

**CLARKE COUNTY  
PLANNING COMMISSION  
MINUTES  
5 May 2006**

A regular meeting of the Planning Commission of Clarke County, Virginia was held at the County Circuit Courthouse, Berryville, Virginia, on Friday, the 5th day of May 2006.

**ATTENDANCE**

Beverly McKay, Chair; George L. Ohrstrom, II, Vice Chair; Jay Arnold, Barbara Batterton, Anne Caldwell, Mary Daniel, A. R. Dunning, Jr., Pat McKelvy, Cliff Nelson, Kathy Smart and Robert Wade.

**STAFF**

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

**CALL TO ORDER**

Chair McKay called the meeting to order at 9:00 a.m.

**APPROVAL OF AGENDA**

The agenda for 5 May 2006 was unanimously approved.

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

**No:** No one

**Absent:** Batterton & Daniel

**APPROVAL OF MINUTES**

The briefing minutes for 4 April 2006 were unanimously approved.

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

**No:** No one

**Absent:** Batterton & Daniel

The regular minutes for 7 April 2006 were unanimously approved.

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

**No:** No one

**Absent:** Batterton & Daniel

Commissioners Batterton and Daniel entered the meeting.

The Chair explained to the audience that due to an error by the Clarke Times Courier, the legal notices for the public hearings on the Agenda were not published the consecutive two weeks as required by law. He stated that due to this error the public hearings will have to be rescheduled for the next regular

meeting of the Commission on 2 June 2006. However, the Chair said that the Commission will listen to public comments, but will not be able to take any action until the June meeting, at the earliest.

### **REZONING – PUBLIC HEARING**

**Bobby T. Hudnall, Life in the Word Church of Jesus Christ, Inc. (William Thompson, Jr., Owner) requests a Rezoning from the Agricultural-Open Space-Conservation (AOC) to Rural Residential (RR) Zoning District, of a 1.5182 acres portion of Tax Map 28-A-27, 14401 Lord Fairfax Highway, Greenway Magisterial District. RZ-06-01**

Mr. Russell explained this request. He stated the subject property was formerly owned by the Mt. Olive Baptist Church. He said that on June 17, 2003, the Board of Supervisors approved a Special Use Permit and Site Plan on condition that the site plan be revised to show access to the cemetery lot and to rezone the 1.5182 acres of land that is to be gifted to the Church from William Thompson, Jr. from AOC to RR zoning. He stated the land requested for rezoning was approved on the 2003 site plan for parking and a drain-field. He said if the subject land is approved for rezoning the applicant would then merge that area with the existing Church lot. After discussion with staff and the Commission, Chair McKay asked if there were any public comments regarding this request.

Robert Brisco, property owner in the area, asked how much land did the Church own before William Thompson gifted the 1.5182 acres to the Church? Mr. Russell stated that it was 1.0034 acres.

Franklin Roberts, property owner in the area, had questions regarding the adjacent cemetery.

Dorothy Moore, property owner in the area, had questions regarding the drain-field.

Joyce Smith, property owner in the area, questioned how the property is currently zoned.

Commissioner Dunning left the meeting.

Elizabeth Roberts, property owner in the area, had questions about the property being gifted to the Church.

H. M. Brooks, property owner in the area, had concerns regarding the adjacent cemetery. He questioned that due to the two title owners of the cemetery, would one of the owners have the right to request the rezoning and not the other owner.

Mr. Johnston said the cemetery was not being rezoned; it is already in the rural residential zoning district.

Chair McKay suggested the audience return on 2 June 2006 for the legal public hearing.

The Commission voted unanimously to re-set the public hearing for the next regular meeting of the Commission on 2 June 2006.

