



Clarke County Planning Commission

AGENDA – Briefing Meeting

Tuesday, January 7, 2014 – 3:00PM

Berryville/Clarke County Government Center– Main Meeting Room

- 1. Approval of Briefing Meeting Agenda**
- 2. Review Agenda Items for January 10, 2014 Regular Meeting**
- 3. New Business Items:**
 - a. Establishment of Filing Deadlines for Rezoning, Special Use Permit, Site Plan, and Major Subdivision Applications**
 - b. Administrative Approval of 100-acre Lot Divisions and Boundary Line Adjustments**
 - c. Staff notification to Planning Commission of pending matters for administrative approval**
 - d. Text amendment to Zoning Ordinance §5-C (Revocation)**
- 4. Other Business**
 - a. Update, Economic Development Strategic Plan Subcommittee**
- 5. Adjourn**



Clarke County Planning Department
101 Chalmers Court, Suite B
Berryville, Virginia 22611
(540) 955-5132

TO: Planning Commission members

FROM: Brandon Stidham, Planning Director

RE: Establishment of Filing Deadlines for Rezoning, Special Use Permit, Site Plan, and Major Subdivision Applications

DATE: December 30, 2013

In response to recent requests from Planning Commission members, Item 3a on your briefing meeting agenda is a discussion of establishing filing deadlines for rezoning, special use permit, site plan, and major subdivision applications.

The issue has been raised in both recent and past cases in which applicants provide supplementary materials or revisions to previously submitted materials between the date that meeting packets are sent to the Commission or Board of Supervisors and the date of the advertised public hearing. The concern is that late submission of materials does not allow adequate time for Staff, the Commission/Board, and citizens to evaluate the new information. Commission members have expressed a desire to establish filing deadlines to address this concern.

Attached to this memo is an initial draft for the Commission to use as you begin discussion of this issue. The initial draft language proposes a filing deadline of seven (7) business days prior to the date of an advertised public hearing for applicants to provide Planning Staff with any new materials or revisions to previously submitted materials. Any materials submitted after the filing deadline has passed would not be considered by the Commission or Board unless a majority of the membership votes to waive the deadline and consider the new information. Staff recommends including this waiver process to cover instances in which the Commission or Board may want to consider new information after the deadline has passed.

The initial draft language would apply only to zoning actions that require public hearings – rezoning, special use permit, site plan, and major subdivisions. The draft language would also apply only to meetings in which a public hearing is advertised. As currently written, it would not apply to meetings to set public hearing or to subsequent meetings after a public hearing was previously closed and not re-advertised.

Specific issues the Commission should consider in discussing this matter include:

- Whether the amendment should apply to all Commission and Board meetings including those to set public hearing.

- Whether seven (7) business days is a sufficient amount of time for the filing deadline.
- Whether language should be added to specify the circumstances under which a waiver to the filing deadline should be granted.

Staff recommends that the Commission discuss these issues at the January 7 briefing meeting and, if necessary, consider forwarding the matter to the Policy subcommittee for further evaluation. Please do not hesitate to contact me if you have questions or concerns prior to the briefing meeting.

INITIAL DRAFT LANGUAGE – FILING DEADLINE FOR SUPPORTING DOCUMENTATION

A potential text amendment could be made applicable to the following Zoning and Subdivision Ordinance actions that require a public hearing. Initial draft language is listed below in italics for insertion in the referenced ordinance subsections.

- Special Use Permits – add to §5-B-2 for the Planning Commission, §5-B-3 for the Board of Supervisors
- Site Development Plans – add to §6-E-3-C and change “Planning Commission” to “Administrative Body”
- Zoning Map Amendments (re-zoning) and Text Amendments – add to §8-D-2 for the Planning Commission, §8-E-2 for the Board of Supervisors
- Major Subdivisions – add to §4-F of the Subdivision Ordinance for the Planning Commission

FILING DEADLINE FOR SUPPORTING DOCUMENTATION – PLANNING COMMISSION

All materials shall be submitted to the Planning Department not less than seven (7) business days prior to the public hearing of the application before the Planning Commission in order that the application may be properly considered. The Planning Commission may, by majority vote taken prior to conducting the public hearing, waive this requirement and accept from the applicant the additional documentation, or modifications to previously submitted documentation, for consideration.

FILING DEADLINE FOR SUPPORTING DOCUMENTATION – BOARD OF SUPERVISORS

All materials shall be submitted to the Planning Department not less than seven (7) business days prior to the public hearing of the application before the Board of Supervisors in order that the application may be properly considered. The Board of Supervisors may, by majority vote taken prior to conducting the public hearing, waive this requirement and accept from the applicant the additional documentation, or modifications to previously submitted documentation, for consideration.



