

# Clarke County

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PLANNING COMMISSION  
REGULAR MEETING MINUTES  
NOVEMBER 2, 2012



A regular meeting of the Planning Commission of Clarke County, Virginia, was held at the Town/County Joint Government Center, Berryville, Virginia, on Friday, November 2, 2012.

## ATTENDANCE

George Ohrstrom, II, Chair; Anne Caldwell, Vice Chair; Clay Brumback (arrived late), Robina Bouffault, Scott Kreider, Tom McFillen, Cliff Nelson, John Staelin, Chip Steinmetz, Richard Thuss and Jon Turkel.

## STAFF

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

## CALLED TO ORDER

Chair Ohrstrom called the meeting to order at 9:05 a.m.

## APPROVAL OF AGENDA

The Commission voted to approve the agenda.

**Yes:** Bouffault, Caldwell (moved), Kreider, McFillen, Nelson, Ohrstrom, Staelin, Steinmetz (seconded), Thuss and Turkel

**No:** No one

**Absent:** Brumback

## APPROVAL OF MINUTES

The Commission voted to approve the briefing meeting minutes of October 2, 2012.

**Yes:** Bouffault, Caldwell, Kreider, McFillen (seconded), Nelson (moved), Ohrstrom, Staelin, Steinmetz and Turkel

**No:** No one

**Absent:** Brumback

**Abstained:** Thuss

The Commission voted to approve the regular meeting minutes of October 5, 2012 with two minor corrections.

**Yes:** Caldwell (moved), Kreider, McFillen, Nelson, Staelin, Steinmetz, Thuss and Turkel (seconded)

**No:** No one

**Absent:** Brumback

**Abstained:** Bouffault and Ohrstrom

## **REZONING (ZONING MAP AMENDMENT) RZ-12-02 -- SET PUBLIC HEARING**

**Daniel P. and Kristine D. Hamilton request the rezoning of a 4,965 square foot portion of a 20,252 square foot parcel from Forestal-Open-Space Conservation (FOC) to Rural Residential (RR). The purpose of the request is to rezone all of the subject property to the RR District. The parcel became split-zoned FOC and RR following a boundary line District, and is referenced as Tax Map Parcel 17A1-4-26. RZ-12-02**

Mr. Stidham explained this request. He said that Shenandoah Retreat Land Corporation (“the Corporation”) recently agreed to a boundary line adjustment with Daniel & Kristine Hamilton, owners of 74 Laurel Lane. He said that the boundary line adjustment was necessary because it was discovered that the Hamilton’s home encroached on the Corporation’s parkland area. He stated that 4,695 square feet was transferred to the Hamilton’s property to correct the encroachment. He said that the land that was transferred to the Hamilton’s property from the Corporation is zoned FOC whereas the Hamilton property is zoned RR. He stated that since the boundary line adjustment was completed and recorded the Hamilton’s property is now split-zoned. He said that the County has established a practice of avoiding the creation of split-zoned properties because the practice is not codified in the Zoning or Subdivision Ordinance. He stated that Staff cannot require property owners to rezone their properties prior to approval of a boundary line adjustment plat. He said that Staff works with property owners to rezone their properties in these situations as split-zoning can cause confusion regarding lot dimensions and allowable uses. He stated that the Hamilton’s have agreed to request a rezoning to correct the split-zoning situation. After discussion with Staff and the Commission the members requested staff to get the building permit history for the home. There being no further comments, Chair Ohrstrom called for a motion.

The Commission voted to set public hearing on this request for the next regular meeting of the Commission on December 7, 2012.

**Yes:** Bouffault, Caldwell, Kreider, McFillen (seconded), Nelson, Ohrstrom, Staelin, Steinmetz, Thuss and Turkel (moved)

**No:** No one

**Absent:** Brumback

### **REZONING (ZONING MAP AMENDMENT)/SITE PLAN - PUBLIC HEARING**

**Mahlon A. Jones (D&B Management Services, Inc., property owner) requests a conditional rezoning from Agricultural-Open Space-Conservation (AOC) to Highway Commercial (CH), and approval of a Site Plan for a convenience store with gasoline sales. Property is located at 3355 Lord Fairfax Highway (US 340), Buckmarsh Electoral District, and is referenced as Tax Map Parcel #8-1-2.**

Commissioner Brumback entered the meeting.

