

**CLARKE COUNTY
PLANNING COMMISSION
MINUTES
2009 October 2– 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, October 2.

ATTENDANCE

George L. Ohrstrom, II, Chair; Anne Caldwell, Vice Chair; Jay Arnold, A. R. Dunning, Jr., Beverly McKay, Cliff Nelson, Kathy Smart, Richard Thuss, Chip Steinmetz and Bob Wade.

ABSENT

Barbara Batterton

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 9:05 a.m.

APPROVAL OF AGENDA

The Commission voted unanimously to approve the agenda as presented.

Yes: Arnold, Caldwell, Dunning (moved), McKay (seconded), Nelson, Ohrstrom, Smart, Thuss, Steinmetz, and Wade

No: No one

Absent: Batterton

APPROVAL OF MINUTES

The Commission voted unanimously to approve the briefing minutes of 2009 September 1.

Yes: Arnold, Caldwell (moved), Dunning, McKay, Nelson (seconded), Ohrstrom, Smart, Thuss, Steinmetz, and Wade

No: No one

Absent: Batterton

The Commission voted unanimously to approve the regular minutes of 2009 September 4 with one correction.

Yes: Arnold, Caldwell, Dunning (moved), McKay, Nelson, Ohrstrom, Smart (seconded), Thuss, Steinmetz, and Wade

No: No one

Absent: Batterton

MINOR SUBDIVISION

Oxbridge Development (Cory Haynes, Agent) requests approval for a two-lot subdivision for Tax Map 27--(A)-16 located in the 4200 block of Stonewall Jackson Highway, Greenway Magisterial District, zoned Agricultural-Open Space-Conservation (AOC). MS-09-03

Mr. Johnston explained this request. Commission members reiterated their concern, expressed at the last Commission meeting, that the lots on the proposed subdivision would be served by the sewage treatment plant built to serve the Lake Frederick/Shenandoah development immediately west of this application in Frederick County. The members questioned whether approving this means of sewer service, instead of the usual subsurface drainfield, would be perceived as a precedent suggesting Clarke County was willing to accept a more intense level of development on the subject property. Mr. Johnston stated that he had discussed these concerns with Robert Mitchell, county land use attorney, and that Mr. Mitchell suggested the subdivision plat be revised with adding the following language with respect to each of the two private easements: "The use of this private easement is limited to the placement of one sewer lateral and one water line to serve one single family residence only." Mr. Johnston said he had shared this text with applicant's engineer. Mr. Johnston then distributed a revised subdivision plat to the Commissioners that included this text. After discussion with staff and the Commission, Chair Ohrstrom called for a motion.

The Commission voted unanimously to approve this request.

Yes: Arnold, Caldwell, Dunning (moved), McKay, Nelson, Ohrstrom, Smart (seconded), Thuss, Steinmetz, and Wade

No: No one

Absent: Batterton

MINOR SUBDIVISION

Tad Curry requests approval for a two-lot subdivision for Tax Map #24-((A))-18A located in the 400 block of Frogtown Road, Chapel Magisterial District, zoned Forestal-Open Space-Conservation (FOC). MS-09-05

Mr. Russell explained this request. He stated that the applicant has met all the requirements as required by the County Subdivision Ordinance. He said that both proposed parcels are accessed by Lewin Hill Lane, a private access easement off of Frogtown Road. He stated that on the plat Lewin Hill Lane is shown as Lewin Hill Road. He said this is to be corrected before the plat is signed by the Zoning Administrator so as to comply with the County Road Naming Ordinance. After discussion with staff and the Commission, Chair Ohrstrom called for a motion.

The Commission voted unanimously to approve this request on condition that the applicant provides six subdivision plats revising the private access easement name from "Road to Lane".

