



Clarke County Planning Commission

MINUTES – Comprehensive Plan Committee Meeting

Friday, November 6, 2020 – 9:30AM or immediately following Planning Commission Business Meeting

Berryville/Clarke County Government Center – Main Meeting Room

ATTENDANCE:			
Matthew Bass (Board of Supervisors)	✓	Bob Glover (Millwood)	✓
Anne Caldwell (Millwood)	✓	Douglas Kruhm (Buckmarsh)	X
George L. Ohrstrom, II (Ex Officio)	✓E		

E – Denotes Electronic Participation

STAFF PRESENT: Brandon Stidham (Director of Planning), Jeremy Camp (Temporary Planner/Zoning Official)

CALL TO ORDER: By Mr. Stidham at 9:45AM.

1. Approval of Agenda

The meeting agenda as presented by Staff was approved by consensus.

2. Approval of Minutes – September 29, 2020 Meeting

Following a brief discussion about the level of detail of the minutes, a motion to approve the September 29, 2020 meeting minutes was adopted 3-0-1.

Motion to approve September 29, 2020 Meeting Minutes:			
Bass	AYE	Glover	AYE (seconded)
Caldwell	AYE (moved)	Kruhm	absent

3. Discussion Items

A. Comprehensive Plan Update – Review Chapter II Goals, Objectives, and Policies (continued discussion)

Mr. Stidham began the meeting by reviewing the Staff memo for this item (dated October 26, 2020) and the revised draft Chapter II containing edits discussed at the Committee’s September 29 meeting.

Regarding revised Goal #2, Chair Ohrstrom noted that the word “incorporated” should be included in referring to areas in which development should be focused. He also noted that Goal #1 references preserving and protecting lands in the “unincorporated” areas and that adding “incorporated” to Goal #2 would tie these two goals together. Commissioner Bass suggested drafting “incorporated/commercial areas” or “incorporated and commercial areas.” Mr. Stidham proposed replacing “established town, village, and commercial areas” with “incorporated towns and established village and commercial areas.” Members agreed with this change and with the additional changes drafted by Staff to Goal #2. Mr. Stidham noted that the Committee has

completed review of the Goals. He suggested that the Goals be reviewed one more time at the end of the review process and added that the Committee can revisit them at any time.

Mr. Stidham reviewed new language added to the introductory text for Objective 1 (Agriculture) explaining how non-agricultural uses in agricultural areas should not result in significant degradation to natural resources or disrupt the character and functionality of these areas. He noted that this language can provide direction as we consider the scope of future regulations for agribusiness and agritourism activities or evaluate special use permit applications on properties in the rural areas. Members indicated that they are comfortable with the new language.

Regarding Policy #4 on Page 9 of 30, Chair Ohrstrom asked if this would be an appropriate policy in which to discuss solar energy and our regulations since it is not specifically discussed in the current Comprehensive Plan. Mr. Stidham replied that solar farms are considered to be consistent with the Comprehensive Plan by virtue of it being an allowable special use in the Agricultural-Open Space-Conservation (AOC) zoning district. Chair Ohrstrom asked if solar farms are considered to be a nonfarm use. Mr. Stidham replied yes and reiterated that it is generally consistent with the Comprehensive Plan because it is an allowable special use in the AOC District. He added that the Zoning Ordinance limits the areas where solar farms can be located and that if the County ever considered expanding these locations, it might be prudent to add language to the Comprehensive Plan to provide direction. Commissioner Caldwell suggested adding reference to solar farms as an example of a nonfarm use. Mr. Stidham replied that if you did this, you would be classifying solar farms as a nonfarm use. He added that this would require future applicants to prove that there is an overriding public need to change the land use and also prove the facility cannot be located in a development area in order to justify approval of a solar farm. Commissioner Glover suggested leaving a placeholder here referencing the solar discussion and revisit later in the project to determine if language should be added in this Policy. Mr. Stidham replied that it would be appropriate to make a statement about the location of solar farms as the County has received numerous inquiries from solar companies looking to locate new facilities here.

Regarding Policy #6 on Page 10 of 30 pertaining to prohibiting rezoning of agricultural-zoned properties to Rural Residential (RR), Chair Ohrstrom asked what happens when village areas reach build out and there are no more areas for residential development. Mr. Stidham replied that a Village Plan would provide guidance for future residential expansion and noted that the villages do not have defined boundaries. He said that planning areas could be defined for each village to identify where future development could occur. Members indicated that they were comfortable with Staff's edits to Policy #6.

Mr. Stidham reviewed changes to Policy #11 and members had no concerns with the revision.

