

**CLARKE COUNTY
PLANNING COMMISSION
Minutes
2008 May 2 – 9:00 a.m.
Board of Supervisors Meeting Room**

A regular meeting of the Planning Commission of Clarke County, Virginia, was held at the County Circuit Courthouse, Berryville, Virginia, on Friday, 2008 May 2.

ATTENDANCE

Beverly McKay, Chair; George Ohrstrom, Vice Chair; Jay Arnold; Barbara Batterton; Anne Caldwell; A. R. Dunning, Jr.; Pat McKelvy; Cliff Nelson; Kathy Smart; Chip Steinmetz; and Bob Wade;

STAFF

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

CALL TO ORDER

Chair McKay called the meeting to order at 9:03 a.m.

APPROVAL OF AGENDA

The Commission voted unanimously to approve the agenda with the addition of a brief discussion by Robina Rich Bouffault, School Board Chair, on the status of the proposed high school project.

Yes: Arnold (seconded), Batterton, Caldwell, McKay, McKelvy, Nelson (moved), Smart, Steinmetz, Ohrstrom, and Wade

No: No one

Absent: Dunning

The Chair asked Ms. Bouffault to give a brief update on the school project. She stated that there is a meeting scheduled for May 8th for a closed session with the School Board regarding possible school sites. She said there would then be a meeting of the School Board on May 12th with a determination about sites. She stated that the project is on schedule. She said that they are waiting for results on the resistivity test that was conducted. She said that the Salvation Army did not record the major subdivision that was approved on October 1, 2007 within the required six-month time period.

APPROVAL OF MINUTES

The Commission voted unanimously to approve the briefing minutes of 2008 April 1.

Yes: Arnold, Batterton, Caldwell, McKay, McKelvy (moved), Nelson, Smart (seconded), Steinmetz, Ohrstrom, and Wade

No: No one

Absent: Dunning

The Commission voted unanimously to approve the regular minutes of 2008 April 4.

Yes: Arnold, Batterton, Caldwell (seconded), McKay, McKelvy (moved), Nelson, Smart, Steinmetz, Ohrstrom, and Wade

No: No one

Absent: Dunning

Commissioner Dunning arrived at the meeting.

SITE PLAN – CONT'D PUBLIC HEARING

Robert Claytor, H. N. Funkhouser & Co. (Agent: David Falkenstein, Greenway Engineering) requests approval of Site Plan for 6,867 sq ft gas/convenience store on a 2.2-acre portion of Tax Map Parcel 28-A-20A, zoned Highway Commercial, CH, Greenway Magisterial District. SP-07-10

Mr. Johnston explained this request. He stated that at a meeting on April 24th a meeting was held with the applicant, the applicant's engineer, VDOT engineers, and county planning staff and verbally resolved all transportation issues. He stated that the applicant's engineer stated they would resubmit a revised site plan addressing the comments of View and VDOT. There being no further discussion, Chair McKay asked for public comments. There being no public comments, Chair McKay called for a motion.

The Commission voted unanimously to postpone action and continue the public hearing until the next regular meeting of the Commission on 2008 June 6 in order to allow time for the applicant to have his engineers revise the site plan addressing the comments of VIEW and VDOT.

Yes: Arnold, Batterton, Caldwell (moved), Dunning, McKay, McKelvy, Nelson, Smart (seconded), Steinmetz, Ohrstrom, and Wade

No: No one

SPECIAL USE PERMIT AMENDMENT / SITE PLAN AMENDMENT - PUBLIC HEARING

Community Housing Partners (Samantha Brown, Agent) requests approval of a Special Use Amendment and Site Plan Amendment for a special trade contractor located at 1329 Fish Paw Road, Tax Map #7-((A))-1A, Longmarsh Magisterial District, zoned Agricultural Open-Space Conservation (AOC). SUP-08-01, SP-08-03.

Mr. Russell explained this request. He stated that since the staff report was completed, he has received the resistivity test, but at this time, Dan Rom of Piedmont Geotechnical, Inc., the county's geotechnical consultant, has not reviewed it. He stated that the applicant had proposed an annual contribution to the County in lieu of taxes. He said this proposal was being reviewed by Robert Mitchell, the county's land use attorney. He recommended approval of this request to the Board of Supervisors on condition that the resistivity test and annual contribution issues are resolved. There being no further discussion, Chair McKay asked for public comments.

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

The Commission voted to recommend approval of this request to the Board of Supervisors with the following conditions:

1. The resistivity test get final approval by the County's consulting geotechnical engineer, and
2. The applicant agrees in writing to make a yearly cash contribution to the County in lieu of taxes.

