

# Clarke County

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## PLANNING COMMISSION BRIEFING MEETING MINUTES TUESDAY, OCTOBER 4, 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, October 4, 2016.

### ATTENDANCE

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

**Absent:** Frank Lee

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

**Others Present:** Corey Childs (AFD Advisory Committee), Emily Day (AFD Advisory Committee), Cathy Kuehner (Winchester Star)

### CALLED TO ORDER

Chair Ohrstrom called the meeting to order at 3:01PM.

### AGENDA

The members approved the agenda by consensus as presented.

Mr. Stidham began the review of the October 7 meeting agenda by referencing the minutes from the September briefing and regular meetings, asking the members to advise Staff of any changes or corrections that may need to be made. He stated that there are three scheduled public hearings – one for the addition of land to the County's Agricultural and Forestal District (AFD) and two hearings for the revised draft Waterloo and Double Tollgate Area Plans.

Regarding the request to add land to the AFD, Mr. Fincham reported that there have been no changes to the proposal or comments received since the Commission's September 2 meeting.

Regarding the public hearings on the Waterloo and Double Tollgate Area Plans, Mr. Stidham noted the draft motions provided in the cover memo for the Commission to take action on the revised Plans. He reviewed the changes to the Waterloo Area Plan Introduction that were requested by the members in order to provide better connectivity between the historical information provided in Chapter I with the new Goals, Objectives, and Strategies included in Chapter II. He said that a similar change was

made to the Introduction in the Double Tollgate Area Plan along with new language added to Page 19 to further emphasize that Double Tollgate is intended to be a “deferred growth area.”

Chair Ohrstrom asked for clarification on what a “deferred growth area” means. Mr. Stidham replied that we will continue to identify Double Tollgate as a growth area but because the growth assumptions that were established when the Area Plan was originally written have not been met – Lake Frederick has not reached build-out, there is no available public sewer capacity from Frederick County, and actual traffic counts are below projected numbers -- no further action is recommended on the area until growth triggers occur. He added that we will be able to track changes on a more frequent basis with the Area Plans being evaluated every five years. Ms. Bouffault asked when the Commission will have an opportunity to re-evaluate the growth area. Mr. Stidham replied that the five-year Comprehensive Plan review will be one point and that it will occur before the five-year Double Tollgate Area Plan review is scheduled to take place.

Mr. Stidham reminded the members that separate public hearings will be conducted and that separate motions will need to be passed in order to take action on the revised Area Plans.

### **Old Business Items**

Mr. Stidham began the continued discussion of the agricultural business uses item by recapping the Board of Supervisors’ request. He also presented the reference materials provided by Staff including charts showing allowed uses in the AOC, Highway Commercial, and Neighborhood Commercial Districts in the current Zoning Ordinance and in the 1994 Zoning Ordinance. He also reviewed a list of text amendments considered since 1997 that impacted these uses.

Chair Ohrstrom asked about the 1994 use, “shops for welding, blacksmith, tinsmith, woodworking,” and how these are allowed now. Mr. Stidham replied that you can operate these uses as home occupations so long as the limitations of those uses can be met, but you cannot operate this use as a standalone business without a home occupation.

Mr. Kruhm said that he recently participated in the Artisan Trail tour and noted that there are a lot of shops and studios throughout the AOC and FOC areas of the County. He added that it was interesting to look at these businesses from a commissioner’s perspective and note impacts such as VDOT entrance compliance. He said that businesses do not appear to be operating consistently within the current regulations. Mr. Stidham said that since the mid-1990s, the County has greatly improved the site plan regulations and that the Commission could consider requiring site plan review and Commission approval if there is interest in adding business uses to the AOC District. Mr. Kruhm asked how nonconforming businesses are addressed. Mr. Stidham replied that the Zoning Ordinance limits how much a nonconforming business can expand and also allows for nonconforming status to be lost if the business is discontinued for two or more years. Mr. Turkel asked Mr. Kruhm if the businesses he referenced were home occupations or free-standing businesses. Mr. Kruhm said that the majority were probably home occupations. Mr. Stidham said that compared to other localities, we provide significant latitude for home occupations to be conducted.