Mr. Stidham gave a brief summary of the proposed rezoning to the Commissioners. He said that the applicant is the owner of the 340 Cigarette Outlet, a retail and convenience store located on the subject property. He said the applicant is requesting a conditional rezoning of the property from AOC to CH because the proposal would exceed the scope of the current use. He stated that the subject property is zoned AOC which allows for “retail and service businesses” as a special use. He said that at one point in time the Ordinance allowed such businesses by right in agricultural districts. He stated the current business is deemed a special use by virtue of being in existence prior to this change in the ordinance. He said that gasoline sales are listed separately as a permitted use in the Highway Commercial (CH) district. He stated that in order to allow gasoline sales with the new convenience store, a rezoning to the CH district is necessary. He said that the applicant has requested to continue the public hearing until the next regular Planning Commission meeting on January 11, 2013 in order to resolve some outstanding issues. Chair Ohrstrom stated that since

the request was advertised it is necessary to have the public hearing. After discussion with Staff and the Commission, Chair Ohrstrom asked for public comments.

Mr. Stidham presented a copy of an e-mail from Walter McMann, a resident at 950 Withers Larue Road to the Commissioners. In the e-mail Mr. McMann stated that he travels by the 340 Cigarette Outlet at least two times a day. He mentioned that short of removing the hill on which the 340 Cigarette Outlet stands there is no way to make a safe entrance. He asked that the Commissioners please consider the almost pristine rural setting as well as the safety of those traveling our roads.

Evan Wyatt, agent for Greenway Engineering was present and told the Commissioners that he had met with the adjoining neighbors for a community meeting regarding this proposal. He said he plans to keep working with the neighbors.

Shannon Abbott attended the public hearing to represent her parents. She stated that her parents have lived on the property where the 340 Cigarette Outlet is located for 42 years. She said that her parents have been notified that they must leave the premises and find a new place to live. She stated there her father has had a stroke and needs full time care. She said she lived on the property when she was growing up and remembers that there were gasoline pumps on the property in the 1980s.

She said when she was living on the property there were quite a few car accidents. She said the road should have been corrected years ago. She said her parents want to stay on the property if possible.

Mahlon Jones, the applicant, was present and said that Mr. and Mrs. Abbott have paid ground rent. He said he was told he could not have residential property on commercial property.

Mr. Stidham said that the Planning Commission and Board of Supervisors could accept a proffer from the applicant to allow the home to remain subject to conditions for future removal. Mr. Russell said it is not unusual to have residential zoning on highway commercial zoning. Chair Ohrstrom stated that they will look for options for Mr. and Mrs. Abbott.

Mr. Wyatt stated that if the current residents stay on the property an entrance will be provided for them.

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

The Commission voted unanimously to continue the public hearing until the regular meeting of the Commission on January 11, 2013.

**Yes:** Bouffault, Brumback, Caldwell (moved), Kreider, McFillen, Nelson, Ohrstrom, Staelin, Steinmetz (seconded), Thuss and Turkel

**No:** No one

**Absent:** No one

**Board/Committee Reports**

**Board of Supervisors (John Staelin)**

Commissioner Staelin stated that the Board has been discussing what to do with the former library in downtown Berryville. He said it can be used as a residence or a business. He stated that tearing the building down is not an option.

**Sanitary Authority**

No Report.

**Board of Septic & Well Appeals (John Staelin)**

No Report.

**Board of Zoning Appeals (Anne Caldwell)**

No report.

**Historic Preservation Commission (Cliff Nelson)**

Commissioner Nelson said that the next meeting is scheduled for November 27, 2012 at 8:30 a.m.

**Conservation Easement Authority (George Ohrstrom, II)**

Chair Ohrstrom stated that the Authority is working on several easements and that the next meeting is scheduled for November 14, 2012.

There being no further discussion, the regular meeting was adjourned to a workshop for the Comprehensive Plan. The next regular meeting of the Commission is scheduled for December 7, 2012.



George Ohrstrom, II, Chair



Brandon Stidham, Planning Director

Minutes prepared by Debbie Bean, Recording Secretary