are already in the land use program. Mr. Fincham added that the Commissioner of the Revenue confirmed that they are producing crops and raising cows. Ms. Daniel asked if there is a deadline for the Commission to act on the application. Mr. Stidham replied that the annual review process is set up to receive applications annually by July 1 with the review process to be completed by the fall. He noted that this process and timeline can be adjusted if necessary.

Mr. Stidham reviewed the proposed text amendment for public hearing – addition of farm distilleries as a permitted use in the AOC and FOC Districts and use of waterworks by farm breweries, farm wineries, and farm distilleries. He provided information on two requests from the Commission that were made at the July meeting. Regarding food service at farm wineries, farm breweries, and farm distilleries, he reviewed two Memorandums of Understanding between the Virginia Department of Health (VDH) and the Virginia Department of Agriculture and Consumer Services (VDACS) regarding regulating food preparation and service at these facilities. He said that VDACS regulates the serving of food that is either prepackaged or requires limited preparation such as cutting, slicing, or reheating. Any food service above this level is regulated by VDH as a restaurant. For the

purposes of regulating food service at these facilities through the Zoning Ordinance, Planning Staff allows only VDACS-regulated activities as restaurants are only allowed in the AOC and FOC Districts in conjunction with a country inn special use permit.

Commissioners also asked whether minimum lot size requirements may be imposed on farm wineries, farm breweries, and farm distilleries. Mr. Stidham discussed this with the County Attorney who noted that minimum lot sizes may be imposed but must be reasonable and take into consideration the economic impact on these facilities per State law. Mr. Stidham said that aside from minimum lot size requirements for keeping livestock on small residential parcels, there are no other minimum lot size requirements for agricultural uses in the Zoning Ordinance.

Mr. Stidham stated that Staff recommends approval of the text amendment and that public hearing is scheduled for Friday.

Old Business Items

Mr. Stidham stated that Item 3a is a report-out by the Business Intersection Area Plans Subcommittee (Ms. Bouffault, Ms. Caldwell, and Ms. Malone) on the draft revisions of the Waterloo Area Plan and the Double Tollgate Area Plan. He provided an overview of both revised drafts and the process followed by the Subcommittee over the previous months. He noted that Staff is asking the Commission to ask questions about the drafts and determine whether they are ready to set public hearing, would like to conduct informal outreach efforts, or have the Subcommittee perform additional work on the drafts.

Regarding the Waterloo Area Plan, Mr. Kruhm asked if Len Capelli could be added to the acknowledgments page, and Mr. Stidham noted that he is listed under staff representation for the Subcommittee. Mr. Kruhm also referenced a typo on Page 1 (“be” instead of “by”), and asked for confirmation that the language for “noncommercial telecommunications antennae” listed on Page 4 is correct. He also asked whether firearms sales are allowed in other districts, and Mr. Stidham replied that he believed they are limited to the Highway Commercial District but can be approved on a limited basis as a home occupation. Mr. Kruhm also noted that it seems traffic is increasing at the Waterloo intersection and asked about VDOT’s methodology for traffic counts. Mr. Stidham believes that traffic issues may be limited to peak periods during the day.

Mr. Turkel asked about coordinating updates of the Comprehensive Plan with updates of these two component plans. He suggested removing the year reference for the Comprehensive Plan to avoid confusion as to which version of the Comprehensive Plan the component plans refer since reviews will be taking place every five years. Mr. Stidham said that he would make that change. Mr. Turkel also noted that in reading the history section it was confusing as to whether it was being provided for information or if it is included because it is updated. He added that it raises the question whether the old information is out of date and needs to be revised or whether it is still valid to use in basing the revised Plan. Ms. Bouffault suggested adding a heading, “Historical Evolution,” for clarity purposes. Mr. Stidham said that he can include text to explain why the history is included in the Plan and how it sets the stage for the new goals and objectives.

Ms. Bouffault noted that one of the recommendations included in the revised drafts is to set aside funding for broadband improvements such as laying fiber optic cable. This would be similar to the Board's practice of setting aside funding for future school construction projects. She added that without good telecommunications we cannot have economic development.