Yes: Arnold, Batterton, Caldwell, McKay, McKelvy, Nelson, Smart (moved), Steinmetz, Ohrstrom (seconded), and Wade

No: No one

Abstained: Dunning

MINOR SUBDIVISION

Estate of Savannah M. McDonald (Deloris M. Hausenfluck, Agent) requests approval for a two-lot subdivision for Tax Map 7-((A))-57, located 268 Triple J Road, Longmarsh Magisterial District, zoned Agricultural-Open_Space-Conservation (AOC). MS-08-07

Mr. Russell explained this request. He stated that everything has been reviewed and approved by all appropriate agencies. After discussion with staff and the Commission, Chair McKay called for a motion.

The Commission voted unanimously to approve this request on the following condition:

Note 10 on the survey plat be revised correcting lot 1 to state that it has one existing dwelling and zero dwelling unit rights.

Yes: Arnold, Batterton, Caldwell, Dunning, McKay, McKelvy, Nelson (seconded), Smart (moved), Steinmetz, Ohrstrom, and Wade

No: No one

TEXT AMENDMENT – SET PUBLIC HEARING

The Clarke County Planning Commission will consider the amendment of the County Zoning Ordinance: Section 1. Authority, Purpose and Intent, so as to amend this section in accordance with the Code of Virginia sections 15.2-2210 through 2222, as appropriate, concerning the establishment of Planning Commission and the authority of the Zoning Administrator, and Section 10, Administrative Provisions, so as to shift provisions regarding the Zoning Administrator to Section 1 and add a provision entitled “Conflict with Statues, Local Ordinances, or Regulations.” TA-08-01

Mr. Johnston explained this item. The first part of the amendment is to update the zoning ordinance to add a section describing the Planning Commission. This amendment also shifts the paragraphs establishing the Zoning Administrator from the Zoning Ordinance Section 10 to Section 1. He stated these changes would allow the Zoning Administrator to approve minor modifications from Zoning Ordinance regulations. He stated that Robert Mitchell, the County’s land use attorney, has reviewed these amendments.

Commissioner Smart suggested additional language be added in Section 1 to allow the Zoning Administrator to approve modifications from zoning ordinance standards when such modifications would be less than 10% of the standard. The Commission agreed to add this additional language. After discussion with staff and the Commission, Chair McKay called for a motion.

The Commission voted unanimously to set public hearing on this request for the next regular meeting of the Commission on 2008 June 6 with the change suggested by Commissioner Smart.

Yes: Arnold, Batterton, Caldwell (moved), Dunning, McKay, McKelvy, Nelson, Smart, Steinmetz, Ohrstrom (seconded), and Wade

No: No one

TEXT AMENDMENT – SET PUBLIC HEARING

The Clarke County Planning Commission will consider the amendment of the County Zoning Ordinance: Section 7, Board of Zoning Appeals, so as to delete and readopt this section as: Appeals, Variances, and 2314 that addresses these topics. TA-08-02

Mr. Johnston explained this item. He stated that this proposed amendment would update the section of the Zoning Ordinance regarding appeals, variances, and interpretations, to zoning regulations and bring it into line with the Code of Virginia. After discussion with the Commission, several wording changes were made. Chair McKay called for a motion.

The Commission voted unanimously to set public hearing on this request for the next regular meeting of the Commission on 2008 June 6.

Yes: Arnold, Batterton, Caldwell, Dunning, McKay, McKelvy, Nelson, Smart (seconded), Steinmetz, Ohrstrom (moved), and Wade

No: No one

TEXT AMENDMENT – SET PUBLIC HEARING

The Clarke County Planning Commission will consider the amendment of the County Zoning Ordinance so as to amend:

Section 4-H-3-a, Height Limitation Exceptions, so as to state: *“Flagpoles may exceed the maximum height limit established in each zoning district by 50%, but shall not exceed the distance from the nearest lot line.”* and **Section 9-B-165, Definition of the term: “Structure”**, so as to state that the definition of a structure as *“Anything constructed or erected, the use of which requires permanent location on the ground, or attachment to something having a permanent location on the ground, except utility poles, and shall include, without limitation, chimneys, cupolas, flagpoles, smokestacks, spires, or towers.”*

(Added text shown in Italics) TA-08-03

Mr. Johnston explained this request. He stated that the proposed amendment addresses the absence of any regulation in the Zoning Ordinance on the height of a flagpole. He stated that Section 9-B-165, the definition of the term “structure” would include, without limitation, chimneys, cupolas, flagpoles, smokestacks, spires, or towers. After discussion with staff and the Commission, the Commission decided to set public hearing only for the wording of 9-B-165 the definition of a structure. Chair McKay called for a motion.

