BATH COUNTY PLANNING COMMISSION
AGENDA

BATH COUNTY COURTHOUSE
Room 115– 6:00 P.M.
Monday, October 28, 2024

1. Call to Order
2. Acknowledge Public in Attendance
3. Public Comment – Matters Unrelated to the Agenda
4. Additions and Corrections to Agenda
5. Public Hearing(s):

   Amendment to Ordinance – Section 18-16 of Bath County Code – to allow for civil penalties for zoning violations
6. Chairman's Report
7. Staff Report
8. Old Business:
9. New Business:
10. Approve Minutes of September 23, 2024 meeting
11. Adjourn

AN ORDINANCE TO AMEND THE BATH COUNTY ZONING ORDINANCE TO ALLOW FOR CIVIL PENALTIES FOR ZONING VIOLATIONS

WHEREAS, Section 18-16 of the Bath County Code ("Section 18-16") prescribes penalties for violations of the Bath County Zoning Ordinance ("Zoning Ordinance); and

WHEREAS, Section 18-16 currently prescribes criminal penalties only for violations of the Zoning Ordinance; and

WHEREAS, the criminal penalties portion of Section 18-16 needs to be amended to correspond to the current state zoning laws; and

WHEREAS, Virginia Code Section 15.2-2209 permits any locality to adopt an ordinance establishing a uniform schedule of civil penalties for violations of its zoning ordinance; and

WHEREAS, having received feedback from the Zoning Administrator, the County Attorney, the Bath County Planning Commission, and the public after a duly noticed public hearing, the Board of Supervisors of Bath County desires to provide the option for the Zoning Administrator to enforce zoning violations with a civil, rather than criminal, penalty.

NOW THEREFORE, be it ordained by the Board of Supervisors of Bath County, Virginia, that Section 18-16 of the Bath County Code shall be amended as follows (added text in italics, deleted portions in strike-through):

Sec. 18-16. Violations and penalties.

(a) *Criminal* penalties. Any person, whether owner, lessee, principal, agent, employee or otherwise, who violates any of the sections of this chapter or who permits any such violation or who fails to comply with any of the requirements of this chapter or who erects any building on any land in violation of any detailed statement or plan submitted by him and approved under this chapter or the Bath County Land Use Regulations shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than $10.00 or more than $1,000.00. ~~Each day upon which such violation continues shall constitute a separate offense.~~

If the violation is uncorrected at the time of the conviction, the court shall order the violator to abate or remedy the violation in compliance with the Zoning Ordinance, within a time period established by the court. Failure to remove or abate a zoning violation within the specified time period shall constitute a separate misdemeanor offense punishable by a fine of not more than $1,000; any such failure during a succeeding 10-day period shall constitute a separate misdemeanor offense punishable by a fine of not more than $1,500; and any such failure during any succeeding 10-day period shall constitute a separate misdemeanor offense for each 10-day period punishable by a fine of not more than $2,000.

(b) Violations. Any building erected contrary to any of the sections of this chapter and any use of any building or land which is conducted, operated or maintained contrary to any of the sections of this chapter or the Bath County Land Use Regulations,

shall be a violation and such is declared to be unlawful. The Zoning Administrator may initiate injunction, mandamus, abatement or any other appropriate action to prevent, enjoin, abate or remove such erection or use in violation of this Chapter or the Bath County Land Use Regulations.

(c) Notice of violation. Upon his/her becoming aware of any violation of any sections of this chapter or the Bath County Land Use Regulations, the Zoning Administrator shall serve notice of such violation on the person committing or permitting the violation. If such violation has not ceased within such reasonable time as the Zoning Administrator has specified in such notice, he/she shall institute such action as may be necessary to terminate the violation.

(d) Civil penalties. The Zoning Administrator has discretion to pursue civil penalties for a violation of this Chapter. Any person, whether owner, lessee, principal, agent, employee or otherwise, who violates any of the sections of this chapter or who permits any such violation or who fails to comply with any of the requirements of this chapter or who erects any building on any land in violation of any detailed statement or plan submitted by him and approved under this chapter or the Bath County Land Use Regulations shall be subject to a civil penalty of $200 for the initial summons or ticket, and a civil penalty of $500 for each additional summons or ticket arising from the same operative set of facts. Each day during which the violation is found to exist shall constitute a separate offense. However, violations arising from the same operative set of facts shall not be charged more frequently than once in any 10-day period, and a series of specified violations arising from the same operative set of facts shall not result in civil penalties which exceed a total of $5,000.

