



Clarke County Planning Commission

MINUTES – Comprehensive Plan Committee Meeting

Monday, April 15, 2024 – 2:00PM

Berryville/Clarke County Government Center – A/B Meeting Room

ATTENDANCE:			
Randy Buckley (White Post)	✓	John Staelin (Millwood)	✓
Bob Glover (Millwood)	✓	Terri Catlett (Board of Supervisors)	✓
George L. Ohrstrom, II (Ex Officio)	✓		

STAFF PRESENT: Brandon Stidham (Director of Planning), Jeremy Camp (Senior Planner/Zoning Administrator)

OTHERS PRESENT: Bill Waite

CALL TO ORDER: By Mr. Stidham at 2:00PM.

1. Approval of Agenda

Members approved the agenda by consensus as presented by Staff.

2. Approval of Minutes – March 27, 2024 Meeting

Mr. Stidham noted a correction on page 5 of 26, fifth line -- the word “said” should be deleted. Commissioner Staelin noted page 3 of 26, first paragraph, that Commissioner Glover referenced a “per acre” rate and asked whether it should be a “per kilowatt” rate. Commissioner Glover replied that owners are sometimes paid per acre. Commissioner Glover noted on page 6 of 26, third paragraph, 3rd line from the bottom, that he was referencing containment farming generally and not implying that it is taking place in Clarke County. He asked to add the word “elsewhere” between “operations” and “where.”

Members voted 3-0-1 (Catlett abstained) to approve the March 27, 2024 meeting minutes as amended. Commissioner Catlett abstained as she did not attend the meeting.

Motion to approve the March 27, 2024 meeting minutes as amended:			
Buckley	AYE	Staelin	AYE (moved)
Glover	AYE (seconded)	Catlett	ABSTAINED

3. Old Business -- Continued Discussion, Rural Lands Plan Development

A. FOC/Mountain Issues Workshop

Mr. Stidham said that we are going to repeat the exercise that we did in reviewing the AOC/valley areas but with the FOC/mountain areas. He said that we would review the applicable objectives and policies from the 2022 Comprehensive Plan and the objectives and implementing actions from the 2005 Mountain Land Plan. He added that we will conclude with reviewing a list of discussion questions.

Regarding the 2022 Comprehensive Plan objectives and policies, Mr. Stidham highlighted Objective 2 Policy 3 which pertains to residential development. He noted that the policy references a number of development controls that arose from 2005 Mountain Land Plan recommendations and he asked members if any additional controls should be considered. Chair Ohrstrom asked if we are going to discuss what constitutes a steep slope. Mr. Stidham replied that we define steep slopes in the Subdivision Ordinance. Chair Ohrstrom suggested adding into the Rural Lands Plan that steep slopes are equal to or greater than the threshold in the Subdivision Ordinance. Commissioner Staelin noted that we would have to adjust that number in the Plan if we ever adopted a more stringent standard in the future. Mr. Stidham said that we adopted detailed regulations in 2015 for subdivisions on the mountain over 800 feet and we have not had an application filed to test these regulations.

Commissioner Staelin asked if we have had to turn down any applications for development on the ridgeline. Mr. Stidham said that the only example was an internet service provider who was prohibited from placing a tower on the ridgeline by the wireless communication facility regulations. He added that during the ridgeline discussion the issue was raised that forcing an applicant off a ridgeline could result in them developing in a more impactful location. Chair Ohrstrom noted that the Commission required a wide roadway for a private road in a subdivision many years ago that resulted in negative impacts. Mr. Stidham replied that the private road regulations were later amended to avoid this outcome in the future. Mr. Camp noted that the Subdivision Ordinance contains a three-tiered design criteria based on slope. Commissioner Glover asked if it is worth referencing these regulations. Mr. Stidham replied that it would be worth mentioning in the Plan how we created these regulations over the years.

Regarding Objective 3 Policies 6 and 8, Mr. Stidham highlighted the need to get more land into conservation easement in the mountain areas and noted the pros and cons of promoting the placement of land into agricultural and forestal districts (AFD) instead of conservation easement. Commissioner Glover asked if we are identifying land suitable for preservation and conservation of natural resources as noted in Policy 6. Mr. Stidham replied no but added that the entire mountain area would qualify. Mr. Waite stated from the audience that Alison Teetor has met with residents on the mountain to promote the conservation easement program. Chair Ohrstrom suggested adding language to Policy 6 to note that landowners interested in permanent conservation should consider a conservation easement. He noted that it is not difficult to get out of an AFD. Mr. Stidham replied that you cannot get out of the AFD program with a change of ownership and the standard for getting out for financial hardship reasons is strict. Mr. Camp noted that you can subdivide one lot every six years in AFD.

