

Building, Planning & Zoning
P.O. BOX 216
WARM SPRINGS, VIRGINIA
24484



PHONE: 540.839.7236
FAX: 540.839.7222

Bath County Planning Commission

Bath County Courthouse – Room 115 – 7:00 P.M.

March 28, 2016

MEMBERS PRESENT: Chairman John Cowden, Vice-Chair Jason Miller, Trudy Woodzell, John Loeffler, Monroe Farmer

MEMBERS ABSENT:

PUBLIC IN ATTENDANCE: Richard Byrd, Mike Bollinger (press), Kent Daughtery, Ray Burkholder (Balzer Representative), Ruth Sturgill, Brian Bruns, Jonathan Shannon, Phil Deemer, Bill Jones, Cynthia Rudnick

STAFF PRESENT: Sherry Ryder

CALL TO ORDER:

Chairman Cowden called the meeting to order at 7:00 p.m. He thanked the public for attending.

PUBLIC COMMENT—MATTERS UNRELATED TO THE AGENDA: None

ADDITIONS OR CORRECTIONS TO THE AGENDA: None

PUBLIC HEARING

- A) Article 11 – Schedule of Fees of the Bath County Land Use Regulations. A change in some of the application fees is being proposed.

Chairman Cowden This subject was discussed some last month. Was there a discussion at the Board of Supervisors meeting on eliminating the Conditional Use fees?

Sherry Ryder: One of the Planning Commissioner asked should we eliminating the Conditional Use Permit fees since there isn't a Business License Permit fee. There isn't a Mobile Food vendor fee either. I forgot to change it on your papers.

Chairman Cowden: We talked about Telecommunication and Wind Energy, it was five thousand dollars (\$5000) we then came up with a thousand dollars (\$1000). Is everyone satisfied with that? Alright.

Administrative Permit: there are a number of ordinances, Kennels, Home Occupations, signage, etc.

Sherry Ryder: the list is there to see what is included in Administrative Permits. We may down the road add more to the list.

The Mobile Food Vendor would have been under administrative, but when they said there would be no charge it then went under Business License, no fee.

Vice-Chair Miller: Where does the Farmers Market fall under this?

Sherry Ryder: They are under a Conditional Use Fee renewal for one hundred dollar (\$100) fee this year.

Vice-Chair Miller: They are nonprofit right?

Sherry Ryder: We don't exempt nonprofits. The County doesn't pay if it for the County.

Trudy Woodzell: They are a nonprofit.

Chairman Cowden: In January at the Board of Supervisors meeting the Business License Permit is now zero (\$0) and available upon request. The Comprehensive Plan Amendment request is three hundred dollars (\$300).

Sherry Ryder: Depending on the amendment request, and the work entailed for gathering information and the cost of advertising, three hundred dollars (\$300) is conservative compared to the County's cost.

Chairman Cowden: I think most of us is comfortable with this.

Sherry Ryder: Yes.

Chairman Cowden: Are there any public discussion? Hearing none. Public hearing is closed.

Trudy Woodzell: In light of the fact, we are trying to encourage new business. I would like to make the motion that the cost of a Conditional Use Permit, Conditional Use Renewal Permit, An Administrative Permit, Mobile Food Vendor, and Business Permits, all be zero (\$0) cost. This will encourage new small business, businesses and growth. This will help them get started.

Chairman Cowden: Do I hear a second?

Mr. Loeffler: I second it.

Chairman Cowden: Any discussion?

Sherry Ryder: Before a Conditional Use Permit is issued, there is cost in advertising. Public Notice signage needs posting at the property for both hearings. This needs to be done within a certain amount of time. It takes me out of the office two (2) times and may need to take another staff member with me to help and I take pictures for the packets each time I post. You guys hear every request and then the BZA. Then if it is a renewal, the BZA only, meets to hear the matter. Time is spent with each request. I just wanted you guys to know what was involved.

Vice-Chair Miller: There is time involved for the Administrative Permit as well as the Conditional Use Permit.

Sherry Ryder: Well yes, but the Administrative permit is more paper work in the office kind of thing.

Mr. Loeffler: I think the decision of the Board of Supervisors was to help the small business get through the process.

Chairman Cowden: The Twenty five dollar (\$25) one is not the issue. It's the Conditional Use Permit at three hundred dollars (\$300) is the one at question. The decision is, do we charge nothing and have the cost spread out to the tax payer versus one person asking for the Conditional Use permit.

Vice-Chair Miller: Just like you said, the Farmers Market, who is a nonprofit, is being asked to pay a hundred (\$100) and then the for-profit business, like the food vendor, doesn't have to pay anything.

