

At a Meeting of the Planning Commission of Warren County held in the Warren County Government Center on August 9th, 2023 at 7:00 PM.

Present: Robert E. Myers (Happy Creek District); Hugh B. Henry, (Fork District); Scott Kersjes (North River District); Will Gordon (Shenandoah District)

Absent: Kaylee Richardson (South River District)

Also present: Matt Wendling, Planning Director; Chase Lenz, Zoning Administrator; Caitlin Jordan, Senior Assistant County Attorney; Zach Henderson, Deputy Clerk of the Board

Call to Order: Mr. Myers called the meeting to order at 7:00 PM

Adoption of Agenda – Additions or Deletions: On a motion made by Mr. Kersjes, seconded by Mr. Henry, and the following vote, the agenda was adopted as presented.

Gordon, Aye; Kersjes, Aye; Myers, Are; Henry, Aye

Adoption of Regular Meeting Minutes:

- **A. July 12th, 2023, Planning Commission regular meeting minutes:** On a motion made by Mr. Kersjes, seconded by Mr. Henry, and the following vote, the agenda was adopted as presented.

Gordon, Aye; Kersjes, Aye; Myers, Are; Henry, Aye

Public Presentations: There were no public comments or presentations for this meeting.

Public Hearings:

- **CUP2023-07-02 - Shannon McCartney:** Mr. Lenz discussed the conditional use permit for a short-term tourist rental for properties located on Reliance Road identified on Tax Map 12-26 and owned agricultural and located in the North River District. Mr. Lenz stated that the applicant would like to make the property available for short term lodging for visitors seeking and comfortable and peaceful place to stay to enjoy the mountain views in Warren County. The owner will manage the property personally what assistance from local professional services for trash disposal cleaning and maintenance. Furthermore, there is a conditional use permit that has already been issued for the property back in 2008, however, the new owner has completed the modification process to re-establish under his name.

The applicant was present but did not wish to comment and there were no individuals who spoke during the public hearing.

On a motion made by Mr. Henry, seconded by Mr. Kersjes, and the following vote, the Planning Commission moved that this application be forwarded to the Board of Supervisors with the recommendation of approval of the Conditional use Permit for Shannon McCartney for a short-term tourist rental with the conditions as recommended by staff.

Gordon, Aye; Kersjes, Aye; Myers, Are; Henry, Aye

- **CUP2023-07-03 - Elizabeth (Beth) Waller:** Mr. Lenz discussed the conditional use permit for a short-term tourist rental for a property located at 88 Long Winding road identified on tax map 30 as lot 1. The property is zoned agricultural and located in the Happy Creek Magisterial District. The owner would like to make the property available for short-term lodging for people in transition, seeking temporary housing and for organizations in the area, bringing employees or potential employees to the area. In the short-term, the applicant intends to rent out to her finished basement while residing in the main portion of the dwelling initially and may open portions of the main levels of the dwelling in the future to short-term rentals. Furthermore, with over 20 years of experience as a realtor in Warren County, the owner will manage the property personally and since breakfast will not be served this is not considered a bed-and-breakfast establishment.

The applicant was not present, and there were no individuals who spoke during the public hearing.

On a motion made by Mr. Henry, seconded by, Mr. Kersjes, and the following vote, the Planning Commission moved that this application be forwarded to the Board of Supervisors with the recommendation of approval of the Conditional use Permit for Elizabeth Waller for a short-term tourist rental with the conditions as recommended by staff.

Gordon, Aye; Kersjes, Aye; Myers, Are; Henry, Aye

VII. New Business (Authorization to Advertise):

- **R2023-07-01 - Slate Run Farm, LLC Rezoning** – A request to amend the Warren County Zoning Map and rezone approximately 448.21 + / - acres from Agricultural (A) to Industrial (I) and Commercial (C). The property, identified on tax map 12 as lot 9, requested to be rezoned from Agricultural (A) to Commercial (C) is 4.47 acres. The properties identified on tax map 12 as lot 6 and on tax map 4 as lot 41 requested to be rezoned from Agricultural (A) to Industrial (I) are 443.74 + / - acres. The properties are located off Winchester Road in the North River Magisterial District.

