

Clarke County

PLANNING COMMISSION BRIEFING MEETING MINUTES TUESDAY, NOVEMBER 1, 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, November 1, 2016.

ATTENDANCE

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

Absent: None

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

Others Present: Emily Day (AFD Advisory Committee); Cathy Kuehner (Winchester Star)

CALLED TO ORDER

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

AGENDA

The members approved the agenda by consensus as presented.

Mr. Stidham began review of the November 4 meeting agenda by asking the members to provide Staff with any comments or corrections they may have to the October 4 and October 7 meeting minutes. He then turned the floor over to Mr. Fincham to review the minor subdivision applications.

Mr. Fincham reviewed the Dillow/Cather minor subdivision and maximum lot size exception request (MLSE-16-04/MS-16-08). He stated that he is still waiting for comments from the Health Department but expects to have that on Wednesday. He noted that he has received an approval recommendation from VDOT on the proposed ingress/egress. Mr. Fincham also reviewed the Applicants' proposed boundary line adjustment that would take place if the minor subdivision is approved, noting that this is all part of the family's estate planning. Chair Ohrstrom asked if a lot is going to be created without a dwelling unit right and Mr. Fincham replied no. Mr. Fincham concluded by stating that Staff is currently recommending deferral since the Health Department comments remain outstanding but that this will change to an approval recommendation with an approval letter from the Health Department. Mr. Kruhm asked for confirmation that the property is zoned AOC and Mr. Fincham replied yes. Mr. Fincham also clarified the status of an existing vacant

lot that adjoins the subject property. Mr. Kruhm asked how the property can be expanded to five acres through boundary line adjustment, and Mr. Fincham replied that the Applicants will be adjusting boundaries between two residential lots. Chair Ohrstrom added that the Applicants are able to accomplish this because they are eligible for a maximum lot size exception. Mr. Fincham reminded the Commission that for boundary line adjustment purposes, agricultural parcels are 20 acres or larger and residential lots are less than 20 acres. Boundary lot adjustments are not permitted between agricultural and residential lots if it increases the size of the residential lot over 3 acres unless the residential lot is increased to the size of an agricultural lot.

Mr. Fincham reviewed the DeHaven minor subdivision request (MS-16-09). He stated that the location of the proposed parcel is due to the location of the proposed septic system. He said that the proposed lot is not an "island lot" because one boundary line is shared with the residual lot. Chair Ohrstrom asked if the drainfield or reserve area is in the flood plain. Mr. Fincham replied that they are not and also noted that he can get the flood plain line shown on the plat. Chair Ohrstrom asked if there is a Karst plan for this subdivision and Mr. Fincham replied that the soil type is shale. Vice Chair Caldwell said that Flood Zone A is shown on the plat and the primary drainfield is in Flood Zone A, but asked what the unidentified dotted line also shown refers to. Mr. Fincham said that he would contact the surveyor to determine if this represents the 10 year floodway line. He did not think that there is a 10 year floodway designation for the Opequon Creek.

Mr. Fincham reported that he has received comments from VDOT on the minor subdivision and explained VDOT's recommendation that the property owner and Board of Supervisors consider abandoning a portion of Neill Road from the property entrance to the Opequon Creek. Mr. Lee noted that there was once a ford leading to Frederick County at the end of Neill Road that was closed long ago. Mr. Fincham said that his recommendation will change from defer to approve since he has received comments from both VDOT and the Health Department. Mr. Lee noted that the detail on the turnaround needs to be changed to a cul-de-sac and Mr. Fincham said that he would have the surveyor correct it.

Old Business Items

Mr. Stidham began the continued discussion of agricultural business uses in the AOC District by reviewing Staff's memo for the Commission's consideration. He said that Staff has attempted to capture the Commission's discussion and issues of concern from the October meeting into a series of initial recommendations for the members to review. He noted that these recommendations are specifically for the Commission's continued discussion and are not intended to be ready for advancement to public hearing as a text amendment at this stage. He added that the County Attorney should review any proposed text amendment before the Commission decides to schedule public hearing.

