



Clarke County Planning Commission

MEETING MINUTES – Work Session

Tuesday, September 29, 2020 – 3:00PM

Berryville/Clarke County Government Center – Main Meeting Room

ATTENDANCE:			
George L. Ohrstrom, II (Chair/Russell)	✓E	Pearce Hunt (Russell)	✓
Randy Buckley (Vice-Chair/White Post)	✓	Scott Kreider (Buckmarsh)	X
Matthew Bass (Board of Supervisors)	✓	Douglas Kruhm (Buckmarsh)	X
Anne Caldwell (Millwood)	✓	Frank Lee (Berryville)	✓
Buster Dunning (White Post)	✓	Gwendolyn Malone (Berryville)	✓
Robert Glover (Millwood)	✓	Doug Lawrence (BOS alternate)	X

E – Denotes electronic participation

Note: George L. Ohrstrom, II participated electronically due to health issues related to the current pandemic.

STAFF PRESENT: Brandon Stidham (Director of Planning), Ryan Fincham (Senior Planner/Zoning Administrator), Alison Teetor (Natural Resources Planner), Chris Boies (County Administrator)

CALL TO ORDER: By Mr. Stidham at 3:03PM.

1. Approval of Agenda

The agenda was approved by consensus as presented by Staff.

2. Review of Agenda Items for October 2, 2020 Business Meeting

Mr. Stidham noted that Item #2 is the draft minutes from the September 4 Business Meeting. He said to let Staff know of any corrections to be made in advance of the meeting and he would produce a revision on yellow sheets.

Mr. Stidham reviewed the proposed Motions to Recognize Service for Pete Maynard, Robina Rich Bouffault, and Mary Daniel along with certificates of appreciation for each former member. He said that Staff prepared the motions and certificates in response to Commissioners' comments at the last meeting. Chair Ohrstrom asked if Commissioners could make personalized comments about the outgoing members in conjunction with the motions. Mr. Stidham replied that after the motion is made and Chair Ohrstrom asks for discussion on the motion, any Commissioner could provide their personalized comments that would be included in the minutes. Commissioners had no additional comments or questions and Mr. Stidham noted that Staff is looking for formal action on the motions at the Business Meeting.

Mr. Fincham provided an overview of minor subdivision application MS-20-02 (Channing Carroll (deceased), Karen Day, & Glenda Cunningham (owners)/Matthew Day (applicant)). Mr. Fincham noted that the outstanding items listed on Page 17 of 22 have since been provided by the applicant's agent. He drew the Commission's attention to the aerial map on Page 20 of 22 to note that the house site and drainfield location are already cleared. He then discussed the condition of the existing private access

easement that serves the subject property and would be used for the new proposed lot. He distributed several photographs of the private access easement and Wildcat Hollow Road in the subject property vicinity. He noted that the existing private access easement has plenty of pull-off area within 900 feet of the public road right of way. He also noted Plat Note #20 provided by the applicant and their agent requests application of Subdivision Ordinance §9-E to allow for a variation of the private access easement requirements in §8-J-2. He said that this is the first such request made by an applicant that he has encountered in his tenure. He said that the private access easement is currently used entirely by family members and that they do not want to have their road modified. He also said that they plan to create a road maintenance agreement and are willing to put in writing that they do not want the road to be altered. Regarding §8-J-2 requirements, he noted that subsection c-9 requires a minimum travel way surface width of 14 feet and that the property owners are happy with the current 11-12 width. He also noted that the private access easement currently serves two lots and ultimately would serve a total of four lots. He said that this request came in two hours prior to this Work Session.

