

**CLARKE COUNTY
PLANNING COMMISSION
MINUTES
2007 February 2 – 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, the 2nd day of February 2007.

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 Bob 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 12 January 2007 was unanimously approved.

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

No: No one

Absent: Caldwell and Dunning

APPROVAL OF MINUTES

The briefing minutes for 9 January 2007 were unanimously approved.

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

No: No one

Absent: Caldwell and Dunning

The regular minutes for 12 January 2007 were unanimously approved.

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

No: No one

Absent: Caldwell and Dunning

The special meeting minutes for 17 January 2007 were unanimously approved.

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

No: No one

Absent: Caldwell and Dunning

The special meeting minutes for 22 January 2007 were unanimously approved.

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

No: No one

Absent: Caldwell and Dunning

Commissioner Caldwell entered the meeting.

STATUS OF HIGH SCHOOL SUBDIVISION/SITE PLAN

Chair McKay stated he would delay the discussion of this item until Chip Schutte, School Board member, arrives.

SITE PLAN / SPECIAL USE PERMIT – SET PUBLIC HEARING

Verizon Wireless (Edward Bruce VanKeuren, property owner) requests approval of a Special Use and Site Plan for a 95-foot monopole for telecommunications and base compound located at 653 Mount Carmel Road, Tax Map #39-((A))-74, Chapel Magisterial District, zoned Forestal Open-Space Conservation (FOC). SUP-06-03

Mr. Russell explained this request. He stated that Verizon Wireless is requesting approval to erect a 95-foot tall monopole capable of locating three antennas and an equipment shed. He stated that the applicant is proposing constructing a travel way from the Mt. Carmel cemetery access easement to the proposed compound in an existing cleared utility easement. He said the utility company, property owner, and Mt. Carmel Cemetery Trustees have agreed to the access proposal. He stated that VDOT's recommendation is that the access be relocated 500 feet north of the existing Mt. Carmel Cemetery entrance. He said that due to VDOT's recommendation, clearing a new entrance would be substantial and that the access would be used once a month by the applicant to ensure the equipment is operating properly. He recommended that the Site Plan/Special Use Permit Committee meet on site to determine whether there is a less invasive way to access the proposed monopole site.

David Lasso with Verizon was present and stated a balloon test would be performed and asked the Planning Commission for a date that would be convenient.

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

The Commission voted unanimously to set public hearing for the next regular meeting of the Commission on 2 March 2007.

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

No: No one

Absent: Dunning

The Commission agreed by consensus to set the balloon test for 20 February 2007 at 3:00 p.m. and asked staff to notify the adjoining property owners of the balloon test and the public hearing.

Commissioner Dunning entered the meeting.

MAJOR SUBDIVISION – PUBLIC HEARING

Lawrence W. White, Jr., requests approval for a five-lot subdivision and maximum lot size exception for Tax Map Parcel 24-A-1, located at 1741 Parshall Road, Battletown Magisterial District, zoned Agricultural-Open Space-Conservation (AOC). S-06-02

Mr. Russell explained this request. He stated that the applicant is requesting preliminary and final plat approval and maximum lot size exception for a 5-lot subdivision. He stated that Commissioners Batterton and McKelvy have visited the site. After discussion with the staff and the Commission, Chair McKay asked for public comments.

Bud Nagelvoort, area resident, stated his comments are not associated with this proposal. He is concerned about the number of houses in a small area and the long-term effect to the drainfields and groundwater.

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

The Commission voted unanimously to approve this request on the condition that the existing entrance be used for access, the drainfield on lot 3 be relocated if possible so as to allow for the planting of trees along the Parshall Road property line, and the applicant provides a Deed of Dedication and road maintenance agreement.

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

No: No one

TEXT AMENDMENT – CONTINUED PUBLIC HEARING

The Clarke County Planning Commission will consider the amendment of the County Subdivision Ordinance, Section 8-C, S Design Requirements for Streets, and Section 8-J-1, General Regulations for Private Access Easements, so as to:

- 1. state that any private access easement not constructed to VDOT standards will not be eligible for VDOT maintenance nor eligible for VDOT improvement funds to make it eligible for VDOT maintenance,**
- 2. limit the use of private access easements to not more than two lots not in the AOC and FOC Zoning Districts and not more than nine lots that are in the AOC and FOC Zoning Districts, (thereby requiring the construction of a public road built to VDOT standards when that road serves 10 or more lots),**
- 3. require access easements to have an asphalt surface when they serve 5 or more parcels,**
- 4. require improvements to existing private access easements serving new subdivision parcels, and**
- 5. change other technical engineering standards for the construction of private access easements. TA-06-10**

Mr. Johnston explained this request. He stated at the public hearing in January the Planning Commission deferred action on this amendment pending review by Bob Mitchell, the County's Land Use Attorney. Mr. Johnston said that he has spoken with Mr. Mitchell and he said he would be sending in a written document regarding this amendment. Mr. Johnston stated that it is Mr. Mitchell's opinion that a subdivision is a voluntary action; it is not a circumstance by which the County is forcing the owner to subdivide, and therefore this would not be perceived as a taking.