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TO: Planning Commission members

FROM: Brandon Stidham, Planning Director

RE: Administrative Approval of 100-acre Lot Divisions and Boundary Line Adjustments

DATE: December 30, 2013

Commission members have expressed concerns about Planning Staff's recent administrative approval of plats depicting a series of administrative subdivisions and boundary line adjustments. The effect of the plat approvals was to divide a 360.93 acre tract containing nine dwelling unit rights (DURs) and one existing dwelling into nine parcels of at least 20 acres in size. Eight of the parcels contain one DUR with the ninth parcel (the residual) containing the existing dwelling. Approximately 65 acres were transferred to an adjacent parcel and one DUR will be extinguished through Virginia Outdoors Foundation conservation easement.

Members are concerned that the series of plats could represent a "loophole" to the Subdivision Ordinance requirements for Planning Commission subdivision review and application of private road construction requirements. By virtue of using administrative subdivision and boundary line adjustment transactions, no "subdivision" of land took place through these transactions and therefore no subdivision regulations such as private road requirements apply. It should be noted that Planning Staff has requested and the applicant has agreed voluntarily to design an access road that meets the County's private road standards.

"Subdivisions" as defined in the Subdivision Ordinance fall into two categories, both of which are reviewed and approved by the Planning Commission and are subject to the requirements of the Ordinance – "major subdivisions" and "minor subdivisions." A "major subdivision" (§2-B-53) is a subdivision meeting any of the following conditions:

- Three or more lots are proposed, at least three of which are less than 100 acres.
- A lot will be used for commercial purposes.
- A right of way in the subdivision will be proposed for acceptance into the Virginia Department of Transportation's road system.
- Public water or public sewerage is proposed to serve any lot.
- Homeowners association is to be created for the subdivision.

A "minor subdivision" is a subdivision containing one or two lots that are each less than 100 acres in size and meet none of the conditions set forth for a major subdivision. The key factor in both major and minor subdivision definitions is that they involve resultant lots that are less than 100 acres in size. Divisions resulting in parcels that are 100 acres or larger are considered to be

administrative subdivisions that are reviewed and approved by Planning Staff. Prior to establishment of a staff review process, 100 acre divisions were considered to be exempt from the Subdivision Ordinance and were not reviewed by Staff or the Commission.

§10-D-1-c outlines the regulations for boundary line adjustments between agricultural lots, requiring that no resultant lot has an area of less than 20 acres. Boundary line adjustments, like divisions of land that are neither major nor minor subdivisions, are administratively approved by Planning Staff.

Regarding the transactions in question, the plats submitted for review alternated between administrative subdivision of not more than three parcels of 100 acres in size and boundary line adjustments to create at least one parcel of not less than 20 acres in size. The sequence of the plats and order of recordation was significant because the boundary line adjustments had to take place in order to create each 20+ acre parcel and to permit consolidation of a single residual parcel that could be further divided into two 100+ acre tracts.

To address Commission members' concerns with the resulting transactions being repeated in the future without Commission oversight or application of Subdivision Ordinance requirements, there are several approaches that can be taken in the form of text amendments. Prior to preparing a text amendment however, Staff recommends that the Commission discuss the policy issues behind the various concerns at the briefing meeting or if desired, consider forwarding the matter to the Policy Subcommittee for further review. Staff will have the plats for the transaction in question available for review at the briefing meeting and will step the Commission through the review process. Please advise if you have questions or concerns in advance of the meeting.



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TO: Planning Commission members

FROM: Brandon Stidham, Planning Director

RE: Text amendment to Zoning Ordinance §5-C, Revocation

DATE: December 27, 2013

At their December 17, 2013 meeting, the Board of Supervisors requested Staff to forward a potential text amendment to the Planning Commission for review and formal recommendation.

§5-C of the Zoning Ordinance outlines the process for revocation of a special use permit (SUP) including the circumstances under which an SUP may be revoked. These reasons include failure to establish or discontinuance of the approved special use; repeated or continuing violations of the permit conditions; and fraudulent, false, or misleading information supplied by the applicant during the SUP application process. Regarding revocation for repeated or continuing violations of the permit conditions, §5-C does not provide specifics on the number or the nature of the violations that would justify revocation. As written, the ordinance section leaves this determination to the zoning administrator's discretion.

