

**PLANNING COMMISSION**  
**February 17, 2016**

THE REGULAR MEETING OF THE GREENE COUNTY PLANNING COMMISSION WAS HELD ON WEDNESDAY, FEBRUARY 17, 2016, AT 7:30 PM IN THE COUNTY MEETING ROOM.

Those present were:

- Jay Willer, Chairman
- Victor Schaff, Vice-Chairman
- Frank Morris, Member
- John McCloskey, Member
- William Saunders, III, Member
- Dale Herring, Ex-Officio Member
- Bart Svoboda, Planning Director
- Shawn Leake, Zoning Officer
- Marsha Alley, Secretary

**CALL TO ORDER**

The Chairman called the meeting to order. He introduced Bill Saunders who was recently appointed to the Planning Commission.

**DETERMINATION OF QUORUM**

The Chairman took a roll call vote to determine a quorum.

**PUBLIC HEARINGS**

**Greene County Zoning Ordinance Revision: Revise Article 16-2: Special Use Permits, and all applicable references, to amend language and regulations applicable to the special use permit process and approval. (OR#15-002)**

Mr. Willer read the request and asked Mr. Svoboda for a report.

Mr. Svoboda reviewed the history of the request. He stated that a filing clause was noted to supersede the authority of the Board of Supervisors which prompted the review. He added that this is an older section of the ordinance which has basically not changed since 1975. He explained that subheadings have been added for sections and that vesting language has been included as vetted by the county attorney. He noted specific dates relating to the request as follows:

- April 15, 2015: the Planning Commission held a public hearing for the proposed ordinance revision. No public comment was received. The Commission indefinitely deferred action on the ordinance revision in order to address unclear language and allow for more time to review.

- September 16, 2015: the Planning Commission held a second public hearing for the proposed ordinance revision. No public comment was received.
- November 10, 2015: the Board of Supervisors held a public hearing for the proposed ordinance revision. The public did comment on the proposed revision. The Board of Supervisors, with a 5-0 vote, sent the application back to the Planning Commission for further review and consideration of the public comments.

Mr. Svoboda reviewed the original language and the proposed language. He reviewed the additions in formatting and the additional language that changed *may* to *shall*. He added that clarifications were made in language as well. He noted that there are two (2) new sections permitted by code as noted in sections 16-2-6 and 16-2-7 to provide awareness for the process. He stated that additional reference sections are included as they involve the payment of real estate taxes as noted in the Code of Virginia. He explained that the requirement for filing approvals in the clerk's office for validity had been removed to eliminate an extra step.

There was discussion regarding the need for special use permit approvals to be recorded in the clerk's office for record. It was determined that it is not common practice and that those records are kept on file in the Planning Department.

Mr. McCloskey asked if the regulations would allow the county to stipulate that construction or the use begin in a certain amount of time.

Mr. Svoboda explained that a time table may be stipulated by including that in a condition for approval.

There was discussion regarding the addition of conditions that relate to time tables for the commencement or completion of a use or construction. There was additional discussion regarding about the revocation for non-compliance with conditions. It was noted that 16-2-4.e addresses time tables.

Mr. McCloskey noted that in 16-2-4.a noise, smoke, and dust are noted and asked how light would be addressed.

Mr. Svoboda stated that the language is standard and that light may be addressed by conditions for specific uses if lights were a specific issue.

There was discussion regarding lighting having been an issue in past requests and how they were addressed.

Mr. Schaff asked for Mr. Svoboda to review 16-2-6.

Mr. Svoboda noted that 16-2-6 addresses existing special use permits. He explained that if a condition of an existing special use permit is more restrictive

than the ordinance, then the more restrictive condition would apply to protect neighboring properties. He added that the applicant would also be vested in following the original approval if the conditions are less restrictive.

Mr. Schaff stated that he was curious how that would come into play with some Bed & Breakfasts approved with conditions.

There was discussion regarding existing special use permits, conditional approvals, and the possibility of amending special use permits in order to have appropriate conditions.

Mr. Saunders asked if some of the language is being removed because it is already in the Code of Virginia.

