

**CLARKE COUNTY  
PLANNING COMMISSION  
Minutes  
2008 November 7 – 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, November 7.

**ATTENDANCE**

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

**ABSENT**

George Ohrstrom

**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: 01 a.m.

**SCHOOL CONSTRUCTION**

Ms. Bouffault gave a brief report regarding the progress of the proposed new high school. She stated they have some issues with VDOT. She stated that they are working on a shoestring budget and need to maximize costs.

**APPROVAL OF AGENDA**

The Commission voted unanimously to approve the agenda.

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

**No:** No one

**Absent:** Dunning and Ohrstrom

Commissioner Dunning entered the meeting.

**APPROVAL OF MINUTES**

The Commission voted unanimously to approve the briefing minutes of September 30.

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

**No:** No one

**Absent:** Ohrstrom

The Commission voted unanimously to approve the regular minutes of October 3.

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

**No:** No one

**Absent:** Ohrstrom

**DETERMINATION OF PROPOSED UTILITY BEING IN ACCORD WITH COMPREHENSIVE PLAN**

**The Town of Berryville requests approval of a Public Utility Facility (outfall line for treated effluent) as being substantially in accord with the adopted Clarke Comprehensive Plan per Code of Virginia §15.2-2232; located generally on the south side of the public right of way for Harry Byrd Highway (Virginia Route 7) from the Berryville Waste Water Treatment Plant (362 Parshall Road) to the Shenandoah River (approximately 800 feet south of the Robert W. Smalley Sr. Bridge at Castleman’s Ferry, [Route 7 bridge]), through Tax Map Parcels 15-((A))-8, 11, 13, 17C, 18, 20, 21; 15-((3))-8; 16-((A))-33, 36, 36A, 39, all located in Battletown Magisterial District, zoned Agricultural-Open-Space-Conservation (AOC). SUP-08-02**

Mr. Johnston explained this request. He stated that Code of Virginia §15.2-2232 requires a determination that a public facility is “substantially in accord” with the adopted Clarke Comprehensive Plan. In addition, he noted that two of the parcels crossed by the proposed facility (Tax Map Parcels 15-A-8 and 16-A-39) are under a permanent conservation easement held by the Virginia Outdoors Foundation. He said Leslie H. Grayson, Deputy Director of the VOF, requested this determination as well so that VOF could determine whether the project conflicts with the County Comprehensive Plan.

After discussion and consideration of (i) the objectives of the Comprehensive Plan to encourage the Town of Berryville as a growth area; (ii) the objectives of the Comprehensive Plan to encourage, to promote and to protect open space and conservation easements and to preserve the agricultural areas of the County, as well as (iii) the impact of the proposed route and location of the underground sewerage line on the objectives of the Comprehensive Plan to protect open space and agriculture, the Commission determined that the location, character, and extent of the public utility facility proposed by the Town of Berryville (outfall line for treated effluent) is in substantial accord with the 2007 Clarke County Comprehensive Plan provided that the owners of the properties under Virginia Outdoors Foundation conservation easement, identified as Tax Map Parcels 15-A-8 and 16-A-39, the Town of Berryville, and the Virginia Outdoors Foundation agree to the location of the proposed outfall line.

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

**No:** No one

**Absent:** Ohrstrom

**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. Russell explained this request. He stated that the applicant has provided the karst plan and resistivity test. He stated that the existing house beside of the Triple J store will be removed and the proposed 7-Eleven will be located in that area and the rezoning would be appropriate per our legal counsel. He stated

that he recommends that the site plan be approved on condition of technical approval of the karst plan, final VDOT approval of on the road profile, and the Board of Supervisors approves the proposed rezoning. After discussion with staff and the Commission, Chair asked for public comments.

Paul Gauthier, attorney-representing 7-Eleven, Inc., was present and gave a brief discussion on this request. He stated that the design team was present today to answer questions.

Robin Weaning, adjoining property owner, stated that she would be satisfied with this project as long as 7-Eleven keeps the promises they have made as to the existing landscape buffer, protection of her property's water source, and the location of the mailbox.

Dan Rom, the applicant's geotechnical engineer, was present and stated that he has visited the proposed site. He stated that he also performs work for the applicant and was involved in this proposal.

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

The Planning Commission voted to recommend approval of the rezoning request to the Board of Supervisors.

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

**No:** Steinmetz

**Absent:** Ohrstrom

The Planning Commission voted to approve the site plan on condition the Board of Supervisors approve the rezoning and that the karst and VDOT issues are resolved.

**Yes:** Arnold, Batterton, Caldwell, Dunning (moved), McKay, McKelvy, and Smart (seconded)

**No:** Nelson and Wade

**Abstained:** Steinmetz

**Absent:** Ohrstrom

### **SPECIAL USE PERMIT– SET PUBLIC HEARING**

**Georgetown University (Agent: Ron Mislowsky, P.E.) requests approval of a Special Use and Site Plan for the Calcagnini Contemplative Center, a student/staff educational and religious facility, located at 18715 Blue Ridge Mountain Road, Tax Map #26-((A))-112 & 113, Battletown Magisterial District, zoned Forestal Open-Space Conservation (FOC). SUP-08-01**

Mr. Johnston explained this request. He stated that Ron Mislowsky, agent for the applicant with PHR&A, was present and gave a brief presentation regarding the proposal. After discussion with staff and the Commission, Chair McKay called for a motion.

