

"Federation Corner" column
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Accident waiting to happen

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I got an email a while back from a couple who decades ago had bought a home on an acre of land in the Clarksburg area. They were preparing to sell the home and retire to a warmer climate, only to find that their property was deemed undesirable by prospective buyers because no building permit could be issued for an addition or improvement to the home since there was no recorded plat for the property in the county land records, only a description of the exact location included in their deed.

The solution might seem obvious--the couple could hire an engineering firm to create a plat for the property (a drawing certifying the exact location and boundaries of a parcel of land) and then apply to the Planning Board for approval to record the plat in the County land records, a process they told me could cost up to \$20,000 and take a year or more to complete. But they had already sunk a considerable amount of money into building their retirement home down south and readying their Clarksburg home to show to buyers, anticipating a quick sale even in a slow market due to the reasonable asking price. The couple asked if I had any ideas on how they could be helped. But more than that, this couple was puzzled.

They were puzzled because in 1982 they had secured a building permit from the county to add a garage addition onto their home. The county did not require that the property be platted at that time in order to issue a building permit. They wondered what had changed in the interim that now prevented issuance of a building permit.

Background

County law requires that the Department of Permitting Services "must not approve a building permit for construction of a dwelling or other structure, except dwelling or structure on a farm strictly for agricultural use, unless located on a lot shown on a plat."

The Clarksburg couple had purchased their home in 1978 from one of the sons of the farmer who owned and worked the surrounding fields. In the 1960s, this farmer had transferred the one acre portion of the farm to his son as a home site, now referred to as a "child lot." The term "child lot" came into use in 1981 when the Agricultural Reserve was created, to define a portion of a farm property deeded to a child or relative of the farmer in order for them to build a home on it and help in working the farm.

Apparently, the farmer's son had obtained a building permit in the 1960s to construct a home on this property, even though it was not platted, because of the waiver in County law authorizing issuance of a building permit without a plat to allow construction on "land that is and will remain part of a farm but that is used concurrently for a related use that requires issuance of a building permit"--a related use, for instance, such as a farmer's son wanting to build a home on a one acre "child lot" on his parent's farm. The couple that contacted me had apparently been granted the same waiver when they received their building permit for an addition in 1982, since the adjacent land was still being farmed and the property was still considered a "child lot" even though a member of the farmer's family no longer owned it.

Again, the couple wondered, what had changed since 1982? The answer is that the adjacent property is no longer being farmed, but was sold and is being developed as one of the new subdivisions in the fast-growing community of Clarksburg. So, the waiver that allows issuance of a building permit without a record plat, granted for the building of structures with farm-related uses including homes for farm family

members, no longer exists since new homes are now the only thing cropping up on the land adjacent to this couple's home in Clarksburg.

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My concern grew as I realized that many more County residents, perhaps hundreds, are in a situation similar to the Clarksburg couple, and are not even aware of it. These are folks who have purchased homes built on former "child lots" and are now at risk because the land adjacent to their homes which had been in agricultural use, a fact that justified a waiver from needing a record plat to obtain a building permit, has been sold and is under development. Or it could be an elderly farm couple themselves who, needing money to retire in the farmhouse in which they raised their family, have sold off the surrounding farmland and kept an acre or so on which their home sits.

Should any home in this situation be damaged--say by fire, wind damage, or a falling tree limb--the owner would then discover that they could not obtain a County building permit to make repairs because their property is not platted and the waiver from needing a plat, which existed when the land was in agricultural use, has been revoked now that the land is being developed not farmed. The disadvantaged homeowner would soon realize, as the Clarksburg couple did, that the cost of obtaining a record plat is high and the waiting period is long. This fact that would be more difficult to bear if the home is uninhabitable while awaiting a building permit to make repairs.

Solution

First, all properties in this situation need to be identified, and the Civic Federation has ideas on how to proceed and stands ready to help with the effort. More importantly, an amendment to the County Code could be approved by the Council that would allow the waiver granted former farm properties, allowing issuance of building permits without a record plat, to remain in place so long as the property is in use as a single-family residence. This would be a real financial benefit, especially to aging farm couples who have retired in place but sold their tillable land to support themselves in their golden years. Securing passage of such a relief bill would certainly be an accomplishment that a Councilmember could tout when running for reelection...sort of a win-win situation.