Mr. Stidham reviewed the two new Policies #13 and #14 on Page 11 of 30 dealing with agribusiness and agritourism uses. Regarding Policy #13, Commissioner Glover said that he is concerned with the word "significant" as it pertains to natural resource degradation. Mr. Stidham said that he added the word "significant" to provide a scope for natural resource degradation. He gave the example that an argument could be made that a livestock farming operation can cause natural resource degradation and recommended adding "significant" to

define the intended degree of degradation in this Policy. Commissioner Bass suggested the word “substantial.” Chair Ohrstrom noted that “significant” can be tied to a defined metric such as water quality with degradation beyond an accepted level being considered “significant.” Mr. Stidham added that he views “significant” as being one level up from “negligible.” Commissioner Glover said that “significant” to him is something that should never happen and you are beyond the point of safe return. Mr. Stidham suggested rewriting the Policy to read, “Any adverse impact to natural resources is negligible.” Commissioner Glover said that the word “adverse” is fine instead of “significant.” Commissioner Bass said that there are different degrees of “adverse impact” so it cannot be “any adverse impact.” Commissioner Caldwell suggested, “There is no adverse impact on natural resources.” Mr. Stidham replied that you would not have the leveling that he was trying to include with the word “negligible.” Commissioner Bass said that we are looking to identify a level higher than “negligible” for this Policy. He suggested circling this one for later discussion as this may be a debate over semantics. Mr. Stidham offered, “They do not result in more than negligible degradation of natural resources.” Commissioner Bass replied that this is what we are trying to achieve but the wording does not work. Chair Ohrstrom added that we are trying to say that we can accept negligible degradation but would prefer no degradation at all.

Commissioner Caldwell asked about the State mandate that we cannot regulate agriculture as it relates to agribusiness, citing the potential regulation of hydroponic farms as an example. Chair Ohrstrom noted that including language in your Comprehensive plan that such operations have to be compatible in scale and intensity to surrounding agricultural uses gives you a leg up on creating regulations. He added that State law also says that health, safety, and welfare are parameters that need to be respected. Mr. Stidham said that if we wanted to add hydroponic farms as a use regulated separately from agriculture, we could create rules that limit their size and consumption of groundwater at a level that we would consider to be negligible. He noted that such regulations would be supported by the proposed language in Policy #13 and reiterated that having support language in the Comprehensive Plan would make new regulations that are adopted more defensible. Chair Ohrstrom asked about deleting the word “significant.” Mr. Stidham replied that this could open up the language to be used in an unintended manner as he described previously. Mr. Stidham also said that he would note item (d) for further discussion by the Committee.

Mr. Stidham reviewed Policy #14 and noted that he drafted the language with various farm wineries and breweries in other localities in mind where large numbers of people are being drawn to music events, vendors, and other entertainment activities. He said the Policy is drafted to ensure that these activities supplement the agricultural operation on the property without exceeding its intensity without additional zoning approval. He noted that this language would help support any additional regulations we may want to consider for farm wineries, breweries, and distilleries. He also noted that the primary agricultural operation would be the production activity and any traffic and visitor-generating activities would be limited to a level that must be subordinate to the production operation. Mr. Camp asked what if it is the only use on the property and Mr. Stidham replied that it typically is the only use on the property. Mr. Stidham added that we tell potential operators of farm wineries, breweries, and distilleries that they are limited to the production and onsite storage of the product, a tasting room, and a retail area to sell the product and items related to consumption of the product. He also said that you cannot have a

garden or craft center or sell products from other facilities. Commissioners were comfortable with Policy #14 as written.

Mr. Stidham noted the placeholder for a new #15 to address non-farm activities. Members then agreed to move on to a discussion of Objective 2 – Mountain Resources. Prior to beginning a discussion of Objective 2, members agreed to schedule their next meeting during the second week of December instead of following a Commission Work Session or Business Meeting.

Mr. Stidham reviewed the introductory language for Objective 2 including Staff's concerns. Commissioner Caldwell said that she thinks that forestry should be moved to Objective #3 Natural Resources. She said that forestry is a natural resource and we do not want to degrade it with inappropriate forestry activities to the extent that we can do so under State law. She cited clear cutting, slippage soils, and requiring forestry management plans as examples. She added that this is true whether you are east or west of the river. She also recommended referencing the Natural Resources Objective #3. Commissioner Glover suggested removing "forested areas" from the introductory language and Commissioner Caldwell suggested replacing it with the word "lands." Commissioner Glover suggested adding "woody, steep landscape" as a means of referencing the topography of this area. Commissioner Caldwell said that it is a good idea to reference topography. Mr. Stidham said he would replace "forested areas" with "lands," a new sentence to address the unique topographic conditions such as those referenced by Commissioner Caldwell, and references to Objective #3. He also noted that Policies #1, #2, and #7 would be moved to Objective #3 and members agreed. Regarding Policy #2, Commissioner Glover asked if the word "erosion" would be added in addition to "sedimentation." Members agreed and Mr. Stidham said that he would make this change.

