

At a regular meeting of the Warren County Planning Commission held in the Warren County Government Center on August 14th, 2024.

Present: Robert Myers, Chairman (Happy Creek District); Hugh Henry, Vice-Chairman (Fork District); Scott Kersjes (North River District); Kaylee Richardson (South River District); William Gordon (Shenandoah District); also present; Matt Wendling, Planning Director; Chase Lenz, Zoning Administrator; Kelly Wahl, Planner; Allison Mutter, Clerk to the Planning Commission

Absent: Jordan Bowman, of Litten & Sipe LLP, attorney for the County

Call to order and Pledge of Allegiance of the United States of America

Adoption of the Agenda

On a motion made by Mr. Henry, seconded by Mr. Kersjes, and by the following vote, the Planning Commission approved the Adoption of the Agenda.

Ayes: Myers, Henry, Kersjes, Richardson, Gordon.

Adoption of Regular Meeting Minutes

On a motion made by Mr. Kersjes, seconded by Mr. Henry, and by the following vote, the Planning Commission approved the minutes from, as presented.

Ayes: Myers, Henry, Kersjes, Richardson, Gordon.

Public Presentations:

Public presentations are limited to issues that are not included on the meeting agenda. It is intended as an opportunity for the public to give input on relevant planning issues, and not intended as a question-and-answer period.

John Jenkins, 241 Gimlet Ridge Road, Bentonville

Mr. Jenkins stated that he is opposed to the location of the Sheriff's Office public protection facility based on safety issues and noise violations. He stated that when the conditional use permit was issued for Middletown Firearms, the noise was limited to 60 decibels at the property line.

He also believes that the best type of shooting range would be indoors and that the available building on Kendrick Lane, owned by Kurt Tran or the Economic Development Agency, would be ideal. Mr. Jenkins spoke with Mr. Tran and stated that Mr. Tran has no idea why the building has yet to be completed. He also stated that the Board of Supervisors have given \$506,400 to IT Federal Bank payments on Mr. Tran's loan and he would like to know why. He also believes that the 30-acre property should be repossessed

and that the facility should be built there. Also, there isn't anything budgeted for the construction of the facility.

And, lastly, he believes that the county employees that were working on the boat landing are putting down seed and straw at Mrs. Culler's farm at Indian Hollow and Acorn Hill Road. He has put in a FOIA request about it, but no documentation was found.

Jeff Baggarly, 339 River Ridge Drive, Middletown

Mr. Baggarly stated that he wished to be at the shooting test that was conducted on July 11th but was only informed of the test 12 hours before. He stated that the shooting ricocheted all the way up through the property and that a background sound test was not taken. The level at his fence line was 119 decibels and the County code (123) states that any noise from industrial property has to be at or below 62 decibels at the property line.

He is also concerned that the soil berm that is going to be built would be eroded by any copious amounts of rain that could pass through the area.

He stated that his property is 32 yards away from the firing range where other locales are 500 yards away. He is concerned about his son and grandchildren wandering through the woods without knowing whether the firing range is currently in use.

Drew Baggarly, 215 River Ridge Drive, Middletown

Mr. Baggarly has sent the Planning Commission emails about the required certifications that the Sheriff's Office has to complete and that the facility should be an indoor facility. He stated there was a shooting recently that required back up from Winchester and that if the County had an indoor facility, they would have been prepared to handle that situation. The Fire Department has their own facilities, there are other options for the Sheriff's Office to locate the facility and they are not pursuing them.

He is concerned that the range would only be 67 feet from his property and that, because of the extended hunting season, people could be out hunting and be hit by a stray bullet because of the proximity to the property line and the fact that elevation they are proposing would cause more ricochets, thus putting more people in danger.

John Swenson, 208 Gimlet Ridge Road, Bentonville

Mr. Swenson stated that the Warren County noise ordinance states that the loud sounds crossing outdoor private property boundaries can endanger the physical and emotional health and welfare of the people, interfere with legitimate communication and business and recreation, interfere with sleep, increase construction, decrease property values, offend the senses, create public nuisances, and in many cases, reduce the quality of life. After receiving counsel from an attorney in DC who handles noise pollution cases, the homeowner's association was informed of two things: the Sheriff's Department are not exempt from these ordinances and the results of the noise and effects stated in the

ordinance would be presented by plaintiffs in a lawsuit, would be settled by attorneys and a judge in a court of law.

He then stated that a noise measurement shall be made at the property line of the property where the noise being measured is being generated and that such measurements must be made at a height of at least four feet above the ground and a point approximately 10 feet away. And after consulting a certified sound technician from a mobile health diagnostic company, we found out two things: the noise must be measured at the time the facility is finished and ready to be used, possibly summer and winter when the leaves are off, and all weapons to be used and the number of them at any given time must be measured. Each weapon must be measured individually and as a group if multiple weapons are being fired simultaneously.

