

**CLARKE COUNTY
PLANNING COMMISSION
MINUTES
2009 November 6– 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, November 6.

ATTENDANCE

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

STAFF

Charles Johnston, AICP, Planning Director; Jesse Russell, Zoning Administrator; and Debra Bean, Recording Secretary.

ABSENT

A. R. Dunning, Jr.

CALL TO ORDER

Chair Ohrstrom called the meeting to order at 9:08 a.m.

APPROVAL OF AGENDA

The Commission voted unanimously to approve the agenda as presented.

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

No: No one

Absent: Dunning and McKay

APPROVAL OF MINUTES

The Commission voted unanimously to approve the briefing minutes of 2009 September 29.

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

No: No one

Absent: Dunning and McKay

Commissioner McKay entered the meeting.

The Commission voted unanimously to postpone action on the regular minutes of 2009 October 2 until the next regular meeting of the Commission on 2009 December 4 so as to allow staff to document with additional detail the discussion for one of the items.

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

No: No one

Absent: Dunning

SITE PLAN AMENDMENT – PUBLIC HEARING

Snow White Grill (Rick & Jan Childs, applicants) request approval of a Site Plan Amendment for a restaurant (16 x 8 ft. food trailer) 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. Johnston explained this request. He stated that since the last Planning Commission meeting in October the Building Department has asked that the applicant have the site plans revised showing bollards between the food trailer and the parking lot for safety purposes. He said the applicant will also show the location of picnic tables and any landscaping that may be recommended by the Planning Commission. After discussion with staff and the Commission, Chair Ohrstrom asked for public comments.

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

The Commission voted unanimously to approve this request on condition that the site plan is revised showing the location of bollards, the location of picnic tables and recommended landscaping features.

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

No: No one

Absent: Dunning

TEXT AMENDMENT – PUBLIC HEARING

The Clarke County Planning Commission will consider the amendments of 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 the above text amendment changes would conform to the 2009 session of the Virginia General Assembly regarding changes made to procedures and standards for actions by the Boards of Zoning Appeals. After discussion with staff and the Commission, Chair Ohrstrom called for public comments.

There being no public comments, Chair Ohrstrom 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, Batterton, Caldwell (seconded), McKay, Nelson, Ohrstrom, Smart (moved),
Thuss, Steinmetz, 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-f and 3-A-2-f, Vegetated Property Buffer in the AOC and FOC Zoning Districts, so as to require Zoning Administrator review of clearing activities within the vegetated property buffer no clear areas. TA-09-13

Mr. Johnston explained this request. He said that the proposed amendment would require administrative approval for buffer encroachments in order to insure that no more buffer disturbances occur than is necessary. Commissioner Smart suggested that a form letter be sent out to new property owners with the requirements of the vegetated buffer areas in the AOC and FOC zoning districts. Commissioner Thuss suggested doing a welcome letter to all new residents with things you can and cannot do in the area. Commissioner Caldwell said this idea should be sent to a committee to discuss. After discussion with staff and the Commission, Chair Ohrstrom asked for public comments.

David Kersey, a new resident in the area, thought a welcome letter to new residents would be a good idea.

There being no further public comments, Chair Ohrstrom 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, Batterton, Caldwell (moved), McKay, Nelson, Ohrstrom, Smart, Thuss
(seconded), Steinmetz, and Wade

No: No one

Absent: Dunning

SPECIAL USE PERMIT – RESET PUBLIC HEARING

The Town of Berryville requests approval of a Special Use and Site Plan for a Public Utility Facility (outfall line for treated effluent) and

6b. DETERMINATION OF UTILITY BEING IN SUBSTANTIAL ACCORD WITH THE COMPREHENSIVE PLAN - DISCUSSION

The Town of Berryville requests approval of such facility is substantially in accord with the adopted Clarke Comprehensive Plan per Code of Virginia §15.2-2232,

Both of the above items being the portion of the outfall line located along and in 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 (approximately 150 feet north of the Robert W. Smalley Sr. Bridge at Castleman’s Ferry, [Route 7 bridge]), through Tax Map Parcels 16-A-22, 36A, and 40 (the Special Use and Site Plan for the location of the outfall line through Tax Map Parcels 15-A-8, 11, 13,17C, 18, 20, 21; 15-3-8; and 16-A-33 and 36 has been previously the subject of a public hearing and action by the Planning Commission) all located in Battletown Magisterial District, zoned Agricultural-Open-Space-Conservation (AOC). SUP-08-02 (aka SUP-04-01)

Mr. Johnston explained this request. He stated that at the 2009 March Board of Supervisors meeting, the Board voted to indefinitely postpone action at the request of the Town of Berryville. Since that time, the Town of Berryville has revised the site plan so as to relocate the eastern .75

miles of the proposed outfall line. The proposed outfall line was going to run through the Ritzenburg property, which is in conservation easement with the Virginia Outdoor Foundation. The Town has shifted the point of outfall so as to avoid the Ritzenburg property. He stated that no change is proposed to the 3-mile western portion of the outfall line previously approved by the Planning Commission. He stated that Robert Mitchell, the county's land use attorney, advised that the Planning Commission can have a public hearing focusing on the changed alignment. He said the Commission must revise its determination of the outfall line being in substantial accord with the Comprehensive Plan focusing on the changed alignment. He stated that no public hearing is required by state code for determination of being in accord with the Comprehensive Plan.

