

CLARKE COUNTY
Planning Commission
Minutes
2010 July 2– 9:00 a.m.

A regular meeting of the Planning Commission of Clarke County, Virginia, was held at the Town/County Joint Government Center, Berryville, Virginia, on Friday, July 2nd.

Chair Ohrstrom called the meeting to order at 9:06 a.m.

ATTENDANCE

George Ohrstrom, II; Chair; Anne Caldwell, Vice Chair; Clay Brumback, A.R. Dunning, Jr., Tom McFillen, Beverly McKay, Cliff Nelson, Chip Steinmetz, Richard Thuss, and Bob Wade

ABSENT

Barbara Batterton

STAFF

Charles Johnston, AICP, Planning Director; Jesse Russell, Zoning Administrator; Alison Teetor, Natural Resources Planner, and Debbie Bean, Recording Secretary.

APPROVAL OF AGENDA

The Commission voted unanimously to approve the agenda as presented with the exception of moving items #5 and #6 (minor subdivisions) to items #3 and #4.

Yes: Brumback, Caldwell, Dunning, McFillen (moved), Nelson, Ohrstrom, Steinmetz (seconded), Thuss, and Wade

No: No one

Absent: Batterton and McKay

APPROVAL OF MINUTES

The Commission voted unanimously to approve the briefing meeting minutes of 2010 June 1.

Yes: Brumback, Dunning, McFillen (seconded), Nelson (moved), Steinmetz, Thuss, and Wade

No: No one

Absent: Batterton and McKay

Abstained: Caldwell and Ohrstrom

The Commission voted unanimously to approve the regular meeting minutes of 2010 June 4.

Yes: Brumback, Caldwell (moved), Dunning, McFillen, Nelson, Ohrstrom, Steinmetz, Thuss, and Wade (seconded)

No: No one

Absent: Batterton and McKay

Commissioner McKay entered the meeting.

COUNTY CODE, ZONING AND SUBDIVISION ORDINANCES TEXT AMENDMENTS

- PUBLIC HEARING

The Clarke County Planning Commission will consider the amendment of the County Zoning Ordinance:

**Section 6-H-5, Site Plan, “Curb and Gutter”;
Section 6-H-8, Stormwater Management; and
Section 6-H-15, Sinkholes and Karst Features; and**

the amendment of the County Subdivision Ordinance:

Section 8-1, Drainage.

and the amendment of the County Code so as to add Section 147, Stormwater Management.

TA-10-06

Mr. Johnston explained this item. He stated that these amendments are proposed as part of a major change to the stormwater management regulations in the County. He said that Rick Travers, Chester Engineers, was present and would be giving a brief overview of the changes with a power point presentation. Mr. Travers stated that more development would bring more runoff and cause erosion without stormwater management. He said that more naturalized methods are being included in the new stormwater management regulations; improvements to both quantity and quality standards are proposed. After discussion with staff and the Commission, Chair Ohrstrom asked for public comments.

Stuart Dunn, Dunn Land Surveys, had questions about the storm filters located on the 7-11 site. He asked who services them and if they are under a maintenance contract. Ms. Teetor said it is the responsibility of the property owner to service the filters. Commissioner Dunning said that eventually they would need to be monitored. Mr. Johnston stated if we start monitoring stormwater management that Nancy Olin, Enforcement Officer/E & S Inspector for Clarke County would probably be the one doing it.

There being no further public comments, Chair Ohrstrom called for a motion.

The Commission voted unanimously to recommend approval of the above text amendments to the Board of Supervisors.

Yes: Brumback, Caldwell (moved), Dunning, McFillen, McKay, Nelson, Ohrstrom, Steinmetz (seconded), Thuss, and Wade

No: No one

Absent: Batterton

TEXT AMENDMENT – CONT’D PUBLIC HEARING

The Clarke County Planning Commission will consider the amendment of the County Zoning Ordinance:

Section 3-A-1-a and 3-A-2-a, Special Uses in the Agricultural-Open Space-Conservation (AOC) and Forestal-Open Space-Conservation (FOC) Zoning Districts so as to state that Boarding Kennels shall consist of more than five canine or feline animals, that Breeding Kennels shall consist of more than 20 canine animals, and to delete the adjective ‘commercial’ when describing ‘Breeding Kennels’.