The Board has requested the Commission to consider adding language that would provide specificity on the number and nature of violations justifying revocation. In response to this request, Staff has provided draft language for consideration that would require an SUP to be presented for revocation upon the third violation of the permit conditions. The proposed language (bold italics) would be added to §5-C-2 as follows:

2. Repeated or continuing violations of the conditions placed on the Permit. ***Failure to comply with the conditions of a Special Use Permit may result in the issuance of a Notice of Violation (NOV) by the Zoning Administrator. The Zoning Administrator may present a Special Use Permit to the Board of Supervisors for revocation if the NOV is not resolved as directed. Upon the issuance of a third NOV of the permit, and failure of the permit holder to appeal to the Board of Zoning Appeals, the Zoning Administrator shall present the Special Use Permit to the Board of Supervisors for revocation.***

The effect of the text amendment would be to require the zoning administrator to present an SUP for revocation to the Board after issuance of a third Notice of Violation of the permit conditions, regardless of the severity of the violation. The Board would have the discretion to determine whether to forward the matter to the Planning Commission for revocation based on their review of the violation history. The text amendment would allow the zoning administrator the discretion to bring an SUP to the Board for revocation prior to issuance of the third NOV.

Staff has also noted that §5-C does not provide for revocation of an SUP in cases of violations of other sections of the Zoning Ordinance unrelated to the special use, violations of the County Code, or violations of State or Federal law. In certain circumstances, revocation of an SUP may be warranted if violations of other bodies of law not covered by the permit conditions but related to the activities of the special use create adverse impacts on surrounding properties. Should the Commission wish to consider this issue, Staff recommends adding a new subsection 4 that would read as follows:

4. Violations of other provisions of the Zoning Ordinance not addressed by the special use permit conditions, the Code of Clarke County, or State and Federal law related to the activities of the special use.

In the case of Zoning Ordinance violations, a notice of violation (NOV) issued by the zoning administrator would be required. In the case of County Code violations or violations of State or Federal law, a conviction or other adjudication would be required in order for the Board to consider revocation. In all cases, the violation would have to arise from an activity related to the special use.

Staff recommends that the Planning Commission consider placing the text amendments on the January 10, 2014 agenda to set public hearing for the February meeting. Should the Commission wish to consider the matter further before setting Public Hearing, Staff recommends forwarding it to the Policy Subcommittee for review and comment.

Amendment Text (proposed changes in bold italics with strikethroughs where necessary):

5-C REVOCATION

The Board of Supervisors may, by resolution, initiate the revocation of any active Special Use Permit. The consideration of the revocation shall proceed following the procedure set forth for approving a new Special Use Permit. Following a recommendation by the Planning Commission, the Board may revoke an active Special Use Permit for the following reasons:

1. Failure to establish or discontinuance of the approved Special Use: If the approved Special Use has not been established within two years of its approval or if it has been discontinued for one year, the Special Use Permit may be revoked. A Special Use Permit approved before 2004 November 16 shall be eligible for revocation if it has not been established by 2006 November 16 or if it has been discontinued for one year as of 2005 November 16.
2. Repeated or continuing violations of the conditions placed on the Permit. ***Failure to comply with the conditions of a Special Use Permit may result in the issuance of a Notice of Violation (NOV) by the Zoning Administrator. The Zoning Administrator may present a Special Use Permit to the Board of Supervisors for revocation if the NOV is not resolved as directed. Upon the issuance of a third NOV of the permit, and failure of the permit holder to appeal to the Board of Zoning Appeals, the Zoning***

Administrator shall present the Special Use Permit to the Board of Supervisors for revocation.

3. Fraudulent, false, or misleading information supplied by the applicant in applying for the Special Use Permit.
4. ***Violations of other provisions of the Zoning Ordinance not addressed by the special use permit conditions, the Code of Clarke County, or State and Federal law related to the activities of the special use.***



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TO: Planning Commission members

FROM: Brandon Stidham, Planning Director

RE: Update, Economic Development Strategic Plan Subcommittee

DATE: January 3, 2014

The purpose of this memo is to provide you with an update on the progress of the Economic Development Strategic Plan Subcommittee. As you are aware, this Subcommittee was formed by the Planning Commission in November and members include Robina Bouffault, Tom McFillen, John Staelin, John Milleson (EDAC), and Bryan Conrad (EDAC). Staffing includes myself, Jesse Russell, and Christy Dunkle.

The Subcommittee held their Kickoff Meeting on December 3. Milton Herd provided an update of the activities that Herd Planning has conducted to date and presented a two-page Summary of Key Economic Development Strategies that have been identified to serve as a framework to begin the Subcommittee's activities. A copy of this Summary is enclosed for your reference. The remainder of the meeting was an open discussion moderated by Mr. Herd on issues raised in the Summary and key concerns that the Subcommittee members wanted to address during the Plan development process. Following the meeting, Herd Planning provided a copy of an economic strategic plan that they prepared recently for the City of Winchester to the Subcommittee members for use in determining how our Strategic Plan could potentially be developed.