Michelle Fletcher, South River District

Ms. Fletcher stated that she found some of the comments made at the last Planning Commission meeting to be disrespectful and that, because her family had owned the land that she is on for 70 years, she had little choice in what was being placed near her. She believes that the County is poisoning her land with the landfill, possibly the public safety facility, with little concern for the 62 people who are currently living there. She is also concerned about the use of inmates for site maintenance and the danger that the local children might be placed in and really wants another location to be considered.

David Brotman, 938 Shangri-La Road, Bentonville

Mr. Brotman stated that Mr. Kersjes was at his house on the day of the Sheriff's Office testing and that they were measuring approximately 70 decibels. He requested that the other commissioners come and visit his home, should the commission wish to consider the site for the facility, to come and hear the current noise.

Chairman Myers stated that he wished to apologize for not reprimanding the speaker at the July 10th meeting who questioned the intelligence of the other speakers. He stated that he will make sure that kind of behavior will not be tolerated going forward.

Public Hearings:

CUP2024-07-01 - Jonathan DeHart - A request for a conditional use permit for a Short-Term Tourist Rental. The property is located at 345 Donna Court and identified on tax map 15D, section 2, block 5, as lot 281. The property is zoned Residential-One (R-1) and is located in the Shenandoah Farms-Riverview subdivision in the Shenandoah Magisterial District.

Mr. Lenz stated that the applicant is requesting a conditional use permit for a short-term tourist rental for the property he purchased in June of 2024. The owner would like to make the property available for short-term lodging for those who selflessly serve in the

not-for-profit sector and visitors of the Warren County area. The applicant will retain a local property management company to help oversee maintenance, cleaning, and the booking of rental requests. Comments were requested from the Property Owners of Shenandoah Farms, but none were received. The applicant is requesting a waiver to this supplementary regulation as the dwelling does not meet the 100' setback requirement from neighboring residences. The neighboring residence, 351 Donna Court, is located approximately 35' to the east of the dwelling on the subject property and the other neighboring residence, 323 Donna Court, is located approximately 37' to the west. He stated that letters of support from the neighbors have been provided.

Planning Staff is recommending the following conditions be added to this conditional use permit if the Planning Commission chooses to recommend approval of this permit to the Board of Supervisors.

1. The applicant shall comply with all Warren County Health Department, Warren County Building Inspections, and Virginia Statewide Fire Prevention Code regulations and requirements.
2. The maximum number of occupants shall not exceed the system capacity as determined by the Health Department permit per Warren County Code §180-56.4B. The Certificate of Zoning shall only be issued with approved Health Department records.
3. The applicant shall have the well water tested annually for e-coli and coliform bacteria and a copy of the results shall be submitted to the Planning and Health Departments.
4. The applicant shall have the septic system maintained annually by a licensed operator as required for an alternative onsite sewage disposal system. The applicant shall also have the septic system pumped every five years as recommended by the Health Department and a copy of the service invoice shall be provided to the Planning Department.
5. A waiver to the required setback of 100' to neighboring dwellings shall be granted for the existing 35' setback to dwelling east of the subject property and for the existing 37' setback to the dwelling west of the subject property.

Mr. Myers invited the applicant to speak.

Jonathan Dehart, 345 Donna Court

Mr. Dehart stated that the house isn't really conducive to housing families because the yard is predominantly steep slope and that, coupled with the views, would make it an ideal location for a short-term tourist rental.

Mr. Myers opened the public hearing and, with no one coming forward, he closed the public hearing.

Mr. Henry stated that he had spoken with the applicant's neighbor and stated that they are not opposed to the variance on the setback.

Mrs. Richardson stated that she also went up to the house and noted that there is no front or back yard and that it is optimal for AirBnb's.

Mr. Kersjes asked if the house was listed for lease?

Mr. Dehart stated that they were looking for a long-term renter should the application not be approved.

On a motion made by Mr. Henry, seconded by Mrs. Richardson, and by the following vote of 5-0, the Planning Commission moved to forward the conditional use permit to the Board of Supervisors with the recommendation of approval.

Ayes: Myers, Henry, Kersjes, Richardson, Gordon

New Business:

S-04-2024 - Buck Mountain Land, LLC (Philip Vaught) - Class B Subdivision - A request for final plat approval for a Class B subdivision containing five (5) lots submitted by Buck Mountain Land, LLC. The property is located at (0) Buck Mountain Road (State Route 622) and is identified on the parent tax map #37 as parcel 63F. The new tax map is identified as TM#37I and new parcels as 7 through 11. This property is zoned Agricultural (A) and is located in the South River Magisterial District.