Section 9-B, Definitions, so as to modify the definition of ‘Commercial Breeding Kennel’, so as to delete the adjective ‘commercial’ and to delete the requirement in the definition of ‘Boarding Kennel’ or ‘Breeding Kennels’ shall be allowed only as an accessory use to a Single Family Detached Dwelling and shall be located not more than 200 feet from such a dwelling so as to shift these requirements to Supplemental Regulations.

Section 3-C-2-1, Supplementary Regulation for Home Occupations, so as to include in the AOC and FOC Zoning Districts, commercial boarding or breeding kennels as home occupations

limiting the size of a Breeding Kennel to 20 canine adult animals and limiting Boarding Kennels less than five canine and/or feline adult animals;

Section 3-C-2-gg, Supplementary Regulation for Commercial Boarding Kennels and Breeding Kennels so as to shift use and setback regulations for such uses from the definition section of the Zoning Ordinance to this section. TA-10-04

Mr. Russell explained this request. He stated that at the June 4 meeting, the Planning Commission postponed action and continued the public hearing. He gave a brief summary of this text amendment to bring the new Planning Commissioners up to date on its status. After discussion with staff and the Commission, Chair Ohrstrom asked for public comments.

Susan Markley, Clarke County resident, dog breeder and a member of the committee that reviewed this proposed text amendment, explained how the wording was determined for the proposed amendment. She stated that the committee came up with the 175-foot setback as they thought it would help with the noise issue.

Gwen Hales, 241 Providence Lane, member of the committee that reviewed this proposed text amendment stated that she pays taxes and gets tags for her dogs. She stated the committee thought that the 175-foot setback was a good idea. She said that she has 11 dogs and occasionally breeds her dogs.

Mary Lamphier, 17 Gun Barrel Road, stated that her daughter shows dogs. She said that she has 14 dogs in her house. She stated that 20 dogs is not a commercial breeder. She said that commercial breeders have 50, 60 or hundreds of dogs. She said that 20 dogs are almost exclusively show people. She said that 20 dogs is a reasonable compromise.

Alice Harrington, Virginia Federation of Dog Clubs and Breeders, and member of the review committee stated that she had a copy of the State of Virginia dog breeder laws with her. She distributed copies of these laws to the Planning Commission. She stated that the only people showing up for these meetings are the dog people. She said we are trying to solve a problem we do not have. She asked where are all the people are that have complaints about this issue.

Commissioner Dunning stated that Mrs. Harrington has a short memory. He said at the last meeting he told her about a breeder that had a lot of complaints on this issue. He said he asked her if she would like to visit the breeder and she said she did not have enough time.

There being no further public comments, Chair Ohrstrom called for a motion.

The Commission voted to recommend approval of the above text amendment to the Board of Supervisors as written on pages 3 and 4 of the staff report.

Yes: Brumback, Caldwell (moved), McFillen, McKay, Nelson, Ohrstrom, Thuss (seconded), and Wade

No: Dunning and Steinmetz

Absent: Batterton

MINOR SUBDIVISION

Oakland Orchard, L.P. requests approval for a two-lot subdivision and maximum lot size exception for Tax Map #9-((A))-60 located at 637 Oakland Lane, Battletown Magisterial District, zoned Agricultural-Open Space-Conservation (AOC). MS-10-02, MLSE-10-02

Mr. Russell explained this request. He stated that the applicant is requesting preliminary and final plat approval for a 2-lot minor subdivision. He said that VDOT has approved the entrance for sight distance and is currently reviewing the proposed subdivision entrance design. After discussion with staff and the Commission, Chair Ohrstrom called for a motion.