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

**No:** No one

**Absent:** Dunning

**TEXT AMENDMENT – PUBLIC HEARING**

**The Clarke County Planning Commission will consider the amendment of the County Subdivision Ordinance so as to delete section 10-D-4 which states: “No more than one Boundary Line Adjustment application, may be approved for any parcel during a two-year period” as a more specific provision addressing this situation was added to the Zoning Ordinance in 2005. TA-06-06**

Mr. Johnston explained this request. He stated that in 1992, section 10-D-4 of the Subdivision Ordinance was added so as to address concerns that property owners were shifting dwelling unit rights in relative large numbers. He said that in 2005, the County adopted changes to the Zoning Ordinance that more specifically limited the transfer of dwelling unit rights and added section 10-D-5 in the Subdivision Ordinance. He stated that due to the addition of these sections, the previously added section 10-D-4 is no longer necessary and that the County’s land use attorney, Robert Mitchell, recommends the deletion of section 10-D-4. After discussion with staff and the Commission, Chair McKay asked if there were any public comments regarding this request. There being no public comments, Chair McKay called for a motion.

The Commission voted unanimously to re-set the public hearing for the next regular meeting of the Commission on 3 June 2006.

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

**No:** No one

**Absent:** Dunning

**TEXT AMENDMENT – PUBLIC HEARING**

**The Clarke County Planning Commission will consider the amendment of the County Zoning Ordinance, Sections 3-A-1-b-(1), Lot Requirements for Single Family Detached Dwellings in the Agricultural-Open Space-Conservation (AOC) Zoning District and 3-D-10, Lot Size in the AOC Zoning District with Single Family Detached Dwellings so as to recodify and move the text [with no change] of 3-D-10 to 3-A-1-b-(1). TA-06-07**

Mr. Johnston explained this request. He stated that the adopted recommendations of the Mountain Land Plan included changes to the lot size requirements for the Forestal-Open Space-Conservation Zoning District. He said that Robert Mitchell, the County’s land use attorney, was reviewing these changes and noted that the lot size requirement for the Agricultural-Open Space-Conservation Zoning District were not in the AOC section of the Zoning Ordinance but in Section 3-D, which is the section addressing the allocation of dwelling unit rights in the AOC and FOC Zoning Districts. Mr. Mitchell recommended that the AOC lot size provisions be shifted to the AOC section of the Ordinance so as to be consistent with all other zoning districts. After discussion with staff and the Commission, Chair McKay asked if there were any public comments regarding this request. There being no public comments, Chair McKay called for a motion.

The Commission voted unanimously to re-set the public hearing for the next regular meeting of the Commission on 2 June 2006.

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

**No:** No one

**Absent:** Dunning

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

**The Clarke County Planning Commission will consider the amendment of the County Zoning Ordinance, 3-C-2, Supplementary Regulations for Uses in Various Districts, so as to add the specific regulations for Home Occupations currently listed in the Definitions section of the Zoning Ordinance, clarify these regulations, and to**

- a. limit the number of people at public assembly to 12 for parcels less than 20 acres and 24 for parcels of 20 acres or more;**
- b. require all equipment associated with a home occupation be used and stored within a totally enclosed structure;**
- c. specify that the limits of area and number of employee for home occupations shall not be exceeded regardless of whether there is one or multiple home occupations conducted in the residence; and**
- d. not allow vehicle repair or vehicle towing as a home occupation;**

**and to amend section 9-B, Definitions so as to delete the specific regulations of Home Occupations to shift these regulations to the Supplementary Regulations sections and to specifically state that a home occupation must be conducted by the resident of the home.**

**TA-06-08**

Mr. Johnston explained this request. He stated a series of issues have developed regarding the enforcement and implementation of home occupation regulations. He said the proposed amendments would shift the extensive regulations for home occupations from the definition section of the ordinance to the supplementary regulations and revises the regulations as described above. The Commissioners agreed to amend the language in Item a to allow up to two non-resident employees regardless of property size and in Item b to limit the number of people at public assembly to 12 and it may be increased to 24 if structure used for public assembly is located 300 feet or more from any property line.

Bob Freschi, property owner in the area, had concerns about the home occupation definition and the use of the home occupation. He stated that if employees are added to the home occupation, it is no longer a home occupation, but a business.

The Commission voted unanimously to re-set the public hearing on this request until the next regular meeting of the Commission on 2 June 2006.