The Subcommittee's next meeting has been confirmed for Thursday, January 30 at 6:30PM in the Government Center A/B Meeting Room. We were unable to schedule an earlier meeting due to several conflicts and wanted to ensure a date when all members could attend as there were two members absent from the Kickoff Meeting. Planning Staff is currently working with Herd Planning to provide a more detailed outline of strategies that the Subcommittee will receive in advance of the January 30 meeting in order to generate significant discussion and comments.

Should you have questions or concerns in advance of the briefing meeting on this topic, please do not hesitate to contact me.

Summary of Key Economic Development Strategies – Draft 11-25-13

Overall Policies

- **Maintain the general growth management strategy** of conserving rural land and focusing growth in defined, planned areas, particularly the Berryville area.
- **Ensure that the County is “open for business”** both in substance and perception, in terms of a receptive and supportive policy climate for compatible economic development projects that are consistent with the Comprehensive Plan. *Examples:*
 - Formally announce new and refined economic development strategies and actions;
 - Use the strategies as guidelines for all county-business interactions;
 - “Re-brand” the county as pro-economic development, but only for the types of activities it wants (light industrial, agri-tourism, etc.) in conjunction with branding the county as a “cool” place for those who like a “laid-back” rural lifestyle oriented toward small town quality of life and outdoor activities, etc.

General Support for Economic Development Activity

- **Increase the capacity** of the County economic development staff to better support these strategies.
- **Upgrade web-based marketing, branding, and promotion**, partly in coordination with neighboring jurisdictions, including greater use of social media technology.
- **Enhance and deepen the ties between the County and the Town** of Berryville staff functions with regard to economic development (website, staff capacity, industrial development programs, etc.).

Industrial

- **Promote the development of currently available industrial land**, particularly along First Street and Station Road and adjacent to the County’s Industrial Park. Work with property owners to specifically:
 - Remove blighted buildings, improve the readiness of available land
 - Plan for future sites; Rezone as needed
 - Provide incentives – lower utility hookup fees, assistance in relocating existing businesses; assistance with worker recruitment/training, micro loans, assistance with building demolition and/or rehab, etc.
- **Pursue a Tax Increment Financing (TIF) plan**, in partnership with one or more landowners who have viable industrial sites to implement. Prospects include the 12.5 acre site on Jack Enders Blvd. and industrial properties on First Street.

Equine

- **Conduct a detailed study on the equine industry**, including the barriers and opportunities for expanding, and steps to pursue (similar to the Town’s recent hotel market study).
- **Promote the creation of longer duration equestrian events** (more than one-day events).

- **Organize businesses in the local equestrian industry** through a website devoted to the industry, offering up to date information on hay pricing, horse shows, and other business trends. (This could be in conjunction with the overall effort to upgrade the County’s website for economic development marketing and tourism).

Tourism

- **Improve regional cooperation and coordination in marketing and promotion** (in conjunction with intensive local coordination among tourist businesses and improvement of web-marketing and website/social media (major, essential project).
- **Establish a “tourism policy committee”** that would include representatives from tourist businesses, county and town staff, and - importantly - local residents who are concerned about impacts of increased tourist activity – this would be a standing committee that would monitor progress, address emerging issues, find resolutions to conflicts, etc.
- **Organize package tours** with B & B’s and event sites, locally and regionally.
- **Promote agri-tourism**, including wineries, with more intensive operations in accessible, lower-impact locations (such as within one-mile of Rt. 7 or Rt. 50).

Technology Infrastructure and Service

- Public Wi-Fi is widespread in Berryville; identify how to enhance broadband access and quality countywide (requires specific study similar to hotel and equine).

Housing

- **Encourage appropriate housing types** that can enhance economic vitality and/or the tax base:
 - Senior housing, including assisted living, etc., mainly in the Berryville area.
 - High value “exclusive” housing in the rural zoning districts through absorption of some of the existing DURs (dwelling unit rights).
 - Diverse, affordable housing in walkable neighborhood patterns, in coordination and cooperation with the Town of Berryville.

Longer Term Strategies

- **Double Toll Gate Area.** There is landowner interest for commercial development in this area, but the County would have to partner with landowners to provide public water and sewer to the area. An advantage to Clarke County of development in the Double Toll Gate area is its location at the western edge of the County where increases in land use intensity and traffic generation will have a relatively small impact on most Clarke County residents.
- **Retail and Office Space.** The best prospect for long-term expansion that is most consistent and supportive of County goals is to intensify downtown Berryville. A master plan for land use, urban design, and streetscape improvements would provide a framework for improving the competitive posture of the downtown in attracting retail and office development and redevelopment, as well as appropriate housing to reinforce the retail and office.