

**CLARKE COUNTY  
PLANNING COMMISSION  
Minutes  
2009 September 4 – 9:00 a.m.  
Main Meeting Room**

A regular meeting of the Planning Commission of Clarke County, Virginia, was held at the Town/County Joint Government Center, Berryville, Virginia, on Friday, September 4.

**ATTENDANCE**

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

**ABSENT**

Bob Wade

**STAFF**

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

**CALL TO ORDER**

Chair Ohrstrom called the meeting to order at 9:04 a.m.

**APPROVAL OF AGENDA**

The Commission voted unanimously to approve the agenda as presented with the exception of moving item #8 (discussion with the Town of Berryville on the progress of the proposed Special Use and Site Plan for a Public Utility Facility) to item #3.

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

**No:** No one

**Absent:** Dunning, McKay, and Wade

**APPROVAL OF MINUTES**

The Commission voted unanimously to approve the briefing minutes of 2009 June 2.

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

**No:** No one

**Absent:** Dunning, McKay, and Wade

The Commission voted unanimously to approve the regular meeting minutes of 2009 June 5 with one correction.

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

**No:** No one

**Absent:** Dunning, McKay, and Wade

**DISCUSSION**

**The Town of Berryville requests approval of a Special Use and Site Plan for a Public Utility Facility (outfall line for treated sewage) located generally along 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, adjacent to the Robert W. Smalley Sr. Bridge at Castleman’s Ferry, (Route 7 bridge), located in Battletown Magisterial District, zoned Agricultural-Open-Space-Conservation (AOC). SUP-08-02 (aka SUP-04-01)**

Commissioner McKay entered the meeting.

Dave Tyrrell, Director of Utilities for the Town of Berryville, was present and gave a brief presentation on the progress of the proposed special use and site plan for a public utility facility. He distributed a photo of the proposed project to the Planning Commissioners and answered questions from the Commission. He stated he would keep the Planning Commission aware of the continued progress with the proposed project.

Commissioner Dunning entered the meeting.

**MINOR SUBDIVISION**

**Oxbridge Development (Cory Haynes, Agent) requests approval for a two-lot subdivision for Tax Map 27-((A))-16 located in the sixteen thousand block of Lord Fairfax Highway, Greenway Magisterial District, zoned Agricultural-Open Space-Conservation (AOC). MS-09-03**

Mr. Russell explained this request. He said the property is located south of the intersection of Double Tollgate. He stated that VDOT has approved both of the entrances. He said that Oxbridge wants to provide sewer service by connecting the property to the sewage treatment plant it built near Lake Frederick in Frederick County, the plant is operated by the Frederick County Sanitation Authority. Commissioner Dunning stated this poses a problem because Clarke County has established a policy of not allowing sewer lines to be extended beyond service areas to connect with residential development. After discussion with staff and the Commission, Chair Ohrstrom called for a motion.

The Commission voted unanimously to table this request until the next regular meeting of the Commission in order to allow the County’s land use attorney, Robert Mitchell, to review this proposal and provide his written advice.

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

**No:** No one

**Absent:** Wade

**MINOR SUBDIVISION**

**Thomas and Rebecca Lawson request approval for a two-lot subdivision and maximum lot size exception for Tax Map #28-((A))-55 located at 15377 Lord Fairfax Highway, Greenway Magisterial District, zoned Agricultural-Open Space-Conservation (AOC). MS-09-01, MLSE-09-04**

Mr. Russell explained this request. He stated that this request would use the last dwelling unit right on the property. He said that Lot 4 contained a pre-1980 house that was demolished and replaced

with the existing house. He said that in compliance with the County Zoning Ordinance Lot 4 may exceed 3 acres in size by right. He stated that the provision allowing a maximum lot size exception runs with the property. After discussion with staff and the Commission, Chair Ohrstrom called for a motion.

The Commission voted unanimously to approve this request.

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

**No:** No one

**Absent:** Wade

Commissioner Dunning left the meeting.

### **ZONING ORDINANCE TEXT AMENDMENT – PUBLIC HEARING**

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

**Sections 3-A-1-a-3 and 3-A-2-a-3, Special Uses in the AOC and FOC Zoning Districts, so as to apply the maximum total 3,000 square feet allowed for Retail and Service Business activities to outdoor activities in addition to indoor activities;**

**Section 3-C-2, Supplemental Regulations for Uses in Various Districts, so as to add a section for Retail and Service Businesses that are permitted as special uses, stating that outdoor storage is not permitted and that the total area that can be devoted to business operations, whether indoors or outdoors, can not exceed 3,000 sq ft;**

**Section 4-G-3, Uses and Structures Permitted in Required Yards, so as to revise and clarify these regulations;**

**Section 6-H-15, Sinkholes and Karst Features, so as to require resistivity testing beneath structures or sewer lines that carry untreated wastewater.**

**Section 9-B, Definitions, so as to modify the definitions of the terms ‘Kennel’, ‘Commercial Boarding Kennel’, and ‘Commercial Breeding Kennel’, so as to replace the references to dogs, cats, or canine/feline animals with the term ‘companion animals’ and to combine the terms ‘Commercial Boarding Kennel’, and Commercial Breeding Kennel’. TA-09-01**

Mr. Johnston explained this request. He gave a brief description of the proposed changes to each section. After discussion with staff and the Commission, Chair Ohrstrom asked for public comments.

Keith Dalton, Town Manager for the Town of Berryville, was present and asked questions regarding Section 6-H-15, Sinkholes and Karst Features. He said he was concerned on how the special use and site plan for the waste water treatment plant would have been affected. Mr. Dalton stated it seems like an added cost.

