

# Clarke County

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## PLANNING COMMISSION ORDINANCES COMMITTEE MEETING MINUTES WEDNESDAY, OCTOBER 10, 2018



A meeting of the Planning Commission's Ordinances Committee was held at the Berryville/Clarke County Government Center, Berryville, Virginia, on Wednesday, October 10, 2018.

### ATTENDANCE

**Present:** Randy Buckley, Anne Caldwell, Frank Lee, and Gwendolyn Malone

**Absent:** None

**Staff/Others Present:** Ryan Fincham (Senior Planner/Zoning Administrator); George L. Ohrstrom, II

### CALLED TO ORDER

Mr. Stidham called the meeting to order at 10:01AM.

### APPROVAL OF AGENDA

The Committee approved the agenda by consensus as presented.

### APPROVAL OF MINUTES

The Committee approved the September 7, 2018 meeting minutes as presented.

**Yes:** Buckley, Caldwell (moved), Lee (seconded), Malone

**No:** none

### OLD BUSINESS

Mr. Stidham stated that he wanted the Committee to revisit an issue regarding the number of allowable businesses on a parcel in the Neighborhood Commercial (CN) District, noting that this was discussed previously in Policy Issue P31. He said that the Committee previously supported Staff's recommendation to allow only one business per lot or up to two businesses sharing space within a single building. He noted that a site plan application was recently filed to change the use of Locke's Store to a restaurant including the buttry building on the adjacent property. He said that the two lots would be merged and a question was raised regarding whether separate businesses can be operated in the two buildings in the future if the properties were merged. He also said that under the one business per lot rule that is tentatively supported, two businesses could not be operated in this scenario. He said that Staff did not have an issue with changing the recommendation to two businesses per lot in separate buildings or shared space as it would not result in the creation of a "strip mall" which was the main concern in Policy Issue P31. He also noted that it could help to further adaptive reuse of existing

commercial structures. Mr. Ohrstrom said that he thought this issue was worth discussing as it may produce an unintended consequence in trying to restrict strip mall development in the CN District. Mr. Lee added that there is so little CN-zoned property that he did not see this as a problem and members briefly discussed the location of CN-zoned parcels in the County. Mr. Stidham noted that the only potential concern is that a future business could locate in Millwood that is a much greater traffic generator and this business district has already been exempted from parking requirements. He added that parking availability will be a key factor for businesses deciding whether to locate in Millwood. Members did not have concerns with making this change to the recommendation.

### **NEW BUSINESS**

Mr. Stidham provided an overview of issues with the sign regulations (Policy Issue P8) including changes needed in response to a recent U.S. Supreme Court ruling prohibiting the use of content-based sign regulations. Mr. Ohrstrom asked if the court ruling impacts changeable message sign rules. Mr. Stidham replied that changeable message sign regulations are based on the design of the sign and not the content of the message on the sign.

Regarding “No Trespassing” signs, Mr. Ohrstrom asked whether these are all private signs that do not need to be regulated. Mr. Stidham replied that the small signs that are tacked to trees and fences are probably not an issue but if a property owner wanted to put up a very large freestanding sign, the County may want to regulate that. Ms. Caldwell asked about signs she has posted which say “Road Closed – No Outlet” to discourage vehicular traffic through her property. Mr. Stidham replied that those would be treated as “No Trespassing” signs. He noted that “No Trespassing” signs are allowed by-right with no size limitation or maximum number.

Regarding roof signs, Mr. Buckley asked if there is any exception allowed for an historic structure that used to have a roof sign that would enable the owner to restore with a new historic roof sign. Mr. Stidham said he is aware of other localities that do not regulate historic signs that show place names or advertise past businesses or products that are not currently sold or operated onsite. He noted that Staff currently does not regulate signs that are erected for decorative purposes. Mr. Buckley noted that the former gas station being renovated for historic purposes in White Post used to have a roof sign that the owners may want to restore. Mr. Stidham asked if the sign would be mounted on the roof and illuminated and Mr. Buckley replied yes. Mr. Stidham said that it probably could not be illuminated under the current rules. He also said that he sees this issue similar to one regarding signs with farm and estate names and recommends holding discussion on this topic until later in the meeting. Ms. Caldwell noted that creating an exemption for historical place signs would be similar to the use that was recently created for historic mills, and Mr. Ohrstrom added that the gas station in White Post is located in the Historic Overlay District.

Regarding freestanding and temporary signs, Mr. Stidham noted that they would be included in tables and referenced the initial drafts in the meeting packet. Mr. Ohrstrom asked why freestanding signs in the RR District fronting on roads with a 55MPH speed limit are allowed to be a maximum of 24 square feet. Mr. Stidham replied that this is allowed only for special uses in the RR District and likely would only apply to parcels that front on US 340 in White Post and have an entrance on US 340. He added that you typically want to allow larger signs on roads with higher speed limits for

visibility purposes. He also noted that Staff is not proposing any changes to the freestanding sign dimensional requirements but that the Committee could certainly discuss making changes.

