

Clarke County Planning Commission

MINUTES – Work Session

Tuesday, October 3, 2023 – 3:00PM

Berryville/Clarke County Government Center – Main Meeting Room

ATTENDANCE:			
George L. Ohrstrom, II (Chair/Russell)	✓	Ronnie “Ron” King (Buckmarsh)	✓
Randy Buckley (Vice-Chair/White Post)	✓	Frank Lee (Berryville)	✓
Terri Catlett (Board of Supervisors)	✓	Gwendolyn Malone (Berryville)	✓
Buster Dunning (White Post)	✓	John Staelin (Millwood)	✓
Robert Glover (Millwood)	✓	Doug Lawrence (BOS alternate)	X
Pearce Hunt (Russell)	✓		

STAFF PRESENT: Brandon Stidham (Director of Planning), Jeremy Camp (Senior Planner / Zoning Administrator), Kristina Maddox (Office Manager / Zoning Officer), Chris Boies (County Administrator)

OTHERS PRESENT: None.

CALL TO ORDER: By Chair Ohrstrom at 3:03PM.

1. Approval of Agenda

The Commission had no additions to the agenda as presented by Staff.

2. Review of October 6 Business Meeting Agenda Items

A. Agenda Review

Mr. Stidham asked to strike the word “under” on the last sentence of the second to last paragraph on page 6 of 41 in the August 29th Work Session meeting minutes.

Commissioner Glover asked to replace “takes up” with “creates” in the second sentence within the fourth paragraph from the bottom of page 6 of 41.

On page 14 of 41 of the September 1st Business Meeting minutes, Mr. Stidham asked that the last sentence of the second paragraph include the word “in” before “contrast.” He also asked to make “view shed” one word on page 14 of 41 and again on page 17 of 41.

Chair Ohrstrom asked if Staff received phone calls from the public on the Horus Virginia solar power plant public hearing. Mr. Stidham replied that he has received general inquiries and Mr. Camp said he received one call but the Frederick County resident was not concerned.

Mr. Camp provided an update for the SUP-22-01/SP-22-02, Horus Virginia I LLC (applicant) / Bellringer Farm, LLC (owner) application. He said the applicant wishes to defer due to site plan changes such as moving the electrical yard and that the November public hearing will be held as scheduled.

Chair Ohrstrom asked if they plan to close the Triple J Road entrance post-construction. Mr. Camp replied that the applicant plans to gate the entrance and will include those details in the resubmission.

Mr. Camp noted that Commissioners toured the applicant's solar project that is under construction in Jefferson County. He added that in a news article, Jefferson County recently repealed their solar ordinance due in part to the size of that project.

Mr. Stidham reviewed the draft resolution on the Waterloo Area Plan. He noted the Commission initiated review of the plan in 2021 and the Comprehensive Plan Committee was assigned to work on it. He said the Comprehensive Plan Committee made the recommendation to adopt a resolution to continue with the plan as is for an additional five years and noted the various reasons outlined in the packet. Chair Ohrstrom asked if it was normal to keep it as is. Mr. Stidham said if there are no changes needed it is an option to leave it as is.

B. Status of Deferred Applications

Mr. Camp provided an overview of the current deferred applications including Foster and Cather minor subdivisions and the Berryville Berries campground special use permit and site plan application. He said the minor subdivisions are both at the resistivity review process and that Berryville Berries is working with the Virginia Department of Health on designing a privy system that may take additional time. Chair Ohrstrom said he thought public campgrounds were not allowed due to the recent text amendment. Mr. Stidham said if the campground text amendment is adopted by the Board of Supervisors on October 17th, the application will not be able to move forward.

Mr. Camp said the Regan Partnership minor subdivision is working on a conservation easement and that they intend to submit a waiver request on the design standards of a private road. He said it is a substandard road that VDOT named the worst state road in the county and has discouraged development on it.