Regarding Objective 3 Policy 20, Chair Ohrstrom asked what “passive outdoor recreation” is. Mr. Stidham replied walking trails and natural areas as opposed to a developed park. Mr. Stidham added that he highlighted this policy because one of our discussion question is about striking a balance between promoting natural resources and managing large numbers of visitors and their impacts. Commissioner Catlett questioned whether it is “promote and protect” or “promote vs. protect.” Commissioner Staelin asked Chair Ohrstrom whether he was suggesting that we include good and bad examples of passive outdoor recreation in the Plan and Chair Ohrstrom replied yes and noted walking trails versus soccer fields. Commissioner Glover said “unimproved” trails would be good to clarify and noted that mountain biking trails cause erosion. Mr. Camp asked whether a fenced dog

park would be passive recreation and Mr. Stidham said he is not sure. Mr. Stidham added that we can start by using the Zoning Ordinance definition for the term.

Regarding Policy 21, Mr. Stidham noted that we have forestry management plan provisions in the Zoning Ordinance however legally we cannot require property owners to submit plans for review and approval before harvesting. He added that we have a good record of voluntary compliance from foresters. Commissioner Catlett asked how much land has been forested in the past five years and Mr. Stidham replied that he did not know. He added that most forestry operations are select cuts and we get 3-4 per year. He said the most important thing is to determine whether the operation is being conducted by a certified forester and is following Department of Forestry practices.

Regarding Objective 5 Policy 3(e), Commissioner Staelin asked if there is a groundwater recharge area on the mountain. Mr. Stidham replied no and noted that this policy applies to conservation easements generally and is not limited to the mountain areas.

Mr. Stidham reviewed the 2005 Mountain Land Plan's objectives and implementing actions. Regarding Objective 8 to protect private property rights, Mr. Stidham noted that it potentially conflicts with other objectives and should be further defined. Chair Ohrstrom asked whether Staff thought that it should be removed. Mr. Stidham replied that all of the objectives need to be expanded in order to explain their meaning. Regarding Objective 5 to protect scenic values, Commissioner Staelin suggested trying to find a balance between allowing property owners to have some views without extensive clearing. Commissioner Glover suggested protecting only existing scenic values and scenic byways. Mr. Stidham noted that some people would be opposed to any clearing that would allow a home on the mountain to be seen from the valley, adding that he does not know where the balance should be. Commissioner Glover said that if you reference protecting existing views, then it means you do not want to allow new views to be opened up. Mr. Stidham replied that you would be taking the stance that trees should not be cut.

Mr. Stidham said that the Mountain Land Plan's implementing actions are organized into land use issues, road issues, and environmental issues which could probably be continued in the Rural Lands Plan. Regarding the recommended text amendments, Commissioner Staelin asked if they have all been implemented and Mr. Stidham replied yes.

Mr. Stidham reviewed the applicable strategies from the 2020 Recreation Plan and noted that these strategies were developed from the perspective of promoting recreational resources. He said that the strategies demonstrate the conflict between promoting these resources versus avoiding the impacts that large numbers of users can bring. He noted strategy 3(c) to improve public access to the Appalachian Trail and asked if we still want to do this after experiencing the impacts of large numbers of visitors experienced during COVID. Commissioner Catlett added that Fire & Rescue are impacted by having to respond to calls on the Appalachian Trail and the number of calls they have to respond to increases every year. Commissioner Glover said no matter how large you build the parking lots, they will always fill up. He added that the County has done its due diligence to get the parking areas expanded and improved. Mr. Stidham noted that it is also easier for novice visitors to access the Trail and to run into problems due to a lack of being informed. Commissioner Glover asked when these recommendations were written and Mr. Stidham replied in 2020 during COVID. Commissioner Staelin said that this language has been in plans prior to 2020.

Regarding strategy 3(e) pertaining to the Shenandoah University River Campus, Mr. Stidham said he likes the idea of trying to define what we mean by “passive recreation.” Commissioner Catlett noted that the high school had a cross country meet there recently and Mr. Stidham noted that this would not be an example of passive recreation.

Mr. Stidham began the review of mountain land issues for the Committee’s discussion with the issue of protecting and preserving tree coverage, ridgelines, and sensitive slopes. Mr. Camp said if he lived on the mountain he would be most concerned with clear cutting. Mr. Stidham noted that we can require tree preservation areas and perimeter buffers when lots are created but would be on shaky legal ground if we tried to further restrict a landowner’s right to cut trees. He added that it would be similar to restricting farming in agricultural areas. He said for the purposes of the Rural Lands Plan, we can decide where we fall on the spectrum of preserving trees at all costs versus protecting private property rights. Commissioner Glover said that problems occur when forestry operations are done without notifying the Department of Forestry or the County.