Chair Ohrstrom asked if this would set a precedent for a future applicant to ask for a variation to paving requirements on a 9-lot subdivision. Mr. Fincham said that his understanding about precedent is that it is very narrow and has to be the same situation across the board, and also noted that the revised Subdivision Ordinance regulations are different on this issue. Mr. Stidham said that the 9-lot example is a different situation and precedent would not apply. He said a future applicant with the same number of proposed lots and a similar family situation requesting variation of the travel way width requirement would be a similar fact pattern that could be subject to precedent. He noted that the Commission has encountered similar applications in the past and referenced the Weiss minor subdivision and another in the village of Pine Grove. He said in these cases, the applicant added a plat note indicating that the private access easement would be upgraded to comply with §8-J-2 requirements prior to issuance of any building permit to construct a home on the new lots. Regarding §9-E, it was noted by the County Attorney during the Ordinance Update Project that blanket variances to the Subdivision Ordinance are not authorized by the Code of Virginia, but that you can create provisions that allow waivers of specific design standards. He also noted that the current draft of the revised Subdivision Ordinance includes a process to allow private access easement design standards to be waived for existing easements in good condition, without impediments to ingress/egress for emergency vehicles, and where all applicable landowners provide notice in writing that they do not want the easement modified. He said that the Commission could apply §9-E as requested by the applicant and it would be up to anyone who opposes the minor subdivision to challenge that the Commission does not have authority under State Code to take this action. He added that since all of the potential parties are family members and are willing to provide written statements that they do not want the easement modified, then the Commission would be relatively safe from legal action. He also said that precedent would ultimately be addressed with adoption of the new Subdivision Ordinance.

Chair Ohrstrom said that he is concerned that if we do not have the legal authority to grant a variation, then the Commission probably should not be doing it. Commissioner Caldwell said that the road looks perfectly fine to her and she asked which section of the road is narrower than the balance of the road. Mr. Fincham replied that the road width is pretty uniform throughout with the smallest measurement being 10 feet and the largest measurement being 12 feet. Commissioner Caldwell asked if this is for the entire distance from Wildcat Hollow Road and Mr. Fincham replied yes. Commissioner Caldwell said that this issue is a result of the unfortunate misuse of the word “variance” and a more appropriate word would be “waiver.” She added that she is not particularly concerned with potential legal issues. Mr. Fincham noted that in the past cases where the plat note approach was used to defer the easement

modifications, those applicants were not looking to build homes immediately. In this case, the family member is ready to build now. Commissioner Lee said that if this is proposed to be changed in the new Ordinance anyway, this would be a short-lived variation if granted and he does not feel that this would set a precedent. Commissioner Bass agreed and said once the new Ordinance is adopted, you would not have to worry about a legal challenge. Chair Ohrstrom asked if this would become nonconforming under the new Ordinance. Mr. Stidham replied that it may not be nonconforming, adding that he thinks the only missing piece from the new Ordinance would be an inspection by Fire & Emergency Services staff to confirm sufficient ingress/egress for emergency vehicles. Mr. Fincham noted that the applicant has said that emergency services vehicles have used that road a few times in the past and although he has not seen a fire truck on the road, other large trucks have used it and have had more trouble on Wildcat Hollow Road than they have had on the private access easement.

Chair Ohrstrom asked about Staff's recommendation. Mr. Fincham replied that he is still recommending deferral but only because he has not heard back from the Virginia Department of Transportation (VDOT). He reviewed VDOT's comments and noted that the applicant's agent has provided changes to address the comments. He is now waiting for confirmation from VDOT staff and, if he receives it, will be able to recommend approval subject to the family members providing written statements opposing modifications to the road as previously discussed. Chair Ohrstrom asked if the applicant is requesting deferral. Mr. Fincham replied no and said that he is expecting VDOT's comments to be provided tomorrow.

Mr. Stidham concluded by noting the Board/Committee Reports to be given at the Business Meeting and that he will be making the presentation on Land Use and Zoning that was deferred from the September meeting.

3. Old Business Items

Revised Recreation Component Plan – Report from Comprehensive Plan Committee

Ms. Teetor provided a report on the revised Recreation Component Plan. Chair Ohrstrom said that this was a very nicely done job and thanked Ms. Teetor for working on it. Ms. Teetor noted that Chair Ohrstrom brought a few typos to her attention that she will be correcting. She then conducted a page-by-page review of the proposed changes. Commissioner Bass noted punctuation typos on Page 16 of 31 in the description of Long Branch Plantation and in the description of Locke's Mill on Page 17 of 31. Also on Page 17 of 31, he noted that in the third line of the Barns of Rose Hill description the word "our" should be "the." He also noted a missing end quotation marks on Page 19 of 31 after the word "countryside" in the Scenic Byways paragraph. Commissioners also noted the word "a" should be "an" before the word "historic" on Page 22 of 31 in the description of Sky Meadows State Park.