Commissioner Caldwell stated she feels it would be extremely important that the Commission receives written comments from Mr. Mitchell before making a decision. After discussion with staff and the Commission, Chair McKay asked for public comments.

Richard Dimmel, landowner in the County, asked questions about public roads.

Louise McKay, County resident, stated that people want emergency services but they do not want to pay the costs of building roads of sufficient quality to reasonably ensure such services.

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

The Commission voted unanimously to continue the public hearing until we get the written opinion from Bob Mitchell.

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

No: No one

STATUS OF HIGH SCHOOL SUBDIVISION/SITE PLAN

Chair McKay noted the arrival of Chip Schutte and asked him to give an update on the progress of the High School project. Mr. Schutte, referring to draft site plans of the proposed site for the High School, explained the flow of storm water around the proposed site and showed where the storm water retention ponds will be. He said drainage easements would have to be obtained from the adjoining downstream property owners in order to accommodate the new drainage patterns.

Mr. Paul Jones, a downstream property owner, was present and stated that a friend told him he had good news and bad news about the High School project. He said the bad news is that you need to sell your house and the good news is that you can sell it as water front property. He stated at first he thought this was funny until he realized that if the calculations are incorrect his property could be flooded. He asked the Commission and Mr. Schutte what happens if his property does flood, who is going to fix it? He wants to make sure his well will not be affected when blasting starts. He asked the Planning Commission if he and his neighbors will be protected when constructions starts, if problems occur. Mr. Jones asked if anyone on the board that governs the regulations could ensure how it is going to affect their properties.

Mr. Schutte stated that by diverting the main flow of water from the front yard of the adjoining homes, the structures to their rear yard they should be protected.

Barbara Byrd, member of the Clarke County Board of Supervisors, was present and asked questions about easements. She stated there would be issues with the property owners if they plan to build anything on their land due to the proposed changes in storm water drainage.

Bev Byrd, area resident, has concerns about a 100-year home near the proposed site and wants to be ensured that his property will be protected should anything occur during the blasting on the school site.

Louise McKay, County resident, asked questions about the flow of the storm water.

Bud Nagelvoort, County resident, asked questions about the overflow of storm water.

Commissioner Wade asked Mr. Schutte if a catastrophic event were to happen would this storm water plan work and not overflow on to the adjoining property owners. Mr. Schutte stated that since there would be two catch basins, this would definitely help, but they will follow the state regulations.

Mr. Johnston stated that he received a call from John Reno, Engineer with PHR&A, stating that the completed High School plan will arrive today at 3:00 p.m.

Commissioner Smart thanked Mr. Schutte for coming and explaining the progress of the proposed high school.

TEXT AMENDMENT – PUBLIC HEARING

The Clarke County Planning Commission will consider an amendment to the Clarke County Zoning Ordinance, Section 4-I-3-f, Regulations for Temporary Signs, so as to allow one temporary sign for businesses of up to 16 square feet (instead of the current limit of 8 sq foot) and establish Section 4-I-3-g, Freestanding Community Event Information Signs, so as to allow such signs of up to 16 square feet in each of the following areas: Millwood, Pine Grove/The Retreat, Shenandoah Farms, and White Post. TA-07-01

Mr. Johnston explained this request. He stated this amendment is two changes to the sign ordinance. He said this amendment has been modified to include a minimum length or width dimension of three feet for the community event information signs in addition to the maximum sign area of 16 sq ft. After discussion with the staff and the Commission, Chair McKay asked for public comments.

Jennifer Lee, Director of the Clarke County Historical Association, was present and stated that Zach Case, an Eagle Scout, is slated to build a community events information sign in Millwood for his project to earn his Eagle Scout badge. She said the Historical Association would manage it carefully. She stated the Historical Association strongly supports this amendment and Zach Case for trying to earn his Eagle Scout badge.

Ed Kenan, Board member of the Historical Association, was present and stated he highly recommends the sign.

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

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

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

No: No one

TEXT AMENDMENT – PUBLIC HEARING

The Clarke County Planning Commission will consider the amendment of the Clarke County Zoning Ordinance, Section 3-5-E, Stream Protection Overlay District & Section 3-A-1-4-f Vegetated Property Buffer, so as to add revegetation requirements in the event clearing limits within the buffers are exceeded. TA-06-15

Ms. Teetor explained this item. She stated that the proposed buffers are now in the FOC Zoning District as a result of the Mountain Land Plan and this amendment would establish the same

standards for the AOC Zoning District. After discussion with staff and the Commission, Chair McKay asked for public comments.

Robinna Bouffault, County resident, stated she strongly supports this amendment. She said she hopes that the re-vegetation is substantial to protect our waterways. She said she would like to see them strictly enforced.