Mr. Stidham noted the question of how to balance the goal of preserving trees on the mountain with by-right agriculture. He added that there is not a lot of farming on the mountain but someone could clear cut to start a vineyard or establish pastures for horses. Commissioner Glover said that the County seeks to preserve the natural environment that other counties do not have. Mr. Stidham replied by asking whether the more important policy goal is to protect the environment or promote agriculture. Chair Ohrstrom said that protecting the environment would be more important on the mountain. Mr. Stidham noted that how we define traditional agriculture could be used to address this issue. Commissioner Catlett stated that there are areas on the mountain that are conducive to pasture land. Commissioner Staelin said that we can balance 60%/40% with wording that supports protecting the environment and promoting agriculture with some limitations. He added that wording is important because people often quote our language in public hearings when these issues arise. Commissioner Glover said that it is not likely that someone would want to establish a new farm on the mountain and we may not want to encourage people to clear cut in the name of agriculture. Mr. Stidham replied that you could have a lot that is conducive to farming where the owner does want to clear cut and establish a traditional farm. Chair Ohrstrom added that someone could want to clear cut and replant in poplars.

Mr. Stidham asked if anyone knows what types of agricultural operations are currently on the mountain. Vice-Chair Buckley said that there are a few old-time farms that are being operated by families who have been there for generations. Commissioner Glover said that the new farms would be a concern and Vice-Chair Buckley added that the problem is converting forest land to agricultural land on the mountain. Vice-Chair Buckley said that the people most likely to convert forest land are ones that want to start a winery or brewery. Mr. Stidham noted that it is easy to craft policy language to address that situation but harder to address traditional agriculture. Commissioner Glover noted that there is also a difference between farms on the mountain and farms along the river. Vice-Chair Buckley said you do not have to clear cut for livestock, you typically clear cut to grow crops. Mr. Stidham asked if it is accurate to say there is not much leasable land for pasture on the mountain and Vice-Chair Buckley replied that he assumes that is correct. Mr. Waite noted that most of the land for sale on the mountain is currently forested. Mr. Stidham suggested language to encourage agriculture on the bench and along the river and not so much in other areas on the mountain. Commissioner Glover said that farming along the river can cause runoff concerns.

Mr. Stidham noted the discussion question regarding whether to encourage reforestation on the mountain using nutrient credit banks and avoiding monocultures. Vice-Chair Buckley said you do not want to encourage clear cutting for the purposes of replacing with a nutrient credit bank ten years down the road. He added that someone could say they are clear cutting to create a pasture and ten years later put in a nutrient credit bank. Mr. Stidham noted that a nutrient credit bank could be one way to get cleared land replanted. He added that if we have concerns about clear cutting for agriculture, it would seem that the mountain would be a good area for a nutrient credit bank. Commissioner Catlett said that converting from pasture land to forest for a nutrient credit bank would give you the best bang for your buck and wondered how this could be done on the mountain. Chair Ohrstrom replied that you would clear cut first and sell the timber and then get paid to reforest with a nutrient credit bank. Vice-Chair Buckley said that if you are working through the Natural Resources Conservation Service or Lord Fairfax Soil & Water Conservation District, your payment will be higher for taking something out of pasture land than if you were taking it out of hayfield production. Commissioner Catlett said she wondered how this applied on the mountain with cutting trees.

Chair Ohrstrom suggested language recommending reforestation on the mountain without specifically referencing nutrient credit banks. Mr. Stidham replied that you can definitely do this but the language could still be used to justify establishing a nutrient credit bank as a means of reforestation. Commissioner Staelin asked if we say that we want diversity of trees when reforesting and the members agreed that this should definitely be included. Chair Ohrstrom noted that the Easement Authority recently included language to address avoiding monocultures. Mr. Stidham added that we do not address monocultures in our plans and it would be a good idea to do so.