Yes: Arnold, Caldwell, Dunning (moved), McKay (seconded), Nelson, Ohrstrom, Smart, Thuss, Steinmetz, and Wade

No: No one

Absent: Batterton

SITE PLAN AMENDMENT – SET PUBLIC HEARING

Snow White Grill (Rick & Jan Childs, applicants) request approval of a Site Plan Amendment for a 16 x 8 ft. restaurant vendor on the property identified as Tax Map Parcel 7-((A))-71, located at 40 Kimble Road, Longmarsh Magisterial District, zoned Highway Commercial (CH). SP-09-08

Mr. Russell explained this request. He stated that the applicant is requesting an amendment to a site plan for the establishment of a food vending business to be permanently located at the subject site. Rick Childs, the applicant, was present and stated that the water is in self contained tanks and that no sewage is needed. He stated that the grease goes into a container that will be picked up by Valley Proteins. Commissioner Wade suggested that a letter be attached to the site plan regarding

how the grease will be handled. After discussion with staff and the Commission, Chair Ohrstrom called for a motion.

The Commission voted unanimously to set public hearing for this request for the next regular meeting of the Commission on 2009 November 6.

Yes: Arnold, Caldwell (moved), Dunning (seconded), McKay, Nelson, Ohrstrom, Smart, Thuss, Steinmetz, and Wade

No: No one

Absent: Batterton

TEXT AMENDMENT – CONT'D PUBLIC HEARING

The Clarke County Planning Commission will consider the amendment of the County Zoning Ordinance: Section 6-H-15, Sinkholes and Karst Features, so as to require resistivity testing beneath structures or sewer lines that carry untreated wastewater. TA-09-12

Mr. Johnston explained this item. He stated that at its September meeting, the Planning Commission voted to postpone action on this amendment for further discussion. He said Commissioners Arnold, Nelson and Steinmetz met with planning staff and discussed this amendment. He said that during that discussion it was determined that Commissioners Arnold and Steinmetz concluded that the amendment should only apply to sewer lines that carry untreated wastewater. He stated that Commissioner Nelson believes that the amendment should apply to structures as well as sewer lines for untreated waste. The Commissioners discussed different options for this amendment. Mr. Johnston said he believes that he should consult with Robert Mitchell, the County's land use attorney about this amendment. After discussion with staff and the Commission, Chair Ohrstrom asked for public comments.

There being no public comments, Chair Ohrstrom closed the public hearing and called for a motion.

The Commission voted unanimously to continue the public hearing until the 2009 November 6 Planning Commission meeting in order to allow time for the county's land use attorney, Robert Mitchell to review this amendment further.

Yes: Arnold, Caldwell (seconded), Dunning, McKay, Nelson, Ohrstrom, Smart (moved), Thuss, Steinmetz, and Wade

No: No one

Absent: Batterton

TEXT AMENDMENT – 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 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 proposed amendment regarding the definition of the term "Area of Sign" is an attempt to simplify the language on signs. He said the

second amendment addresses the Zoning Ordinance parking regulations. After discussion with staff and the Commission, Chair Ohrstrom asked for public comments.

There being no public comments, Chair Ohrstrom closed the public hearing and called for a motion.

The Commission voted unanimously to recommend approval of the above text amendments as written to the Board of Supervisors.

Yes: Arnold, Caldwell (moved), Dunning (seconded), McKay, Nelson, Ohrstrom, Smart, Thuss, Steinmetz, and Wade

No: No one

Absent: Batterton

TEXT AMENDMENT – 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; and

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. Johnston explained this request. He stated that the wording of the amendment is being changed due to legislation passed by the Virginia General Assembly in 2006 making ‘Farm Wineries’ a ‘by right’ agricultural use, which localities must allow as a permitted use. After discussion with staff and the Commission, Chair Ohrstrom asked for public comments.

There being no public comments, Chair Ohrstrom closed the public hearing and called for a motion.

The Commission voted unanimously to recommend approval of the above text amendments to the Board of Supervisors.