Mr. Stidham then outlined initial recommendations on farm machinery sales/service and farm supplies/sales. Ms. Daniel asked whether Staff has solicited input from either the Farm Bureau or the Southern States Co-op, and Mr. Stidham replied that he has not pursued outside input at this early stage until the Commission decides the direction they wish to pursue. Mr. Lee asked about septic and well requirements and Mr. Stidham replied that they would have to meet State and County regulations. Mr. Lee cautioned that customers coming to these facilities could trigger a public well

requirement and Mr. Stidham added that this could constitute a “waterworks” that would be prohibited for use in the AOC District. Ms. Bouffault noted that there is a blurring of the line between sales of equipment for purely agricultural purposes and sales of lawnmowers and equipment typically used by homeowners. Chair Ohrstrom said that Anderson’s Nursery is an example of this. He added that we may not have a problem with these uses on primary highways but would have a problem with them on secondary roads. Ms. Bouffault asked why there is a prohibition on outdoor storage. Mr. Lee noted that it is difficult to store large tractors in a 15,000 square foot building, and Mr. Buckley noted that feed stores often store their fence posts and other supplies outdoors. Mr. Buckley asked if retail is allowed by right in the AOC District and Mr. Stidham replied that it is allowed only by special use permit. Mr. Buckley asked whether there is a need to distinguish between the agricultural and retail components of a primarily agricultural business. Mr. Stidham noted that Tractor Supply is an example of this. Chair Ohrstrom said that it is a really blurry line. Mr. Buckley added that Southern States in Winchester attempted to focus sales of items for urban customers in that location. Mr. Stidham said that one way to address this issue is to allow non-agricultural related retail if it is accessory and clearly incidental to an agricultural business. Chair Ohrstrom added that the argument could be made that a store that sells high-end boots and clothing is an agricultural business.

Mr. Kruhm stated that there is a tractor business looking to expand in this area, noting that they sell both farm equipment and residential mowers. He asked whether the proposed language would prevent such a business from locating here. Mr. Stidham said that adding “accessory and clearly incidental to” language would allow the residential products to be sold provided they were a smaller portion of the tractor business. Mr. Buckley said that if you want to have these businesses, you have to allow the sale of residential equipment to make the businesses work.

Chair Ohrstrom asked if there is language to address fluid containment and disposal for these farm equipment repair businesses. He noted that this concern was one of the biggest reasons why these uses were previously removed from the AOC District. Mr. Stidham said that waste fluid disposal would be regulated by DEQ. Chair Ohrstrom asked if it could be regulated with our site plan requirements. Mr. Stidham replied that it could be addressed in the supplementary regulations. Chair Ohrstrom said that it is important to include this if the use is added into the AOC District. Mr. Stidham cautioned that enforcement would be complaint-driven and could occur after a violation has already taken place. Mr. Kruhm asked if we could require a plan to be submitted to demonstrate how the waste fluids would be contained. Mr. Stidham replied yes and noted that the plan could be reviewed by the County’s engineering consultant. Ms. Daniel suggested that similar rules should be included for containment of fertilizers as well.

Mr. Stidham then reviewed the proposed deletion of “horticulture” and clarification that it is part of agriculture. Mr. Kruhm asked how this would impact intensive horticulture operations and Mr. Stidham replied that they would be allowed under the definition of “agriculture.” He also said that it might be protected by the Right to Farm Act. Chair Ohrstrom asked about how this would impact landscaping companies, citing a company that proposed a landscaping business on U.S. 340 near White Post a number of years ago. Mr. Buckley said that he thought the business was allowable under the Zoning Ordinance but that they could not comply with VDOT requirements for their proposed entrance. Mr. Stidham asked what their agricultural operation would have been, and

several of the members said that some of their plants would have been grown onsite. Mr. Stidham said that under the proposed language, the business would have to be predominately an agricultural one and the landscaping function would have to be accessory and clearly incidental to the agricultural operation.