Mr. Stidham reviewed the next discussion question regarding land conversion types that impact tree coverage, slopes, and ridgelines. Regarding utility transmission lines, Commissioner Glover said he is concerned about including an exception for underground lines. Mr. Stidham replied that it is unlikely that we can prevent utility transmission lines but we can encourage them to be placed underground. Commissioner Glover noted that undergrounding projects can also require significant tree removal and Commissioner Staelin added that the utilities need significant easements to maintain their lines. Mr. Stidham said that if a utility is going to go through the effort of undergrounding, it is likely to be within a Virginia Department of Transportation (VDOT) right of way that is already established. Mr. Camp noted that electric providers do not want to underground their lines as they can sometimes lose power versus using overhead lines. Mr. Waite said that all of the utility lines going to Mt. Weather are located underground and Chair Ohrstrom noted that in Europe they place 500 kV lines underground all the time. Commissioner Glover is concerned more with creating new underground lines versus placing utilities in existing underground easements. He added that he is more concerned with utility transmission lines than service lines to homes. Mr. Stidham replied that if the language allows us to get one utility transmission line project underground, it would be a benefit. He added that if the language says that we oppose all utility transmission lines, the service providers will ignore us and build it anyway. Commissioner Glover reiterated that he is mainly concerned with clear cutting to install utility transmission lines that are passing through the county and not the local service lines. Vice-Chair Buckley suggested stating, "Utility transmission lines should be avoided but if not, they should be underground."

Mr. Stidham asked the members if they wanted to leave an allowance for community-scale solar, adding that it would probably only be viable in flat areas like the bench. Chair Ohrstrom suggested

areas of concentrated development such as Pine Grove, Shenandoah Retreat, or the developments off of Route 50. Mr. Stidham replied that you need a flat area where the sunlight is not impeded by slope. Commissioner Staelin said that it would be difficult in a combined Rural Lands Plan to say that one use is allowable in the valley areas but not in the mountain areas and did not know how we could craft language to be applicable in all rural areas. Chair Ohrstrom said that you have to have the same set of rules if you have an integrated plan. Mr. Stidham replied that you can have separate rules. He suggested one way of organizing the Rural Lands Plan would be by topic, adding that we would say community-scale solar is generally appropriate in the AOC areas but only in flat areas like the bench in FOC areas of a certain size.

Regarding communication towers, Mr. Stidham noted that the 2015 Telecommunications Study recommended a network of towers to be constructed along the bench as part of a network to provide consistent telecommunications service across the county. He asked whether this is something that we still want and noted that we have not had a new tower application filed since one from a few years ago on Mt. Carmel Road that was ultimately withdrawn. Commissioner Staelin said that once the fiber optic project is complete, you can use the internet to supplement your phone service at home but it does not help mobile phone service. Vice-Chair Buckley asked if we knew if there are any areas where cell service is still poor and said that it seems like service has improved everywhere. Mr. Stidham said that it depends on your provider. Members had a brief side conversation of areas in the county where cell service has improved. Mr. Stidham wondered if cellular providers no longer need numerous large towers anymore and Vice-Chair Buckley noted that the last two tower applications filed were withdrawn.

Mr. Stidham reviewed the next discussion topic to mitigate adverse impacts of development on mountain lands and the transportation network. He noted that compared to roads in the AOC areas, mountain roads tend to be curvier, narrower, and some main roads have long unpaved stretches. He also said that there are a lot of gravel private roads. He said his question is whether we want to further restrict or treat uses differently when located on FOC lands as opposed to AOC lands. He then reviewed a list of FOC District uses provided for the Committee's reference. Chair Ohrstrom said that we have total control over the special uses so we really only want to look at the permitted and accessory uses. Mr. Stidham replied that you may still want to create regulations for the special uses that apply only to FOC lots. Commissioner Staelin noted that this kind of language included in the Rural Lands Plan could be used to make decisions on special use permit applications.

Mr. Stidham noted the question of whether traffic-generating special uses should be prohibited from using shared easements, private roads, and gravel public roads for public ingress/egress. He said that we have already started incorporating this concept into recent text amendments for farm wineries, farm breweries, and farm distilleries in addition to primitive campgrounds. He also noted the regulation added a few years ago that requires property owners on a private access easement that will be used for public access to a proposed special use to be applicants on the special use permit application. He said that we could go to the next level and prohibit use of private roads and gravel public roads. He cited the example of whether we want special use traffic using Feltner Road which is a narrow and steep gravel public road. Commissioner Glover noted Morgan's Mill Road as another gravel public road that we would not want to add traffic to. Commissioner Staelin suggested having a limitation on the distance of private road that could be used for public ingress/egress. Vice-Chair Buckley asked if you could use road classification for public roads and Mr. Stidham replied that we should probably use whether it is hard surfaced or not. Commissioner Staelin said that he is

in favor of limiting use of gravel public roads. He also said he wondered whether the residents on the mountain would be in favor of or opposed to the rule as it would further restrict their property rights. Mr. Stidham said he thinks that the vast majority of people who would want to develop these uses on the mountain are from outside the county and that the current county residents do not want to be bothered by these uses. Vice-Chair Buckley noted in the past that many residents on the mountain do not want to be subject to any regulations whether they want to develop the impacted uses or not. Commissioner Catlett asked if we could prohibit farm wineries that are on gravel public roads if they are a by-right use. Mr. Stidham said that he thinks we could include this regulation. He added that we are only setting the policies for the Rural Lands Plan and we would still have to go through the text amendment process to make the regulations. He also said that if we want to avoid adverse impacts to gravel public roads on the mountain, then we should make that statement in the Rural Lands Plan. Commissioner Glover added that we do not want to impact the roads or the residents.