3. Old Business

A. Continued Discussion, Text Amendment Request from Board of Supervisors – Solar Power Plant Use and Regulations (TA-23-04)

Mr. Stidham said the next goal is to reach a consensus on whether or not the Commission will support the prohibition of solar power plants and to move forward or if there is a different preferred approach.

Commissioner Staelin said not much can be done with the current regulations unless a property owner creates a substation and asked what that process would entail. Mr. Stidham said it would require a special use permit in the AOC and FOC Districts as it is considered a public utility facility. He continued that the interpretation has already been made that if someone wanted to build a substation with the ultimate intent of building a solar power plant that a special use permit for the substation and site plan would have to be approved. He said the substation would have to be functioning before the solar power plant special use permit application. He added that the Commission has the ability to require special use permits for electrical infrastructure including powerlines and that one option is to make changes to the use regulation that requires solar power plants to be built adjacent to existing substations. He said the language "substations in existence as of the adoption date of the text amendment" could be used to

include anything that is in the ground and operating to date and that any future substations would be reviewed independently.

Chair Ohrstrom commented that it would typically be a utility company making a substation request versus a property owner. Mr. Stidham replied that the applicant could be a private company with the assumption that they are working in concert with an electric provider. He said the county can consider the need in evaluating an application for a new substation. He added that a private developer who is building a substation for a future solar power plant should be able to demonstrate the need for it.

Commissioner Glover asked about the history of the two current substations. Mr. Stidham said he is not certain.

Chair Ohrstrom said the substation off Ramsburg Lane could probably be upgraded in comparison to the substation in Frederick County and noted an upgrade would not change the regulations.

Commissioner Staelin said he assumes substations should be in the center of the town and said the substation in Double Tollgate is probably mostly for Frederick County.

Chair Ohrstrom asked Mr. Stidham about the smaller substation off US Route 340. Mr. Stidham replied that it is around 25% of the minimum size needed for a solar power plant. Commissioner Staelin asked if it was upgraded according to our current regulation if it could be used as another solar power plant location. Mr. Stidham replied yes but that an upgrade would be require the same special use permit process as building a new substation.

Mr. Stidham said the Commission can continue to debate future solar while the Rural Lands Plan is being reviewed and that once it is addressed by the public and adopted there would be new guidance to make an additional text amendment. Chair Ohrstrom suggested not to create a text amendment that outlaws solar power plants at the moment. He referenced Piedmont Environmental Council's memo regarding the future power needs of 52 proposed data center projects outside of Clarke County but noted the powerlines go through Sky Meadows and several eased properties. Commissioner Staelin said in his previous Board experience it helps to write a letter explaining the properties are under easement as they may not see those details looking at aerial maps.

Vice Chair Buckley said he is in favor of tightening the current ordinance. Chair Ohrstrom suggested the Commission obtain more information and further discuss at the business meeting.

Commissioner Glover asked about behind the meter solar. Mr. Stidham said ground-mounted solar requires a zoning permit application and that a roof-mounted should not exceed the maximum height of the structure for the district. Commissioner Glover asked if the acreage or footprint was regulated as it could be used by multiple neighbors. Mr. Stidham said there is a blurring of home solar and behind the meter and resale to the grid. He added there are natural barriers referenced in the memo such as there being a limited amount of excess power that a residential property owner can produce and sell back to the grid. He said an agricultural or business customer is capped as to how much they can produce on site as well. Chair Ohrstrom said those details may be changed at the General Assembly level and that Dominion Power has created the rules.

Commissioner Staelin said that we should make changes that we think are important and not wait for the General Assembly to change the law. He said his concern is not regarding personal, ground-mounted solar panels but the potential size of the large community-wide solar projects that could take up 25 acres. Chair Ohrstrom said community solar could also mean schools with solar panels to help the overflow costs.

Commissioner Lee said utility scale and non-utility scale are the two level types and that the latter allows someone to connect to existing wires. He said that a property owner would not have to connect to the substation but to the existing infrastructure in place. He said it is possible to lose agricultural land should property owners wish to pursue these community-scale projects.