Alan Brangman, the architect for Georgetown, was present to answer questions. He stated they have researched the site and are trying to construct it in the most economical way. He said the applicant considered reusing the existing house, but found it is cheaper to take the house down and build a new one. He said the applicant plans to reclaim the clapboards and windows from the house and use them on the caretaker's cottage. He stated this center is for the Georgetown University and will not be rented out to other entities.

The Commission discussed meeting on site. They set the date for the site visit on November 25 at 3:30 p.m.

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

The Commission voted unanimously to set the public hearing on this request for the next regular meeting of the Commission on December 5.

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

**No:** No one

**Absent:** Dunning and Ohrstrom

Commissioner Dunning left the meeting.

### **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 Commissioners McKelvy and Smart visited the site and said the landscaping is very nice and provides a significant buffer. He stated that he recommends approval of this request upon the condition of revising the plat showing the building envelope.

The Commission voted unanimously to approve this request on the condition that the plat is revised showing the building envelope.

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

**No:** No one

**Absent:** Dunning and Ohrstrom

### **TEXT AMENDMENT – SET PUBLIC HEARING**

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

**Section 3-A-1, Schedule of District Regulations of the AOC Zoning District, so as to establish “Minor Commercial Public Assemblies” for up to 149 people conducted more than 10 times in a calendar year by a Business Licensed entity, as a Special Use;**

**Section 3-A-2, Schedule of District Regulations of the FOC Zoning District, so as to establish “Minor Commercial Public Assemblies” for up to 149 people conducted more than 10 times in a calendar year by a Business Licensed entity, as a Special Use;**

**Section 3-C-2, Supplementary Regulations, so as to establish regulations for:**

1. **“Public Assemblies” stating: “*The minimum area for a Public Assembly is a parcel, or multiple adjoining parcels of land under the same ownership, of at least six acres, and***
2. **“Accessory Structures” stating: “*An accessory building (except for agricultural structures and pool houses) shall not contain more than one sink or more than one toilet and no bathing facilities;*”**

**Section 9-B, Definitions, so as to:**

1. **establish a definition for the use: “Minor Commercial Public Assemblies”;**

2. amend the definition of “Country Inns” so as to increase from 99 to 149 the number of people that could be allowed at a public assembly associated with a Country Inn and; Section 3-D, Allocation of Dwelling Unit Rights as so to insert a new section 3-D-5, “Errors in 1980 Tax Map” that states that the allocation of dwelling unit rights based on the number and size of parcels shown in the 1980 Tax Maps may be changed based on more accurate information recorded with the Clerk of the Circuit Court or surveys of parcels. Section 6-G, Site Plan Contents, and Section 6-H, Site Plan Improvements and Minimum Standards, so as to specify that development activities associated with Site Plans that involve the use of explosives conform to Clarke County Code Chapter 86, Explosives and to encourage xeriscape landscaping practices (use of native plant materials and landscape materials that have low water and nutrient requirements), and to require permanent irrigation systems to use rain catchment systems as their water source. TA-08-08

Mr. Johnston explained this request and gave a brief discussion on each topic. The Commission and staff discussed each amendment and made some corrections to the 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 December 5.

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

**No:** No one

**Absent:** Dunning and Ohrstrom

## **REPORTS**

Board of Supervisors – **Pete Dunning**

Mr. Johnston stated that the Planning Commission recommended approval of the text amendment (TA-08-06) to the Board of Supervisors at the last meeting. The Board of Supervisors voted to discuss this text amendment further at their work session on November 12. He stated that Alison Teetor has been appointed head of the County Green Committee. He said that starting in January all meetings would be held in the new government center.

Sanitary Authority – **Pete Dunning**

Nothing to report.

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

Ms. Teetor stated that there was a meeting held on November 6 regarding an appeal of the Natural Resource Planner’s determination regarding a setback between a well and a building foundation on property owned by Irvin F. Barb. She stated that action was postponed and the public hearing is continued until November 19 at 9:00 a.m.

Board of Zoning Appeals – **Anne Caldwell**

Nothing to report.

Historic Preservation Commission – **Cliff Nelson**

Nothing to report.

Conservation Easement Authority – **Pat McKelvy**

Winkie Mackay-Smith is planning on having more public meetings on conservation easements.

Natural Resource Activities – **Alison Teetor and Jesse Russell**

Ms. Teetor stated she is still working on the Storm Water Ordinance. She stated that she attended a meeting yesterday regarding potential changes that they hope to change. Mr. Russell stated that the E & S Ordinance is going to the Board of Supervisors on November 18 to set public hearing.

Enforcement Officer – **Nancy Olin**

Ms. Olin's progress reports for September 25 thru October 30 were reviewed.

Other

Commissioner Smart and Mr. Russell attended the Rural Planning Caucus in October at Mountain Lake Lodge in Pembroke, Virginia. Commissioner Smart stated it was the 30<sup>th</sup> anniversary of the caucus and it was very interesting.

There being no further discussion to come before the Planning Commission, the meeting was adjourned at 11:08 a.m. until the next regular meeting of the Commission on December 5.

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Beverly B. McKay, Chair

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Charles Johnston, Clerk to the Commission

Minutes prepared by  
Debra L. Bean, Recording Secretary