

Clarke County

PLANNING COMMISSION ORDINANCES COMMITTEE MEETING MINUTES FRIDAY, FEBRUARY 1, 2019



A meeting of the Planning Commission's Ordinances Committee was held at the Berryville/Clarke County Government Center, Berryville, Virginia, on Friday, February 1, 2019.

ATTENDANCE

Present: Randy Buckley, Anne Caldwell, and Frank Lee

Absent: Gwendolyn Malone

Staff/Others Present: None

CALLED TO ORDER

Mr. Stidham called the meeting to order at 10:09AM.

APPROVAL OF AGENDA

Mr. Stidham stated that he wanted to add an additional discussion item under New Business regarding Technical Issue T5 (Attached Residential (AR) District References in the Institutional (ITL) District). The Committee approved the agenda by consensus as amended.

APPROVAL OF MINUTES

The Committee approved the January 4, 2019 meeting minutes as presented.

Yes: Buckley (seconded), Caldwell, Lee (moved)
No: Malone

Ms. Caldwell said that the Committee should discuss bonding issues as a future agenda item. Mr. Stidham replied that sections on Performance Guarantees will be developed for both Ordinances and the Committee can discuss this issue when the drafts of those sections are completed.

OLD BUSINESS

Discuss Revised Staff Report for Policy Issue P33 -- AOC and FOC District Single-Family Dwelling Requirement – Country Inns

Mr. Stidham reviewed the revised Staff Report for this policy issue including the direction provided by the Committee at the January meeting and draft language for the revised Ordinance. Committee members had no questions and were comfortable with the revised report.

NEW BUSINESS

Discussion, Landscaping Requirements – Policy Concerns (P34)

Mr. Stidham reviewed the Staff Report for this new policy issue and provided a brief overview of how the current landscaping requirements are applied.

Regarding the buffer area width requirements table, Ms. Caldwell asked about the FOC District requirement that residential uses have a 25 foot buffer from the street. Mr. Stidham replied that the vegetated buffer requirements for the AOC and FOC Districts are separate from the landscaping buffer requirements. He added that the AOC and FOC District buffer requirements will be listed with the district lot requirements. He also said that AOC and FOC District buffers are intended to preserve existing vegetation rather than be supplemented with new plantings as with the landscaping buffer requirements. Ms. Caldwell suggested making a clear distinction between these two types of buffers in the revised Zoning Ordinance. Mr. Stidham replied that the layouts for each district description should make it clear as to which buffer type should be applied.

Regarding fences and walls in buffer areas, Ms. Caldwell said that she supports moving these provisions to the new alternate landscaping plan provisions. She added that the draft of those provisions references standards for fence and wall construction which are a better approach than leaving it up to the applicant's discretion on materials and size. Mr. Lee added that he is not a big fan of fences but that there are times when their usage is appropriate.

Regarding additional plant material, Ms. Caldwell suggested deleting "annuals" from the list. Mr. Buckley asked if this is due to the maintenance issue and Ms. Caldwell replied yes. Mr. Stidham asked if it should be replaced with something like grasses or just delete the examples altogether. Mr. Buckley said that you could say "decorative grasses" and Ms. Caldwell added that the wording needs to exclude turf grasses. Mr. Stidham said that he would use "ornamental grasses" also refer to "additional hardy plant material" to emphasize long-lasting plants that require minimal maintenance. Members agreed to these changes.

Regarding watering requirements, Mr. Buckley said that language should be retained to encourage people to use water sources other than groundwater. Mr. Lee added that the language could say that we encourage the use of collected water for watering. Mr. Stidham said that Staff suggested adding this to the new alternative landscaping plan requirements so applicants could propose a rain catchment system as a trade-off for approval of the alternative plan. Ms. Caldwell said that this would be a good incentive and that we could also require it to be bonded. Mr. Stidham replied that any approved alternative landscaping plan would be binding and we can also require performance guarantees. He also briefly explained that landscaping is typically bonded for a one-year maintenance period to confirm plant survival, then any plants that subsequently die and are not replaced would be treated as a zoning violation. Members were comfortable with adding rain catchment systems to the new alternative landscaping plan regulations.

Regarding the requirement to preserve existing trees and providing credit for existing trees against required new landscaping, Ms. Caldwell noted that the proposed language does not clearly state that the existing trees are only those located within the buffer areas and that credit would not be given for trees preserved elsewhere on the site. Mr. Stidham replied that these provisions would apply only to

existing trees in buffer areas. Mr. Buckley also asked about whether buffer areas can be adjacent to parking areas and whether there could be situations where the developer would not want trees that can drop fruit or seeds on parked cars. He also gave the example of walnut trees being great to have in a buffer area but not adjacent to a parking area. He asked how you determine what an appropriate tree to allow in these situations. Mr. Stidham replied that it would be up to the applicant and their design professional to identify which tree species would potentially cause problems in certain locations. Mr. Buckley said that we might not want to require a buffer tree to be preserved if its retention would cause problems with the developed area. Mr. Stidham replied that this would be a good example of when an applicant would want to offer an alternate landscaping plan. Mr. Lee said that it is important to have a professional determine existing tree species and health and be able to properly document this on the landscaping plan. Mr. Buckley noted that it is important to be realistic about the lifespan of existing trees that are preserved, and Ms. Caldwell and Mr. Lee both commented on situations in which pressure from development can cause existing trees to die prematurely. Ms. Caldwell asked how to address existing preserved trees in a buffer area that die after development is completed. She added that it is clear that trees damaged during construction would have to be replaced but it is not clear as to how many years into the future we would attribute construction impacts to the later death of a tree. Mr. Stidham replied that in order for it to fall under the provisions for trees damaged during construction, there would have to be some visual evidence during the construction process that it was physically damaged or is showing immediate signs of declining health. He said for trees that die after construction, they would be treated the same as new landscaping that dies and must be replaced. Mr. Buckley asked about trees that die later and for which credit was given. Mr. Stidham replied that if an existing tree dies that was given four tree credits, then it would have to be replaced with four trees. He added that he would beef up language in the maintenance standards to clarify this requirement.