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

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

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

No: No one

TEXT AMENDMENT – SET PUBLIC HEARING

Valley Drilling, Inc requests that the Planning Commission consider an amendment to the Clarke County Zoning Ordinance, Sections 3-A-1-a-3b and 3-A-2-a-3b so as to allow general contractors with a Special Use Permit in the AOC and FOC Zoning Districts and to amend Supplementary Regulations 3-C-2-c so as to limit such use on parcels fronting on primary highways with more than 5,000 vehicle trips a day (Routes 50, 7 and 340), parcels with 10 acres or greater area, and a minimum building setback of 200 feet from all property lines. TA-07-02

Mr. Johnston explained this request. He stated the Zoning Ordinance currently allows for building contractors limited to woodworking and storage as a special use in the AOC and FOC Zoning districts and this amendment would allow any type of contractor to operate within specific limits as a special use. After discussion with the staff and the Commission, Chair McKay called for a motion.

The Commission voted unanimously to set public hearing on this amendment as modified for the next regular meeting of the Commission on 2 March 2007.

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

No: No one

2007 COMPREHENSIVE PLAN – Item for Recommendation to the Board of Supervisors

Mr. Johnston explained this item. He stated that the Comprehensive Plan and the Historic Resources Plan is completed and the Planning Commission is at the point where it can be recommended to the Board of Supervisors for approval. Commissioner Ohrstrom gave a brief review of this item and thanked staff and the Comprehensive Plan Committee for their hard work. He stated he is very pleased with the work that has been accomplished. Mr. Dunning asked questions about the one proposed change requested by Dogwood Development to allow senior housing in the Route 522 corridor. He asked whether this would be spot zoning. Mr. Johnston stated a concept for spot zoning has never been recognized by the Virginia Supreme Court, however he stated that in his opinion such action would set a precedent to change the entire two mile Rt. 522 corridor in Clarke County to senior residential and other commercial uses. After discussion with staff and the Commission, Chair McKay called for a motion.

The Commission voted unanimously to recommend approval of the updated Comprehensive Plan (as originally proposed by the Comprehensive Plan Committee) and the updated Historic Resources Plan

to the Clarke County Board of Supervisors.

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

No: No one

REPORTS

Board of Supervisors – **Pete Dunning**

Mr. Johnston stated that the Board of Supervisors will be holding a work session on 12 February 2007 at 10:00 a.m. with Jeff Lineberry of VDOT to discuss the 2007 Secondary Road Plan and that the Planning Commission's Transportation Committee will meet with Mr. Lineberry after the Board work session. Mr. Johnston also stated that the Board approved the proposed lighting ordinance.

Conservation Easement Authority – **Pat McKelvy**

Ms. Teetor stated that the year-end newsletter and annual public donation campaign brought in about \$7,500.

Historic Preservation Commission – **Cliff Nelson**

Commissioner Nelson stated the meeting dates have been changed to the 4th Tuesday of every other month.

Natural Resource Activities – **Alison Teetor**

Ms. Teetor gave a brief description on the following items that she is currently working on:

- Farm and Ranchland Protection Grant activities
- Conservation Easement Authority – easement acquisition, new prospects
- Flood Plain Ordinance update

Sanitary Authority - **Alison Teetor**

Mr. Johnston stated that a letter from the Frederick County Sanitary Authority was received on February 1 stating that Clarke County's contract with the Authority for the treatment of County septage will not be renewed when it expires in three years.

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

Ms. Teetor stated that there was a variance request on the Slemmer property located on Clifton Road (for a four bedroom house with a one bedroom drainfield) was denied by the Board of Septic Appeals in December 2006. She stated that Janet and David Slemmer have appealed this decision to the Board of Supervisors. She stated the Board of Supervisors would set public hearing at the 12 February 2006 meeting.

Board of Zoning Appeals - **Jesse Russell**

Nothing to report

Enforcement Officer – **Nancy Olin**

Ms. Olin's progress reports for 1 February 2007 thru 28 February 2007 were reviewed.

Other - Gem Bingol, Field Officer with Piedmont Environmental, was present and gave a brief report on House Bill 3113. She stated that the Piedmont Environmental Council is not encouraging this bill. The Planning Commission asked Ms. Bingol to get a copy of the bill.

Chris Bates, area resident, gave a brief report on traffic safety at Double Tollgate. He said there is one major accident at the Double Tollgate intersection every month. He said it is just a matter of time before a fatality occurs. He stated he was also here to represent the Farm Bureau in regard to House Bill 3113. He stated the Farm Bureau is opposed to this bill. He asked the Planning Commission to work individually to ask that this bill be tabled.

There being no further discussion, the meeting was adjourned at 12:00 noon until the next regular meeting on 2 March 2007 at 9:00 a.m.

Beverly McKay, Chair

Charles Johnston, Clerk

Minutes prepared by
Debra L. Bean
Recording Secretary