Mr. Stidham said that the next step would be to add an item to the Business Meeting agenda to set public hearing on the Revised Recreation Component Plan for the November 6 Business Meeting. He said the Commission could defer action if they want to spend more time reviewing the Plan. Chair Ohrstrom said that he has read the draft Plan and thinks that it is ready for public hearing and asked what Commissioners want to do. Commissioners Bass, Lee, and Malone all commented that they agree with scheduling public hearing. Chair Ohrstrom asked if there is a way to put the draft Plan out there to get additional comments, like posting it to the County website. Mr. Stidham noted that Staff always posts documents for public hearing on the County website and references the link in the public hearing advertisement. He added that Ms. Teetor has also circulated the draft to people that worked on the original Plan. He concluded by

saying that he will add a new Item #5 to the Business Meeting agenda immediately following the minor subdivision application to schedule public hearing on the draft Plan.

4. New Business Items

Discussion – Role of Planning Commission in Capital Improvement Plan Process

Mr. Boies said that this discussion is intended to prepare the Commission for reviewing the Capital Improvement Plan (CIP) at next month's meeting. He said the CIP is a spending plan that localities use to plan out large capital expenditures over a five-year period. He said it allows you to project out your financial needs and that this process is more important in Clarke County because we tend to not issue debt for projects, instead saving money and paying for projects in cash. He said in counties that tend to build out more than Clarke County, you would see CIP projects like road infrastructure improvements, water and sewer lines, and the like. He added that our CIP will not look like these plans and instead will focus on projects that preserve our existing facilities. He said he has met with department heads and constitutional officers to discuss their needs and will be meeting with Mr. Stidham and the Finance Office to assemble a draft CIP for the Commission to review. The draft CIP will be five years and Year One will automatically tie into the upcoming budget process which starts in December and is adopted in April or May. He said the CIP will include a list of projects, estimated costs, and need descriptions for each.

Commissioner Lee asked if the Commission will be asked to make a recommendation. Mr. Boies replied that per State Code the Commission is required to make a recommendation on the CIP to the Board of Supervisors. Commissioner Lee asked if the Commission would give itemized recommendations or an overall recommendation and Mr. Boies replied that it would be an overall recommendation but can include specific recommendations about particular items. Chair Ohrstrom said that he understood that planning commissions are responsible for determining conformity to the comprehensive plan and do not get involved in financial planning. He asked why the Planning Commission is being asked to comment on the financial plan, adding that he could see the Commission focusing on whether the CIP projects conform to the Comprehensive Plan. Mr. Boies replied that the Commission's role is to help plan for the community's future which involves reviewing the CIP. He said that implementation of the CIP is the Board's responsibility through adoption of the annual budget. He said Code of Virginia §15.2-2239 is pretty specific in regards to planning commissions' responsibilities in the CIP process. He added that the thought years ago was that a jurisdiction's capital needs should match the jurisdiction's long range planning. He gave an example of a project to extend roads and public utilities to a rural area being potentially in conflict with a comprehensive plan that does not identify that rural area as a planned area for future growth. He said you are not reviewing the pennies and dimes in the CIP but rather how it conforms to the Comprehensive Plan. Chair Ohrstrom said that he understands Mr. Boies's explanation. Commissioner Caldwell said that Chair Ohrstrom brought up the most important point for the Commission to understand and that she is fine with the process.

Mr. Stidham noted that since we are holding Work Sessions again, we will have two opportunities to discuss the CIP next month. Commissioner Bass asked if individual Commissioners should be thinking about or suggest new projects. Mr. Boies replied that Commissioners are welcome to offer suggestions but that it is going to be difficult for Commissioners to know the County's specific needs. He added that the CIP process will be simple in this first year but will get more complex over time to include the Schools' CIP plan and other master plans.

5. Other Business

None

Mr. Stidham noted that the Comprehensive Plan Committee will be meeting next if any Commissioners wanted to stay and observe that meeting.

ADJOURN: The Work Session was adjourned by consensus at 3:43PM.

A handwritten signature in black ink, appearing to read 'Brandon Stidham', written over a horizontal line.

Brandon Stidham (Clerk)