Ms. Bouffault asked about the 1994 commercial stables use and how they are viewed under the current ordinance. Mr. Stidham said that they are considered to be by-right agriculture. Mr. Kreider

asked about the special use for “small scale processing of fruit and vegetables.” Mr. Stidham said that there is one example – the tomato processing facility on Wrights Mill Road. Ms. Bouffault asked for clarification on “farm machinery sales and service.” Mr. Stidham said that this use and “farm supplies and sales” are allowed by right in the Highway Commercial District but are prohibited in the AOC District. Chair Ohrstrom said that it is inconsistent that farm wineries and farm breweries are allowed by right in the AOC District but not farm sales and service.

Mr. Stidham suggested that the members think of these uses and the physical impacts to surrounding properties that they may have, but not necessarily what the uses themselves entail. An example is that “processing of agricultural products not entirely produced in Clarke County” is a special use in the AOC District whereas processing of agricultural products produced in Clarke County is considered by-right agriculture, however the impacts of both are the same. Chair Ohrstrom added that farm wineries are not required to have everything grown on site.

Ms. Bouffault said that it may be excessive to exclude commercial nurseries/greenhouses from the AOC District. Chair Ohrstrom asked about how Anderson’s Nursery was approved and Mr. Stidham said that it is a special use for retail sales and service. Ms. Bouffault said that commercial nurseries/greenhouses could be allowed by special use permit in the AOC District, and Mr. Stidham suggested making it a by-right use subject to site plan review and approval by the Planning Commission. He added that the review would be similar to a special use permit except that the Commission would not be able to impose special conditions. He noted that potential business owners can be discouraged from investing in a new business if it is dependent upon a special use permit that could be revoked. Ms. Bouffault said that we need to have very specific definitions for nurseries and greenhouses. Vice Chair Caldwell asked what the difference is between “horticulture” and “nurseries, greenhouses (commercial),” and noted that the definition of “horticulture” sounds similar to “nurseries, greenhouses (commercial).” Mr. Fincham read the definition of “horticulture” and noted that there is no definition for “nurseries, greenhouses (commercial).” Ms. Bouffault replied that we definitely need clear definitions to consider before making a decision on how the use should be allowed. Mr. Kreider made the point that with horticulture, the product is getting sold one way or the other. Mr. Stidham said that you can draw the line between retail sales and wholesales. Chair Ohrstrom said that wholesalers have impacts in the form of large vehicles and Mr. Nelson replied that numbers of vehicles coming to a site can cause impacts just as large vehicles can.

Chair Ohrstrom stated that this request from the Board is a much bigger issue than anticipated. Mr. Stidham suggested the Commission provide some parameters for Staff to begin drafting the start of a text amendment for discussion. Vice Chair Caldwell added that the members should continue going around the table and start by agreeing on items that are relatively simple to address. Chair Ohrstrom noted that the Right to Farm Act should allow horticulture to be incorporated into agriculture and that he did not believe that they should be left as separate uses. Ms. Bouffault recommended combining horticulture into the definition of agriculture. Mr. Stidham said that the issue of retail sales of horticultural products still needs to be addressed. Ms. Bouffault said that retail sales should be included under “nurseries, greenhouses (commercial).” Mr. Fincham read the definition of “agriculture” and pointed out that it already includes “horticulture.” He also noted that site plans are not required for “agricultural buildings,” so you will need to specify that a site plan is required for an agricultural business use. Mr. Kruhm asked if the definition of “agriculture” refers to products

produced for food and Mr. Fincham said no. Mr. Kruhm said that he is concerned about very large commercial horticultural operations in other parts of the state that require huge quantities of water to operate. Mr. Buckley said that this type of use would fall under nurseries and greenhouses. Mr. Stidham said that he thinks this would fall under horticulture and that he views commercial nurseries and greenhouses as retail operations. Mr. Kruhm said that these facilities also have large trucks that produce a transportation impact. Chair Ohrstrom said that you can have a small greenhouse operator that grows and sells produce throughout the year that would be considered a commercial greenhouse when in reality they are just a small agricultural operation. He added that examples like this make the issue tricky.

