



Clarke County Planning Commission

AGENDA – Briefing Meeting

Tuesday, February 4, 2014 – 3:00PM

Berryville/Clarke County Government Center– Main Meeting Room

- 1. Approval of Briefing Meeting Agenda**
- 2. Review Agenda Items for February 7, 2014 Regular Meeting**
- 3. Old Business Items**
 - a. Update from Site Plan Subcommittee, Establishment of Filing Deadlines for Rezoning, Special Use Permit, Site Plan, and Major Subdivision Applications**
 - b. Update from Policy Subcommittee, Administrative Approval of 100-acre Lot Divisions and Boundary Line Adjustments**
- 4. New Business Items**
- 5. Other Business**
 - a. Update, Economic Development Strategic Plan Subcommittee**
- 6. 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: Site Plan Committee meeting, Establishment of Filing Deadlines for Rezoning, Special Use Permit, Site Plan, and Major Subdivision Applications

DATE: January 30, 2014

The Planning Commission Site Plan Committee met on Thursday, January 16, 2014 to discuss issues pertaining to the establishment of filing deadlines for rezoning, special use permit, site plan, and major subdivision applications. This item was discussed by the full Commission at the January 7 briefing meeting and was forwarded to the Site Committee for further discussion.

Attached for your reference is a Staff Report outlining the Committee's recommendations which were accepted by consensus. The recommendations are summarized as follows:

- Establish a requirement that applicants must submit all materials pertaining to the technical elements of the application no later than 14 days prior to the first public hearing and 7 days prior to any continued public hearing. Any materials submitted after the deadline could not be considered by the Commission at that meeting
- The Committee does not recommend including a provision to waive the deadline requirement in certain circumstances. The Committee believes that the establishing an annual calendar of filing deadlines and publicizing it would notify applicants of critical milestones at the beginning of the process.
- The Committee recommends requiring pre-application meetings with Staff as a prerequisite to filing a formal application.
- The Committee also supports establishing a re-advertising fee that would be assessed to applicants that fail to provide all materials by the deadline and necessitating the deferral and re-advertisement of a scheduled public hearing.

Also included in the Staff Report is a detailed explanation of these proposed deadlines and the resultant impact on the review process. A sample listing of dates is provided to demonstrate how the deadlines and milestones would occur during a typical review process.

Staff has also provided two additional comments for the Commission's consideration. We note that these recommended changes are not intended to impact incomplete items that do not have a material impact on the review of plats and plans. These items, included to be reconciled as

“conditional approvals,” would continue to be deferred to Staff to resolve prior to final plat or plan approval. Staff also notes that a 7-day deadline prior to a continued public hearing could result in further delays if review by the County’s engineering consultant is necessary and our consultant cannot provide comments prior to the meeting. Staff recommends that the Commission evaluate these items along with the Committee’s recommendations. Should the Commission choose to consider these items for adoption, Staff would develop draft text amendments and provide them to the Commission for final review and setting of public hearing at the March 7, 2014 meeting.

Discussion of the Site Plan Committee’s recommendations is included under Old Business Items on the briefing meeting agenda for Tuesday, February 4. Please do not hesitate to contact me in advance of the meeting if you have questions or concerns.

SITE PLAN COMMITTEE RECOMMENDATIONS
ESTABLISHMENT OF FILING DEADLINES FOR REZONING, SPECIAL USE
PERMIT, SITE PLAN, AND MAJOR SUBDIVISION APPLICATIONS

The Site Plan Committee met on Thursday, January 16 and agreed by consensus to provide the following recommendations to the full Planning Commission.

- Require all materials pertaining to the technical elements of the application to be submitted no later than 14 days prior to the first public hearing and 7 days prior to any continued public hearing. The requirement serves two purposes:
 - To ensure that Staff receives materials from the applicant in sufficient time to review them and complete the staff report for inclusion in the meeting packet.
 - To provide a set of materials for the public’s review that would remain unchanged through the public hearing date.
- Technical elements would include any regulations governing site development such as building and lot dimensions, use standards, and site plan elements including erosion control/stormwater, well/septic, and Karst plans. This would not include materials submitted by an applicant to address subjective review criteria, impacts on surrounding properties, or respond to neighboring property owner concerns in conjunction with a special use permit or rezoning.
- The Subcommittee does not recommend including language to enable these deadlines to be waived. Instead, they recommend establishing an annual calendar of deadlines that would be publicized to notify applicants at the beginning of the process of critical milestones.
- The Subcommittee recommends formalizing pre-application meetings to aid in the submission of complete applications.
- The Subcommittee also recommends establishing a re-advertisement fee that would be assessed to applicants that fail to provide all materials by the deadline and necessitating the re-advertising of a scheduled public hearing. This fee would serve to encourage applicants to request a deferral of their requests prior to advertising the public hearing in the event that the review is incomplete.

