

At a regular meeting of the Warren County Planning Commission held in the Warren County Government Center on July 10th, 2024.

Present: Robert Myers, Chairman (Happy Creek District); Hugh Henry, Vice-Chairman (Fork District); Scott Kersjes (North River District); Kaylee Richardson (South River District); and Jordan Bowman, of Litten & Sipe LLP, attorney for the County; also, present; Matt Wendling, Planning Director; Chase Lenz, Zoning Administrator; Kelly Wahl, Planner; Allison Mutter, Clerk to the Planning Commission

Absent: William Gordon (Shenandoah District)

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

Adoption of the Agenda

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

Ayes: Myers, Henry, Kersjes, Richardson.

Adoption of Regular Meeting Minutes

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

Ayes: Myers, Henry, Kersjes, Richardson.

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.

Public Hearings:

CUP2024-06-01 - Kyler Yancey, Lindsey Wiley & Elmer Smith (Alicia D. Fridgen) - A request for a conditional use permit for a Home Enterprise. The property is located at 103 Demel Court and identified on tax map 23A, section 12, block 9, as lot 3. The property is zoned Agricultural (A) and is located in the Skyland Estates subdivision in the Happy Creek Magisterial District.

Mr. Lenz stated that the applicants are requesting a conditional use permit for a home enterprise to operate a small-scale bakery business out of an accessory building on the subject property. The accessory kitchen will serve as the base of operations for a home

business consisting of preparing baked goods such as cookies, brownies and donuts and delivering the baked goods to individuals, businesses, and churches in the Warren County area. With the operation including delivery, the home enterprise will not be open to the public and onsite customer service will be restricted. The applicants have also indicated they do not plan to install any signage to preserve the residential appearance of the property.

Warren County Code §180-8C defines home enterprise as, "A small-scale business conducted entirely inside an accessory structure engaged in providing services and products to the general public. Such operations are clearly incidental and subordinate to the principal residential use permitted on the parcel."

Mr. Lenz stated a home enterprise is very similar to a by-right home occupation, except it is not conducted within the dwelling itself, but rather out of an accessory building. There are supplementary regulations that apply to a home enterprise and this request does meet all of those requirements. The applicants will need a change of use permit through Building Inspections to outfit the building to be compliant with building code and they will have to make a minor modification to the septic system permit through the Health Department. Staff received comments from the Skyland Community Corporation in opposition to this proposed use. They don't think it meets the intent of their bylaws for a home business.

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 applicants shall comply with all Warren County Health Department, Virginia Department of Agricultural and Consumer Services (VDACS), Warren County Building Inspections, and Virginia Statewide Fire Prevention Code regulations and requirements.
2. The applicants shall submit an onsite sewage disposal system application minor modification permit through the Warren County Health Department and all required modifications shall be completed prior to issuance of a certificate of zoning.
3. The applicants shall pass the final inspections for all required building and zoning permits prior to issuance of a certificate of zoning.
4. The applicants 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.

5. Onsite customer service shall be prohibited. The home enterprise shall operate on a delivery only basis.
6. Parking for the home enterprise employees shall be located in the driveway only. The parking of vehicles in or along rights-of-way shall be prohibited.

Kyler Yancey, 103 Demmel Court.

Mr. Yancey stated that he had reviewed the comments provided by the Skyland Community Corporation and also attended a meeting of the association. They reviewed the covenants with the Corporation and by the end of the meeting had the members' favor. The Corporation is concerned about allowing other businesses into the area without foundation or guidelines.

Mr. Myers opened the public hearing.

Elmer Smith, 1900 Taylor Drive.

Mr. Smith stated he will be in charge of running the business and would be available for questions.

Mr. Myers closed the public hearing.

Mr. Myers stated that he is concerned about the need for fire prevention.

Mr. Lenz stated that, as a part of the change of use permitting process, Building Inspections would inspect for compliance with all statewide building and fire prevention code.

Mr. Henry stated that he believes that the building would not be big enough to require sprinklers.

Mrs. Richardson asked that because Mr. Yancey is baking in an accessory unit that he is required to have a conditional use permit?