Upon becoming aware of any violation of the provisions of this Chapter, the Zoning Administrator or his/her deputy may issue a civil summons or ticket. Any person summoned or issued a ticket for a violation may make an appearance for payment in person or in writing by mail to the County Treasurer prior to the date fixed for trial in court. Any person so appearing may enter a waiver of trial, admit liability, and pay the civil penalty for the offense charged. Such persons shall be informed of their right to stand trial and that a signature to an admission of liability will have the same force and effect as a judgment of court.

If a person charged with a violation does not elect to enter a waiver of trial and admit liability, the violation shall be tried in the general district court in the same manner and with the same right of appeal as provided for by law. In any trial for a scheduled violation authorized by this section, it shall be the burden of the locality to show the liability of the violator by a preponderance of the evidence. If the violation remains uncorrected at the time of the admission of liability or finding of liability, the court may order the violator to abate or remedy the violation in order to comply with the zoning ordinance. Except as otherwise provided by the court for

good cause shown, any such violator shall abate or remedy the violation within a period of time as determined by the court, or if no time is specified by the court, then not later than six months after the date of admission of liability or finding of liability. Each day during which the violation continues after the court-ordered abatement period has ended shall constitute a separate offense. An admission of liability or finding of liability shall not be a criminal conviction for any purpose.

No provision herein shall be construed to allow the imposition of civil penalties (i) for activities related to land development; or (ii) for violation of any provision of the Zoning Ordinance relating to the posting of signs on public property or public rights-of-way.

(e) *Civil penalties in lieu of criminal sanctions. The Zoning Administrator's decision to issue civil penalties for a violation of this Chapter shall be in lieu of criminal sanctions, except for any violation resulting in injury to persons, provided, however, that when such civil penalties total $5,000 or more, the violation may be prosecuted as a criminal misdemeanor.*

Planning and Zoning
9/5/2024 – 10/2/2024

Tax Maps

- Progress being made with tax map revisions

Zoning/Planning Issues

- Planning Commission held public hearing on a Conditional Use Permit application received for harescramble and poker run – recommended approval – Board of Zoning Appeals will hear the request on October 21st
- More plats sent for tax map revisions to Hurt & Proffitt
- Comprehensive Plan update was approved by Board of Supervisors
- Updated Conditional Use Permit to reflect entity's name and proper address
- Planning Commission will be held on October 28th for amended to ordinance to allow for civil penalties
- Adopted Comprehensive Plan sent to VDOT
- Received correspondence from Verizon Wireless tower consultant that they are still working on the tower and the concerns expressed of potential adverse effect on a historic resource located nearby. Mitigation is underway and hope to have it resolved soon.
- Fielded question regarding partial vacation of a subdivision and got legal advice from county attorney
- Finalized Comp Plan for print; received final print from CSPDC
- Site visits

Meetings

- Attended Board of Supervisors meeting
- Attended Planning Commission meeting
- Attended Virginia Zoning Officials conference in Charlottesville
- Attended Rural Transportation Technical Advisory Committee zoom meeting
- Attended Virginia Floodplain Manager Association conference call

- Attended Bath Highland VATI PMT meeting (via zoom)
- Attended ARC Ready zoom meeting

Permits and Fees

YTD permits issued 2024 103
Permits issued this month 9
Monthly:
Construction 8
Sign Permit 1
Fees collected $25.00

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

COUNTY OF BATH

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Bath County Planning Commission
Bath County Courthouse – Room 115
Monday, September 23, 2024 - 6:00 P.M.

PLANNING COMMISSION MEMBERS PRESENT: Chairman John Loeffler, Vice-Chair John Cowden, Bill Gram, Mark Hall

MEMBERS ABSENT: Monroe Farmer

PUBLIC IN ATTENDANCE: Zack Potter (Recorder), Clint Burke, Luke Lyons, Becky Moore, Jess Pritt.

STAFF PRESENT: Sherry Ryder

CALL TO ORDER:
Chairman Loeffler called the Bath County Planning Commission meeting to order at 6:00 p.m.

ACKNOWLEDGE PUBLIC IN ATTENDANCE:
Chairman Loeffler welcomed everyone.

PUBLIC COMMENT- MATTERS UNRELATED TO THE AGENDA: None

ADDITIONS OR CORRECTIONS TO THE AGENDA: None

PUBLIC HEARING(S):

- Luke Lyons and Green Valley Hunters Paradise – Tax Map #55-1 – Application for a Conditional Use Permit to operate an ATV Poker Run, harescramble event, or similar event for the benefit of a non-profit group at the address of 6715 Indian Draft Road, Millboro, Virginia. The property is zoned A-2 Agricultural General and comprises 952.88 acres. The property is situate in the Williamsville Magisterial District.