Mr. Stidham then provided an overview of onsite sales of farm products, nurseries and greenhouses, and processing of agricultural products. He began by explaining an approach that would allow wholesale and retail sale of products grown or processed in conjunction with the agricultural operation provided that sales are accessory and clearly incidental to the agricultural operation. He noted that sales would include products made with products both from the agricultural operation and from outside sources, such as apple pies made from apples grown on the farm. He also stated that sales of products or items not produced in conjunction with the agricultural operation would not be allowed as by-right agriculture. Chair Ohrstrom asked if they could sell clothing or work gloves and Mr. Stidham said no, that you cannot sell any items that were not produced in whole or in part using products from the agricultural operation. He said you would have to get a special use permit for retail sales in that case.

Mr. Kruhm asked why biosolids land application was included in the definition of agriculture and not any other types of fertilizing practices. Chair Ohrstrom and Ms. Daniel said that it may have been added to the ordinance when it was determined that localities could not prohibit biosolids. Chair Ohrstrom also noted that the County may not want to be in a position where it appears we are promoting biosolids land application. Mr. Kruhm recommended that the use be removed from the ordinance because it does not fit given that we do not regulate other types of fertilizers. Mr. Lee said that you have to have a permit to land apply biosolids but not for other fertilizers. Vice Chair Caldwell suggested removing biosolids from the definition of agriculture but that it should be included in a separate section. Mr. Stidham said that he would check with the County Attorney as he said he could not think of a reason why it needs to be in the Zoning Ordinance.

Mr. Stidham said that Staff is recommending deletion of “nurseries, greenhouses (commercial)” as it would be allowed by right under the definition of agriculture. He said that commercial retail nurseries would still be allowed as retail operations – by right in the Highway Commercial District and with a special use permit in the AOC District. He also reviewed the proposed changes dealing with the processing of agricultural products.

Mr. Stidham also addressed recommendations on feed and grain mills. Mr. Fincham provided the example of farmers mixing ingredients to make feed and often reselling excess feed. He noted that the proposed changes would make these activities part of by right agriculture. Mr. Lee asked about how to address the County’s two historical mills that sell products not produced onsite by an agricultural operation. Mr. Stidham suggested that both mills may have some nonconforming status that would have to be researched. Mr. Lee noted that Locke’s Mill grinds grains for distilleries and none of the grain is grown onsite. Mr. Stidham said that the Burwell-Morgan Mill may be zoned Neighborhood Commercial and not AOC. Ms. Bouffault asked whether it would be a question of volume and how much grain is milled. Vice-Chair Caldwell asked if you could add language to exempt restored historic water mills for the processing of grains. Ms. Bouffault said that there are

specific exclusions in the Code of Virginia and that the two mills should be exempted. Mr. Stidham said that he would work on proposed language for the Commission's consideration.

Mr. Stidham concluded the topic by reviewing Staff's recommendations on welding, blacksmith, tinsmith, and woodworking uses including a potential approach to allowing larger scale versions of these uses. Members had no additional comments on this item.

New Business Items


Mr. Stidham reviewed the proposed text amendment to reconcile the Zoning and Subdivision Ordinances with the recent repeal of the County's Stormwater Ordinance by the Board of Supervisors. Members indicated that they were comfortable with it and agreed by consensus to add it to the November 4 agenda to schedule public hearing.


Mr. Stidham also reviewed Staff's proposed changes to the Commission's standing committees to better handle current and upcoming workloads. Members agreed by consensus that this is a good approach and should be included in the items for the Organizational Meeting in January.

Other Business

None

The meeting was adjourned by consensus at 4:15PM.


George L. Ohrstrom, (Chair)


Brandon Stidham, Planning Director