Additional Staff notes:

- These recommendations are not intended to impact incomplete items that do not have a material impact on the review of site plans and subdivision plats. These types of items have been regularly acknowledged in “conditional approvals” of plats and plans as items to be resolved between Planning Staff and the applicant prior to final approval. Examples of these items include plan note revisions; editorial changes; and revisions

agreed to by the Planning Commission, Staff, and applicant that would not require further review and action by the Commission.

- The proposed seven-day deadline for materials submission prior to conducting a continued public hearing could be problematic if the remaining issues are significant and require additional review by the County's engineering consultant. The seven-day deadline would also occur near the time that Planning Staff is finalizing the Staff Report and meeting packet. The Commission may want to consider also requiring a 14-day deadline for continued public hearings to ensure that Planning Staff has sufficient time to resolve these issues prior to finalizing the Staff Report.

RECOMMENDED REVIEW PROCESS DEADLINES

- Pre-application meeting – Formal pre-application meeting is to be held with Planning Staff as an application filing requirement. The meeting would include Planning Staff and the County's engineering consultant and would be used to answer any questions that the applicant and/or their engineer may have about the review process. Requiring pre-application meetings would help to encourage more complete and accurate filings.
- Application filing deadline – The application filing deadline would be the first Friday of each month prior to close of business. In the event that the Planning Department is closed, the deadline would be moved to close of business on the next available business day. An application that is filed by the deadline will be taken to the Planning Commission the following month to set public hearing two months from the filing deadline. Failure to file by the deadline will automatically advance the application to the next filing deadline. Filing deadlines would be set on an annual basis and publicized on the County website.
- Application completeness determination – Planning Staff will review the application submission and determine whether all required elements are included within two business days of filing.
- Routing of application and plans. Once an application is determined to be complete, it will be routed to reviewing agencies and the County's engineering consultants. Planning Staff will request all comments back within two weeks although it should be noted that some State agencies may take longer to respond with comments. Planning Staff will provide comments to the applicant as they are received with the goal of providing all comments on technical elements to the applicant within two weeks of the 14-day deadline.
- 14-day submission deadline – Applicants will be required to submit all documentation demonstrating compliance with technical requirements no less than 14 days prior to the scheduled public hearing. Any documentation submitted after the 14 day deadline would not be considered by the Planning Commission or Board of Supervisors.

- 7-day submission deadline for continued public hearings – In the event of a continued public hearing, applicants will be required to submit all documentation demonstrating compliance with technical requirements no less than 7 days prior to the date of the continued public hearing. As with the 14-day deadline, any documentation submitted after the 7-day deadline would not be considered by the Planning Commission or Board of Supervisors.

REVIEW PROCESS EXAMPLE

The example below uses April 2014 for demonstrative purposes as the application filing month for a special use permit. The number of days in bold type is the number of business days elapsed since the application completeness deadline.

- Pre-application meeting – Prior to application deadline
- Application deadline – Friday, April 4
- Application completeness deadline – Tuesday, April 8
- Application routed to review agencies and engineering consultants – Wednesday, April 9
- Deadline for agencies/consultants to return comments – Friday, April 25 (assumes two-day delivery time) [**13 days**]
- Set public hearing – Friday, May 2 (for June 6 meeting) [**18 days**]
- 14-day submission deadline for materials from the Applicant – Friday, May 23 [**33 days**]
- Planning Commission meeting packet finalized – Friday, May 30 [**37 days**]
- Public hearing date – Friday, June 6 [**42 days**]



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: Policy Committee meeting, Administrative Approval of 100-acre Lot Divisions and Boundary Line Adjustments

DATE: January 30, 2014

The Planning Commission Policy Committee met on Tuesday, January 28, 2014 to discuss issues pertaining to administrative approval of 100-acre lot divisions and boundary line adjustments. This item was discussed by the full Commission at the January 7 briefing meeting and was forwarded to the Policy Committee for further discussion.

