

**CLARKE COUNTY
PLANNING COMMISSION
Minutes
2008 June 6 – 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 June 6.

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 9:04 a.m.

APPROVAL OF AGENDA

The Commission voted unanimously to modify the agenda to move the discussion of the activities of the High School Construction Committee to after action on minutes.

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

No: No one

Absent: Dunning

APPROVAL OF MINUTES

The Commission voted unanimously to approve the briefing minutes of 2008 April 29.

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

No: No one

Absent: Dunning

The Commission voted unanimously to approve the regular minutes of 2008 May 2 with one correction.

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

No: No one

Absent: Dunning

SCHOOL CONSTRUCTION

The Chair asked Robina Rich Bouffault, Chair of the Clarke County School Board, to give an update on the high school project. Ms. Bouffault gave a brief discussion regarding the progress of the High School project. She stated that the School Board is currently considering

two options: the Ketocin property for a new High School and expansion of the existing High School property. She said soil sampling, chemical tests and environmental testing have begun on the Ketocin property. She stated that borings are being done behind the existing High School. She stated the School Board is hoping to get all information results and costs in by the end of July. She stated that the total cost to date for the Salvation Army site is currently at \$2.5 million dollars.

Commissioner Dunning entered 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 distributed a letter from VIEW Engineers dated 2008 June 3 and a letter from VDOT dated 2008 June 4 addressing their comments on this proposal. After discussion with staff and the Commission, Chair McKay asked for public comments.

Ken Rice, H. N. Funkhouser & Co., was present and explained that the concerns with VDOT and VIEW Engineering have been resolved.

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

The Commission voted unanimously to approve this request on condition that the issues identified by VIEW Engineers in their letter dated 2008 June 3 and the issues identified by VDOT in their letter dated 2008 June 4 be resolved before the Planning Commission Chair and the Zoning Administrator sign the site plan.

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

No: No one

MINOR SUBDIVISION

William F. Mackintosh, Jr., requests approval for a two-lot subdivision and maximum lot size exception for Tax Map 7-((A))-5, located at 202 Rock Dale Lane, Longmarsh Magisterial District, zoned Agricultural-Open Space-Conservation (AOC). MS-08-08; BLA-08-10; MLSE-08-03

Mr. Russell explained this request. He stated that the applicant is requesting postponement on this request until the next regular meeting of the Planning Commission on 2008 July 11, in order to allow time to determine the drain field sites. 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 next regular meeting of the Commission on 2008 July 11 in order to allow the applicant time to locate the drain field sites.

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

No: No one

MINOR SUBDIVISION

Thomas L. Walker, requests approval for a two-lot subdivision for Tax Map 6-((A))-38 located at 44 Pierce Road, Longmarsh Magisterial District, zoned Agricultural-Open Space-Conservation (AOC). MS-08-09

Mr. Russell explained this request. He stated that the Planning Commission approved the subject subdivision on 2006 May 6, but the survey plats were not recorded within the 6-month period as required by the State of Virginia and County Ordinance. He said that due to this error, the request must be reviewed and approved again by the Planning Commission. He stated that the applicant has met all the requirements of the Subdivision Ordinance for final plat approval on condition of revising the plats per access easement reconfiguration.

After discussion with staff and the Commission, the Chair called for a motion.

The Commission voted unanimously to approve this request on condition the survey plat is revised to reconfigure the access easement along the existing fence line before the Zoning Administrator signs the plats.

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

No: No one

MINOR SUBDIVISION

Auggie LTD Partnership, requests approval for a two-lot subdivision for Tax Map 22-((A))-17 located at 981 Annfield Road, Chapel Magisterial District, zoned Agricultural-Open Space-Conservation (AOC). MS-08-10

Mr. Russell explained this request. He stated that all of the proper agencies have approved this request and the resistivity test has been completed and approved. After discussion with staff and the Commission, Chair McKay called for a motion.

The Commission voted unanimously to approve this request on condition the applicant provides a deed of dedication with road maintenance agreement before the Zoning Administrator signs the plats.

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

No: No one

TEXT AMENDMENT – 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, the authority of the Zoning Administrator, and to allow the Zoning Administrator to approve “Modifications” from Zoning Ordinance standards when such “Modifications” would be less than 10% of the standard, 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. He stated that the proposed text amendment portion allowing the Zoning Administrator to approve “Modifications” from zoning regulations was changed as requested by the Planning Commission to stipulate that the Zoning Administrator consult with the Chair and Vice-Chair of the BZA before making any decision and to inform the BZA of any decision made. After discussion with staff and the Commission, Chair McKay asked for public comments.

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

The Commission voted unanimously to recommend approval of this amendment to the Clarke County Board of Supervisors.

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

No: No one

TEXT AMENDMENT – 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 Interpretations, and to revise the section in accordance with the Code of Virginia sections 15.2-2308 through 2314 that addresses these topics. TA-08-02

Mr. Johnston explained this request. He stated that the wording corrections as requested by the Planning Commission at the last meeting have been made. After discussion with staff and the Commission, Chair McKay asked for public comments.

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

The Commission voted unanimously to recommend approval of this amendment to the Clarke County Board of Supervisors.