Mr. Stidham stated that based on comments provided, it appears that the Committee supports the alternative landscaping plan regulations and the members agreed. Mr. Stidham noted that Mr. Ohrstrom contacted him prior to today's meeting and recommended that language be added regarding screening fences to permit materials such as Trex that are weather-resistant and visually appealing. Ms. Caldwell asked if language would be added to provide credit for use of rain catchment systems. Mr. Stidham replied that if you make it part of the alternate landscaping plan regulations, then the Commission can decide how much value to add on a case-by-case basis for use of such systems.

Regarding the issue of who should be allowed to prepare and submit a landscaping plan, Mr. Lee said that he did not know how readily available professionals with these credentials would be. Mr. Buckley asked whether the County could employ a landscaping professional with costs passed on to the applicants who would review plans and verify compliance in the field. Mr. Stidham replied that this would likely be a significant additional cost that would be passed on to the applicant in addition to fees and engineering review expenses. He added if there is a concern that the landscape architect might be dishonest in certifying compliance, they would be sealing their plans and letters just as surveyors and engineers seal their work and would be subject to enforcement action in the same manner. He said that the list of lesser professionals would not be sealing their work but the County could still pursue enforcement action if any of the work is incorrect. Mr. Buckley said that he is concerned the design professional would represent the applicant's interest and not the County's interest in having the regulations followed in their entirety. Mr. Stidham replied that it is important

that we are requiring the applicant to use their own professional that has expertise in the field of landscaping. He added that these professionals have licenses and reputations to uphold that they would not want to put at risk by submitting bad work. Ms. Caldwell said that she would support having the County employ their own landscaping consultant to review and approve plans and installations. Mr. Stidham briefly described to the Committee the procedures and costs to the County of procuring a consultant and maintaining their service for the life of their contract. He added that the County's requirements add costs to the consultant who will set their fee to include the cost of doing business with the County which is ultimately passed on to the applicant. He said that he is not concerned about the loyalty issue because it is ultimately Staff's and the County's engineering consultant's responsibility to ensure conformity with the regulations. He added that it does not matter if a violation was done on purpose or accidentally because it is processed as a violation the same either way. Mr. Lee noted that the 10,000 square feet of land disturbance threshold for a certified landscape architect helps to keep the costs down for smaller projects. Mr. Stidham added that right now, the regulations allow anyone qualified to prepare a site plan to also prepare a landscaping plan. He noted that if these rules are implemented and turn out to be ineffective, then consideration can be given to employing a County landscaping consultant.

The Committee provided direction to list Leyland cypress as a prohibited tree type for required landscaping.

Ms. Caldwell noted the list of characteristics of existing trees to be preserved and asked whether the trees had to meet all of the items on the list. Mr. Stidham replied yes and said that he would include language to clarify this point.

Ms. Caldwell asked whether Leyland cypress can be included as a prohibited species under evergreen trees and Mr. Stidham replied yes. She also asked whether Juniper can be removed from the list of typical species under evergreen trees and shrubs and Mr. Stidham said yes.

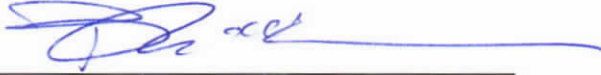
Discussion, Attached Residential (AR) District References in the Institutional (ITL) District (T5)

Mr. Stidham noted that this technical issue has not been reviewed by the Committee yet. He noted that the ITL District regulations do not have lot and building requirements listed as are found in the other district descriptions. He said that the regulations refer to the Business Commercial (BC) District requirements for non-residential uses and to the Attached Residential (AR) District requirements for residential uses. He said the problem is that the AR District regulations were removed from the Zoning Ordinance in the 1990s leaving nothing that can be referred to in the current Ordinance. He noted that there are two alternatives to address this situation. Staff can either import the Town of Berryville's AR District regulations which would be labor intensive. Regarding the second alternative, he said the only residential use allowed in the ITL District is the special use "housing for low and moderate income households." He noted that the use is not defined and does not have clear regulations to describe the scope of this use. He said the second alternative would be to delete this use but noted that this could be a potentially controversial change that the Committee would not want to consider with this project. He added that he spoke with the County Attorney who recommends importing the Town regulations as this alternative preserves consistency between ordinances as described in the Annexation Area Agreement. Committee members agreed to go with the first alternative. Mr. Stidham said that he will present the revised language at the next meeting.

SCHEDULING OF UPCOMING MEETINGS

Members agreed to schedule the next meeting for Friday, March 1 at 9:30AM or immediately following the Planning Commission Business Meeting.

The meeting was adjourned by consensus at 11:14AM.



Brandon Stidham, Planning Director