Chairman Cowden: How many Conditional Use Permits do you expect to see on average per year Sherry?

Sherry Ryder: You guys see every Conditional Use Permit Application. The renewal you do not see. They go before the BZA only. As things pick up you will probably see more application. It could be one (1) a month or six (6) a year. I don't know for sure. The economy put a halt to many things and no one wanted to try anything and the banks weren't willing to work with them. We have seen a slight up-turn in the economy with an increase in building permits and such.

Chairman Cowden: So you are saying the three hundred (\$300) doesn't pay the cost of a CUP. Excluding the administrative cost what do you pay?

Sherry Ryder: Advertising cost over four hundred dollars (\$400) plus the time posting for both meetings. The One hundred dollar (\$100) renewal is advertised one time and so does cover cost. Then you guys get paid as well as the BZA and the Board of Supervisors, depending on where the applications goes. A CUP goes to 10 members that would get paid to hear the application. You don't recoup your cost. The only thing with having an anominal fee is that it might weed out some who want to put us through the motions and then decide not to do anything. Or maybe it would spark interest. I don't know. I did want you guys to know what a CUP involved. Depending on the Conditional Use Permit it could involve going out with VDOT to make sure it met with their regulation and setbacks.

Chairman Cowden:I think those applying for a permit should accrue some expense considering the County's expenses. We could consider another amount. Or zero (\$0)?

Mr. Loeffler: My interpretation was that we were heading to zero (\$0) to make it easier for people to do business in Bath.

Trudy Woodzell: Most of your CUP's, Sherry are non-profits or small businesses.

Sherry Ryder: Yes, most of them are. There are some larger businesses listed. But right now we don't have the interest from larger businesses. This vote is just a recommendation to the Board of Supervisors. They can pass it or throw it out.

Chairman Cowden:Any more discussion? Sherry can you read back Trudy Woodzell's motion again?

Sherry Ryder: Trudy made a motion to make recommendations to the Board of Supervisor to accept the schedule fees with the exception of changing Conditional Use Permit, Conditional Use Renewal Permit fee to zero (\$0) cost along with Administrative fees, and Business fees, all at zero (\$0) cost.

Chairman Cowden:Do I hear a vote?

Vote: 5-0

PUBLIC HEARING

- B) Addition of Section 604.02-8, 605.02-9, and 606.02-13 to Bath County Land Use Regulation, which would permit Bed & Breakfast establishments in zoning districts R-1 Residential Limited, R-2 Residential and R-3 Medium Density Residential. A Bed & Breakfast establishment is currently not permitted in these zoning districts.

Chairman Cowden: Opened the Public Hearing for discussion.

Richard Byrd (Valley Springs District): I stand in support of adding these Sections. I see no reason this business to not be included in any of the other districts. If you are in a residential district and you have an extra room, I see no reason why you should not be able to serve a meal any time of the day. The ability to get a permit should be on the Health Department and not you. I think they were splitting hairs back in the seventies (1970) when this law was made and was due to, maybe the neighbor may not like it or the one across the street may not like it. Now I think it is worth changing. We can't stay the same and not go anywhere. As you all know, I am a member of the Board of Supervisors. If we stay the same, we will be going backwards. So what I am asking is to allow the residential, R-1, R-2, R-3 be allow to have a B&B. Of course they must go by the Health Department rules with fees and inspections. I don't think the Planning Commission or the Board of Supervisors should rule in this. It should only be the Health Department.

Ruth Sturgill (Warm Springs District): I have a real estate rental across the lane from us, on McClintic Heights. We have had, I don't know how this fits into restrictions, but we have had parking problems, too many lights on the property and I am concerned about noise. We haven't had any noise problem but I am concerned. Are there any restrictions on noise decibels, or number of lights? Cleaning people come on to this property on a Wednesday and turn on the lights, including the lights out through the yard and the lights are left on for three (3) days. Because it is such a small area the lights come through our windows at night. So I don't think you have regulation on nuisance problems.

Chairman Cowden: Not directly

Ruth Sturgill: That's my comment on the issue. I live next to a B&B and this is the problems we have. We have never had a problem with noise.

Vice-Chair Miller: Asked, if he turned his house into a B&B, how much parking would be required for a B&B in residential.

Sherry Ryder: For a Bed & Breakfast, the owner resides there too, you would need parking for the owner and then for each bedroom rented out. I don't know about the house she is talking about, but if the house is a vacation rental then it falls under residential and there is no parking regulations. B&B's do have parking requirements.

Vice-Chair Miller asked if parking would be allowed along the road or at a neighbors.