Ms. Daniel asked where the definition of horticulture comes from and Mr. Fincham read the definition from the Zoning Ordinance. Mr. Stidham said that the definition does not address either retail sale or wholesale. He also noted that the definitions for "agriculture" in other counties are often very complex. Mr. Kreider asked if the point of this exercise is to attract more agricultural business to the County and Mr. Stidham replied that agricultural economic development is one of the goals. Vice Chair Caldwell said that it sounds like the members are in agreement that the commercial nurseries/greenhouses issue needs to be addressed.

Vice Chair Caldwell said that the issue of "processing of agricultural products not totally produced in Clarke County" is another one to be addressed. Mr. Stidham added that "processing" is not clearly defined in the Zoning Ordinance and cited the example of whether cutting hay and rolling into round bales would be considered "processing" of hay. He also asked whether "processing" should be considered as taking an agricultural product and turning it into something completely different, like turning wood into mulch. Ms. Bouffault asked about processing activities at farm wineries and farm breweries, and Mr. Stidham said that those uses should be set aside for the purpose of this discussion since they have special state code exemptions. Ms. Bouffault then asked about honey. Mr. Stidham said that this is a good example and asked whether putting a honeycomb in a bottle for resale is considered "processing." Ms. Daniel said that she thought "processing" was defined by case law and that it involves fundamentally changing the nature of an agricultural product, such as spinning off cream from milk. Ms. Bouffault asked about canning agricultural products not all grown in the County, and added that she thought this would be considered processing. Mr. Stidham suggested that if you are packaging an agricultural product brought from another location, it might fall under the scope of a light industrial use.

Mr. Buckley asked what the drawback would be to making farm machinery sales and service, farm supplies and sales, nurseries/greenhouses (commercial), and feed and grain mills all special uses in the AOC District. He said he thinks it is absurd that retail and service businesses are allowed by special use in AOC whereas these agricultural support businesses are considered prohibited uses. Mr. Stidham noted that if you want to allow these uses as an economic development incentive, he recommends making them permitted uses subject to site plan review and approval. Chair Ohrstrom noted that you can place special conditions on the approval with a special use permit, adding that the Commission was concerned about farm machinery and sales because they did not know how these businesses were disposing of the by-products of working on farm equipment. Mr. Stidham said that if you identify common impacts such as outdoor storage, you can create supplementary regulations to address these impacts.

Vice-Chair Caldwell asked if the former use, “shops for welding, blacksmith, tinsmith, woodworking,” should be added back into the AOC District. Chair Ohrstrom said that farms should be able to have woodworking shops. Mr. Buckley noted that cabinet shops like the one outside of Boyce on U.S. 340 would also be considered a woodworking shop. Mr. Stidham added that a specialty metal fabrication shop with state-of-the-art equipment and heavy truck traffic could also fit under the description of “shops for welding.” He also said that these businesses can be currently operated as a home occupation and that this helps to keep the size of the business and its impacts low. Mr. Fincham noted the “community services” building at the corner of Fishpaw Road and Longmarsh Road, stating that he gets calls on a regular basis asking whether it can be used as a welding or fabrication shop. He recommended keeping that building and location in mind if the Commission wants to allow these uses in the AOC District again. Ms. Bouffault stated that from her experience serving on the Career and Technical Committee for the Schools, there will be a demand for careers such as welding in the near future and that people will be looking for places where welding shops are permitted. Mr. Stidham said that if you wanted to control the size of these businesses, you could require all activities to be conducted in an enclosed building and place limits on the maximum size of the building. Mr. Kreider said that he thought these uses should be brought back, either as a permitted use with a site plan or a special use. Chair Ohrstrom said he thought all activities should be in an enclosed building.