Regarding Policy #4, Mr. Stidham reviewed the proposed changes and explained why he did not recommend making the same changes to this Policy as was done with similar Policy #6 in Objective #1. Commissioner Caldwell suggesting changing "should" to "shall" in subsection (b) particularly for steep slopes and slippage soils. She added that for "ridgelines" it could be "strongly discouraged" or "should not be located on" as she understands that sometimes a ridgeline may be the only flat area available on a lot. She also said that no one should be building on steep slopes or slippage soils. Mr. Stidham suggested "shall not be located on steep slopes and slippage soils, and should be avoided on ridgelines." Commissioner Caldwell suggested adding "to the maximum extent possible" unless it is the only possibility. She said some people will locate on ridgelines and clear trees to maximize their view. Commissioner Bass cited examples in Tennessee where homes are built on slopes and ridgelines and asked whether most of these concerns are addressed or prohibited by our Ordinances. Mr. Stidham replied that we did adopt regulations to address these concerns but have not had a sufficient number of applications come through to test whether the regulations are adequate. Chair Ohrstrom agreed with changing "should" to "shall" for steep slopes and slippage soils and suggested creating a new subsection stating that "development on ridgelines is discouraged" or some similar wording. He added that he has also visited areas where there is extensive development on slopes and ridgelines and noted that excessive development can adversely impact viewsheds. Mr. Stidham asked if we should still allow ridgeline development in situations where the ridgeline contains the only flat space on a lot and Chair Ohrstrom said yes to avoid having excessive regulations that could constitute a taking. Commissioner Glover noted

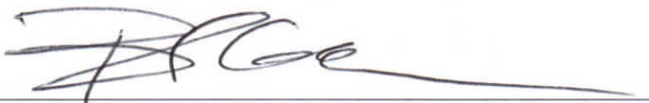
that there are also numerous other ridgelines on the mountain in addition to the top of the Blue Ridge. He also said the language for ridgelines could be, "development on ridges should only be as a last resort" or "only when soils and slopes prevent development elsewhere." Mr. Stidham suggested, "Development on ridgelines should be avoided to the maximum practicable extent unless location on the ridgeline provides the least adverse impact on the lot." Members agreed with this suggestion and Mr. Stidham said that he would work on wording to make sure this concept is highlighted. He also noted that we currently do not say anything about viewshed preservation and asked whether such language should be included. Commissioner Glover noted that subsection (c) says that trees help protect against erosion but there is no reference to viewshed preservation. Commissioner Caldwell said that regulations she has studied in Maine prohibit clear-cutting within a certain distance of a high-tide line but allows for the thinning of tree branches to facilitate views. She said we need to figure out how to allow people to have views without allowing them to eliminate all of their trees. Chair Ohrstrom said that in some cases people have located their septic systems in the areas where they want to remove trees to enhance their viewshed. Commissioner Caldwell said that this happens and it is dealt with to an extent in our current Ordinances. Mr. Stidham said that we do not address the conflict between the scenic beauty of the valley from the mountain and the desire for tree preservation, and that we may need a separate policy to address this conflict. Commissioner Caldwell said that you can still have good views with trees present by thinning the trees. Commissioner Glover noted that some will clear the trees and not build a house on the lot. Mr. Stidham said that he will attempt to draft a policy to address this issue. Commissioner Glover noted that Policy #6 contains language that could be used for the viewshed issue. Mr. Stidham replied that this Policy focuses just on the named public lands but that the viewshed policy should go right after it. Commissioner Glover said that he still wants the ridgeline issue highlighted and Mr. Stidham replied that this would go after Policy #4(b). Commissioner Caldwell recounted a story about a house that was constructed on Toy Hill Lane that had a driveway that required significant engineering and design work to reach the house site. She noted that this example helped shape further discussions in the Mountain Land Plan update and regulations that were adopted thereafter. Commissioner Bass said that you do not want to say no to people that want to build on the mountain but you want to encourage projects that use good engineering to produce results with minimal visual impact. Mr. Stidham said that these discussions could help to further refine our FOC subdivision regulations.

Mr. Stidham said that they have reached the end of Objective #2. He added that he will look for a meeting date in the second week of December.

4. Other Business

None.

ADJOURN: Meeting was adjourned by consensus at 10:53AM.



Brandon Stidham, Clerk