Sherry Ryder said that parking along the road was getting a little tricky. We have had offsite parking for businesses where there was written permission from the neighbor, for a set number of parking spaces. This is due to the limited number of parking spaces in downtown Hot Springs.

Chairman Cowden: My concerns are, I do want to encourage new businesses as well as B&B's. My concern is the neighbors, you have strangers coming in that you don't know, for a few days and you don't know what to expect. The owners aren't there and are out of touch. If the Board were to accept zero (0) cost for a Conditional Use permit, I would like the neighbors be able to come in and say what their opinion is about the small business coming in near them. The people around the B&B should have the right to make comment in a residential area.

Mr. Loeffler: Does a B&B have to have the owners there at all time?

Sherry Ryder: They are required to be there but not twenty four (24) hours a day. Right now a B&B is in a permitted use if adopted, but I can slide it under a Conditional Use Permit in all three residential districts if you want.

Vice-Chair Miller: Once you start listing it. Then anything can be anywhere. Right now we have some kind of order, and what do we do the next time someone ask to put sometime in a district we don't have it.

Trudy Woodzell: We are only changing the breakfast part in what we already have. If you allow the breakfast portion, you are actually putting them under more regulation than if it's an

overnight stay. Overnight lodging gets to do whatever they want. B&B's have to deal with the Health Department.

Vice-Chair Miller: They pay lodging tax?

Sherry Ryder: The Overnight Lodging pay a lodging tax and a B&B pays lodging and meal tax.

Chairman Cowden: Do I hear a motion?

Trudy Woodzell: I make a motion to recommend to Board of Supervisor to allow Bed and Breakfast in R-1, R-2, & R-3 as a Permitted Use.

Mr. Loeffler: Seconded the motion.

Chairman Cowden: Do I hear any discussion? None. I now call for a vote.

Vote: 3-2 (Vice-Chair Miller and Chairman John Cowden Opposed)

PUBLIC HEARING

C) DG Landholdings, LLC c/o Natural Assets (TM#63-45A) – Rezoning application to permit property to be rezoned from A-2 (Agriculture General) to R-3 Medium Density Residential). The property comprises 16.558 acres and is located in the vicinity of 66 Bath Street, Warm Springs. Rezoning is sought for the entire 16.558 acre parcel. The property is located in the Warm Springs Magisterial District.

D) DG Landholdings, LLC c/o Natural Assets (TM#63-45A) – Subdivision application to subdivide property comprising a total acreage of 16.558 acres into 35 parcels. The property is currently zoned A-2 (General Agricultural) but with simultaneous application to be rezoned to R-3 (Medium Density Residential) and is located in the vicinity of 66 Bath Street, Warm Springs. The property is in the Warm Springs Magisterial District.

Sherry Ryder: What I have put together in your summary is the Rezoning Application and the Subdivision Application, both in the same summary. You have two Public Hearings here, one for the Rezoning Application for the entire 16.558 acres parcel to be rezoned from A-2 to R-3 and then a Preliminary Subdivision for the 16.558 acres parcel that would include a maximum of 35 parcels. Then a Final Subdivision that you will be making a recommendation on, for seven (7) parcels. They have submitted, at my recommendation, due to the regulations written requiring a twelve month wait for a subdivision application on the same property. So they submitted the Preliminary for the full parcel of thirty five (35) parcels. The thirty five (35) parcels could change, the layout could change, but at this time it give you an idea of what would be the most they would ask for, but that could change. They will be making another Subdivision Application here shortly. They couldn't wait a year so they kept that door open. The property currently has four (4) structures on it. The Gibson Cottage, which has been stabilized, and will be renovated. The other structures, they aren't sure what they will do yet. They are looking into their options of saving them or demo them. Their seven (7) parcels it include those four parcels. Three additional

structures will be added. With the R-3 Zoning they have submitted, to do what they want, we don't have anything that caters to what they wanted. The R-3 zoning district, as we have in Bacova and the North Ridge Development in Hot Springs is what they are following. The person would own the home and the lot. The rest would be common property, just like North Ridge. It would be taken care of by HOA. Landscaping, interior roads, driveways, if not on their property would be kept up by HOA so there would be some consistency as far as landscaping. I have received comments on this project in favor of. This area has been unkempt and vacant for several years and is at two major corridor in Bath County. It would be a good idea and make it more attractive to come through Warm Springs Village than what we have now. The surrounding properties are zoned A-2, B-2, and R-3.

PSA has signed off on this. There is adequate water for all thirty five (35) structures if they do all thirty five (35). Warm Springs Sanitation has given them clearance for twenty one (21) hookups with the ability to increase that to fifty one (51) hookups down the road after they do a few things with their I&I (inflow and infiltration) with the treatment plant. The four (4) structures there are part of the count, due to they had been disconnected.