The Commission voted to approve this request on condition that VDOT approves the entrance design and that the applicant provides a deed of dedication with road maintenance agreement prior to the Zoning Administrator signing the survey plats.

Yes: Brumback, Caldwell, McFillen, McKay, Nelson, Ohrstrom, Steinmetz, Thuss (moved), and Wade (seconded)

No: No one

Absent: Batterton

Abstained: Dunning

MINOR SUBDIVISION

C F Limited Partnership (Peter Cook, Agent) requests approval for a two-lot subdivision for Tax Map Parcel #9-((A))-62B located in the 3900 block of Shepherds Mill Road, Battletown Magisterial District, zoned Agricultural-Open Space-Conservation (AOC). MS-10-05

Mr. Russell explained this request. He stated that the applicant is requesting preliminary and final plat approval for a 2-lot minor subdivision. He said that the subject property is in conservation easement with Virginia Outdoor Foundation (VOF). He said that the easement allows for one subdivision of the property and must be a minimum of 30 acres per lot. He stated that the applicant has chosen to exercise his right to subdivide and exceed the maximum lot size as permitted by right in the County Zoning Ordinance. After discussion with staff and the Commission, Chair Ohrstrom called for a motion.

The Commission voted to approve this request on condition that the applicant provide a Deed of Dedication with road maintenance agreement for the private access easement serving Lot 2 and the easement through Lot 1 exclusively serving one lot of Oakland Subdivision; and that the applicant clearly state in the Deed of Dedication that before any building permit is issued requiring septic that the owner of Lot 2 either have a variance granted from the Board of Septic Appeals to cross a stream with a septic line or locate a new septic field on the same side of the stream as the dwelling.

Yes: Brumback, Caldwell, McKay, Nelson (seconded), Ohrstrom, Steinmetz, Thuss (moved), and Wade

No: McFillen

Absent: Batterton

Abstained: Dunning

TEXT AMENDMENT – SET PUBLIC HEARING

The Clarke County Planning Commission will consider the amend of the Zoning Ordinance:

Sections 3-A-1-a-1, 3-A-2-a-1, 3-A-3-a-1, Special Uses in the AOC, FOC, and Rural Residential Zoning Districts so as to delete ‘Assisted Living Facilities’,

Sections 3-A-1-a-2, 3-A-1-a-2, 3-A-1-a-2 Accessory Uses and Structures in the AOC, FOC, and Rural Residential Zoning Districts so as to allow a ‘Temporary Family Health Care Structure’,

Section 3-C-2, Supplementary Regulations for uses in Various Districts so as to establish regulations for a ‘Temporary Family Health Care Structure’ and to delete the reference to Assisted Living Facilities in the supplemental regulations for Home Occupations,

Sections 9-B-13, definition of the term ‘Assisted Living Facility’ so as to delete this term,

Section 9-B-60, definition of the term ‘Single Family Dwelling’ so as to include the term ‘Assisted Living Facility’ as defined in Virginia Code Section 15.2-2291 so that Assisted Living Facilities (for up to eight individuals with mental illness, mental retardation, or developmental disabilities or no more than eight aged, infirm or disabled persons, and with one or more resident counselors or other staff persons) to be considered residential occupancy by a single family and to not have conditions more restrictive than those imposed on residences occupied by persons related by blood, marriage, or adoption. TA-10-07

Mr. Johnston explained this item. He stated that at its 2010 session, the Virginia General Assembly changed state code to require localities to allow Assisted Living Facilities with up to eight clients as a type of single-family dwelling. He stated that the proposed amendment deletes references to Assisted Living Facilities as Special Uses in the listed districts and changes the definition of Single Family Dwelling so as to add in Assisted Living Facilities. He stated that the Virginia General Assembly also amended the Virginia Code to require localities to provide for Temporary Family Health Care Structures as Accessory Structures to single family residences. After discussion with staff and the Commission, Chair Ohrstrom called for a motion.

The Commission voted unanimously to set public hearing on this amendment for the next regular meeting of the Commission on 2010 September 3.

