

Clarke County



PLANNING COMMISSION WORK SESSION MINUTES TUESDAY, DECEMBER 4, 2018

A work session of the Planning Commission of Clarke County, Virginia, was held at the Berryville/Clarke County Government Center, Berryville, Virginia, on Tuesday, December 4, 2018.

ATTENDANCE

Present: Robina Bouffault; Anne Caldwell; Bob Glover; Scott Kreider; Douglas Kruhm; Frank Lee; Gwendolyn Malone; Cliff Nelson; and George L. Ohrstrom, II (Chair).

Absent: Randy Buckley (Vice-Chair) and Mary Daniel

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

Others Present: Stuart Dunn, Juliet Mackay-Smith

CALLED TO ORDER

Mr. Stidham called the meeting to order at 3:01PM.

AGENDA

The members approved the agenda by consensus as presented.

REVIEW OF AGENDA ITEMS FOR DECEMBER 7, 2018 BUSINESS MEETING

SP-18-02, Robert Claytor

Mr. Fincham provided an update on the status of the site plan review. He noted that the Virginia Department of Transportation (VDOT) provided an extensive comment letter that included concerns about the turning radii at certain access points and about the stormwater management plan. VDOT is concerned that the Applicant plans to use VDOT's stormwater pond but they have not executed an agreement as to its use. VDOT's concerns triggered additional comments from the Department of Environmental Quality (DEQ) regarding the submitted stormwater management plan. Because these outstanding issues have not been resolved, the Applicant has requested an additional one month deferral. Staff recommends accepting the deferral request and also recommends that the Commission consider authorizing Staff to accept any future deferrals on this case to ensure that it is only placed on a Commission agenda after outstanding issues have been resolved. He noted that the Commission took a similar approach recently in the Hitchen major subdivision review.

SP-18-03, Juliet Mackay-Smith/Locke & Co., LLC

Mr. Fincham reviewed the Staff Report for this site plan review which is advertised for Public Hearing at the Business Meeting. Chair Ohrstrom asked for clarification regarding whether existing trees and shrubs on a site are not credited against required landscaping in the Zoning Ordinance. Mr. Fincham replied that this is explicitly stated in the Ordinance and Mr. Stidham replied that all the required landscaping that must be installed on a site is in addition to the existing trees and shrubs. Chair Ohrstrom asked how you handle a situation in which there is already a functional vegetative buffer in place. Mr. Stidham said this is the issue that we have in this case and you would either waive the landscaping requirements or enforce them and have unnecessary landscaping installed. He added that most counties allow credit for existing foliage but also require landscaping plans to be prepared by landscape architects who can certify as to the species and condition of existing trees and shrubs.

Mr. Fincham noted that VDOT recently provided a comment letter containing points of concern regarding current perpendicular and angle parking that should be replaced with parallel parking, provision of appropriate maneuvering area for vehicles entering and leaving parking spaces, a potential delivery access shown on the site plan as having to meet VDOT requirements, and a requirement to pave the apron for the entrance to the employee parking area. Ms. Bouffault asked if the applicant is grandfathered from these requirements. Mr. Fincham replied that Staff relies on VDOT for these reviews and it would be up to VDOT to determine if there is a grandfathered status. He also noted that the Applicant and her surveyor may want to speak to this issue and Chair Ohrstrom recognized them for comments. Juliet Mackay-Smith (Applicant) said that she would be fine with removing the potential delivery access from the site plan to resolve that issue. Mr. Fincham stated that Staff recommends deferral of this request pending resolution of VDOT's concerns. Stuart Dunn (Applicant's surveyor) asked if the property entrance would be grandfathered and Mr. Fincham replied that this would be up to VDOT. Ms. Bouffault said that the Zoning Ordinance provides more flexibility for parking in this area due to its historic nature. She added that perpendicular parking has been occurring there for many years and asked how VDOT could now prohibit it. Mr. Stidham replied that ultimately VDOT will have to clarify whether the parking comments are requirements or recommendations. Ms. Bouffault said that this would have a significant impact on the businesses and the mill if VDOT were to enforce it. Mr. Stidham added that Staff will continue to recommend deferral until VDOT provides a clean review letter and that it will be up to the Commission to decide whether they want to wait for VDOT issues to be resolved before approving the site plan. He also said that VDOT understands that the County's parking requirements are addressed separately from their parking concerns. Mr. Dunn asked if Mr. Stidham was referring to the entrance or the parking concerns and Mr. Stidham replied that he is referring to all of VDOT's concerns expressed in their comment letter.