Mr. Svoboda explained that there is no need to repeat the requirements that are already in the Code of Virginia and noted that if the General Assembly makes changes then the county must then revise the ordinance as well. He added that it is more effective to refer to the Code of Virginia in those instances.

Mr. Morris referred to the proposed removal of the language addressing the annual inspections performed by the Building Official and asked who would inspect the property if that language is removed. He noted that regulations that are made should be enforced.

Mr. Svoboda explained that the special use permit conditions are a zoning function and would be inspected by the Zoning Department. He added that the Board of Supervisors could place the responsibility of inspection on the Building Official but that the Zoning Department would have to make the determination of compliance as set forth by the Code of Virginia.

Mr. Willer stated that the question could arise from the Building Inspector or a citizen.

Mr. Svoboda agreed.

The Chairman opened the public hearing.

The following citizen addressed the Commission voicing her comments and concerns:

- Eva Young: read the proposed language in 16-2-7 relating to the revocation of non-compliance, noting that the reference to Section 15.2-2204 of the Code of Virginia is rather misleading; noted that other localities require one year of notices to be sent registered mail; would like to see this language be revised to place the requirement on the Planning Office to work with people before scheduling a hearing to revoke a special use permit.

There being no further public comment, the public hearing was closed.

Mr. McCloskey referred to 16-2-6 and asked which regulations would apply to a special use permit when the ordinance may be more restrictive than the conditions of the approved special use permit and vice versa.

Mr. Svoboda explained that the regulations would likely apply in the same way as a nonconforming use issue. He stated that a significant governmental act would be vested for both the applicant and the neighboring properties while protecting due process rights as well.

Mr. Schaff stated that it makes sense to him.

Mr. Willer added that another example would be the changes in housing codes.

Mr. Svoboda stated that amendments to the approved special use permits may have to comply with newer regulations. He added that it is better to have continuity in regulation.

Mr. Morris asked if the proposed language was the revision that was provided to the Board of Supervisors.

Mr. Svoboda stated that this language is the newest revision as a result of the feedback provided by the Board of Supervisors.

Mr. Morris stated that he was a little confused and referred to 16-2-4 relating to off-street parking/ingress/egress noting that it had been mentioned at an earlier Planning Commission meeting that those issues would be reviewed during the site plan review.

Mr. Svoboda explained that the language states *may* so that if a special use permit is considered which may not require a site plan review, the Commission could add a condition to address lighting and those types of issues when a site plan is not required.

Mr. Schaff stated that he believes it is more streamlined, noting that he likes it.

Mr. McCloskey referred to 16-2-4 and stated that it appears that the Zoning Administrator would be providing the Commission and the Board of Supervisors with the information of the application and any recommendations from their review of the application. He added that *Zoning Administrator* does not show up much.

Mr. Svoboda agreed stating that is how the public process works. He explained that after a meeting with the applicant for a preliminary overview of the request, staff tries to establish a standard set of conditions and a baseline for discussion.

Mr. Willer explained that the reason that the reference to the Zoning Administrator no longer appears at this point is that it is the Planning

Commission's job to recommend conditions not the Zoning Administrator's job.

Mr. Svoboda stated that conditions are determined by the Planning Commission and the Board of Supervisors.

Mr. Willer wondered if it would be legal or useful to make a reference in 16-2-2 and 16-2-24 to add *to be consistent with the Comprehensive Plan* as it is a guiding document.

There was discussion regarding the inclusion of a reference to the Comprehensive Plan. It was noted that it is a guiding document and that it is used in staff's review of the application. It was mentioned that there are by-right uses that also do fit into the Comprehensive Plan, noting that those uses do not go through the public process either.

Mr. Svoboda stated that the Zoning Ordinance and the Comprehensive Plan reflect the same or similar goals for the county.

Mr. McCloskey agreed with Mr. Willer's suggestion to add a reference to the Comprehensive Plan.

Mr. Svoboda stated that the suggestion may be added.

Mr. Morris stated that he had a lot of legal questions that he would like ask and that he would like to defer the application so that he could have more time to do that. He added that it was his opinion that the Commission should take more time to review it and not rush into a decision.

