



Clarke County Planning Commission

MEETING MINUTES – Work Session

Tuesday, November 3, 2021 – 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)	✓
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), Jeremy Camp (Senior Planner/Zoning Administrator), Kristina Maddox (Office Manager/Zoning Officer), Chris Boies (County Administrator)

CALL TO ORDER: By Mr. Stidham at 9:05AM.

Motion to approve the revised agenda. Mr. Stidham

Review of November 5, 2021 Business Meeting Agenda Items

Mr. Stidham began the session by reviewing the proposed short-term residential rental regulations. He said the Commissioners had talked about recommending to the Board of Supervisors that they adopt the regulations with a delayed effective date of six months to create a grace period for the existing operators to come into compliance. He said this language is not automatically included in the text amendment. He included a draft motion to discuss in preparation for Friday's Business Meeting. He said in the event there are concerned operators and if the Commission wants to defer, they could do so by keeping the public hearing open and deferring to a future meeting or they can close the public hearing and defer. He added that a public hearing notice was placed in the Winchester Star as per state requirements and that a Facebook post was placed in order to spread the word about the public hearing.

Commissioner Caldwell asked about the timeline if the Commission chooses to defer and keep the public hearing open or if they can continue the public hearing ad infinitum and defer it every month until it reaches a good point. Mr. Stidham said he believes that has been done in the past but the public hearing was not re-advertised. He said it was added to each agenda as a continued public hearing. When asked by Commissioner Caldwell, Mr. Stidham confirmed that could be done month to month as needed. Commissioner Lee asked if the deferral would have to be done to a business meeting. Mr. Stidham replied the Commission could potentially defer to a work session but he would only recommend doing so if the Commission wanted to look at it from a concept point of view and change what they were doing.

Mr. Camp presented two minor subdivisions to the Commission, beginning with Jay and Linda Cecca (MS-21-03). He said the proposal is to subdivide a 31-acre parcel into two lots and that it would leave a residual lot consistent with 28 acres and one residential lot of three acres. He said Virginia Department of Transportation (VDOT) had a requirement that the entrance be widened. He said Staff is recommending conditional approval subject to the requirement being addressed, however, the applicant has already addressed the requirement and has resubmitted. He noted some discrepancy in the location of the right of way regarding whether it is fee simple or prescriptive. He said VDOT is claiming that it is fee simple and the surveyor certified that it is not, that it is prescriptive. He said there may or may not be some changes related to this in the future but it would not affect the subdivision and the zoning requirements. Commissioner Kreider questioned some verbiage in the staff report and asked that it be clarified. Mr. Camp confirmed that the line should have read “was reissued.”

The second presentation by Mr. Camp was John Miller and John Miller Jr, III (MS-21-04). He said the parcel is currently 268 acres and the request is to create three lots. He said one of those lots is 100 acres or more so it qualifies as a minor subdivision. He said the other two lots together are approximately three acres. He added that it is Tax Map 24-A-24 located on Lockes Mill Road in the Buckmarsh Election District. He continued that it is zoned as Agricultural-Open Space-Conservation (AOC). He said this is currently being recommended for deferral because they have yet to demonstrate that the reserves drainfield areas meet the 100% reserve capacity requirement. He said the surveyor believes this is the case but he was not sure. He said once we receive the documentation from the surveyor we are ready for approval.

Chair Ohrstrom suggested that the applicant request a deferral so there is no penalty. Mr. Camp responded that he intends to speak to them about that and was hoping the information would have come in on time for the agenda. He said the recommendation would have to be deferral at this time. Chair Ohrstrom confirmed that the client would need to ask for deferral, not for the Commission to defer the decision – ask them to defer the application until they have all the pertinent information. Mr. Camp agreed. Commissioner Caldwell asked about timing on the application to which Mr. Stidham replied that per ordinance requirements, the applicant shall provide any new or revised material no less than three business days prior to the work session in which the approval authority will be discussing the application. He confirmed that it is already passed and must be deferred. When asked what the overall plan is, Mr. Camp replied at some point they may want to do a subdivision although they have not said when. Commissioner Lee asked if there is still a question about the DURs being used for these two lots, depending on the date these houses were built. Mr. Camp replied that they have done previous work on the property in the past and all our records show five DURs existing on the property. Mr. Stidham said if it is a pre-1980 exception, we would not want them to carry the exception and a DUR. Commissioner Lee asked if we knew the dates on the building permits. Mr. Camp replied that one house was done in the 1900s and that there may have been other existing houses there at one time that were torn down and rebuilt.

Mr. Stidham said that Betsy Arnett, Chair of the Historic Preservation Commission (HPC), will present a report on their activities and also to discuss a proposed text amendment.

Mr. Camp said the County is starting its six-year renewal for the Agricultural and Forestal Districts (AFD). He said the presentation had already been reviewed by the AFD Advisory Committee and as per procedure and law is now being presented to the Planning Commission. He said it is a voluntary program

authorized by the state and local law and its intent is to benefit and promote agricultural property owners and agricultural use. He said Virginia code as well as the County code further explain the regulations. He said the County's first AFD was established in 1980 and there have been several renewals since that time the last being in 2016. He said currently there are approximately 37,000 acres in the AFD. He continued that this is separate from other maps showing 27,000 acres that we have in conservation easement. Chair Ohrstrom asked if it is the County or state regulation to prohibit boundary line adjustments within the AFD. Mr. Camp responded that it was a County-enforced regulation. Mr. Camp added that one can do a boundary line adjustment, but are prohibited from decreasing the land area that is in the AFD if he remembers correctly. He said the benefits are different than the Land Use Assessment Program and that the AFD has its own set of restrictions and benefits. He added that one of the benefits is that AFD properties automatically qualify for the land use program. He said if someone is trying to get into the Land Use Program, they have to show receipts for five years before they can get in. If someone is in an AFD they would automatically qualify. He said the citizens say they would be more interested if they did not have to refile each year. He said it is a requirement for them to demonstrate the continued annual agriculture activity.