Mr. Wendling stated that the applicant is proposing four land bays, which are, will be phased in for industrial development with a total of two 2,500,000 square feet. The commercial property will have 25,000 square feet for commercial land use. This application does not have a specific land use identified, but the applicant plans to market it for warehousing due to its proximity to the Virginia Inland Port. The future land map in the comprehensive plan identifies this area to be used for industrial land use and zoned industrial. Furthermore, since this property is shown to be industrial, industrial districts are intended for a variety of industrial uses, which with appropriate screening and without the emission of noise, dust, smoke, odor, toxic gases, or hazardous substances can be conducted in such a manner as to not adversely affect nearby properties.

The applicants have submitted a proffer statement, which in part states that total maximum gross floor area to be 2,500,000 square feet for all of the 443.74 acres in the proposed Industrial zoned area and a maximum gross floor area of 25,000 square feet in the proposed Commercial 4.47-acre parcel. They have proffered out two land uses for automobile graveyard and junkyard bulk storage of gasoline, petroleum products or natural gas products to be prohibited. The proffers also state development of the property is to be limited to the rezoning site plan prepared by Greenway Engineering dated June 19th, 2023, showing the four-land base with interconnector roads. The site plan would be subject to some reasonable adjustments, provided set adjustments don't eliminate relocate or substantially alter land uses described in the proper section. Also, the proffers will also address transportation improvements for signalization of Toray Drive and Winchester Road (Rt. 340/522N) and include an installation of a right-turn lane into the subject properties from the intersection. The proffers state that the upgraded signal and intersection improvements shall be installed prior to issuance of the first certificate of occupancy for the property. Planning staff has submitted a list of outstanding issues, comments and concerns in the staff report and the agency comments have been provided.

Marissa Whitacre of Greenway Engineering spoke as a representative of the Slate Run applicants and emphasized that they are within the future land-use map the comprehensive plan. There will be four land bays of Industrial and one property will be Commercial. Furthermore, she stated that they will be providing an enhanced buffer along the Blue Ridge Shadows property.

Mr. Henry asked what was required for the Blue Ridge Shadows buffer and what the applicants would be providing. Ms. Whitacre stated that what is required is what is already there. However, they plan on providing additional space (50 feet approximately) beyond the Golf Course and where the residential dwellings are located.

On a motion made by Mr. Henry, seconded by Mr. Gordon, and the following vote, the Planning Commission authorized the rezoning application for public hearing.

Gordon, Aye; Kersjes, Aye; Myers, Are; Henry, Aye

Z2023-08-01 - Application of Regulations - Warren County Planning Staff: A request to amend Chapter 180 of the Warren County Code to amend §180-6 (Application of Regulations) to add as subsection E stating, *"Properties owned by the County of Warren, Virginia or the Board of Supervisors of the County of Warren, Virginia shall not be subject to the ordinances, regulations and requirements set forth in this chapter."* as recommended by the County Attorney.

Mr. Lenz stated that this amendment came at the recommendation of the County Attorney, Jason Ham. The recommendation essentially states that the property's owned by Warren County or the Board of Supervisors are not subject to the ordinance and it's a matter of being able to enforce it.

Mr. Kersjes asked what the limits of that amendment entail. Mr. Lenz added that this only applies to County Zoning ordinances but there is no change to any State regulations and requirements.

Mr. Henry asked why this was coming up now given the number of buildings that the County had constructed prior.

Ms. Jordan stated that this is coming up now is because the Fire and Rescue Conditional Use Permit for Shenandoah Farms Fire Station recently brought before the Board of Supervisors. However, the County enforces its own Zoning Ordinance but, "the County can't sue itself" should there be a violation or summons.