Mr. McCloskey referred to 16-2-7 as noted by public comment and noted that the process is not described and asked if it regarded non-compliance or a period of time.

Mr. Svoboda explained that usually the determination of non-compliance is the burden of the Zoning Administrator. He stated that unless there is a willful non-compliance, he could not see very many of these situations getting to the Board of Supervisors. He noted that at that time the Board of Supervisors would determine if there is severe enough non-compliance to revoke the special use permit.

Mr. Schaff stated that a public hearing would also be required to do that.

Mr. Svoboda agreed, noting that the section is out of the Code of Virginia. He added that the Board of Supervisors would determine the need for public hearing and then the notices must be sent. He noted that he does not object to the one year rule but added that the decision would be the Board of Supervisor's as there may be instances when waiting a year may not be in public interest.

Mr. Willer asked if there are other elements in the ordinance regarding

enforcement mechanisms.

Mr. Svoboda stated that there is a whole section in the Code of Virginia relating to determinations. He reviewed the appeals language and process as set forth in the Code of Virginia.

Mr. Schaff stated that he would like to address the issues tonight and would prefer to stop putting off the issues. He suggested digging into Mr. Morris' concerns.

Mr. Morris referred to 16-2-1 relating to the authority of the Zoning Administrator. He suggested that a Zoning Administrator, not meaning Mr. Svoboda, may not like someone and suggested that there should be guidelines for him to follow.

Mr. Svoboda stated that he had no objection either way, noting that the burden would then be placed upon the Planning Commission and the Board of Supervisors. He explained that under the Code of Virginia, the Zoning Administrator is charged with making those types of determinations, as are other officials under the code such as the housing department (DHCD), sheriff's department, etc. He added that if a requirement is believed to be unreasonable, it may be appealed.

Mr. Willer stated that part of the issue may be the order in which we read things. He suggested moving the reference to the Zoning Administrator to follow the list. He recommended adding the following sentence after item "d" in 16-2-1 in a separate paragraph to read *The Zoning Administrator may also request additional information that such Zoning Administrator deems necessary to facilitate consideration of the application.* He noted that this would allow innovation and initiative by the Zoning Administrator while narrowing it with the last clause as stated. He noted that this may aide in managing the role of the Zoning Administrator.

Mr. Schaff stated that is does not change anything.

Mr. Willer agreed that it does not change the substance but how one would read it.

Mr. Svoboda stated that staff reviewed various code sections relating to housing, health departments, etc. and that the code gives those authorities the ability to require other pertinent information if there is a reasonable nexus for it. He added that if the Commission does not want that in there, it can be removed. He pointed out that in relation to the process, removing the reference would mean that when the applicant appears before the Planning Commission and more information is required by the Commission, there is potential that they will need to begin again or be delayed.

Mr. Morris stated that the Commission often times requests additional information.

Mr. Willer stated that the PC can still ask for additional information but it would allow the Zoning Administrator to be active during the earlier phases of the project to gather enough information for consideration.

Mr. Schaff stated that it is potentially better for the applicant to be able to shorten their time frame.

Mr. Willer agreed, noting that the applicant could otherwise be deferred until information is provided.

Mr. Svoboda stated that if the requirements are listed comprehensively, then every application must provide that information whether it is relevant or not. He added that it must be decided who will determine which requirements are applicable.

Mr. Willer stated that as it is presented, items a, b, c, and d are required by every applicant. He added that a reference to the Zoning Administrator being able to require additional information might be useful.

Mr. Saunders stated that the Zoning Administrator has an advisory function to assist the applicant in identifying the necessary information.

Mr. Svoboda stated that staff informs the applicant of the information that has not been provided but would be useful, noting that items a, b, c, and d are the basics. He added that the Zoning Administrator does not have the power to deny a request, noting that due process rights must be upheld. He noted that there are time frames for the application to move forward. He stated that this language has been included since 1975 and that he does not understand what the issue is, given the other guidance provided by state code.

Mr. Willer re-read his suggestion for 16-2-1.

Mr. McCloskey and Mr. Schaff noted approval of the suggestion.

Mr. Morris stated that he would still like more time to review the information.