Yes: Arnold, Caldwell (seconded), Dunning, McKay, Nelson, Ohrstrom, Smart (moved), Thuss, Steinmetz, and Wade

No: No one

Absent: Batterton

TEXT AMENDMENT – SET PUBLIC HEARING

The Clarke County Planning Commission will consider the amendments to the County Zoning Ordinance, Section 7, Appeals, Variances, and Zoning Map Interpretations:

Section 7-A-5, Board of Zoning Appeals – Organization and Procedures, deleting the requirement that any action must be taken by a majority of the entire Board, not just of those members present; and Section 7-C-5-b, Variances, deleting the requirement that the Board should not grant a variance unless a hardship that ‘approaches confiscation’ is alleviated.

TA-09-11

Mr. Johnston explained this request. He stated that at its 2009 session, the Virginia General Assembly made changes to the procedures and standards for actions by Boards of Zoning Appeals.

He stated that on the recommendation of the County's land use attorney, Robert Mitchell, the above text amendment starts the process of amending the Zoning Ordinance to include these changes. After discussion with staff and the Commission, Chair Ohrstrom called for a motion.

The Commission voted unanimously to set the public hearing on this matter for the next regular Planning Commission meeting on 2009 November 6.

Yes: Arnold, Caldwell (seconded), Dunning, McKay, Nelson, Ohrstrom, Smart (moved), Thuss, Steinmetz, and Wade

No: No one

Absent: Batterton

TEXT AMENDMENT – SET PUBLIC HEARING

The Clarke County Planning Commission will consider the amendment of the County Zoning Ordinance Section 3-A-1-f and 3-A-2-f, Vegetated Property Buffer so as to require administrative review of clearing activities within the vegetated property buffer no clear areas. TA-09-13

Mr. Johnston explained this request. He stated that the proposed amendment would require administrative approval for buffer encroachment in order to insure that no more disturbances occur than is absolutely necessary. The Commission expressed that the word written be included with the date and time when administrative approval is issued. After discussion with staff and the Commission, Chair Ohrstrom called for a motion.

The Commission voted unanimously to set the public hearing on this matter with the word written included in the wording for the next regular Planning Commission meeting on 2009 November 6.

Yes: Arnold, Caldwell, Dunning, McKay (seconded), Nelson, Ohrstrom, Smart (moved), Thuss, Steinmetz, and Wade

No: No one

Absent: Batterton

Board/Committee Reports

Board of Supervisors

– Pete Dunning

Commissioner Dunning stated that the School Board is moving forward on the proposed high school. He said that public hearings have been set for the 2009 October 20 meeting on the text amendments that have come before the Board.

Sanitary Authority

– Pete Dunning

No report.

Board of Septic & Well Appeals

– Pete Dunning

No report.

Board of Zoning Appeals

– Anne Caldwell

No report.

Historic Preservation Commission

– Cliff Nelson

Commissioner Nelson stated that the next meeting of the Historic Preservation Commission is scheduled for 2009 October 6.

Conservation Easement Authority

– George Ohrstrom

No report.

Agriculture Land Plan update

– **Bev McKay**

Commissioner McKay stated that Mr. Johnston has been reviewing the Ag Plans from other Counties. He said that Mr. Russell would be presenting the Ag District renewal next month to the Planning Commission.

Staff Reports

Natural Resource Activities

– **Alison Teetor**

Ms. Teetor gave a brief discussion regarding alternative septic systems. There was a discussion regarding the Chesapeake Bay watershed and the problems with pollution from pesticides. Ms. Teetor stated that the Green Committee has worked very hard in getting the proposed high school to go green. She stated that the Green Committee has asked the School Board to check on things that can be implemented into the proposed high school to go green. She stated that the savings of going green would be substantial in the long term.

Enforcement Officer

– **Nancy Olin**

Ms. Olin's progress reports for 2009 August 25 thru 2009 September 23 were reviewed.

There being no further discussion to come before the Planning Commission, the meeting was adjourned at 10:28 a.m. until the next regular meeting on 2009 November 6.

George L. Ohrstrom, II, Chair

Charles Johnston, Clerk

Minutes prepared by
Debra L. Bean, Recording Secretary