The Commission voted unanimously to set public hearing on this item for the next regular meeting of the Commission on 2008 June 6 with amended wording to 9-B-165, the definition of a structure.

Yes: Arnold, Batterton, Caldwell, Dunning, McKay, McKelvy, Nelson, Smart (moved), Steinmetz, Ohrstrom, and Wade (seconded)

No: No one

TEXT AMENDMENT – SET PUBLIC HEARING

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

Section 3-A-1, Agricultural-Open Space-Conservation District – AOC so as to delete from the list of **Special Uses: Labor Camps, Livestock Auction Markets, Livestock Processing and Meat Storage Lockers, Retail Stores** and to allow the list of **Special Uses** the processing of **Apiary Products and Dairy Products** and to rename the use **Limited Vehicular Repair** as **Limited General Automotive Repair**;

Section 3-A-2, Forestal-Open Space-Conservation District – FOC so as to delete from the list of **Special Uses: Retail Stores and Sawmills** and to allow the list of **Special Uses** the processing of **Apiary Products and Dairy Products** and to rename the use **Limited Vehicular Repair** as **Limited General Automotive Repair**;

Section 3-C, Supplementary Regulations, so as to:

1. establish a six acre minimum lot size for **Summer Camps, Special Trade Contractors, and Limited General Automotive Repair** and provide a minimum set back for this use of 200 feet;
2. delete the regulations for: **Fairgrounds** (as this use is regulated elsewhere in the ordinance), **Labor Camps** (as this use is to be deleted), **Motor Freight Terminal** (as this use is not allowed in the ordinance).

Section 9-B, Definitions, so as to add **Apiary, Dairy, and Meat Products** to the definition of **“Processing of Fruit and Vegetables.”** TA-08-04

Mr. Johnston explained this item. He stated that this amendment as described above would delete several special uses from the AOC and FOC zoning districts because the intensity and character of such uses are not compatible with the purpose and intent of these zoning districts. He stated that this amendment would also add to the list of Special Uses in these zoning districts. The Commission decided to review this proposed amendment further before setting a public hearing in order to allow staff time to amend the wording of this proposed amendment. After discussion with staff and the Commission, Chair McKay called for a motion.

The Commission voted unanimously to postpone action on this request until the 2008 June 6 meeting in order to allow staff time to amend the wording of this proposed amendment.

Yes: Arnold, Batterton, Caldwell (moved), Dunning, McKay, McKelvy, Nelson, Smart (seconded), Steinmetz, Ohrstrom, and Wade

No: No one

REPORTS

Board of Supervisors – **Pete Dunning**

Nothing to report.

Sanitary Authority - **Pete Dunning**

Nothing to report.

Board of Septic & Well Appeals – **Pete Dunning**

Commissioner Dunning stated that Tim Martin is requesting a variance from the Clarke County Septic Ordinance and that the public hearing is scheduled for 2008 May 22.

Board of Zoning Appeals – **Anne Caldwell**

Commissioner Caldwell stated that Douglas Watts is requesting a variance from the Board of Zoning Appeals regarding acreage limit for two dwellings on a single parcel. She said that the public hearing is scheduled for 2008 May 18. She stated that a public hearing was held on 2008 April 24, for an appeal from Site Logistics, LLC, regarding the Zoning Administrator's determination regarding uses in the Commercial Highway zoning district. She stated that the Board of Zoning Appeals voted to uphold the decision of the Zoning Administrator regarding this request.

School Construction – **Cliff Nelson**

Commissioner Nelson stated that the next school construction committee meeting is scheduled for 2008 May 08.

Historic Preservation Commission – **Cliff Nelson**

Commissioner Nelson stated that the next meeting is scheduled for 2008 May 27 at the Olympic Flame Restaurant.

Conservation Easement Authority – **Pat McKelvy**

Commissioner McKelvy stated that the spring newsletter was recently mailed out.

Natural Resource Activities – **Alison Teetor**

Ms. Teetor stated that the well at Blandy continues to rise from the rainfall we have received in the last two weeks. She stated that the level is still 4 to 5 feet below normal.

Commissioner Nelson gave a brief presentation on geothermal energy. He had literature regarding this subject

that was presented to the Planning Commission.

Enforcement Officer – **Nancy Olin**

Ms. Olin’s progress reports for March 27, 2008 – April 28, 2008 were reviewed.

There being no further discussion to come before the Planning Commission, the meeting was adjourned at 11:15 a.m. until the next regular meeting of the Commission on 2008 June 6.

Beverly B. McKay, Chair

Charles Johnston, Clerk to the Commission

Minutes prepared by
Debra L. Bean, Recording Secretary