



Clarke County Planning Commission

MINUTES – Comprehensive Plan Committee Meeting

Tuesday, December 8, 2020 – 2:00PM

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 (Senior Planner/Zoning Administrator)

CALL TO ORDER: By Mr. Stidham at 2:09PM.

1. Approval of Agenda

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

2. Approval of Minutes – November 6, 2020 Meeting

Mr. Stidham noted two typographical errors in the draft minutes and members agreed with the changes.

Motion to approve November 6, 2020, 2020 Meeting Minutes as edited:			
Bass	AYE (moved)	Glover	AYE (seconded)
Caldwell	AYE	Kruhm	absent

3. Discussion Items

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

Mr. Stidham reviewed the changes from the previous draft as summarized in the November 24 Staff memo.

Chair Ohrstrom said that the revised wording of Goal #2 is confusing, in particular the language at the end of the goal regarding public infrastructure. He said that breaking it into two sentences might help but how to word it is still confusing. Commissioner Caldwell said that it is always good to break up long sentences. Commissioner Glover suggested ending the sentence at the word “needs” and add the word “incorporating.” He also suggested eliminating everything after “public infrastructure.” Mr. Stidham suggested ending the first sentence after “areas” in the second line. In regards to the remaining language, he suggested that the Committee describe what the two things are that we want to balance and come up wording for a second sentence. He noted that each incorporated town, village and commercial area has its own unique characteristics and that the regulations for design elements should reflect these characteristics

and needs. He also said that you have to ensure efficient use of public infrastructure in these areas. Commissioner Caldwell said that the efficient use of public infrastructure is necessary but it is a less important element in this particular goal. She suggested making public infrastructure into its own sentence. Commissioner Bass suggested wording that would end the first sentence at the word "areas" and reword the remaining language as, "Design elements should balance each unique community's needs and characteristics with efficient use of public infrastructure including but not limited to public services, utilities, and transportation networks within these areas." Chair Ohrstrom agreed with this wording. Mr. Stidham asked if the term "design elements" adds unnecessary confusion. Commissioner Bass said perhaps and Chair Ohrstrom said yes it does. Chair Ohrstrom suggested deleting the word "design" and Commissioner Caldwell replied that she kind of likes the word "design." Chair Ohrstrom also suggested deleting the word "elements" and keeping the word "design." Mr. Stidham asked if it would help to replace "needs" with "form and scale," and Commissioner Bass replied that you are just adding more terms of art. Commissioner Glover suggested replacing "design elements" with "requirements." Mr. Camp said that it seems like two different ideas are being discussed. He noted that the goal describes focusing development in specific areas and the remaining language is justification for doing so, which may be better located in an objective instead of the goal. Mr. Stidham said that to Mr. Camp's point, the second half of the goal essentially says to adopt design requirements to accomplish the stated goal. He added that those kinds of recommendations typically belong in objectives and not goals but is not sure where this language could be relocated. Commissioner Caldwell said that you could refer to specific area plans. Mr. Stidham asked the members to read Goal #5 and noted that in some ways the last part of Goal #2 is redundant with Goal #5. Members agreed and Commissioner Bass suggested adding a period after "infrastructure" as the remaining verbiage is covered under Goal #5. Chair Ohrstrom suggested ending the sentence after the word "needs." Mr. Stidham said that he would work on the wording including referencing "unique planning areas" to tie the goal to the area component plans.