Chair Ohrstrom asked if we want to separately address mitigating adverse impacts of development on mountain lands and impacts to the transportation network as a way to make each stronger. Mr. Stidham replied that our current plan language appears to encourage these traffic-generating uses in the rural areas and we have no guidance to address lands that are served by bad roads. Commissioner Staelin suggested looking at the list of permitted and accessory uses to see if any could be made special uses. Mr. Stidham replied that we could have a strategy to review the list of uses to determine which should be converted to special uses.

Mr. Stidham moved to the final discussion issue regarding mitigating adverse impacts of tourism and recreation on mountain lands and the transportation network. He asked if we want a clear statement of how we want to support tourism on the mountain. Regarding emergency services response to calls on the Appalachian Trail, Vice-Chair Buckley said that he believes that majority of the calls are for day hikers as opposed to through hikers. Commissioner Staelin said that the way you word how you want to promote is important. Commissioner Glover said that the Economic Development Department is promoting a lot of things and we do want to promote our natural assets but we have done a lot of promotion of our tourism assets over the past few years. Mr. Stidham noted that Bear's Den is not an attraction that you would want to limit to through hikers because regular visitors can access it easily to enjoy the view. He also noted that we may not want to promote it to the extent that visitors overcrowd the parking areas. He added that you cannot promote tourism without promoting all of our assets. Commissioner Staelin said that you can clarify that some resources are for experienced hikers and have limited parking and access. He also asked if we can convey this information through better signage. Mr. Stidham said that a policy for the Plan may be to develop a public information campaign to increase awareness of these issues. Commissioner Catlett said that signage and other information could be better focused on warning first time visitors of the hazards, adding that the current signage on the Appalachian Trail is more geared towards information for through hikers.

Mr. Stidham reviewed the final topic regarding whether to have different policies for agribusiness and agritourism on the mountain, citing the impacts of Bear Chase Brewery as an example. Chair Ohrstrom said that if you had a business like Bear Chase Brewery in the middle of AOC land, you would probably have the same issues. Commissioner Glover said that the concerns with mountain roads apply to this issue as well.

Commissioner Staelin noted that we skipped over the question about whether we want to allow sanitary districts in the future to address water, sewer, and private road issues. He said that we should find a way to inform owners of small lots on the mountain of what might happen if their septic systems fail. Commissioner Catlett asked if you establish a sanitary district to address septic system problems, are you also obligated to maintain private roads in the same community. Mr. Stidham replied that he thinks you can determine the scope of the sanitary district responsibilities. He also asked the members if we want to have a policy that states whether we will or will not get involved with sanitary districts if a community has issues with wells, septic systems, or private roads. Vice-Chair Buckley said that it is a challenge to maintain our current public sewer district and Commissioner Staelin replied that a sanitary district is different because we are collecting money from the district residents to pay for the maintenance issue. He said the Board of Supervisors would take no responsibility for maintenance. Vice-Chair Buckley asked who would be responsible for stepping in if the entity that is responsible for maintenance fails to perform. Commissioner Staelin said that maybe it would be a good idea to establish a policy that outlines the scope of when the county would consider a sanitary district. He added that this can include which parties are responsible and what happens if those responsibilities are not met.

4. New Business ~ none scheduled

Mr. Stidham said that the next meeting is scheduled for May 3 after the Commission Business Meeting. Commissioner Catlett said that she may not be able to attend. Mr. Stidham asked if the Committee wants to reschedule since Commissioner Staelin may also not be able to attend on that date. Members agreed and Mr. Stidham said that he would email some suggested dates and times.

Regarding the Recreation Plan's strategies, Vice-Chair Buckley noted Strategy 3 states, "Assist in maximizing the recreation value of existing assets." He also said that (b) and (c) reference facilitating "more effective public use" of the Appalachian Trail and Shenandoah River. He said that the wording should be more "considerate" public use. Commissioner Staelin said that you could say to ensure that the level of usage matches the ability to serve.

ADJOURN: Meeting was adjourned by consensus at 3:34PM.



Brandon Stidham, Clerk