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

**No:** No one

**Absent:** Dunning

**MINOR SUBDIVISION**

**Thomas and Katherine Walker request approval of a one-lot subdivision for Tax Map 6-((A))-38, located in the 12000 block of Harry Byrd Highway, Longmarsh Magisterial District, zoned Agricultural-Open Space-Conservation (AOC). MS-06-01**

Mr. Russell explained this request. He stated that he met with Commissioners Nelson and Ohrstrom at the proposed site. He stated that after visiting the site, the Commissioners recommended that the access easement be designed so as to follow an existing fence line located north of the VDOT approved entrance. After discussion with the staff and the Commission, Chair McKay called for a motion.

The Commission voted unanimously to approve this request on condition that the applicant provide a road maintenance agreement and revise the plat showing the relocating of the access easement along the fence line just north of the proposed entrance.

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

**No:** No one

**Absent:** Dunning

**MINOR SUBDIVISION**

**Jack Lester (Larry Cochran, Agent) requests approval for a two-lot subdivision for Tax Map 14-((A))-66, located in the 1100 block of Springsbury Road, Battletown Magisterial District, zoned Agricultural-Open Space-Conservation (AOC) MS-06-05**

Mr. Russell explained this request. He stated the applicant has met all the requirements of the County Zoning Ordinance. Commissioner Smart stated that the staff report and the plat have conflicting information regarding dwelling unit rights. 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 2 June 2006, in order to allow the applicant time to have the plat revised showing the correct information regarding the dwelling unit rights.

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

**No:** No one

**Absent:** Dunning

**Abstained:** Ohrstrom

**SPECIAL USE / SITE PLAN AMENDMENT – SET PUBLIC HEARING**

**Clarke County Humane Foundation requests amendment of the Special Use Permit (so as to include not more than 8 livestock animals) and the Site Plan (so as to modify accessory improvements) of the Clarke County Animal Shelter, located at 225 Ramsburg Lane, Tax Map Parcel 13-A-13A, Longmarsh Magisterial District, zoned Agricultural-Open Space-Conservation (AOC). SUP-06-01**

Mr. Johnston explained this request. He stated that the Board of Supervisors approved a Special Use and Site Plan for an 18 run animal shelter on a 10-acre parcel located west of the County maintenance building off of Westwood Road. In June 2003, the Board approved an amendment to the Special Use

and Site Plan for eight additional enclosed runs. The applicant is now requesting a further amendment to the Special Use so that rescued farms animals may also be kept on the property. After discussion with staff and the Commission, Chair McKay called for a motion.

The Commission voted to set public hearing on this request until the next regular meeting of the Commission on 2 June 2006.

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

**No:** No one

**Abstained:** Ohrstrom

**Absent:** Dunning

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

**The Clarke County Planning Commission will consider the amendment of the County Zoning Ordinance, Section 9, Definitions, so as to add the definition of the term ‘Companion Animal’ as found in Virginia Code Section 3.1-796.66, to amend the definition of ‘Animal Shelter’ so as to define a shelter as housing companion animals and abandoned/rescued livestock animals instead of just canine animals, and to amend Section 3-C, Supplementary Regulations for ‘Veterinary Services, Animal Hospitals, Commercial Boarding Kennels, Commercial Breeding Kennels, Animal Shelters’ so as to reference companion animals and set limits for livestock as to their number and time period of containment on a property. TA-06-09**

Mr. Johnston explained this request. He stated that the Clarke County Humane Foundation has requested an amendment of the Special Use Permit and the Site Plan of the Clarke County Animal Shelter at 225 Ramsburg Lane. He said in preparing this request, the Foundation determined that the County Zoning Ordinance defines Animal Shelter as housing canines, with no other animal type mentioned. He stated the Foundation requests the Commission consider amendments to this definition so as to include all companion animals as well as rescued farm animals. After discussion with the staff and the Commission, the Commission requested the description of the amendment be broken down into those dealing with companion animals and those dealing with livestock animals. Chair McKay stated that a committee of the Planning Commissioners and the public would be formed to discuss this issue before the next meeting of the Commission on 2 June 2006.