Mr. Camp said the program has some protective abilities such as restricting adoption of regulations that unreasonably restrict farm structures and farming even though he does not believe there is intent to do so in Clarke County. He added those types of regulations may be helpful in other locations. Additionally, he said it protects against eminent domain by adding in a separate review process if the properties are in an AFD. He said the restrictions include not being allowed to withdraw from the program for six years unless there is a financial hardship or landowner death otherwise they would need to wait until the renewal process. He said if someone wishes to join the AFD program, they can do so on an annual basis. He said the most restrictive regulation is that someone could only subdivide one lot during the six-year term. He said there are some limitations on the boundary line adjustments subject to certain rules previously discussed. Rezoning the district other than the Agricultural-Open Space-Conservation (AOC) or Forestal-Open Space-Conservation (FOC) is not permitted he explained that special use permits are restricted except for livestock auction markets, small scale processing of specialty fruits and vegetables, veterinary services, animal hospitals, and breeding kennels. He said boarding kennels were removed in the last update.

Mr. Camp said while there were no new applications filed this year, he received a number of calls from people who are interested in filing next year. Additionally, he said four property owners have requested to be withdrawn from the district including JC Hardesty Family, L Seven Farms LC, Knowles Partnership, and Westwood Farm Incorporated. When asked by Chair Ohrstrom if the Hardestys are withdrawing all their land from the AFD or just a portion, Mr. Camp responded that the withdrawal includes parcels 7-A-122 and 7-A-129B.

Mr. Camp said the next steps after the Planning Commission completes their work on it is a required public hearing tentatively scheduled for December followed by a review by the Board of Supervisors, and another public hearing. He added that the term does not expire until March 2022.

Old Business Items

None

New Business Items

Capital Improvement Plan

Mr. Boies reviewed the proposed Capital Improvement Plan (CIP) with the Commission. He said in Clarke, \$50,000 and above is considered capital expenditure. He reviewed the projects that were submitted by the constitutional officers, the department heads, the school system, and the sanitary authority. He noted the broadband project that is currently being worked on and how the CIP shows the County's contribution and what is needed. He continued that Fire and Rescue has the same items as in the past, the Health and Human Services Building continues to be included. Parks and Recreation, he explained, has a number of projects most of which were included in last year's plan. The school system predominantly has projects that keep their existing buildings going and functioning, he said, so they do not have any additions. He said the Sheriff's Department has mainly equipment and vehicles and things of that nature. Regarding transportation, he commented that the Planning Commission had discussed a pedestrian bridge at Route 7 last year. He said we have applied for funds to do a study of that project and he thinks it would help the Commissioners make their decision with the comprehensive plan.

Mr. Stidham noted he had not included an action item on the agenda for Friday but can do so if the Commissioners do not have any questions and feel comfortable making a recommendation. When asked by Commissioner Caldwell to whom has the County applied the money for the study, Mr. Boies responded the Virginia Department of Intermodal Transportation and Transit which focuses on pedestrian transportation. He said the grant is up to \$50,000 with no match requirement and added that he hopes it would review the current pedestrian movements, the existing topography, the landscape, and whether or not people will use it. Mr. Boies said it will first go to the Board of Supervisors as they are the ones requesting it but that it should also be reviewed by the Planning Commission to see if it should be added to the Comprehensive Plan. He said it could potentially begin in January and last approximately four months. Commissioner Lee asked about doing the study in January as there will be less pedestrians than in the Spring. Mr. Boies responded that he has current pedestrian movement data from Virginia Department of Transportation (VDOT). He said VDOT did some traffic and pedestrian movement counts during various weekends in June on Rt. 601 and Rt. 7. Commissioner Bass said it is important to add that, regardless of the results of the study, some sort of pedestrian crossing - whether it is an overpass or not - is recommended by the Board of Supervisors. He added that the Board does not see this as a County problem and we are not necessarily interested in investing our taxpayer dollars but are seeking federal and state resources. Mr. Boies commented that the study will help with the funding application or a special appropriation from Representative Wexton who is on the Appropriations Committee. Mr. Stidham asked the Commissioners if they wanted additional time to consider this or if they felt comfortable adding it to the Business Meeting agenda. The Commissioners did not object to adding this item to the upcoming Business Meeting.

Five-Year Review Resolutions – Waterloo and Double Tollgate Area Plans

With regards to the Waterloo and Double Tollgate Area Plans, Mr. Stidham said the five-year anniversaries of the adoption dates on our component plans need to be considered as they are coming up in December. He said the Comprehensive Plan Committee reviewed the draft resolutions and are recommending that the reviews be conducted after the Comprehensive Plan update is finished. He said they also referenced five objectives in the Comprehensive Plan in doing the updates of the reviews of these component plans. He said objectives 9-13 are as they are currently written in the draft that the Comprehensive Planning Committee is reviewing. He said we have been looking at extending public

water and sewer to the Double Tollgate Area which is a major project so they have incorporated two additional recommendations of looking at the impact. He said current deferred growth status are the main issues to look at. He said the Comprehensive Plan Committee is hoping the Planning Commission takes action on these two resolutions. He said he has it written up for December, however, if the Commission feels comfortable putting them on the November 5, 2021 agenda, he can add those as well. The Commissioners did not object to adding these items to the Business Meeting agenda.

ADJOURN: The November 3 Planning Commission Work Session adjourned by consensus at 3:41PM.



George L. Ohrstrom, II (Chair)



Kristina Maddox (Clerk)