Attached for your reference is the Staff Report that was provided to the Policy Committee to aid in their discussions. This report contains recommended text amendments to address concerns raised in the recent Runyon lot divisions as well as long-term policy issues to be considered. The Policy Committee took the following actions on the items included in the Staff Report:

- Recommend the Commission consider the proposed text amendment to establish a definition for “administrative land divisions,” divisions of land into parcels of at least 100 acres. This text amendment is Item #1 under Near Term Approaches on the Staff Report. Recommendation was by consensus of the members that were present (Kreider absent).
- Recommend the Commission consider the proposed text amendment to require private access easement design standards to be followed by divisions of land into parcels of at least 100 acres that are to be served by private access easements. This text amendment is Item #3 under Near Term Approaches on the Staff Report. Recommendation was by consensus of the members that were present.
- Recommend the Commission consider the proposed text amendment to establish limits on the frequency that 100 acre divisions can be created. This text amendment is Item #2 under Near Term Approaches on the Staff Report. The Committee voted 2-1-1 (Steinmetz NAY, Kreider absent) to make this recommendation.
- Recommend that the Commission as a committee of the whole begin a discussion of the three long-term policy issues listed in the Staff Report. Recommendation was by consensus of the members that were present.

Discussion of the Policy Committee's recommendations is included under Old Business Items on the briefing meeting agenda for Tuesday, February 4. Please do not hesitate to contact me in advance of the meeting if you have questions or concerns.

PLANNING COMMISSION POLICY COMMITTEE
January 28, 2014 meeting

The primary item for discussion by the Policy Committee is a review of the policy issues surrounding administrative approval of 100-acre lot divisions (referred to as “administrative subdivisions”) and boundary line adjustments to create developments with multiple lots of 20 acres or larger. Per our discussion at the January 7 briefing meeting, Staff has prepared near term approaches for the Committee to consider in the form of possible text amendments. These recommendations attempt to address some of the concerns that we have heard about this approach to land division and also clarify current ordinance provisions. Staff has also provided analysis of long-term policy issues that the Committee should consider.

Also enclosed for your reference is a spreadsheet listing County properties that are at least 300 acres in size and contain at least 5 DURs. This spreadsheet was assembled to depict the number of potential properties that could be divided in a similar fashion to the Runyon property. It should be noted that this information was obtained from the County GIS and lists tax parcels as opposed to parcels of record. Further deed research could show that some of these tax parcels are actually multiple parcels of record and therefore cannot be divided similarly to the Runyon property.

Near-Term Approaches:

1. Clarify the definition of divisions of land creating parcels 100 acres or larger.

Establish a defined term for land divisions resulting in parcels 100 acres or larger that must be reviewed and approved by the zoning administrator but that are exempt from the Subdivision Ordinance requirements. Since these transactions are not considered subdivisions, although staff references these as “administrative subdivisions,” the term, “administrative land divisions” could be considered. In addition to adding a term to the definitions section of the Subdivision Ordinance, language should be clarified in §3-A-2 to indicate that these transactions are exempt from Subdivision Ordinance requirements.

DRAFT LANGUAGE:

New Definition (add to Subdivision Ordinance):

Administrative Land Division. A division of land into one or more parcels with each parcel being a minimum of 100 acres. Such divisions shall not be considered a major or minor subdivision and shall be approved administratively by the Zoning Administrator.

§3-A-2. The Commission may act through its Zoning Administrator and/or Planning Staff duly appointed as provided in Section 15.2-2217 of the Code of Virginia, to the extent that the Commission finds appropriate for the administration of this Ordinance; provided, however, that no person may act for the Commission in approving, conditionally approving, or disapproving any Preliminary Plat or Record Plat ***of a major or minor subdivision.*** ~~;~~ ~~except~~ The Zoning Administrator shall act for the Commission

in approving, conditionally approving, or disapproving any ~~*Preliminary Plat or*~~ Record Plat ~~*in which all lots proposed are 100 acres or greater in area of an administrative land division.*~~

2. Establish limits on the frequency that 100 acre divisions can be created.

In the Runyon case, 20 + acre parcels were able to be created through sequential 100 acre divisions and boundary line adjustments with recordation of each plat being critical in enabling the subsequent plat to meet ordinance requirements. A restriction could be adopted to limit the number of 100 acre divisions per parcel to one every two years. This would make the approach noted above infeasible due to the time restrictions.

DRAFT LANGUAGE:

New §4-M. Administrative Land Divisions.

1. An administrative land division into parcels containing a minimum of 100 acres shall not occur on all or part of the resulting or residual parcels more than once in a two-year period.