Mr. Russell said this project was already approved and would not be affected, but this amendment, as written, would require a resistivity test beneath each structure and under lines carrying untreated sewage. Commissioner Steinmetz asked if there were recorded instances in the County where they have had problems from karst features. Commissioner Arnold stated that he is concerned that the cost can be considerable and if the test is really necessary. Commissioner Nelson stated that he has tried to emphasize resistivity tests provide a three dimensional view. He said borings only give you a straight view down the hole. He stated that resistivity testing is much better than borings. He said the money you would pay for reviewing from resistivity testing is expensive, but the benefits from

the testing would be huge if there was a problem after construction began.

There being no further public comment, Chair Ohstrom called for a motion.

The Commission voted to continue consideration of the amendment to Section 6-H-15 until the 2009 October 2 meeting of the Planning Commission to allow time for further review of this amendment.

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

**No:** Nelson

**Absent:** Dunning, and Wade

The Commission voted to recommend approval of the above text amendments to the Board of Supervisors excluding Section 6-H-15.

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

**No:** Nelson

**Absent:** Dunning, and Wade

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

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

**Section 4-I-9-b, Definition of the term “Area of Sign”, so as to be more comprehensive in regard to determining the signage area and calculating signage area;**

**Section 4-J, Off-street Parking, so as to provide for compact car parking spaces, establish a formula to reduce the number of parking spaces for multiple on-site uses, establish a maximum number of parking spaces (150% of the minimum required number of spaces), and reduce the number of required parking spaces for certain uses based on contemporary smart code standards for rural/suburban development. TA-09-02**

Mr. Johnston explained this request. He stated that the first proposed amendment would clarify what elements of the sign would or would not be calculated in determining signage area, clarify how to calculate signs not rectangular in shape and impose limits on the degree of interior angles for double-faced signs. He said the second proposed text amendment addresses Zoning Ordinance parking regulations. After discussion with staff and the Commission, Chair Ohrstrom called for a motion.

The Commission voted unanimously to set public hearing for the above amendments for the next regular meeting of the Planning Commission on 2009 October 2.

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

**No:** No one

**Absent:** Dunning, and Wade

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

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

**Section 3-A-1-a, Permitted Uses in the AOC Zoning District, so as to delete ‘Farm Wineries’ as a Special Use and add it as a Principal Use;**

- Section 3-A-2-a, Permitted Uses in the FOC Zoning District, so as to delete ‘Farm Wineries’ as a Special Use and add it as a Principal Use;**
- Section 3-C-2-ii, Supplementary Regulation for Farm Winery so as to establish a description and standards for Farm Winery activities in conformance with Virginia Code Section 15.2-2288.3,**
- Section 9-B-193, Definition of the term ‘Farm Winery’ so that the definition conforms to Virginia Code Section 4.1-100; TA-09-03**

Mr. Russell explained this request. He stated that in 2006 the Virginia General Assembly passed legislation making ‘Farm Wineries’ a ‘by right’ agricultural use, which localities must allow as a permitted use. He stated that Clarke County is now implementing this legislation. After discussion with staff and the Commission, Chair Ohrstrom called for a motion.

The Commission voted unanimously to set public hearing for the next regular meeting of the Planning Commission on 2009 October 2.

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

**No:** No one

**Absent:** Dunning and Wade

**Board/Committee Reports**

Board of Supervisors

– **Pete Dunning**

Mr. Johnston reviewed the Board of Supervisors agendas for 2009 July 18 and 2009 August 18.

Sanitary Authority

– **Pete Dunning**

No report.

Board of Septic & Well Appeals

– **Pete Dunning**

Commissioner McKay reviewed recent Board meetings.

Board of Zoning Appeals

– **Anne Caldwell**

Commissioner Caldwell stated a variance was approved for a front and side property line setbacks for a freestanding commercial sign for Handy Mart was approved on 2009 July 17.

Historic Preservation Commission

– **Cliff Nelson**

Commissioner Nelson stated that there was not a meeting in July and that the next meeting is scheduled for 2009 October 6.

Conservation Easement Authority

– **Pat McKelvy**

Commissioner McKelvy stated that Authority members are continuing discussion on a new policy for easement purchases.

Agriculture Land Plan update

– **Bev McKay**

Commissioner McKay stated that the update for the Ag Plan will start soon.

**Staff Reports**

Natural Resource Activities

– **Alison Teetor**

Ms. Teetor stated the final USGA report has been completed and that a power point presentation would be done on the 6-year study. She said the Green Committee is coming to a close and putting together an excellent report.

**Enforcement Officer**

– **Nancy Olin**

Ms. Olin’s progress reports for 2009 July 31 thru 2009 August 25 were reviewed. She stated there are two to three Court cases coming up regarding inoperable vehicles. She stated that the Blue Ridge Woodworking business on Route 340 is involved in Court cases presently and it has delayed them from complying with the site plan. She said that Neato Outlet has started encroaching on the right of way and that VDOT handled the situation several years ago.

**Other**

Chair Ohrstrom stated that Commissioner McKelvy is resigning from the Planning Commission on 2009 September 30. He presented her with a framed resolution, which he read to the Planning Commission and thanked her for her valuable service to the Planning Commission over the years.

Chair Ohrstrom stated the Planning Commission wishes to express their deepest sympathy to Commissioner McKay over the passing of his mother, Louise McKay. He said that Mrs. McKay was a wonderful lady and very involved in the community and in her efforts to make Clarke County the great place it is. He stated that she would be greatly missed by all.

There being no further discussion to come before the Planning Commission, the meeting was adjourned at 10:55 a.m. until the next regular meeting on 2009 October 2.

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George L. Ohrstrom, II, Chair

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Charles Johnston, Clerk

Minutes prepared by  
Debra L. Bean, Recording Secretary