Yes: Brumback, Caldwell (moved), Dunning (seconded), McFillen, McKay, Nelson, Ohrstrom, Steinmetz, Thuss, and Wade

No: No one

Absent: Batterton

TEXT AMENDMENT – SET PUBLIC HEARING

The Clarke County Planning Commission will consider the amend of the Zoning Ordinance: Section 9-B-176, definition of the term ‘Tract’, so as to add a phrase to state that if a tract is divided by a public road is located totally in the ten year floodplain, then the parcel shall be considered a single tract. TA-10-08

Mr. Johnston explained this request. He stated that the County Zoning Ordinance states: “parcels that have been divided by a public road shall be considered as separate tracts, even though such tracts may be assigned one parcel designation as herein defined.” He stated that this results in additional dwelling unit rights being assigned to each side of the public road. He said the Zoning Administrator has become aware of parcels divided by a public road where one of the halves is entirely within the 10 year flood zone, where additional dwelling unit rights would not be appropriate because it would be unlikely DURs could be used in subdivision, house construction or be transferred. He stated that the proposed amendment adds to the definition of the term ‘Tract’: “except that if either of the parcels divided by a public road is located totally in the ten year floodplain, the parcels shall be considered a single tract.” He said that this additional text precludes the assignment of dwelling unit rights where they could not be exercised. After discussion with staff and the Commission, Chair Ohrstrom called for a motion.

The Commission voted unanimously to set public hearing on this amendment for the next regular meeting of the Commission on 2010 September 3.

Yes: Brumback, Caldwell (seconded), Dunning, McFillen, McKay, Nelson, Ohrstrom, Steinmetz, Thuss, and Wade (moved)

No: No one

Absent: Batterton

Board/Committee Reports

Board of Supervisors

– Pete Dunning

Commissioner Dunning stated at the 2010 June 15 Board of Supervisors meeting the Board approved the Cornerstone Power Development solar power text amendment. He said that the Board also approved the County Code text amendment regarding Chapter 180, water and wastewater, so as to delete section 180-5 subsurface conventional septic tank and drainfield systems, required; alternative systems; Chapter 143, septic systems, so as to establish standards for the siting and installation of alternative onsite sewage systems.

He stated that the 2010 Agricultural and Forestal District, wherein the Town of Berryville is proposing to acquire an easement to construct a pipe to convey treated sewage through property located at 5273 Harry Byrd Highway was postponed. He said the public hearing was set for the Comprehensive Plan amendment for the next regular meeting of the Board on 2010 July 20. He stated that the contract for Maral Kalbian for FY 10/11 was renewed.

He spoke briefly regarding the proposed new high school and that the final bid came in at \$23,300,000.00. He stated that the extra 7 million dollars would go to renovate the current high school into an elementary school and to also renovate Cooley elementary school.

Sanitary Authority – Pete Dunning

Commissioner Dunning stated that the Authority is continuing to negotiate on land for the tower at Browntown. He said they are hoping to get the land at a reasonable price. He stated that there is some indecision as to the amount of water that we were anticipating. He stated that they are looking for a back up well as close to the proposed site as possible.

Board of Septic & Well Appeals – Pete Dunning
No report.

Board of Zoning Appeals – Anne Caldwell
No report.

Historic Preservation Commission – Cliff Nelson
No report.

Conservation Easement Authority – George Ohrstrom, II
Chair Ohrstrom stated that there was a recent meeting regarding fund raising efforts. He stated that they are looking forward to closing on a couple of easements and that he will keep us posted.

Natural Resource Activities – Alison Teetor
No report.

Enforcement Officer – Nancy Olin
Ms. Olin's progress reports for 2010 May 27 thru 2010 June 24 were reviewed

There being no further discussion to come before the Planning Commission, the meeting was adjourned at 11:30 a.m. until the next regular scheduled meeting on 2010 September 3.

George L. Ohrstrom, II, Chair

Charles Johnston, Clerk

Minutes prepared by Debra L. Bean, Recording Secretary