Sherry Ryder: Operation DAP had some changes in staff and they have now pulled out, however Green Valley Farm and Luke Lyon want to continue that program and harescramble events or something similar to that. Because they were set up and ready to go, then all of that happened at the last minute. They were not able to have the event and were not able to pull in another non-profit event because that CUP was issued specifically to Operation DAP. They have made an application so they can

be in charge of the CUP, which I think it is the idea thing to have them in charge anyways. I have not heard any complaints, and I understand the motor cross went off really well.

Clint Burke: Sherry explained it very well. We just don't want this to happen again. We already had another non-profit lined up, but when we called Sherry, she stated she looked into it, and we could not. We're just looking for the right way to do it. That's why we are here tonight. We don't want it to happen again.

Becky Moore stated the past event went well. They had about 600 people. Riders and their families and some from North Carlina, West Va. etc.

Jess Pritt stated there were a lot of local people there. Some hadn't been riding for a while and it brought them out of retirement to join in and they can't wait for the next event.

Chairman Loffler: Do you guys have any questions for these guys? Sherry? So, we will close the public comment period, and do I hear a discussion or motion?

Vice-Chair Cowden: I make a motion we approve the application from Luke Lyons and Green Valley Hunters Paradise for their Conditional Use Permit to operate an ATV Poker Run, harescramble event, or similar event for the benefit of a non-profit group at the address, 6715 Indian Draft Road, Millboro, Virginia. Their property is zoned A-2 Ag. and comprises of 952.88 acres in the Williamsville District. That in conjunction with reference to a similar event, the similar event would also have to be under the approval of the Zoning Administrator, for each different event. This Condition Use Permit approval will be for a five (5) year period. With the requirements of appropriate security, bathroom facilities and the events are to be during daylight hours.

Mr. Hall: Second.

VOTE: 4-0 Motion approved.

Sherry Ryder informed Mr. Lyon and the others they would be meeting with the BZA on October 21st if there is a quorum, if not, then it would be in November.

CHAIRMAN'S REPORT - None

STAFF REPORT:

Sherry Ryder: My report is in your packet. I will gladly answer any question you may have. I will be at a Virginia Zoning Conference meeting in Charlottesville for a few days this week. The Board of Supervisors adopted the Updated Comp. Plan, and it is good for another five (5) years.

OLD BUSINESS: None

NEW BUSINESS:

- Review Draft Ordinance to Amend the Bath County Zoning Ordinance to allow for civil penalties for Zoning Violations – set date for public hearing.

Sherry Ryder: Julian Harf explained to the Board of Supervisors that we have ongoing problems with some folks and instead of going through a long-drawn-out process, depending on the situation, we could have a choice. Do it as a Civil penalty or Criminal penalty. So, if you are there and I come out and tell you, you have trashed the property, and I am giving you ten (10) days to clean it up. If I go back and they haven't. We can give them a "ticket" and they are fined every day they don't clean it up. They can go to court, but they do need to pay the fines.

Sherry Ryder explained to the Board the problems she sometimes goes through before going to court. So, the new wording will give us options. We can do either/or. The Board of Supervisors asked Mr. Harff to draft it. The Ordinance already has this in the Zoning, Chapter 18, under the County Code.

The italicized print is the new part to review. If you want, we can set a date for next month for a Public Hearing and if you guys recommend it to go to the Board of Supervisors, it will go before them in November to set a date for their public hearing in December or January 2025.

Chairman Loeffler asked the Board if they needed more time to look at this. All believed they had enough time. He then asked Sherry if Julian Harf would be here during the public hearing to answer questions, and she said yes.

Sherry Ryder: I will make sure he or someone from his office can be here on the day you set.

Chairman Loeffler: Do I hear a motion to set a date for the public hearing?

Mr. Gram: I make a motion to set a public hearing date for the Ordinance to Amend the Bath County Zoning Ordinance to allow for civil penalties for Zoning Violations for next month's meeting, October 21, 2024.

Vice-Chair Cowden: I'll second.

Vote: 4-0 Motion passed.

APPROVE MINUTES:

Chairman Loeffler: Do I hear a motion to approve the August 24, 2024 meeting minutes?

Vice-Chair Cowden: I'll move we approve the minutes of August 24th.

Bill Gram: Second.

VOTE: 3-0-1 (Mark Hall was absent) Minutes approved.

ADJOURN
Mr. Hall: Motion to adjourn.

_____ _____

Chairman John Loeffler Date