Mr. Lenz confirmed that because the activity is occurring outside of the dwelling, a conditional use permit is required.

On a motion made by Mr. Henry, seconded by Ms. Richardson, and by the following vote of 4-0, 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

Z2024-06-02 - Contractor Storage Yard - Warren County Planning Staff - A request to amend Chapter 180 of the Warren County Code to amend §180-8C to add a definition for Contractor Storage Yard, to amend §180-21D(49) to add Contractor Storage Yard as a use allowed by conditional use permit in the Agricultural (A) zoning district, to amend §180-28D(10) to amend the Yard for Storage of Coal, Lumber, Building Materials, or Contractors' Equipment listed use in the Industrial (I) zoning district, and to enact §180-43.3 to add supplementary regulations for Contractor Storage Yard.

Mr. Lenz stated that the main purpose of this text amendment is to add a missing definition and supplementary regulations for a use currently permitted only by conditional use permit in the industrial district. Planning Staff is also proposing to change the name of the listed use of the contractor storage yard since all conditional use permits issued for this use are identified as a contractor storage yard.

With the addition of supplementary regulations, Planning Staff is also proposing the use be permitted by conditional use permit in the Agricultural zoning district. In response to several requests and violations for this use on agricultural properties for small contractor businesses over the past few years, the proposed supplementary regulations include a three acre lot size minimum, a state maintained road frontage and access requirement, an illustrative development plan requirement, 50 foot setback for outdoor storage areas, internal access road, hard surfacing requirement, full screening requirement for outdoor storage areas, landscaping requirements, and additional requirements for storage of combustible materials and liquids.

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

Mr. Henry asked if a contractor was allowed to run a business out of a home in an Agriculturally zoned property?

Mr. Lenz stated that if the person is using the property as a home office, then that would be allowed as a home occupation, but if there is an outdoor equipment and materials storage yard, it would be a split use and any potential applicant would need approval to do both.

Mr. Henry stated that he believes that the ordinance still needs work before it can move forward and would like time to do more research and requested a meeting with staff and members of the Warren County Builders Association before moving this forward.

On a motion made by Mr. Henry, seconded by Mrs. Richardson, and by the following vote of 4-0, the Planning Commission moved to table the zoning ordinance until Staff is ready to bring it back to the Planning Commission.

Ayes: Myers, Henry, Kersjes, Richardson

Z2024-06-01 - Definition of Fairground - Warren County Planning Staff - A request to amend Chapter 180 of the Warren County Code to amend §180-8C to add a definition for Fairground, to amend §180-21B(4) to repeal the Noncommercial Fairground listed by-right use in the Agricultural (A) zoning district, and to enact §180-21D(47) to add Fairground as a use permitted by conditional use permit in the Agricultural (A) zoning district.

Mr. Lenz stated that the purpose of this amendment is to add a missing definition and to clarify permitted uses and activities for a fairground. this amendment will help guide both planning staff and the Warren County Fair Association on the types of events and activities permitted at the Warren County Fairground and any future fairground moving forward.

Fairgrounds are currently permitted by conditional use permit in the Commercial zoning district and non-commercial fairgrounds are permitted by-right in the Agricultural zoning district. Since the fairground has the potential to be an intense use with many potential impacts, planning staff is recommending the district regulations for the Agricultural zoning district be amended so that all fairgrounds are permitted by conditional use permit in the Agricultural district rather than a Commercial or Non-commercial distinction.

Mr. Myers opened the public hearing.

Robbin Lloyd, 664 Poor House Road

Ms. Lloyd stated that the Warren County Fairground hosts a multitude of events and that this new definition would add clarity to the need for a festival permit.

Mr. Myers closed the public hearing.

Mr. Kersjes asked if there would be any other operations that the change would effect?

Mr. Lenz stated it would only currently apply to the Warren County Fairground but would also apply to any future fairground moving forward.