3. Require private access easement design standards to be followed.

Another concern that was raised in the Runyon case was that the resultant parcels were to be served by a private access easement but that the Subdivision Ordinance does not require easements serving administrative divisions to meet the County's private access easement design standards. Language can be added to require such compliance with review and approval to be conducted by the Zoning Administrator.

DRAFT LANGUAGE:

New §4-M. Administrative Land Divisions.

2. If the parcels resulting from an administrative land division are to be served by a private access easement, the private access easement shall comply with the design requirements found in §8-J.

Long-Term Policy Issues:

1. Consider raising the minimum area of parcels reduced in size by boundary line adjustment.

§10-D-1-c allows for boundary line adjustments between agricultural lots provided that no resulting lot is less than 20 acres. §10-D-1-e defines for the purpose of boundary line adjustment an agricultural lot as "a tract of 20 or more acres." These two sections were amended in the mid-1990s and previously parcels of 40 acres or greater were exempt from Subdivision Ordinance requirements. Any decision to increase this minimum

acreage should be tied to the long-term consideration of establishing a minimum agricultural lot size (see below).

2. Consider creating an alternative form of large lot subdivisions.

The current maximum lot size in the AOC District is three acres with exceptions allowed for pre-1980 houses and land in conservation easement. The County through zoning has protected larger parcels for agriculture through the current zoning, although what the county may really be preserving is open space that can be used either for agricultural uses or strictly as open space conservation. Staff has spoken to a number of farmers and all have stated that purchasing land in Clarke for agriculture has become cost prohibitive and therefore most traditional farmers lease land to expand their operation. The minimum amount of land that they like to lease is 50 acres.

One approach could be to create an alternative form of subdivision by allowing parcels with a minimum area of 50 acres that are required to be placed in permanent conservation easement. Creation of such parcels would be by major or minor subdivision and would be reviewed by the Planning Commission. To facilitate agriculture on these parcels, special building envelope requirements could be developed to ensure that home sites are situated to maximize use of the acreage for pasturing or crop production. Well and drainfield design requirements could also be imposed to ensure that the location of these features does not impede the potential agricultural use of the property.

As a comparison, a 200 acre parcel with six DURs can be subdivided into five three-acre lots for a total of 15 acres and the remaining 185 acres as a residual parcel with one DUR. Allowing a 50 acre parcels would expand the development options for this parcel including securing more land in permanent conservation easement and potentially allowing family farms with flexibility to continue operating.

3. Consider establishing a uniform minimum lot size for AOC-zoned agricultural parcels.

As noted above, the Zoning Ordinance establishes lot size requirements for single family residential dwellings – minimum of two acres, maximum of four acres, average of three acres with the ability to obtain a maximum lot size exception under certain circumstances. The Zoning Ordinance does not specify a minimum lot size for agricultural parcels. The Subdivision Ordinance does reference larger minimum lot sizes for specific purposes. For the purpose of boundary line adjustments, §10-D-1-e states that the minimum lot size for an agricultural lot is 20 acres (a residential lot is any parcel under 20 acres in size). For the purpose of reviewing water and sewage disposal systems in conjunction with the review of a major or minor subdivision, such technical information is required to be shown for all lots less than 40 acres in area.

Staff recommends that the Policy Committee (and ultimately the full Planning Commission) consider establishing a uniform minimum lot size for AOC-zoned agricultural parcels. Rather than creating this lot size based on anecdotal examples of

land divisions that have occurred in the past, the Committee should consider all of the policy issues affecting this topic including:

- The County's vision for all forms of agriculture in the future.
- The changing needs of the agricultural community (consider reaching out to the Farm Bureau and other agricultural organizations).
- The County's approach for securing permanent conservation easements in critical areas (e.g., groundwater recharge area) and areas where easements are lacking (e.g., northern portion of the County).

Once a minimum lot size is determined, Staff recommends placing this information and the rationale for selecting that size in the County's Comprehensive Plan and Agricultural Land Plan.

UPCOMING MEETING DATES
ECONOMIC DEVELOPMENT STRATEGIC PLAN SUBCOMMITTEE

All meetings will be held in the Government Center A/B Meeting Room

- Tuesday, February 11 (4:00-5:30)
- Wednesday, March 5 (6:30-8:00)
- Wednesday, March 19 (4:00-5:30)
- Wednesday, April 2 (6:30-8:00)
- Thursday, April 24 (6:30-8:00)