

**CLARKE COUNTY
PLANNING COMMISSION
Minutes
2008 October 3 – 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, October 3.

ATTENDANCE

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

ABSENT

Barbara Batterton and A.R. Dunning, Jr.

STAFF

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

CALL TO ORDER

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

Chair McKay stated that Robina Rich Bouffault, School Board Chair, is unable to attend the meeting today. He stated that Ms. Bouffault wanted to compliment Commissioner Nelson for all of his hard work with the school construction project. Mr. Johnston distributed copies of an email report from Ms. Bouffault.

APPROVAL OF AGENDA

The Commission voted unanimously to approve the agenda with the exception of removing item #3 from the agenda.

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

No: No one

Absent: Batterton and Dunning

APPROVAL OF MINUTES

The Commission voted unanimously to approve the briefing minutes of September 2.

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

No: No one

Absent: Batterton and Dunning

The Commission voted unanimously to approve the regular minutes of September 5 with one correction.

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

No: No one

Absent: Batterton and Dunning

REZONING AND SITE PLAN – PUBLIC HEARING

a. 7-Eleven, Inc. (Agent: Jason Azar, Huron Consulting) requests the amendment of the County Zoning Map to rezone a 1.5137 acre portion of Tax Map Parcel 7-((A))-37 from the Agricultural-Open Space-Conservation (AOC) District to the Highway Commercial (CH) District and Historic Access Corridor Overlay District (HC), located at 10929 Harry Byrd Highway, Longmarsh Magisterial District. RZ-08-01

b. 7-Eleven, Inc. (Agent: Jason Azar, Huron Consulting) requests approval of a Site Plan for a 3,132 square foot convenience store with six fuel pumps located at 10929 Harry Byrd Highway, Tax Map #7-((A))-37, Longmarsh Magisterial District, zoned Agricultural Open-Space Conservation (AOC) (Highway Commercial and Historic Access Corridor Overlay zoning requested). SP-08-02

Mr. Johnston explained this request. He stated that 7-Eleven, Inc. proposes to rezone 1.5 acres from the Agricultural Open-Space Conservation zoning district to Highway Commercial. Mr. Johnston distributed a revised site plan that was received earlier this morning. Mr. Russell stated that the site plan was revised to show the septic capacity as 700 gallons per day and the daily demand on the septic system at 500 gallons per day. He stated that the revised site plan clarified that the store's proposed water usage will be a maximum of 800 gallons per day; 300 gallons per day will be used in food services, parking and fueling area wash downs and irrigation of landscaping. He said that this property is going to be leased to 7-Eleven. He stated that use of explosives is not planned during the construction process, but if any blasting does occur, 7-Eleven, Inc. is required to notify the adjoining property owners. Mr. Russell said the required Karst Plan had not yet been received and VDOT had additional engineering detail modifications.

After discussion with staff and the Commission, Chair McKay asked for public comments.

Paul Gauthier, attorney representing 7-Eleven, Inc., was present and stated that this is a good request because it resolves the split rezoning currently on the property. He stated that this property could not be used agriculturally. He stated that they would like to see this approved today with conditions.

Jason Azar, agent, representing 7-Eleven, Inc., was present to answer questions.

Robin Weaning, adjacent property owner, had questions as to the location of her family's mailbox and asked where the box would be located. Jason Azar stated that the mailboxes would be moved back approximately 12 feet. She also stated her concerns with the buffer and would like to see the maintenance on this buffer in perpetual care. Mr. Russell stated this would be a condition in the final site plan.

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

The Commission voted unanimously to continue the public hearing until the results are received on the resistivity test and that the final comments from VDOT are received

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

No: No one

Absent: Batterton and Dunning

MAJOR SUBDIVISION – PUBLIC HEARING

WRN Enterprises, Inc. requests approval for a four-lot subdivision for Tax Map #32-A-41 located at 2459 Frogtown Road, Chapel Magisterial District, zoned Forestal-Open Space-Conservation (FOC). S-08-02

Mr. Russell explained this request. He stated that the public hearing was continued from the last Planning Commission meeting in order to allow the applicant time to have the survey plat revised. He stated the revised plat would show well locations meeting the required 100-foot setback to septic systems and that the vegetated buffer would be extended along the Appalachian Trail from 25 feet to 100 feet. He stated that the applicant has revised the plat accordingly. He said that the deed of dedication and the road maintenance agreement was provided yesterday. 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 approve this request on the condition that VDOT approves the entrance construction details and bonding for such.