Chair Ohrstrom commented that if a private entity had a farm with tenant houses that they wanted to power they could turn it into an off grid system and asked if that would also be regulated. Commissioner Lee said it would be different if it was put into the line or using it on site.

Mr. Stidham suggested creating a new definition of “behind the meter” for zoning ordinance purposes where it is predominantly for onsite consumption with incidental resale back to the grid. He said a large farm may still have a sizeable array but perhaps they can prove they plan to resell a small percentage of what they produce back to the grid. Chair Ohrstrom noted that his home is a completely off the grid system with roof-mounted solar panels and no wires. He said it would be easier for a large farm getting power off the grid for all of their buildings to do their own array but that it would still have to be an on grid system with the ability to sell some of it back to the grid. He said it may be capable but that he does not believe it could be a totally off grid system.

Vice Chair Buckley asked for clarification on behind the meter and provided an example of ten tenant houses with a solar array for each meter and not a massive solar array on the back forty to run each of them. Mr. Stidham said there could be potentially one centralized array for the ten tenant houses and Commissioner Glover commented that it would take additional agricultural land.

Commissioner Staelin said when the solar panels are producing the most is when they are in high demand and most helpful but said they need to be on the grid due to certain times when there is no sun. Chair Ohrstrom noted that his panels have battery backup.

Mr. Stidham said if a property owner were to ask to use an acre of their land for solar panels, they would need a stormwater management plan and be able to explain to Staff how much onsite power consumption they plan to have versus how much they plan to sell back to the grid. He continued if they plan to sell more back to the grid than they consume onsite they are not behind the meter. Mr. Stidham suggested adding language for clarification and to note that there has to be incidental resale to the grid. Commissioner Staelin commented that getting clarification on the current regulations would make it better for Staff to make future determinations on this matter.

Mr. Stidham said the Commission can evaluate whether or not items such as community scale solar are for Clarke County as research continues and as the Rural Lands Plan is reviewed. He added that he will bring forward a draft text amendment next month regarding substations that have to be in existence in order to construct a solar power plant and also to clarify the behind the meter language that it is predominantly for onsite construction and incidental resale. He said the other proposed item is regarding the definition of solar power plant being a utility scale facility that is subject to a special use permit that

has been issued and is in good standing as of the adoption date of the text amendment. He said these changes would make all of the existing facilities that currently have zoning approval conforming uses and can expand as long as they are within the ordinance.

Commissioner Lee said he is not against what is currently written but that a decision needs to be made as he believes they will be inundated soon with community scale solar requests.

Mr. Stidham noted he would inquire with the Board prior to their November meeting regarding the proposed text amendment changes to determine whether a joint meeting is needed.

Commissioner Staelin asked if there should still be editorial comment in the Rural Lands Plan which then becomes part of the Comprehensive Plan. He said this means future ordinances would have to conform in general to those changed rules and that he thinks the Commission can also talk about their thoughts on solar power. He continued that he believes there are better locations for solar panels such as Walmart parking lots and other impervious surface locations and wants the Commission to establish their stance. He asked if anyone has heard what other jurisdictions plan to do. Chair Ohrstrom replied that some want to allow limited utility scale solar as they want to allow farmers the opportunity to cash in on that revenue stream to keep their farm going.

B. Update on VDOT review of 2023 Transportation Plan draft


Mr. Stidham said he had a conference call with VDOT staff and learned they want a higher level of detail of our project list which is outdated. He explained to VDOT that we want their assistance in determining whether the projects are still needed. He said VDOT returned a revised draft with comments and their suggestion was that they plan to look at crash data and other information county-wide to find out if there are any other projects that no one has identified that should be in the plan as well as any data to support existing projects. He said their recommendation is that we create a new priority list based on what we can support and then retain all the other projects as unprioritized projects. He continued that in five years the Commission can decide whether or not to keep them.

4. New Business – None scheduled

ADJOURN

The Work Session adjourned by consensus at 4:00PM.


George L. Ohrstrom, II (Chair)


Kristina Maddox (Clerk)