Mr. Stidham reviewed the wall sign regulations noting that they are based on the total area of signage on a property rather than the number of signs. Mr. Fincham discussed Staff's concern with the fact that the regulations do not clearly state whether to calculate total sign area for each building and structure or for all buildings or structures on a property. He gave the example of Handy Mart's proposed gas pump expansion and noted that the wall signage on the store building and existing gas canopy would count against any proposed signage for the new canopy. Mr. Stidham asked if the Committee wants to apply the total area thresholds per building or structure or for all buildings and structures on the property. Mr. Buckley asked if the new canopy would be on a separate parcel from the existing facility and Mr. Fincham said no. Mr. Stidham noted that in this example if you apply the requirements to all signage on the property as Staff currently interprets, HandyMart may already be at the maximum number of allowable signs. Mr. Buckley suggested creating a different calculation for accessory structures. Mr. Fincham replied that you could take this approach or you could create separate regulations just for canopies. Mr. Stidham asked the members if they would be comfortable applying the regulations to the total number of buildings on a property regardless of whether the buildings are occupied by separate businesses. After briefly discussing how much sign area would be allocated per business, members indicated that they are comfortable with this approach. Mr. Stidham asked the members if they created a separate threshold for canopies, did they want to cap the total sign area at a lower number such as 100 square feet. Mr. Fincham said that it would be helpful administratively to have separate regulations for canopies. Ms. Caldwell asked whether it is necessary to have signage on canopies. Mr. Buckley replied that in the HandyMart example it would be helpful to have a sign indicating the location of the diesel pumps. Mr. Fincham said that he has calculated the area of the illuminated stripe on the existing canopy but cannot remember the number. He added that he could get some recommended canopy regulations and bring them back to the Committee for review and the members agreed.

Mr. Stidham reviewed the temporary sign regulations. He noted that the regulations in the AOC and FOC Districts vary depending upon whether the use promoted on the temporary sign requires a business license. He said that this appears to be an attempt to provide greater flexibility for business-type uses but added that business licenses are not a zoning instrument and should not be used in the regulations. He also said that Staff recommends considering replacing the business license distinction with whether the use is a permitted or special use. Members agreed to allow a maximum of 16 square feet for all AOC and FOC properties regardless of use or whether they have a business license.

Mr. Stidham outlined Staff's recommendation for temporary sign regulations including that no zoning permit would be required, that only one sign per lot is allowed, that the sign must meet maximum area requirements for the zoning district, and that the sign be removed within 90 days or five days of completion of the event or activity noted on the sign whichever is more restrictive. Mr. Fincham said that in practice, currently you are in compliance if you place one or two temporary signs on a property. He said if you want to place more than two signs, you have to obtain a sign permit with a fee of \$20 per square foot. He added that particularly during election season there are probably several examples of violations around the County but Staff will not take action unless a

formal complaint is filed. Ms. Caldwell asked about stick-in-the-ground signs that are posted at gas stations and changeable signs on trailers. Mr. Stidham said that these are being addressed later in the meeting. Following a brief discussion about Staff's recommendations, the members agreed to allow two temporary signs per lot and require removal within 60 days of posting or 7 days after completion of the event or activity whichever is more restrictive.

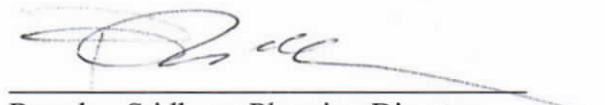
Mr. Stidham described the issue of "attention-getting devices" such as feather flags, inflatables, and portable signs which would fall under the definition of sign but are difficult to regulate with the current rules. He outlined Staff's recommendation to create a new category for these temporary signs that would not require a zoning permit but that would be limited to display for a maximum of three consecutive days or ten days in any 30-day period. He said that plastic "stick-in-the ground" signs would be regulated as temporary signs and not as "attention-getting devices." Members agreed with Staff's recommendations. Members also did not want to create a setback for temporary signs generally so long as they are located out of the public right-of-way.

Mr. Stidham discussed the issue of signs used to delineate the names of farms or estates and whether the sign regulations should apply to them. He also noted that the earlier topic of historic place or building name signs could be included in this discussion as well. Mr. Ohrstrom asked about conservation easement signs and Mr. Stidham replied that those are exempt as government signs. Mr. Stidham added that under the current rules, if he wanted to post a sign that said "Ohrstrom Farm" it would require a freestanding sign permit. Mr. Lee said he was concerned about the maximum potential size if they were exempted. Mr. Stidham replied that if you created a dimensional requirement for these signs that differs from other freestanding signs, you would be creating a content-based regulation. Following a brief discussion, the members indicated that they would like to find a way to exempt these signs. Mr. Stidham said that he would speak with the County Attorney regarding whether an exemption can be created.

#### **SCHEDULING OF UPCOMING MEETINGS**

Mr. Stidham stated that he will wait until the County Attorney has completed legal review on the remaining five policy issues before scheduling the next meeting.

The meeting was adjourned by consensus at 11:44AM.



Brandon Stidham, Planning Director