Mr. Wendling stated that Section 155-30(B) of the Warren County Subdivision Ordinance requires that final plats for Class B Subdivisions shall be approved by the Planning Commission. The Planning Commission shall ensure that all requirements of the Subdivision and other County ordinances are met when approving such plat.

Attached is a final plat from Buck Mountain Land LLC, seeking the Planning Commission's approval for a five (5) lot Class B Subdivision. Section 155-21(B) of the Warren County Subdivision Ordinance designates a Class B subdivision as "those subdivisions resulting in five (5) or more lots being created, where their frontage is entirely upon existing streets in the state highway system, or meeting the standards for acceptance into such system, or qualifying for a private access easement and there is no dedication of land to public use other than the widening of an existing right-of-way and no required improvements; or subdivisions of less than five (5) lots where the parent tract

has been the subject of a previous subdivision of land within the last two (2) years.”

Staff has reviewed the final plat and it meets the minimum County requirements. The Health Department has approved the proposed well and drainfield sites. VDOT has approved the entrance locations and identified entrance improvements on Route 622 (Buck Mountain Road). Both agencies’ comments have been incorporated and shown on the plat. The Health Department and VDOT have reviewed and submitted comments on the subdivision and will have to sign the approved plats.

The County Building Official, David Beahm has submitted his comments relating to erosion and sediment, VA DEQ stormwater management and requirements for the appropriate building permits all of which you have in your packets. A copy of the subdivision plat and agency comments are included in your packets.

Prior to acting on a final plat for a Class B Subdivision, the Planning Commission may authorize advertisement for a public hearing to be scheduled if they desire.

On a motion made by Mr. Gordon, seconded by Mr. Henry, and by the following vote of 5-0, the Planning Commission moved to request the Chair to sign the plat and notify the Board of Supervisors of the approval.

Ayes: Myers, Henry, Kersjes, Richardson, Gordon

Consent Agenda – Authorization to Advertise for Public Hearing:

On a motion made by Mr. Kersjes, seconded by Mrs. Richardson, and by the following vote, the Planning Commission approved the authorization to advertise.

Ayes: Myers, Henry, Kersjes, Richardson, Gordon.

Commission Matters:

Planning Director:

Mr. Wendling asked the Chairman to make sure that the Class B plats were signed. He reiterated that we are making good progress on the comprehensive plan and that Chapter 7 should be completed and provided to the Planning Commission in the coming weeks for review. Chapter 7 will also be submitted to VDOT for their review as well.

Commission Members:

Mr. Kersjes asked Mr. Wendling if the citizens’ concerns were being communicated to Sheriff Cline?

Mr. Wendling directed any questions either to the Sheriff or to the County Administrator. He stated that maps of the sites that the County owned were created, but the building that was mentioned was not included. He stated that it could be provided to the Sheriff.

Mr. Myers wished everyone a happy Labor Day.

Mr. Henry stated that he does know the Clines well but doesn't automatically agree with the approval of the facility. He recognizes that the proximity of the facility and the noise that would be generated as legitimate complaints but thinks that if there was any truth to shooting lead bullets in the ground would end up poisoning the well water, there would be a lot more issues than we're currently having because there has been lead in the ground since the Revolutionary War. He stated that, from a cost perspective, the plan as it was presented would be tens of thousands of dollars, as compared to a retrofit of a building which would be in the millions. And, as a businessperson himself, he is in favor of finding the solution that would be the most cost-effective. He does believe that investigating methods to mitigate the noise and is happy to field suggestions to remedying the distance issue, which, to him, is the most unworkable problem.

Mr. Henry also was contacted by John Paul the Great Montessori academy requesting assistance in getting students into the school because they need a new well and septic system. The Department of Health has stated that they could support 90 students based on the current septic system formerly used by the golf course. He advised the school to reach out to the Planning and Zoning Department to see what could be done to assist them.

Mr. Wendling stated that Mr. Sweeney had been in contact to try to find a solution. He stated that he will reach out to VDOT to determine how they can get a temporary occupancy permit.

Mr. Henry also expressed concern that the school about where the displaced students would end up should the Montessori school not be able to get into the property.

Mr. Wendling stated he would contact Mr. Sweeney to find a solution.

Zoning Administrator:

Mr. Lenz had nothing to add.

Planner:

Mrs. Wahl stated that she has started on a revision of the community profile for the County.

Clerk to the Planning Commission:

Ms. Mutter stated that the plan with the Citizen Surveys was to take them as long as possible to be included in the Comprehensive Plan, but staff has planned to leave the survey up to continue to gather opinions for the direction of the county between Comprehensive Plans.

Adjournment:

On a motion made by Mr. Henry and the following vote, the meeting was adjourned at 7:55 PM.

Ayes: Myers, Henry, Kersjes, Richardson, Gordon.



Warren County Planning Commission
Chairman