VDOT has done a site plan and has approved and signed off on the entrance and doesn't see a problem with the twenty five (25) parcels. They didn't believe the sight distance would be a problem. Some clearance may need to be done at the 220 entrance. They will be using the entrance at the Pools and some care would need to be taken with the bridge and some widening of the road. This would be a private road and not be taken into the State System.

Andy Seabolt has the E&S Plan at this time, he hasn't given his approval and so he suggests that if you approve this and give your recommendation for this application that you make it pending his approval of the E&S plans. At this time he doesn't foresee any problems.

I have not received any complaints at this time. I have received many phone calls asking basic questions. Those nearby are happy about this area being cleaned up. I did see a picture somewhere that showed the Village of Warm Springs, showing the rows of houses in behind the Warm Springs Pools showing a

The relevant Section(s): R-3 zoning: 606.00 (Bath County Land Use Regulations) 606.02-1 Single-family dwellings and 606.02-2 Two family dwellings and 606.02-3 Multi-family dwellings and 606.02-4 Townhouses. Page 3-8 Housing Goals, #1,2,&3; Objectives e and f of the Bath County Comprehensive Plan.

Chairman Cowden opened the meeting to the Public for discussion.

Kent Dougherty:First I would like to thank Preservation Bath for the projector. He showed a presentation by Balzer for their plans on the Warm Springs Village. Goal is to provide a lively village that is open to families of all ages. A new type of smaller, second home or primary home with one, two, or three bedrooms. They don't have a four bedroom home at this time.

The three existing cottages were going to be torn down. Then we met with the Preservation Bath received information from them and others, so right now we are thinking again about what our options are. I was expecting some news tonight but so far I don't.

Brian Bruns: I live on Germantown Road down the road from the development. I moved here in February. Encouraged the development to rethink their route for the walking trail and bring it along a slower traffic route for the safety of any children.

Ruth Sturgill: I moved here from Charlottesville. She enjoys walking trails and would like to encourage them to have the trail be built for the entire community and not just the village. Also make it good for those in a wheel chair.

Chairman Cowden Closed the Public Hearing. Any questions

Vice-Chair Miller asked if VDOT considered using the Church Drive road as far as the walking trail.

Sherry Ryder: Asked Mr. Dougherty if he had talked to VDOT and he said VDOT said the speed on 220 was 45 miles per hour and wouldn't say no one could cross the road. A crosswalk is for road at 35 miles per hour so they wouldn't give them a crosswalk across 220.

Ruth Sturgill asked who owns the road as you go across the bridge at the entrance.

Ray Burkholder: The Preserve owns it.

Chairman Cowden: On your Final Subdivision Check list there is a number of N/A as an answer. Like the drainage. Why do you not have a drainage plan?

Ray Burkholder: Because for a Stormwater plan you would need to disturb at least an acre. We are under that by using existing structures there. We will be disturbing the land for only three more structures at this point. We do need to deal with some drainage.

Chairman Cowden asked Sherry again on what they are to consider.

Sherry Ryder: Subdivision for seven (7) lots and the remainder for phase two (2) as a preliminary subdivision and Rezoning for the 16.558 acres. Your motion would be in contingent upon to the E&S plans approval and then they would have to comply with VDOT's regulation at the entrance once they decide to move forward.

Chairman Cowden: Do I hear a motion?

Mr. Loeffler: I make a motion to make recommendations for approval the Rezoning Application for the DG Landholdings, LLC c/o Natural Assets (TM#63-45A) consisting of 16.558 acres to be rezoned from A-2 (Agriculture General) to R-3 Medium Density Residential) to the Board of Supervisors.

Mr. Farmer: Seconded the motion.

VOTE: 5-0

Chairman Cowden: Do I hear a second motion?

Mr. Loeffler: I make a motion to make recommendations to the Board of Supervisors for approval the Subdivision of seven (7) parcels with the contingent on the E&S plans approval and compliance with VDOT's regulation.

Vice-Chair Miller seconded the motion.

VOTE: 5-0

CHAIRMAN'S REPORT:

Chairman Cowden congratulated fellow Commissioners, Trudy Woodzell and Mr. Farmer for completing the Certified Planning Commissioner program. Mr. Loeffler is midway through the program.

STAFF REPORT:

Sherry Ryder: A copy of my report is in your packet.If you have any questions let me know.

Vice-Chair Miller asked Sherry about the items taken out of their recommendations on the Mobile Food Vendor.

Sherry Ryder: Yes the Board took out the distance from a neighboring restaurant and the fees.