Commissioner Caldwell said she has concerns regarding the term "significant degradation" that has been added in the latest draft in a number of places following discussions at the last meeting. Mr. Stidham noted that we do not want to say "degradation" only as this opens the word up to broad interpretation, adding that even de minimis degradation could be considered degradation. He said that we need to come up with a qualifier word to limit the interpretation and that the Committee needs to decide if "significant" is the appropriate word to use. Chair Ohrstrom said that we do not want an impact to get to the "significant" level before we try to address it. Mr. Stidham asked the Committee members thought "significant" means. Commissioner Bass said that it means more than de minimis and Commissioner Glover said that it means too much. Mr. Stidham said that you have base line regulations that every county deals with and then you have more stringent regulations like those we have added. He said maybe we need to add language to explain why the County has more stringent regulations than the minimum State regulations. Commissioner Caldwell said that we should probably keep thinking about this as we continue working on the Plan update. Mr. Stidham said that this issue is similar to the Ordinance Update Project discussion pertaining to rezoning and special use permit review criteria and "mitigation of impacts." He said that if you left the term "significant degradation," it is guidance language that would allow you to interpret the application on a case-by-case basis to determine if an impact is producing significant degradation. Commissioner Glover said that he thinks

“significant” is too late in the process and Chair Ohrstrom agreed. Mr. Stidham said that he does not see a time element as an issue. He gave an example of how this would be applied in reviewing a proposed solar farm application in which the developer proposed to buy credits for stormwater quality instead of detaining the stormwater onsite. He said the Commission could view this State regulation as a loophole that would produce significant degradation of water quality as a result and could require the developer to switch to onsite control measures. Commissioner Glover noted that by “late,” he meant that the damage has already been done. Mr. Stidham replied that this language would not be applied only to something existing, it would be used as guidance for proposed development. Commissioner Caldwell said that a developer could come up with counter arguments that an impact will not result in significant degradation. Mr. Stidham noted that this language would also be a point of departure to support creation of more stringent regulations. Members agreed to continue working on this issue.

Regarding draft Policy #7, Commissioner Caldwell said that the last sentence is awkward and needs to be reworded. Chair Ohrstrom noted that the language about the right-to-farm warning notice appears to be tacked on to the sentence and makes it confusing. Mr. Stidham suggested ending the sentence after “space” and rewrite the remaining language as “Require a right-to-farm warning notice within the deed of dedication.” He also said he would work on adding language to this new sentence to explain why the warning notice is necessary.

Members returned to a brief discussion of alternative wording for “significant degradation” including parallels to the degrees of negligence under State law. Mr. Stidham noted that we have several examples of regulations that the County has adopted that are more stringent than minimum State law requirements. He added that in these cases we have identified concerns that warrant the County’s adoption of stronger rules such as significant degradation of natural resources. He also noted that we will need to explain why we consider such degradation to be significant. Commissioner Glover favored the wording “more than minimal” because the Plan will be read by laypersons without technical expertise and that wording could be more clearly understood. Commissioner Bass asked if there is language in the State code regarding degradation of natural resources and Mr. Stidham replied no. Mr. Stidham noted that our Karst landscape presents challenges to groundwater quality that require the County to have stronger regulations than other jurisdictions. He also noted that State code does not include minimum standards for light pollution and that if we wanted to limit up-casting of light from facilities such as hydroponic farms, we would need to establish a metric that defines what we consider to be significant degradation of the night sky. Commissioner Caldwell suggested using “significant” generally in the Plan but going into more detail in the applicable component plans when addressing impacts to natural resources. Mr. Stidham said that a motion to adopt more stringent regulations could reference its necessity to prevent significant degradation of the applicable natural resources. He added that the metric we would develop in the new regulations would be based on what we consider to be “significant.” Commissioner Bass asked if this would apply to Zoning and Subdivision Ordinance regulations. Mr. Stidham replied yes along with the Well and Septic Ordinance, any other ordinances dealing with natural resources, and even land use decisions. Commissioner Bass suggested adding language to say “as further specified in applicable ordinances” and Commissioner Glover suggested “as defined elsewhere.” Mr. Stidham said that he will develop a new Policy #1 under Objective #3 that defines “significant degradation of natural resources” in general terms. Members agreed with this approach. Based

on this discussion, Mr. Stidham asked if the members wanted to keep the wording of Policy #13d which references "significant degradation of natural resources." Commissioner Glover suggested leaving it highlighted for now and the Committee can come back to it.