On a motion made by Ms. Richardson, seconded by Mr. Kersjes, and by the following vote of 4-0, 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

CUP2024-06-02 - Public Protection Facility - Warren County Sheriff's Office - Sheriff Crystal Cline – A request for a conditional use permit for a Public Protection Facility for use as a law enforcement firearms training range for Warren County Sheriff's Office. The property is located at 232 Shangri-La Drive and is identified on tax map 43 as lot 29A. The property is zoned Agricultural (A) and is in the South River Magisterial District.

Mr. Wendling stated that the Warren County Sheriff's Office is requesting a conditional use permit for a public protection facility for use as a multi-disciplinary firearms training range in Bentonville on Warren County owned land at the Transfer Station property. The proposed firearms range will be utilized as a multi-use training range for search and rescue, K-9, less than lethal, and scenario-based training exercises spanning over a three year-3 phase plan. The Warren County Sheriff's Office does not currently have a dedicated firearms training facility and relies on neighboring jurisdictions and a site in near Harper's Ferry, West Virginia for use of their ranges which are limited in availability and accommodations.

The proposed area is approximately 550' by 700' of mostly open field that allows for; adequate parking and distance for firearms training with use of a minimum of 10 proposed firearms lanes, a natural backstop to capture and contain lead to prevent migration, grading to prevent runoff to natural water sources, and lead recovery and recycling. The boundary has adequate vegetation and growth to provide screening for privacy and noise reduction. A pre-liminary concept plan has been included in the Planning Commission and Board packets and a formal site plan has been submitted by the Sheriff's Office just prior to this public hearing. These were included in the Planning Commission supplements to their packet materials.

According to Sheriff Crystal Cline and her staff a firearms range located in the County would reduce the time spent traveling to ranges in different jurisdictions, the need to find training locations for non-firearms training, reducing man-hours for travel to these

ranges in order to reduce costs, allow for closer proximity for officers, optimize their time and increase efficiency in training for required firearms certification.

At their July 2nd, 2024 meeting the Board of Supervisors chose to pull the request to authorize the advertisement of the public hearing for this application until; all agency comments have been received, discussions between the Town of Front Royal Police Chief and Warren County Sheriff relating to the Town's firing range are completed and the Planning Commission has thoroughly reviewed and are able to make a recommendation after their public hearing has been held. Building Inspections and Public Works both provided comments but staff is waiting on comments from VDH and VA DEQ when necessary.

Mike Berry at Public Works stated that they're working on a minor permit amendment to revise the closed landfill facility boundary based on the potential shooting range, we requested to withdraw the permit amendment for preliminary discussion with DEQ. Based on the long-range plan and consultant review, I don't think we can exclude the training facility from the facility boundary and the DEQ comments may reflect such.

Staff is offering the following proposed conditions that could be subject to additional amendments.

1. The applicant shall comply with all Virginia Department of Transportation (VDOT), Warren County Building Inspections, Warren County Health Department, and Virginia Department of Environmental Quality applicable regulations and requirements.
2. A site plan shall be prepared and approved by the Warren County Planning Department, showing the buildings, ingress/egress, parking areas, firearms range area, outdoor lighting, landscaping, and other applicable zoning requirements and prior to the issuance of building and zoning permits.
3. All light fixtures shall be fully shielded with dark sky compliant fixtures and comply with the Warren County Code Section §180-49.2 for Lighting.
4. The site plan shall comply with Section §180-49.1 of the Warren County Zoning Ordinance regarding landscaping and a buffer shall be installed and maintained consisting of evergreens planted at a height of 5 feet around the boundaries of the shooting range and border of the facility. All existing vegetation and landscaping shall remain as a buffer to adjacent parcels and the transfer station.
5. Signage shall be installed at the Transfer Station from a location visible from Bentonville Road stating that "Live-Fire" active firearms training is currently taking place while the facility is in active use. The Sheriff's Department dispatch number shall be included in the signage for further information.
6. No trespassing signage shall be posted on the property lines at the perimeter of the property adjacent to the training facility.