Mr. Stidham asked whether the fabrication shops should be by site plan or special use permit. Chair Ohrstrom asked what the difference would be in the two approvals. Mr. Stidham said that with a site plan the Commission would be determining whether they meet all technical requirements of Article 6 of the Zoning Ordinance but could not impose special conditions. He said that a special use permit allows you to impose special conditions and also results in the issuance of a “permit” by the Board of Supervisors that can be revoked for cause. Mr. Buckley asked if you can take health, safety and welfare in consideration with a special use permit and Mr. Stidham said yes, just as the Commission did with the solar farm. Mr. Turkel said that special use permits are attractive from a regulatory perspective but costly from the business owner’s perspective. Mr. Stidham noted that there is an additional fee for a special use permit and there is the Public Hearing process that is required.

Vice-Chair Caldwell said she supported the idea of allowing uses by-right with site plan approval and also creating new supplemental regulations to address common impacts. She added that this would be kind of a hybrid approach between a site plan review and a special use permit. Going back to the fabrication shops issue, Mr. Stidham asked whether these should be limited to properties with direct access to primary highways. The members agreed and Mr. Stidham noted that uses that could fit under the home occupation regulations would still be allowed on properties limited to secondary or private road access.

Mr. Stidham said that he thought he had enough direction from the Commission to work on materials for the next meeting. He said he would create a table of proposed use changes and identify new definitions or supplementary regulations that would be needed. Vice Chair Caldwell asked whether the farm machinery sales and service and the farm supplies and sales uses could be addressed. Mr. Stidham asked whether these should be by-right site plan approval for properties with direct access on primary highways and the members said yes. Mr. Stidham said that nurseries and greenhouses could be addressed similarly and Mr. Buckley replied that the terms need definitions. Chair



Ohrstrom said that for nurseries and greenhouses maybe thresholds are needed. Mr. Stidham said that large commercial greenhouses could be viewed as intensive farming operations similar to intensive livestock operations, and that perhaps groundwater usage could be used as a limiting factor. He also said that retail sales of agricultural products could differentiate a commercial greenhouse from a by-right agricultural operation. Chair Ohrstrom recognized Mr. Childs who said that innovations in water reuse could make water consumption an unreliable factor to regulate commercial greenhouse size. Mr. Childs added that most agricultural greenhouses and nurseries need a retail component to survive, and that better controls could be sales or building size. He also suggested distinguishing a nursery that buys and resells plants from an agricultural business that grows the plants onsite for wholesale or retail sale.

Vice-Chair Caldwell asked about feed and grain mills. Mr. Stidham said they appear to have always been prohibited uses in the AOC District. Mr. Buckley noted that it is the same as processing of agricultural products. Mr. Stidham said that they would not be prohibited uses if they were accessory to a farming operation – only if they were freestanding feed and grain mills. Members indicated that they did not want to make any changes to this use.

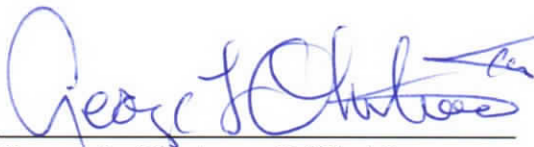
**New Business Items**

None

**Other Business**

Mr. Stidham reported that the Agricultural Land Plan Subcommittee will meet immediately after the Briefing Meeting and that Commission members are welcome to attend. He stated that the Telecommunications Subcommittee will meet on Thursday, October 6 at 4:00PM to review a proposed tower location map prepared by George Condyles (Atlantic Group). He also reported that the Board of Supervisors took action at their September meeting to repeal the County stormwater regulations and that he would be bringing a draft text amendment to the November 1 briefing meeting to remove references to the stormwater regulations that appear in the Zoning and Subdivision Ordinances.

The meeting was adjourned by consensus at 4:03PM.



George L. Ohrstrom, II (Chair)



Brandon Stidham, Planning Director