Mr. Stidham concluded his presentation by discussing the original assumptions upon which the Double Tollgate Area Plan was based, noting that they have not been met which supports designating the intersection as a deferred growth area. Mr. Stidham asked the members how they would like to proceed with the revised drafts. It was the consensus to add the drafts to the regular meeting agenda to schedule public hearing for the October 7 meeting.

New Business Items

Mr. Stidham discussed Item 4a, a request from the Board of Supervisors to evaluate agricultural business uses that are allowed only in the Highway or Neighborhood Commercial Districts and whether they should be allowed in the AOC District – either by permitted or special use. The Board also requested evaluating limiting such uses to properties with direct access to primary highways. He noted that this issue was discussed by the Subcommittee in updating the Waterloo and Double Tollgate Area Plans, and is being discussed by the Agricultural Land Plan Subcommittee. He also reviewed a summary of how agricultural uses are addressed by the Zoning Ordinance as a guide for the Commission to use in discussing these issues. He noted that Staff's practice of evaluating uses is relevant to this discussion – if a use is specifically listed in one district and excluded in other districts, it is considered a prohibited use in those other districts. Staff does not try to fit requests under the scope of similar uses if the use is otherwise clearly defined.

Mr. Stidham asked if this should be forwarded to the Policy Committee or addressed by the full Commission. It was the consensus of the members to address this in briefing meetings as the full Commission. Mr. Stidham said that for the next meeting he will try to bring information on recent pertinent text amendments that were made to the uses. Ms. Bouffault asked for a list of the by-right and special uses in these districts for comparison. Mr. Stidham said that he would provide this for the AOC, CH, and CN Districts. Mr. Kreider asked if Anderson's Nursery is in compliance with the Zoning Ordinance and Mr. Fincham discussed the current compliance issue regarding tractor sales at that facility.

Going back to the Double Tollgate Area Plan review, Mr. Turkel stated that one of the original policies was to consider rezoning the Department of Corrections property to Highway Commercial. He said that this is an example of the need to explain whether the historical policies and recommendations are still valid or need to be updated, as most will want to know what the Plan's current policies are rather than historical information on the Plan.

Returning to discussion of the agricultural business uses, Mr. Stidham said that from an economic development perspective you may not want to assign businesses as special uses and instead rely on site development plan requirements to control development. Mr. Lee asked Mr. Stidham what is considered to be "reasonable" in the context of the new laws on rezoning proffers. Mr. Stidham replied with his interpretation on the new proffer laws and how it impacts the way that Clarke County addresses rezoning requests.

Other Business

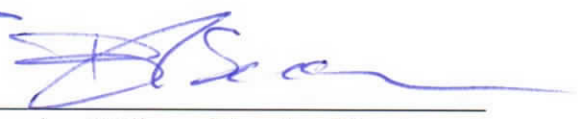
Mr. Stidham reported that the Agricultural Land Plan Subcommittee will meet on October 4 after the Briefing meeting. He added that they may want to invite the Subcommittee members to attend for the discussion on the agricultural business uses since it is relevant to their work. He said that a first draft of the Plan may be ready for the meeting but the goals, objectives, and strategies will definitely be ready. Mr. Stidham also noted that the Commission will be seeing a text amendment in the near future to remove the Stormwater Ordinance references from the Zoning and Subdivision Ordinances. This will be in response to the repeal of the County Stormwater Ordinance being considered by the Board of Supervisors in September.

Mr. Stidham also provided a recap of the August 24 Telecommunications Subcommittee meeting, noting that the County's consultant George Condyles discussed his work plan and the completed study in detail with the members. He said that the consultant should be finished with the study by early October and that he is also assisting with the text amendment language. Ms. Bouffault requested copies of Mr. Condyles's initial coverage map to be provided to the Commissioners.

The meeting was adjourned by consensus at 4:12PM.



George L. Ohrstrom, II (Chair)



Brandon Stidham, Planning Director