7. The use of the multi-disciplinary training range shall be limited to the Warren County Sheriff's Office, Front Royal Police Department, and other law enforcement agencies only during joint exercises with the Warren County Sheriff's Office. Use of the range shall be for law enforcement instruction and training only.
8. There shall be no leasing of the facility to other jurisdictions, law enforcement agencies, private individuals, or community organizations without explicit approval in writing from the Warren County Board of Supervisors and the Warren County Sheriff.
9. There shall be no allowance for personal use of the range by deputies or employees of the Sheriff's office in their off-duty hours.
10. Finding that the potential disturbance to the community is outweighed by the benefit to the public interest by permitting this firearms training facility, the use shall be exempt from Chapter 123 of the Warren County Code provided that the hours of operation of the outdoor discharge of firearms shall be limited from 8:00AM to 8:00PM and no earlier than dawn or later than dusk depending on the season. The use of the facility on Sundays shall be prohibited.
11. There shall be no more than 30 scheduled training dates per calendar year unless permission is received from the Warren County Board of Supervisors 30 days in advance of any additional requested or scheduled events. New employee qualification training shall be on an as needed basis for individuals and not included in the scheduled training dates.
12. The maximum number of personnel attending each training session shall not exceed 30 per event.
13. A lead ammunition reclamation and remediation plan approved by the Virginia Department of Environmental Quality shall be submitted prior to the land-use being established and a zoning permit being issued to the Sheriff's office for the land-use. - This condition is subject to revision based upon comments received From VA DEQ.

Deputy Jay Roy gave a presentation about the training facility that included discussion of the use of the site by the Sheriff's Department, the other locations that were investigated to put the facility on, how the facility will be designed, the steps being taken to mitigate lead contamination, the use schedule and how they plan to use the facility, and the current cost of travelling to train and how much the project would cost.

Mr. Myers opened the public hearing.

Lorraine Smelser, 1965 Bentonville Road

Ms. Smelser stated that she is concerned about the additional noise that will be generated by the facility, the possible environmental contamination through lead and methane, and the devaluation of her property because of the facility's development. She suggested that another County site be used.

The following speakers agreed with the sentiments expressed by Ms. Smelser:

- **Michelle Fletcher, 338 Tree Farm Lane**
- **Jeff Baggarly, 339 River Ridge Drive, Middletown**
- **Jeff Pingley, 38 Gimlet Ridge Road**
- **John Swenson, 208 Gimlet Ridge Road**
- **Dianne Popik, 743 Jennings Lane**
- **Pam Henry-Sievert, 80 Round Mountain Lane**
- **Richard Coyle, 736 Jennings Lane**

Michael Marks, 561 Gimlet Ridge Road

Mr. Marks expressed concern about the distance between the facility and neighboring dwellings and the possibility of stray bullets affecting the surrounding areas.

The following speakers agreed with the sentiments expressed by Mr. Marks:

- **Drew Baggarly, 215 River Ridge Drive**
- **Justin Waldman, 208 Gimlet Ridge Road**
- **Paul Horan, 743 Jennings Lane**
- **Ron Jennings, 29 Pine Branch Drive**

David Brotman, 938 Shangri-la Road

Mr. Brotman expressed his desires to have the permit tabled until a new site is found, possibly being leased from a private owner, in an effort to minimize effects on the public.

The following speakers agreed with the sentiments expressed by Mr. Brotman:

- **Jay Burchell, 655 Jennings Lane**
- **Steve Lockhart, 2384 Bentonville Road**
- **Frank Grimes, 392 Gimlet Ridge Road**
- **David Long, 301 Gimlet Ridge Road**
- **Leslie Matthews, Matthews Lane**

John Jenkins, 241 Gimlet Ridge Road

Mr. Jenkins stated he is concerned with the cost of developing the proposed firing range. He listed several responsibilities of the Sheriff and questioned why Sheriff Cline was devoting all this time and effort for this facility when it should be directed toward these responsibilities.

Ron Carsell, 287 Tree Farm Lane

Mr. Carsell expressed that he would prefer an indoor shooting range and that the County should be able to afford it or should partner with neighboring counties to complete the project.