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

No: No one

Absent: Batterton and Dunning

MINOR SUBDIVISION

Richard Dimmel, requests approval for a two-lot subdivision for Tax Map #29-((A))-18 located at approximately 300 Rose Airy Lane, Greenway Magisterial District, zoned Agricultural-Open Space-Conservation (AOC). MS-08-11

Mr. Russell explained this request. He stated that at the September meeting, the Planning Commission postponed action so that the entire Commission could visit the proposed subdivision site. He said that on September 30, the Commission visited the site. He stated that after the site visit, several Commissioners stated that the buffer and the house site are inadequate. After discussion with staff and the Commission, Chair McKay called for a motion.

The Commission voted unanimously to postpone action until the next regular meeting of the Planning Commission in order to allow Commissioners Dunning, McKay, McKelvy and Smart to meet with the applicant on site to review the buffer and the house site.

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

No: No one

Absent: Batterton and Dunning

BOUNDARY LINE ADJUSTMENT

Katharine O. Rowland requests approval for a Boundary Line Adjustment of Tax Maps #30-((A))-21 and #21A located at 3264 Millwood Road, Greenway Magisterial District, zoned Agricultural-Open Space-Conservation (AOC). BLA-08-18

Mr. Russell explained this request. He stated the applicant is requesting a boundary line adjustment between parcels owned by the applicant that would switch the location of the residential size parcel and the

agricultural size parcel. He stated the proposal would actually make the agricultural parcel larger and the residential parcel smaller.

Katharine Rowland, the applicant, was present to answer questions.

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

The Commission voted unanimously to approve this request.

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

No: No one

Absent: Batterton and Dunning

TEXT AMENDMENT – 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. amend the list of Accessory Uses to delete the acreage requirement for Tenant Houses;**
- 2. amend the list of Special Uses to change “Processing of Fruit and Vegetables” to “Processing of Agricultural Products not produced in Clarke County”;**

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

- 1. amend the list of Accessory Uses to delete the acreage requirement for Tenant Houses;**
- 2. amend the list of Special Uses to change “Processing of Fruit and Vegetables” to “Processing of Agricultural Products not produced in Clarke County”;**

Section 3-C, Supplementary Regulations, so as to establish regulations for:

- 1. Processing of Agricultural Products produced in Clarke County: A proposal for the Processing of Agricultural Products produced in Clarke County shall submit a site plan, per Section 6 of this Ordinance, subject to administrative approval by the Zoning Administrator. Any facilities used for such processing shall be set back at least 500 feet from incorporated town limits, the Berryville Annexation Area, the Rural Residential Zoning District, and parcels less than six acres in area;” and**
- 2. Tenant Houses, requiring such structures comply with Zoning and Subdivision Ordinance and the requirements of the Virginia Department of Transportation;**

Section 4-K-6, Nonconforming Lots, Uses and Structures, Uses Eligible for Special Use Permits Not Nonconforming Uses, so as to clarify the status of nonconforming uses that become conforming uses after a text amendment;

Section 5, Special Use Permits, so as to require the approval by the Planning Commission of a Site Plan for Special Uses that have ceased operation for more than 24 months before such uses can be restarted.

Section 9-B, Definitions, so as to amend the definition of the term “Agriculture”: The use of land devoted to the production of agricultural products and the processing of such agricultural products that are produced in Clarke County.” TA-08-06

Mr. Johnston explained this request. At its August 19 meeting, the Board considered the Commission’s recommendation on the proposed amendments to uses in the AOC and FOC Zoning Districts. He stated that the Board made specific requests for some topics and general requests for others. Mr. Johnston stated that this is a clarification from the previous meeting. After discussion with staff and the Commission, Chair McKay asked for public comments.