Ms. Mackay-Smith said that she met previously with Bobby Boyce (VDOT) and has since executed a parking lease with the mill to share customer parking. She added that she was taken by surprise with the comment letter and added that VDOT knows the way that people have been parking there. She also said that she will be in contact with Mr. Boyce to determine if information was communicated in error during the meeting or if he has changed his mind on certain items. Mr. Fincham said that Mr. Boyce uses the word "should" in his comments on the perpendicular parking. Ms. Caldwell commented that Mr. Boyce may be stating VDOT's official position in writing and Mr. Dunn added that it could be to avoid liability on VDOT's part. Ms. Mackay-Smith asked what the timeframe

would be on resolving these issues. Mr. Fincham said that Staff would continue to recommend deferral until a more concrete letter is provided by VDOT. Ms. Bouffault asked whether the VDOT issues are the only issues remaining to be addressed. Mr. Fincham replied that the Commission has not discussed the landscaping plan. Mr. Dunn noted that if the Applicant is not required to address the perpendicular parking or the employee entrance, VDOT would not be issuing a land use permit. Mr. Stidham said that it would ultimately be up to VDOT to enforce their regulations if the Commission approves the site plan without final VDOT approval. Mr. Dunn said that the Applicant is not planning to ask for a VDOT land use permit unless she is forced to do so. Mr. Stidham suggested having Mr. Boyce appear at an upcoming Commission meeting. Ms. Bouffault replied that VDOT is notoriously slow and that she is not comfortable with waiting for VDOT to do anything. She added that Mr. Boyce's letter says "should" and not "shall" and that the current parking situation has been the same for years. Chair Ohrstrom asked what would happen if the Commission treats the VDOT letter as recommendations instead of requirements and approves the site plan, and would it create problems between VDOT and the County. Mr. Stidham replied that he did not think so and said that it is ultimately up to VDOT to enforce their own regulations. Chair Ohrstrom asked whether VDOT could take action to shut down the Applicant's business. Mr. Stidham replied that the question is whether VDOT would want to invest their resources in an enforcement action such as this. He added that VDOT is typically lax in enforcement and Mr. Lee added that VDOT has not done anything about the parking situation to date. Mr. Stidham said that Staff can contact Mr. Boyce to find out what portions of the comment letter are compulsory and whether he can attend an upcoming Commission meeting and Mr. Kreider replied that this would be helpful. Ms. Caldwell asked what would happen if Mr. Boyce did say that portions of the letter are compulsory and requires installation of concrete barriers to prevent perpendicular parking. Ms. Bouffault added that we should just leave it alone and not challenge VDOT. Mr. Stidham recommended that if the Commission wants to approve the site plan on Friday without resolving the VDOT issues, they should put their reasoning on the record in case they do not want to take this position with a similar site plan in the future. Mr. Kreider suggested noting that this is in the Millwood historic district.

Mr. Fincham provided an overview of the Applicant's proposed landscaping plan. Ms. Caldwell said that she visited the site and pointed out some of the plan's good points in terms of screening. Mr. Lee said that he also visited the site and that most of the properties that would be affected are being screened and they are keeping the existing trees along the property line. Chair Ohrstrom asked if the members were comfortable with the landscaping plan and the members said yes.

Mr. Dunn asked Mr. Fincham if he was going to contact Mr. Boyce and Mr. Fincham replied yes. Mr. Stidham added that the Applicant should also contact Mr. Boyce to discuss the issues and Ms. Mackay-Smith asked if they should have him out for another site visit. Ms. Bouffault stated that she did not think a site visit would accomplish anything and that Mr. Boyce has already put his comments in writing. Chair Ohrstrom said that he thinks that Ms. Bouffault is correct and that if you push VDOT on their comments, then they may push back. He added that the Commission could then note that the condition in their approval that the use is in the Millwood historic district. Mr. Stidham said that he believes the Applicant should still contact Mr. Boyce on her own to ensure that the issues are resolved. Ms. Bouffault replied that she thinks this would be a very bad idea and that if she questions the letter, Mr. Boyce could push back and potentially say that the recommendations are requirements. Mr. Stidham replied that Mr. Boyce could always do the same thing when he finds out the site plan

has been approved. Ms. Mackay-Smith noted that you can have the same safety problems there if you required parallel parking and she questioned whether VDOT could ultimately waive the requirements.

TA-18-01, Antenna Support Structures

Mr. Stidham provided an update on this text amendment and noted that Staff has incorporated the changes requested by the Commission at the November meeting. He also reviewed comments from David Williamson (Winchester Wireless) on the draft text amendment. Mr. Stidham noted that the Commission can make changes to the text amendment without having to re-advertise the Public Hearing with the exception of increasing the maximum height requirement. He added that this would increase the intensity of the text amendment over what has been advertised for Public Hearing which would require deferral and re-advertisement. Mr. Kreider and Ms. Bouffault said that they like the text amendment the way it is written. Mr. Glover asked about the drawbacks of making the setback distance equal to the tower height. Ms. Caldwell said that the Committee went back and forth on that item and Mr. Lee added that this is the only item he would consider changing. Mr. Stidham said that changing the setback really will not impact visibility of the towers.

NEW BUSINESS ITEMS

2019 Organizational Meeting

Mr. Stidham noted that the Organizational Meeting is coming up at the January Work Session and that Staff has included documents to prepare the Commission for this meeting.

The meeting was adjourned by consensus at 3:49PM.



George L. Ohrstrom, II (Chair)



Brandon Stidham, Planning Director