Kristen Hyduke, 204 Grand Avenue

Ms. Hyduke stated that her mother lives in the area that the facility would be located and that there are already people out there shooting, so there would not really be any additional noise. And that having a training range would make things easier on the Sheriff's Department. She was in support of the application.

Leslie Matthews, Matthews Lane

Ms. Matthews requested the Planning Commission hear the concerns expressed by the residents of the Bentonville area and understand why the community does not want this facility up there. She stated they all support our Sheriff and their training. She suggested the site behind the regional jail be considered for locating the proposed training facility. She also requested Mr. Henry be an honorable representative to the community and recuse himself from the vote since he is involved in the Warren County Builders Association as a local contractor and is personal friends with the Sheriff and her family.

George Cline, 86 Menefee Lane

Mr. Cline stated he is not here to speak for or against the proposed training facility but rather to address some of the rather dumb comments he has heard this evening. He stated that if you are concerned about well water contamination and you choose to live across the street from a public dump, that is your decision and responsibility. He asked if anyone had done any testing to determine how much lead is already contributing to pollution from the dump. He also reminded the public that the Sheriff and each of her sworn officers are responsible for all their safety. He added that anyone who is concerned with other jurisdictions' police forces using the facility obviously does not know what a conditional use permit.

Terri Wines, 34 School House Lane

Ms. Wines stated the husband of the Sheriff disrespected the opinions of the speakers by calling them dumb and giving them dirty looks. She requested the rules of conduct for public hearings be observed by everyone.

With no further speakers, Mr. Myers closed the public hearing.

Mr. Myers asked if Planning Staff was still waiting on agency comments?

Mr. Wendling stated that comments had not been received from VDH and that, based on the comments from the Public Works Director, additional comments from DEQ would be required.

Mr. Myers stated he personally would like to have all agency comments before him prior to making a recommendation to the Board of Supervisors and agreed with the calls from the speakers to table the decision.

Mrs. Richardson stated that she would be in favor of tabling the application and would like for other locations to be explored as an alternative to the proposed training facility at the transfer station. She added that she is fully supportive of the Sheriff's Office and wants to make sure that the officers protecting her two children in the public school system have everything they need to protect the children.

Mr. Henry stated he is not opposed to tabling the decision. Addressing the call for him to recuse himself, he stated that he is friends with everybody in this room and that he does not choose sides or make decisions based on friends but rather what is best in his heart for his community. He stated that the location that is currently up for application is one of the better locations because of the low population, its proximity to the landfill and the noise that is already being generated, and the fact that the water there is already contaminated.

Mr. Kersjes stated that he lives behind a hunt club that uses high caliber weaponry and has not been disturbed by the noise generated. He stated that he believes that this facility could be built to minimize the noise. He also requested that the Sheriff's Office get a decibel level reading at varying distances when their weapons are being fired and schedule a meeting to discuss methods of containing ricocheting bullets.

On a motion made by Mr. Kersjes to table the application, seconded by Mrs. Richardson, and by the following vote of 4-0, the Planning Commission moved to table the application until further information about the Sheriff's Department training facility and other outside agency comments have been received.

Ayes: Myers, Henry, Kersjes, Richardson

Old Business:

Z2024-05-02 - Rural Resort Center - Jennifer Wynn - A request to amend Chapter 180 of the Warren County Code to amend §180-8C to add a definition for Rural Resort Center and to amend the existing definition for "Lodging Unit", to amend §180-21D to add Rural Resort Center as a use allowed by conditional use permit in the Agricultural zoning district, and to enact §180-55.4 to add supplementary regulations for Rural Resort Center.

Mr. Lenz stated that on Wednesday, June 12th, 2024, the Planning Commission passed a motion to table this item for further amendments because, during the public hearing, the Commission expressed concerns related to the minimum lot size requirement and the possibility of restaurant accommodations within a Rural Resort Center. There was discussion of adding a restriction on permanent restaurant facilities for Rural Resort Center on parcels less than 30 acres in size.