Mr. Stidham asked Chair Ohrstrom if he wanted to talk more about adding a new policy to address non-farm activities such as solar farms. Chair Ohrstrom replied that we may want to think about adding language to address solar farm location in the event that a better way of siting them without ruining farmland is developed. He added that we could talk about it in Objective 7 where we discuss renewable resources. Commissioner Caldwell said we may also want to discuss the nutrient credit trading issue which incentivizes planting trees. Chair Ohrstrom adds that it also encourages replacing a healthy wood lot with a monoculture. Mr. Stidham said that he does not know how to write Plan language that says we want trees but not if they are replacing farmland. Chair Ohrstrom said that maybe the Comprehensive Plan is not the appropriate place to put it. Mr. Stidham suggested reserving the solar farm discussion for the next Agricultural Land Plan update. Members agreed to do so and Chair Ohrstrom added that the industry may have new siting approaches by then.

Regarding changes to Objective 2 (Mountain Resources), Mr. Stidham noted the current policies that would be moved to Objective 3 (Natural Resources) per the Committee's previous discussion. In the proposed last sentence to the Objective 2 introductory paragraph, Commissioner Glover recommended replacing "woody" with "wooded." Members were comfortable with the new language including this change and with moving Policies 1, 2, and 7 to Objective 3.

Mr. Stidham reviewed the changes to former Policy #4/New Policy #2 that were discussed extensively by the Committee at the previous meeting. Commissioner Glover said that the second sentence in the introductory language is long and recommended adding a period after "regulations" to break up the sentence. Mr. Stidham suggested using a comma since both parts of the sentence are intended to go together, and also recommended replacing "produce additional lots above" with the word "exceed." Members agreed with these changes. Regarding subsection (c), Chair Ohrstrom said that "natural resource degradation" appears again and Commissioner Glover replied that the word "significant" is not used in this context. Commissioner Bass said that he likes the wording of both subsections (c) and (d). Commissioner Caldwell said that in subsection (d), she thought that "other reasonable measures" was vague. Commissioner Bass suggested striking "and other reasonable measures" and just list "forestry best management practices." Mr. Stidham replied that he is not sure that "forestry best management practices" should be left as the exclusive method as other approaches might be feasible. Commissioner Bass noted that the word "should" is used in this subsection and Commissioner Caldwell replied that she also had an issue with using "should" instead of "shall." Commissioner Caldwell added that there are other types of measures we would want to consider instead of just forestry best management practices. Mr. Stidham suggested changing "reasonable" to "acceptable" and explained that this would mean measures that the County finds "acceptable" to prevent significant degradation of natural resources. Commissioner Glover also recommended adding "reduce erosion" to subsection (d) immediately following a comma to be placed after "preserve trees." Commissioner Caldwell suggested changing "should" to "shall" in subsections (a), (c), (d), (e), and (f). Mr. Stidham noted that the Committee previously discussed using "should"

instead of “shall” in subsection (c) regarding ridgelines. Members agreed to change the “should” in subsections (a) and (d) to “shall.” Commissioner Caldwell also recommended changing the “should” in the second sentence of subsection (d) to “shall.” Mr. Stidham noted that subsections (d) and (e) are wide open and should probably remain as “should,” and Commissioner Bass agreed. Chair Ohrstrom recommended changing “should” in subsection (e) to “shall,” and Commissioner Caldwell noted that this is supported by the regulations that we have created for development on the mountain. Commissioner Glover suggested changing “environmental” to “natural” in subsection (e) to avoid raising tensions unnecessarily by using that word. Mr. Camp recommended changing “values” for the same reason and Commissioner Glover suggested using “assets.” Members agreed with these changes.

Mr. Stidham reviewed the changes to Objective 3 (Natural Resources) noting that per the previous discussion, he will attempt to define “significant degradation” in a new Policy #1. Regarding the proposed new language in Policy #2, Commissioner Bass said that the word “damage” should be “degradation” to be consistent with the new verbiage being added throughout this chapter. Mr. Stidham replied that he purposely used the word “damage” because it explains the threshold by which the County would take proactive enforcement action against an unpermitted activity.