The Commission voted to set the public hearing on this request until the next regular meeting of the Commission on 2 June 2006.

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

**No:** No one

**Abstained:** Ohrstrom

**Absent:** Dunning

**TEXT AMENDMENT – DISCUSSION**

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

**Section 3, so as to add an Additional Regulations to the Rural Residential Zoning District, and delete section 4-H-3-d, Height Limitations, so that:**

- 1. the height limit for accessory structures in the Rural Residential Zoning Districts would be reduced from 24 to 12 feet,**
- 2. accessory structures would not be allowed in the front yard of a single-family dwelling, and**
- 3. no addition shall be made to an existing single family dwelling within that dwelling's front yard with the exception of a deck or porch. TA-06-04**

Mr. Johnston explained this request. He stated that Commissioner Daniel met with staff, reviewed the proposed text amendment, and determined that the proposed text amendment should be put into three separate items. After discussion with staff and the Commission, Chair McKay called for a motion.

The Commission voted unanimously to set public hearing on this request until the next regular meeting of the Commission on 2 June 2006.

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

**No:** No one

**Absent:** Dunning

Mr. Wade left the meeting.

**TEXT AMENDMENT – DISCUSSION**

**The Clarke County Planning Commission will consider the amendment of the County Subdivision Ordinance, Section 8-J-1, General Regulations for Private Access Easements so as to state that no subdivision shall be approved which is accessed by a Private Access Easement, which at time of subdivision application, has more than an average of 120 vehicle trips per day (ADT) or would exceed 120 ADT as a result of the uses on the proposed lots. TA-06-10**

Mr. Johnston explained this request. He stated this proposed amendment is for establishing a limit for the number of trips that may be accommodated by private access easements. Chair McKay appointed the Subdivision Committee to review this proposed amendment. By consensus it was determined that further discussion would be needed at the next regular meeting of the Commission on 2 June 2006.

**2006 COMPREHENSIVE PLAN REVIEW – Chair McKay**

Chair McKay talked about establishing a committee to review the Comprehensive Plan. He stated that Commissioners Dunning, McKelvy, and Ohrstrom would be on this committee as well as several citizens. He said any Commissioners interested in being on this committee are encouraged to step forward.

**AMERICAN PLANNING ASSOCIATION - NATIONAL CONFERENCE – Chuck Johnston**

Mr. Johnston talked about the APA Conference he attended in Texas. He briefly discussed some of the items that were reviewed at the conference.

## **REPORTS**

### ◆Board of Supervisors – **Chuck Johnston**

The Board of Supervisors approved the Text Amendment to the Zoning Ordinance regarding the definition of family and the Text Amendment to the Zoning Ordinance regarding dwellings with more than 600 square feet of heated area. A public hearing was set for the Text Amendment to the Zoning Ordinance regarding the number of people occupying a single-family dwelling served by an on-site sewage disposal system.

### ◆Conservation Easement Authority – **Pat McKelvy**

She stated the Authority is looking at several properties and Alison Teetor is working on a grant.

### ◆Historic Preservation Comm. (third Thursdays of odd months, 9:00 a.m.) – **Cliff Nelson**

The next meeting is scheduled for 18 May 2006 at Blandy Farm.

### ◆Natural Resource Activities – **Alison Teetor**

Nothing to report.

### ◆Sanitary Authority (second Tuesdays, 10:30 a.m.) – **Alison Teetor**

Nothing to report.

### ◆Board of Septic & Well Appeals – **Alison Teetor**

The next meeting is scheduled for 18 May 2006.

### ◆Board of Zoning Appeals - **Jesse Russell**

Nothing to report.

### ◆Enforcement Officer – **Nancy Olin**

Ms. Olin's progress reports for 1 March thru 31 March 2006 were reviewed.

There being no further discussion, the meeting was adjourned at 11:20 a.m. until 2 June 2006 at 9:00 a.m.

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**Beverly McKay, Chair**

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**Charles Johnston, Clerk**

Minutes prepared by  
Debra L. Bean  
Recording Secretary