Trudy Woodzell asked about signage pop up issues. What aboutthe "Go Fast" sign? Is there new rules?

Sherry Ryder: Yes, One is to be moved and the post used have got to come down. The new regulations are, we can control the size, material and whether or not they have flashing lights, right-a ways, etc. We can not control the contents. VDOT has their own set of rules.

Trudy Woodzell: The sign at the new Tourism site pointing you to the Farmers Market. Is it ok?

Sherry Ryder: It can be two square feet and is ok. The new sign rules for 220 and 39 are different due to it being a scenic byway. Churches fall under a different size and can be bigger.

OLD BUSINESS:

- **Gas Drilling & Hydrofracturing Ordinance** – Waiting on County Attorney.

Chairman Cowden: I received a questionnaire from Dominion. I went over it and made my comments and we can go over this tomorrow. I would like to have communications from Dominion be copied to John Cowden as Chair or all of us.

- **Architecture Review** –Meeting dates have conflicted with advertising requirements,Invite Sara Holberg to the next meeting and she will be put close to the start of the meeting.The April meeting will start a 6:00 p.m. We would like to have the Preservation Bath here too. It's on starting at the beginning.

- **Sign Ordinance**–We can control everything but content. Can't control what's on a sign. We need to put in some more regulation to control what we don't want on it.

NEW BUSINESS: Preservation Bath

Phil Deemer: Shared a Power Point about the State Survey Planning Cost Share Program. It has been around for twenty five (25) years and many didn't know about it. I feel that it fits into the Comprehensive Plan. He is asking:

- 1) Bath and The Board of Supervisors to endorse them in the program, Virginia Department of Historic Resources. Application requires a survey be done for the Old Village of Warm Springs to start with. Cost would be \$16,000.00 with Bath County paying up to \$8000.00 and they would pay the other half.
- 2) Have Bath declare the Village of Warm Springs Historic. Preservation Bath would like to encourage more people to restore and will show them the way.

Vise-Chair Miller: What's the benefit for the owner of a fifty year old home in that area?

Phil Deemer: From a Tourism point of view, it brings more people in to the County to explore. As a residential owner, you may be able to get a tax credit toward your income tax to help fix up the house. You can also sell the tax credit, but it can be tricky. There are restriction, on changes using tax credits.

Ruth Sturgill: I am a Historic Architect. The views and history you have here is beautiful. She then went into why this program was established and who it has and can help. The community outreach happens during the steps of surveying and research talking to the family.

Brian Bruns: His mother recently passed away decided not to join due to the restrictions on renovation. He thinks they are rushing too fast and community outreach and education needs to occur first.

Scott Miller:(Williamsville District) I strongly support this mission. There are many benefits. I believe Tourism is the driving force for Bath County. We love the beauty and character of the towns and villages sprinkled about the County. If we can preserve that, it will stimulate the economy have educational opportunities for our children and maintain the historical awareness

Danny Cardwell:(Cedar Creek District) Thinks more information is needed and is moving too fast. He understands you can opt out if you want to. He is in favor of the program and its possible benefits.

Bill Jones: Understands why it appears they are in a hurry. There is no guarantee that we will get it. The program may not be there in a year or two.

Cynthia Rudnick:I think it would be a real asset in the Warm Springs District.

Trudy Woodzell: Thank you for putting this together, I feel more informed now and it falls within what we have done in the Comp Plan.

Chairman Cowden:Do I hear a motion?

Mr. Farmer: I make the motion to recommend to the Board of Supervisors to participate in the Virginia Department of Historical Resources Survey.

Mr. Loeffler seconded the motion.

VOTE: 5-0

Trudy Woodzell: I would like to put on next month's Agenda.

- 1) Look at the Agricultural stipulations on Land Use Regulations regarding singlewide homes and where they can be placed and the age of that singlewide.
- 2) The Fruit Vendor in Mitchelltown.

Sherry Ryder: We can control Singlewide homes built before 1976 due to wiring requirement updates made by the State. I will have to do some research.

Chairman Cowden: The next thing is Dominion. And how it affect our Comp Plan. Before our next meeting I would like the Planning Commission take a stand and make a recommendation to the Board of Supervisors and how we would like them to respond to FERC.

MINUTES

Chairman Cowden: We have the minute for February 22, 2016

Trudy Woodzell:I make a motion to approve the minutes of February 22, 2016

Mr. Loeffler: I second the motion.

VOTE: 5-0

ADJOURN

Mr. Loefflermade amotion to adjourn the meeting.

Vice-Chair Miller: Isecond the motion

Meeting adjourned @ 9P.M.

ChairmanJohn Cowden

Date