Mr. Wendling added that administratively County staff would follow their Zoning Ordinance as a guide for conditions such as setbacks.

Mr. Henry stated that he would need to see that in writing before he could support this.

Mr. Gordan asked what would happen if the County did violate a Zoning Ordinance.

Ms. Jordan stated that there are other means of enforcing the Ordinance and it is the County's best interests to not ignore its own ordinance.

Mr. Henry emphasized that there has to be different language that explicitly states that the County will follow the setback rules to make it fair. Mr. Kersjes agreed, further stating that this was too broad and more of a blanket statement.

On a motion made by Mr. Henry, seconded by Mr. Gordon, and the following vote, the Planning Commission moved to have Z2023-08-01 be revisited by legal and staff for more precise regulations and clarity.

Gordon, Aye; Kersjes, Aye; Myers, Are; Henry, Aye

Z2023-08-02 - Short-Term Tourist Rentals - Warren County Planning Staff: A request to amend Chapter 180 of the Warren County Code to amend §180-22D (14) to modify the listed use for Short-term Tourist Rental in the Residential-One (R-1) zoning district and to amend §180-56.4 to modify the supplemental regulations for Short-Term Tourist Rentals.

Mr. Lenz provided two options (Options A & B) for addressing some of the key supplemental regulations. The key difference between these two options is that Option A proposes to move the existing 100-foot setback requirement from neighboring dwellings to the listed use for the Residential-One (R-1) zoning district. However, it would still remove the supplemental regulation of 100 feet and therefore it would only apply in a Residential-One zoning district. Option B proposes to remove the setback requirement altogether.

Mr. Kersjes stated that 100 feet is an arbitrary number but also emphasized that having said requirement does provide neighbors with a guaranteed buffer.

On a motion made by Mr. Henry, seconded by Mr. Kersjes, and the following vote, the Planning Commission authorized to advertise Z2023-08-02 as presented.

Gordon, Aye; Kersjes, Aye; Myers, Are; Henry, Aye

Z2023-08-03 - Lighting - Warren County Planning Staff: A request to amend Chapter 180 of the Warren County Code to amend §180-8C to add the definitions of Footcandle, Fully Shielded Fixture, Glare, Outdoor Lighting Fixture, and Recessed Canopy Fixture and to amend §180-49.2 to modify and update the lighting requirements and standards in all zoning districts, including special requirements relating to review of site plans for commercial and industrial uses.

Mr. Lenz stated that the current ordinance only applies to site plan review, and while the code does have a definition for glare, there is no way to enforce it. This text amendment would restructure the entire lighting ordinance to apply everywhere, not just on-site plans. It will also give the County methods for measuring foot candles, glare situations and the ability to enforce.

Mr. Kersjes expressed concern that on the first page lighting was defined electrical and does not say anything about solar or battery powered. Mr. Wendling stated that it could be modified to state any source or other lighting fixture.

On a motion made by Mr. Henry, seconded by Mr. Gordon, and the following vote, the Planning Commission authorized the proposed Zoning text amendment for advertisement for a public hearing.

Gordon, Aye; Kersjes, Aye; Myers, Are; Henry, Aye

2023-08-04 - Family Subdivisions - Warren County Planning Staff: A request to amend Chapter 180 of the Warren County Code to amend §180-21C (1) to add provisions for family subdivisions and combinations of subdivisions and family subdivisions to the Accessory Uses permitted by right in the Agricultural (A) zoning district.

Mr. Wendling stated that this is in order to meet the need and additional options for housing for families who live and work in Warren County. This request provides a solution to property owners of Warren County who have lived and owned their properties for more than five years to have an additional two lots for family members who plan to live in the County for five or more years once the subdivision has been approved. It also allows parents to remain in their homes or build smaller homes on the new lot and allow their immediate family member to purchase their family home. Furthermore, the amendments of the code now require that all family subdivisions of land be required to meet rules and regulations for the Health Department for approval of the subdivision by the County Subdivision Administrator.