In response, Planning Staff drafted a new proposed subsection C for restaurant accommodation. The proposed subsection C adds a 30-acre minimum lot size

requirement for the establishment of a permanent restaurant facility accessory to the rural resort center and includes the ability of the Board of Supervisors to limit or prohibit permanent restaurant facilities within rural resort centers on parcels greater than 30 acres, if deemed appropriate. A requirement for off-street parking, which will be in addition to what is required under the proposed subsection, is also included.

A(5) of the draft supplementary regulations for rural resort center and the maximum occupancy set by cup conditions or by the health department shall include the total permissible occupancy of all lodging, recreational, and restaurant activities.

A public hearing before the planning commission for this item was held on June 12th, 2024. An additional public hearing prior to forwarding this draft ordinance to the board of supervisors with the recommendation is not required.

Mr. Kersjes asked for an interpretation about the third paragraph of the draft which requires one parking space be provided per 100 square feet of indoor or outdoor recreational area at the facility?

Mr. Lenz stated that the ordinance required one parking space per 100 square feet of recreational area and one space per staff member. He stated that this part of the ordinance was modified based on comments provided by Mr. Gordon at the June 12th meeting.

Mr. Kersjes expressed concern about the amount of parking that would have to be provided for large properties.

Mr. Henry observed that the ordinance only required parking for designated recreational areas.

Mr. Lenz stated if the principal use of the property is outdoor commercial recreation, the use would be deemed a commercial outdoor recreation operation which has separate parking requirements.

Mr. Henry asked where the language for the part of the ordinance in question originated from?

Mr. Lenz stated that it primarily came from comments provided by Mr. Gordon at the previous meeting, but also the form of the commercial recreation parking requirement was used.

Mr. Bowman stated that, for the section in question, that ordinance would be interpreted as necessitating an analysis of the use to determine if it was active or passive use and suggested a modification if the Planning Commission was not satisfied with the way the ordinance is currently worded.

Ms. Richardson asked if this could be better defined when a conditional use permit is applied for?

Mr. Henry asked if this is a determination that could be made off of a plan provided to Planning Staff?

Mr. Wendling stated that the requirements for parking for dwellings allows for the Zoning Administrator to make determinations based on the use and suggested that a determination be made based on the site plan. He then suggested that the ordinance section include that parking areas for the resort shall be by locations that are identified as active recreational areas and be approved by the Zoning Administrator.

On a motion made by Ms. Richardson, seconded by Mr. Henry, and by the following vote of 4-0, the Planning Commission moved to forward the text amendment to the Board of Supervisors with an amendment to change the change to the parking requirements to reflect that onsite parking shall be provided an amount equal to 2.0 spaces per lodging unit plus 1.0 space per staff member with any additional parking determined by the Zoning Administrator upon review of the illustrative development plan.

Ayes: Myers, Henry, Kersjes, Richardson

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 request for authorization to advertise for public hearings.

Ayes: Myers, Henry, Kersjes, Richardson.

Commission Matters:

Planning Director:

Mr. Wendling once again thanked Ms. Wahl, Ms. Mutter, Mr. Griffith, and Mr. Mennard for their work and stated that the goal is to get the Comprehensive Plan on the September agenda for authorization to advertise.

Attorney for the County:

Mr. Bowman explained the change in the VA State code for the advertisement of public hearings, stating that two ads need to be run in a 28-day window, where they are run no earlier than 28 and no later than 7 days before the public hearing meeting. It provides a longer window to run the ads.

Commission Members:

Mr. Henry wished himself a happy birthday.

Zoning Administrator:

Mr. Lenz requested Mr. Henry to set up a meeting for the contractor storage yard ordinance with the Warren County Builders Association.

Planner:

Mrs. Wahl had left the meeting before Commission Matters.

Clerk to the Planning Commission:

Ms. Mutter reminded the Planning Commission to forward their emails to the Planning Staff relating to public comments.

Adjournment:

On a motion made by Mr. Henry and the following vote of 4-0, the meeting was adjourned at 9:55 PM.

Ayes: Myers, Henry, Kersjes, Richardson.



Warren County Planning Commission
Chairman