Regarding Policy #4, Mr. Stidham asked the Committee whether provision of parking areas and formal access points to the river should be added to address the issue of informal parking along roadsides and creation of private, unregulated accesses. Chair Ohrstrom asked how this would be accomplished and Commissioner Caldwell replied that it would be similar to recent efforts to improve Appalachian Trail parking and access. Commissioners Glover and Bass said that this should be included in the Policy. Chair Ohrstrom asked whether this would be making the statement that developing parking areas along the river is a good idea. Mr. Stidham said that playing devil’s advocate, adding more parking areas could increase visitor traffic to the river and be potentially more impactful than the informal parking that is currently taking place. Chair Ohrstrom noted that parking areas along the river can increase impervious surface areas and facilitate pollutants getting into the river via runoff. Commissioners Bass and Glover suggested promoting existing parking areas and access points rather than create new ones. Members agreed to this approach.

Also in Policy #4, Commissioner Caldwell noted grammatical corrections in subsection (d).

Regarding Policy #12, Mr. Stidham noted that we do not currently have more stringent regulations in administrative processes (site plans and subdivisions) that apply to the areas listed in the Policy. He suggested deleting the list of land use decision types and replacing the word “decisions” with “applications” to provide a more general recommendation. Members agreed with these changes.

In Policy #8, Commissioner Caldwell noted the term “scenic easements” and added that this term is used elsewhere in the Plan. She said that she has never understood what a “scenic easement” is and Chair Ohrstrom replied that it is a colloquial expression for a conservation easement. Commissioner Caldwell suggested replacing “scenic easement” with “conservation easement” throughout the Plan. She also noted a small word correction in Policy #10.

Regarding Policy #18, Mr. Stidham noted that Staff's upcoming presentation of a septic pumpout program to the Board of Supervisors may require changes to this Policy. The Committee then had a brief general discussion about the septic pumpout ordinance and proposed program.

Mr. Stidham noted that the policies that were moved from Objective 2 are now listed at the end of Objective 3 as Policies #22-24. He asked if they should be moved to a different location in the Objective or if he should attempt to group all of the Policies in this Objective differently. Commissioner Glover said that they all work well under the Natural Resources heading and Commissioner Caldwell suggested grouping them by topic. Commissioner Bass said the Objective makes it abundantly clear that we are serious about protecting our natural resources. Commissioner Caldwell noted that "other environmental impacts" in Policy #23 is problematic. Mr. Stidham suggested replacing "other environmental" with "applicable" and Commissioner Caldwell agreed that this would address her concern.

Regarding changes to Objective 4 (Historic Resources), Commissioner Caldwell noted replacing "scenic" with "conservation" in Policy #3. On Policy #8, Commissioner Caldwell asked about the documents and surveys of historic/archaeological resources that are referenced, noting that she does not recall them being used in making land use decisions. Mr. Stidham suggested deleting "that have been surveyed and documented" to allow unsurveyed and undocumented resources to be considered.

Regarding Policy #3, Commissioner Glover suggested deleting the last sentence that singles out resources on the Natural Register of Historic Places and Civil War resources, noting that there are other types of historic resources that should be given consideration. Mr. Stidham noted that there is no similar language in the Historic Resources Plan and that document treats all such resources equally. Commissioner Caldwell said that in the same line, Policy #9 contains language recommending a focus on the sites of pre-historic indigenous peoples which could also be deleted. Members agreed with the changes.

Mr. Stidham said that the Committee will pick up with the review of Objective 5 (Conservation Easements) at the next meeting. Members agreed to schedule the next meeting for Tuesday, January 12 at 2:00PM.

4. Other Business

None.

ADJOURN: Meeting was adjourned by consensus at 3:36PM.



Brandon Stidham, Clerk