Mr. McCloskey asked what the evidence would be that taxes are paid.

Mr. Svoboda stated that the Treasurer's office would provide a statement whether taxes are paid or not.

Mr. Saunders stated that he understood the effort of making the statement subordinate but noted that the wording was in effect before the revision. He suggested noting the advisory role and clarifying that the application would not be impeded in anyway by not addressing particular issues.

There was consideration of Mr. Saunders' suggestion regarding the statement relating to the Zoning Administrator's authority.

Mr. Willer suggested adding *adversely* before *change the area* in 16-2-3a as it would be consistent with the wording in 16-2-3b.

Mr. McCloskey reminded the Commission of the discussion to the add *Comprehensive Plan* reference in 16-2-4.

There was discussion to have the language agree in 16-2-2 and 16-2-4 as it relates to including *to be consistent with the Comprehensive Plan after public safety, health, and welfare* in order to maintain consistency in the language.

Mr. Schaff and Mr. McCloskey stated agreement.

Mr. Schaff asked Mr. Morris if there were any other items that he may want to address.

Mr. Morris stated that he would prefer to have more time to review the state law adding that the Commission should do what they feel like they should.

Mr. Willer made a motion to adopt the three (3) suggested changes as he recommended relating to the following:

- the addition of the two (2) *Comprehensive Plan* references in 16-2-2 and 16-2-4 including *to be consistent with the Comprehensive Plan after public safety, health, and welfare* in order to maintain consistency in the language.
- the addition of *adversely* before *change the area* in 16-2-3a.
- the restructuring of the language in 16-2-1 as follows: adding the following sentence after item "d" in 16-2-1 in a separate paragraph to read *The Zoning Administrator may also request additional information that such Zoning Administrator deems necessary to facilitate consideration of the application.*

Mr. Schaff seconded the motion.

The vote was taken.

AYE

Mr. Saunders  
Mr. McCloskey  
Mr. Schaff

NAY

Mr. Morris

Mr. Willer

The motion to adopt the changes to the proposed language as suggested by Mr. Willer carried by a 4-1 vote.

Mr. Morris made a motion to defer OR#15-002 to next month if scheduling allows in order to have more time to review.



There was no second to the motion. Therefore, the motion failed.

Mr. Schaff made a motion to recommend approval of OR#15-002 with the revisions as made in the previous motion by Mr. Willer.

Mr. McCloskey seconded the motion.

The vote was taken.

AYE

NAY

Mr. Morris

Mr. Schaff  
Mr. McCloskey  
Mr. Saunders  
Mr. Willer

The motion to recommend approval of OR#15-002 carried by a 4-1 vote.

### **OLD/NEW BUSINESS**

Mr. Svoboda presented the revised by-laws.

Mr. Willer stated that the intent was to revise the by-laws to be consistent with the Board of Supervisor's by-laws in regard to the allotment of minutes.

Mr. Schaff made a motion to approve the by-laws as presented with the revision relating to the time allotment of speakers.

Mr. McCloskey seconded the motion.

The vote was taken.

AYE

NAY

Mr. Morris  
Mr. Schaff  
Mr. McCloskey  
Mr. Saunders  
Mr. Willer

The motion to adopt the by-laws carried by a 5-0 vote.

### CIP Update

Mr. Svoboda stated that the CIP committee has been working diligently on the CIP. He added that there will be a CIP update to the Board of Supervisors on March 9<sup>th</sup>.

Mr. Willer stated that the CIP can be useful in the budgeting process and

formatting has been addressed to assist in creating a sense of priority of projects. He added that they hope it becomes a useful tool for the Board of Supervisors. He noted that he wanted to recognize Brent Wilson for his efforts in this project as well. He stated that there is currently a basic Capital Improvements Inventory which would assist in the creation of a Capital Improvements Plan.

## **APPROVAL OF MINUTES**

Mr. Morris made a motion to approve the January 20, 2016 meeting minutes as presented.

Mr. McCloskey seconded the motion.

The minutes for the January 20, 2016 meeting were approved by a 5-0 vote.

## **OTHER PLANNING MATTERS**

Mr. Svoboda reminded everyone to submit their feedback and comments for the Comprehensive Plan review.