Chris Rogers, property owner in the area, had concerns with the VDOT requirements on tenant houses.

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

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

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

No: No one

Absent: Batterton and Dunning

TEXT AMENDMENT – PUBLIC HEARING

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

Sections 3-A-1-a, 3-A-2-a, 3-A-3-a, 3-A-12-a, and 3-A-13-a, Permitted and Special Uses and Structures in the AOC, FOC, Rural Residential, Neighborhood Commercial, and Highway Commercial Zoning Districts so as to add Small Wind Turbines that are 100 feet or less in height as an Accessory Use and such turbines taller than 100 feet as a Special Use;

Section 3-C-2, Supplementary Regulations, so as to add regulations for Small Wind Energy Systems; and

Section 9-B-2, Definitions, so as to add the definitions for Small Wind Energy Systems and Wind Turbines. TA-08-07

Mr. Johnston explained this request. He stated that with the changes in the economy and energy services, now is an appropriate time for consideration of this amendment. He stated the wind committee (Dunning, Ohrstrom, Smart) visited several sites with alternative energy. He stated that this amendment would approve turbine energy systems. The Commission discussed adding an additional limitation that not more than two wind turbines that are less than 100 feet in height can be placed on a property as accessory use; three or more would be allowed as a special use. 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 Planning Commission voted unanimously to recommend approval to the Board of Supervisors the proposed amendments with an additional limitation that not more than two wind turbines that are less than 100 feet in height can be placed on a property as an accessory use, three or more would be allowed as a special use.

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

No: No one

Absent: Batterton and Dunning

REPORTS

Board of Supervisors – Pete Dunning

Mr. Johnston stated a public hearing on the request from the Town of Berryville for a Special Use and Site Plan regarding a Public Utility Facility outfall line is scheduled for the next meeting of the Board of Supervisors on October 21.

Sanitary Authority – Pete Dunning

No report.

Board of Septic & Well Appeals – Pete Dunning

Ms. Teetor stated that the Board of Septic and Well Appeals approved a variance for MLJ Properties, LLC on September 18.

Board of Zoning Appeals – Anne Caldwell

Commissioner Caldwell stated that on September 18, the Board of Zoning Appeals voted in favor of the appellant that six Dwelling Unit Rights (DURs) and 1 exemption should be allocated to the subject property based on the Commissioner of Revenue's Real Property Identification Maps in 1980 that showed the subject property as consisting of three parcels.

Historic Preservation Commission – Cliff Nelson

Commissioner Nelson stated that the Commission is considering recommending Mia Franklin, a resident in the Millwood area, to the Board of Supervisors to replace Bob Holmes. He stated that Mr. Holmes has retired from his job and since his term has expired, he wishes to step down. He said that three photographic portraits were added to the gallery of local legal luminaries in the District Courtroom: Rose Mortimer Ellzey MacDonald Skoggs (1871-1953), Edward McCormick Williams (1903-1980), and Elizabeth Rust Williams (1945-2004). He said the Clermont Trust paid the costs associated with this project. He stated that the next Commission meeting is scheduled for November 25 at Clermont.

Conservation Easement Authority – Pat McKelvy

Ms. Teetor stated that the Conservation Easement Authority is applying for several grants. She stated that they are closing on an easement purchase for Dale & Jenny Sours.

Natural Resource Activities – Alison Teetor and Jesse Russell

Ms. Teetor stated she has been working on updating the Stormwater Ordinance and working with the County Green Committee regarding how to improve energy efficiency. Mr. Russell stated he has been working on revising and updating the County Erosion & Sediment Control Ordinance for review by the Board of Supervisors.

Enforcement Officer – Nancy Olin

Ms. Olin's progress reports for August 27, 2008 thru September 25, 2008 were reviewed.

There being no further discussion to come before the Planning Commission, the meeting was adjourned at 10:45 a.m. until the next regular meeting of the Commission on November 7.

Beverly B. McKay, Chair

Charles Johnston, Clerk to the Commission

Minutes prepared by
Debra L. Bean, Recording Secretary