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

No: No one

TEXT AMENDMENT – PUBLIC HEARING

The Clarke County Planning Commission will consider the amendment of the County Zoning Ordinance so as to amend 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, flagpoles, smokestacks, spires, or towers.*” TA-08-03

Mr. Johnston explained this request. He stated that this would amend the definition of the term: “Structure” to include, without limitation, chimneys, flagpoles, smokestacks, spires or towers. Commissioners stated concerns regarding the language of this text amendment. After discussion with staff and the Commission, Chair McKay asked for public comments.

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

The Commission voted unanimously to postpone action on this text amendment until the next regular meeting of the Commission on 2008 July 8, so as to allow the Vice Chair and Commissioner Wade to discuss the language concerns with Robert Mitchell, the County’s land use attorney.

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

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:

1. delete the requirement that Tenant Houses be occupied by persons employed on site
2. delete from the list of Special Uses: Labor Camps, Livestock Auction Markets, Livestock Processing and Meat Storage Lockers, Retail Stores and Shops, and Limited Vehicular Repair, and
3. change “Processing of Fruit and Vegetables” to “Processing of Agricultural Products”;

Section 3-A-2, Forestal-Open Space-Conservation District – (FOC) so as to:

1. delete the requirement that Tenant Houses be occupied by persons employed on site,
2. delete from the list of Special Uses: Retail Stores and Shops, Sawmills, and Limited Vehicular Repair, and
3. amend the list of Special Uses to change “Processing of Fruit and Vegetables” to “Processing of Agricultural Products”;

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

1. establish a six-acre minimum lot size for Summer Camps and an twenty-acre minimum lot size for Special Trade Contractors;
2. establish for Retail and Service Businesses a prohibition on outdoor storage and to limit the outdoor display of the business products to 25% of the square footage of the heated area of on-site building(s).

3. 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), and Vehicular Repair (as this use is to be deleted).

Section 4-H-3, Height Regulations, so as to allow the height of freestanding flagpoles to exceed height limits 50% and add flagpoles to the list of structural elements that may be added on a structure and exceed height limits.

Section 9-B, Definitions, so as to:

1. change “Processing of Fruit and Vegetables” to “Processing of Agricultural Products”,
2. change the definition of “Retail and Service Businesses” to specifically state such activities must be conducted on-site, and
3. add the term “Agricultural Products” with a definition derived by combining Virginia Codes §3.1-249.27, §3.1-722.1, §3.1-796.137, §13.1-313, and §15.2-4302. TA-08-04

Mr. Johnston explained this amendment. He stated that this amendment would delete several special uses from the AOC and FOC Zoning Districts. He said that this amendment would change several definitions in Section 9-B, Definitions, and in Section 3-C, Supplementary Regulations, as described above. After discussion by staff and the Commission, Chair McKay called for a motion.

The Commission voted unanimously to set public hearing for this request at the next regular meeting of the Commission on 2008 July 11.

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

No: No one

Commissioner Dunning left the meeting.

REPORTS

Board of Supervisors – **Pete Dunning**

Mr. Johnston stated that Community Housing has withdrawn their application that was scheduled to go to the Board of Supervisors on 2008 June 17.

Sanitary Authority - **Pete Dunning**

Nothing to report.

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

Ms. Teetor stated that there was a meeting on 2008 May 29 for Tim Martin for a variance from the Clarke County Septic Ordinance which was continued until 2008 July 10.

Board of Zoning Appeals – **Anne Caldwell**

Commissioner Caldwell stated there was a variance granted for Douglas Watts on Wildcat Hollow Road regarding acreage limit for two dwellings on a single parcel. She stated that the applicant proffered he would not subdivide the property.

School Construction – **Cliff Nelson**

Commissioner Nelson stated that the next meeting of the School Construction Committee is scheduled for 2008 June 19.

Historic Preservation Commission – **Cliff Nelson**

Commissioner Nelson reviewed the events of the 2008 May 27 Historic Preservation Commission meeting and stated the next meeting of the Historic Preservation Commission is scheduled for 2008 September 23.

Conservation Easement Authority – **Pat McKelvy**

Commissioner McKelvy stated that a reception is scheduled for 2008 June 20 in appreciation of the donors that made contributions to the Conservation Easement Authority.

Natural Resource Activities – **Alison Teetor** – Ms. Teetor gave a brief discussion regarding the monitoring well at Blandy.

- Ground Water Heat Pump Regulations Committee report – **Cliff Nelson** – Commissioner Nelson gave a brief discussion of open-loop and closed loop ground – water heat pumps explaining it is not geothermal energy.
- Wind Committee activities – **Kathy Smart**- Commissioner Smart stated that she and Commissioner Ohrstrom have been researching this issue with Ms. Teetor.
- Storm water Ordinance update – Ms. Teetor has been working on an ordinance regarding storm water.
- Biosolids Applications update – Ms. Teetor stated that the Department of Environmental Quality has been working on this matter and is currently sorting out items.

Enforcement Officer – **Nancy Olin**

Ms. Olin’s progress reports for April 28, 2008 – May 30, 2008 were reviewed.

Other

Mr. Johnston gave a brief discussion regarding the proposal to rezone the property at Triple J for a 7-11. He stated that there would be public hearing meetings held regarding this request.

There being no further discussion to come before the Planning Commission, the meeting was adjourned at 11:04 a.m. until the next regular meeting of the Commission on 2008 July 11.

Beverly B. McKay, Chair

Charles Johnston, Clerk to the Commission

Minutes prepared by
Debra L. Bean, Recording Secretary