Mr. Willer noted that his comments were detailed but that was not a requirement for all comments.

Mr. Morris asked if a guideline would be set when all comments are received at the next meeting.

Mr. Svoboda stated that all of the information will be discussed and a tentative schedule for work sessions with the public would be determined.

Mr. Willer reminded everyone that the work session will begin at 6:30 pm next month.

Mr. Svoboda agreed.

## **Town of Stanardsville Information**

Mr. Svoboda gave an update noting that he reminded the Town that their Comprehensive Plan should also be revised, noting that the County Comprehensive Plan and the Town of Stanardsville Comprehensive Plan should be reflective of one another in the town area.

Mr. McCloskey added that the Town will also be holding a public hearing on March 8<sup>th</sup> for a Community Development Block Grant. He noted that the Board of Supervisors has provided a letter supporting the concept. He reviewed the features that may be included. He stated that March 23<sup>rd</sup> is the deadline.

Mr. Willer stated that the Winslow Lodging request is scheduled for next month.

Mr. Svoboda stated that they currently have a special use permit for a duplex and that this is a new request for an additional use. He added that he anticipates an update on the Board of Supervisor's direction regarding the CIP.

Mr. Morris stated that after last month's meeting regarding chickens, the reason that he addressed the Commission about taking the time to defer, he went in to speak with Sheriff Steve Smith. He added that they had a long conversation about animal control and all of the things that the Commission did and that it looks like when he gets done with the Board of Supervisors that issue will be coming back to the Commission too. He stated that they all have plenty of knowledge together and can work together but that instead of rushing items through to the Board of Supervisors and having them sent back to the Commission, the Commission needs to slow down and look at the information. He added that it is nice to be able to say that we got it off the table in thirty minutes but that the Commission is not doing the people of the county justice by doing that. He noted that the people of the county are who the Commission is supposed to representing. He stated that time must be spent in review. He stated that it is not staff that is doing that but that the Commission is rushing items to the Board of Supervisors. He added that staff is doing a good job of providing information but that the Commission is dropping the ball.

Mr. Svoboda stated that he did not understand the issue with chickens as it is a Zoning Ordinance issue and not a County Code issue.

Mr. Willer stated that there had been discussion regarding animal control enforcing the chicken regulations.

Mr. Morris stated that Sheriff Smith had a lot of concerns and issues with it and that they had gone over a lot of them. He stated that he notified the Sheriff that the information had been forwarded to Emergency Services and Sheriff Smith would be speaking with them about that because he should have been made aware of it.

Mr. Svoboda asked if Sheriff Smith was interested in regulating chickens.

Mr. Morris stated that he was not and that he had many concerns about it and how to enforce it. He added that he would rather let Sheriff Smith explain it.

Mr. Svoboda stated that in regard to communication, it would be nice to have department heads share concerns so that they can be addressed prior to a meeting.

Mr. Morris agreed and stated that was why it should likely have been deferred. He noted that he should have stated that at the time but that he voted for it too and that he was as guilty as the rest.

Mr. Willer confessed that he had included the animal control enforcement reference in his suggested language and that he did not talk to Sheriff about it.

He noted that the process does allow further review at the Board of Supervisors level.

Mr. Svoboda explained the county code process. He added that he is somewhat puzzled by the issues relating to the Zoning Ordinance without speaking with the Sheriff.

Mr. Morris stated that they had discussed the enforcement issue since the Zoning Department would only be dealing with zoning issues.

Mr. Svoboda agreed and stated that the regulation of chickens would be a zoning issue as it is addressed by the Zoning Ordinance. He added that one of the things that must be addressed is communication.

There was discussion relating the enforcement. There was laughter in the audience and comments were inaudible.

Mr. Willer stated that input should be received from all agencies involved. He added that he hopes that this issue will come up at the Board of Supervisors meeting and that it sounds like it will.

#### **ADJOURNMENT**

There being no further business, the meeting was adjourned.

Respectfully submitted,

*Marsha Alley*  
Secretary

  
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Planning Commission, Chairman

*3.16.2014*  
\_\_\_\_\_  
Date