Mr. Henry asked what the major difference is with this request. Mr. Wendling stated that it's adding two additional family subdivision lots that can be subdivided from the parent parcel from April 6th, 1977, which is in addition to the current code, allowing for four lots, be they family subdivision or class A Subdivision.

On a motion made by Mr. Henry, seconded by Mr. Kersjes, and the following vote, the Planning Commission authorized the proposed Text Amendment for advertisement for a public hearing.

Gordon, Aye; Kersjes, Aye; Myers, Are; Henry, Aye

2023-08-05 - Definition of Family Subdivision - Warren County Code Section §155-3(B)(1)(b): A request to amend Chapter 155 of the Warren County Code Section §155-3(B)(1)(b) Family Subdivisions to add subsection Family subdivisions shall only be permitted for land located in the Agricultural zoning district.

Mr. Wendling stated that the purpose of this subsection is to prohibit Residential-One (R-1) zoned properties from having any family subdivisions, and this is due to challenges and increased density of R-1 that result in additional resources and roads etc.

Mr. Myers and Mr. Henry both expressed a small concern stating that a potential large piece of land zoned Residential-One (R-1) would have to be rezoned back to Agricultural.

On a motion made by Mr. Henry, seconded by Mr. Gordon, and the following vote, the Planning Commission authorized the proposed Text Amendment request for advertisement for a public hearing.

Gordon, Aye; Kersjes, Aye; Myers, Are; Henry, Aye

Consent Agenda (Authorization to Advertise):

- A. CUP2023-08-01 Renee Grebe & Matthew Iden / Kyrrheim, LLC:** The applicant is requesting a conditional use permit for a short-term tourist rental. The property is located at 7 Cresthill Lane, Linden and identified on Tax Map #24D-11001102.

On a motion by Mr. Kersjes, seconded by Mr. Henry, and the following vote, the Consent Agenda was approved as presented.

Gordon, Aye; Kersjes, Aye; Myers, Are; Henry, Aye

Commission Matters

A. Planning Director: Mr. Wendling stated that Cory Griffith has been hired as the new GIS Coordinator who will start the week of August 14th. However, the Office Manager, Veronica Diamond, has accepted a position elsewhere, and interviews are underway for her replacement with the hope of them starting before the next Commission meeting.

B. Commission Members:

- Mr. Gordon stated that he is happy to be on the Planning Commission and looks forward to working with everyone.
- Mr. Kersjes reported that Blue Ridge Shadows will be reaching out to Slate Run Farm LLC to allow them to discuss their plans, the hotel and golf course will be in attendance as well.
- Mr. Myers reported that VDOT issued their advertisement list for September projects but expressed doubts about the flyover ramp on Fairgrounds Road due to the costs (\$21,322,000 approximately).
- Mr. Henry reported that he spoke to a member of the Board of Supervisors regarding the Commission meetings and if they should be recorded or not, stating that it would be a good idea and would allow the Board to get insight into the items to come should they be unable to attend the meetings.

C. Senior Assistant County Attorney: Ms. Jordan had no report.

D. Zoning Administrator: Mr. Lenz briefly covered the BZA meeting that took place the prior Thursday and stated that it is the first Zoning Variance for a property that is not zoned residential or agricultural that he himself processed. It was an industrial zoned property, and the owners are requesting to reduce the buffer their property which is zoned Agricultural. The BZA did find that the burden of proof was not met by the applicant and the Variance application was denied.

Adjournment: On a motion made by Mr. Henry, seconded by Mr. Kersjes, and the following vote, the meeting was adjourned at 7:12 PM

Gordon, Aye; Kersjes, Aye; Myers, Are; Henry, Aye



Warren County Planning Commission
Chairman