Chair Ohrstrom noted that Dave Tyrrell, representative for the Town of Berryville and Bob Krallinger, Engineer with Whitman, Requardt & Associates were present. They gave a presentation to the Planning Commission regarding the revised outfall line plan. Mr. Tyrrell explained to the Planning Commission how the proposed line will be moved underneath Route 7 and follow the VDOT right of way and then crossing another property to the new location of the outfall on the Shenandoah River. Mr. Krallinger stated that the Town is now focusing on alignment and are coordinating with residents on whose land they will be crossing. He said that the plan to go underneath Rt. 7 in a manner so as to not disrupt traffic. He said they have met with VDOT and got their okay on how this work will be done. He stated that they have gone to DEQ and showed them the proposed plan and received an okay from them. He said they are currently working on getting easements for 12 lots. He said they have received three easements and are still working on the remaining nine. He stated that the status of the easements would be reported at the next meeting.

After discussion with staff and the Commission, Chair Ohrstrom called for a motion.

The Commission voted to set public hearing on this request for the next regular meeting of the Planning Commission on 2009 December 4.

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

No: No one

Absent: Dunning

TEXT AMENDMENT – SET PUBLIC HEARING

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

Section 7-C-3-(d), Water and sewage disposal systems, so as to require approved septic systems and 100% reserve systems for all existing homes when subdivided.

Section 10-D, Boundary Line Adjustments, so as to establish criteria for the showing of septic disposal systems on Boundary Line Adjustment plats. TA-09-09

Mr. Russell explained this request. He stated that this proposal is to amend the subdivision ordinance so as to provide for an approved primary and 100% reserve drainfield for existing dwellings involved in a subdivision and regulating the transfer of structures containing facilities requiring septic disposal systems. After discussion with staff and the Commission, Chair Ohrstrom called for a motion.

The Commission voted unanimously to set public hearing on this request for the next regular meeting of the Commission on 2009 December 4.

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

No: No one

Absent: Dunning

TEXT AMENDMENT – DISCUSSION

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 request. He stated that at the October meeting, the Planning Commission voted to postpone action on this amendment for further discussion. He said that Chair Ohrstrom and Commissioners Arnold, Nelson, and Steinmetz met with planning staff on October 15 to discuss this matter further. The Commissioners concluded after discussion that the current ordinance allowed the Commission to request resistivity on a case-by-case basis. He stated that the Loudoun County Board of Supervisors is anticipated to act on a similar ordinance in November and the Commissioners determined that Clarke should wait and see what is adopted in Loudoun County. After discussion with staff and the Commissioners, Chair Ohrstrom called for a motion.

The Commission voted unanimously to table the proposed amendment and postpone action indefinitely.

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

No: No one

Absent: Dunning

AGRICULTURAL DISTRICT RENEWAL – SET PUBLIC HEARING

The Clarke County Board of Supervisors proposes to renew the Clarke County Agricultural District with additions and deletions of certain properties.

Mr. Russell explained this request. He stated that every 6 years the agricultural district must go through a renewal process. He said that it starts with the Board of Supervisors then goes back to the Planning Commission to set public hearing and then it is referred to the Agricultural District Committee to establish limits on what you can do on your property. He stated that by putting property in a Agricultural District and in conservation easement it layers the protection of your property. He said if you decide to take your property out of the Agricultural District at the end of the 6-year period, you do so by putting your request in writing. He said it is much harder to remove your property from the Agricultural District when it is not the open enrollment period. After discussion with staff and the Commission, Chair Ohrstrom called for a motion.

The Commission voted unanimously to set public hearing on this request for the next regular meeting of the Planning Commission on 2009 December 4.

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

No: No one
Absent: Dunning

Chip Steinmetz left the meeting.

Board/Committee Reports

Board of Supervisors

– **Pete Dunning**

Mr. Johnston stated that at the 20 October 2009 Board of Supervisors meeting the Board set public hearings on the amendments regarding uses and structures permitted in required yards, the amendment regarding the definition of the term “Area of Sign” and off- street parking and the amendment regarding farm wineries for the next regular meeting of the Board of Supervisors on 2009 November 17.

Sanitary Authority
No Report.

– **Pete Dunning**

Board of Septic & Well Appeals

– **Pete Dunning**

Commissioner McKay stated that there is a public hearing scheduled for 2009 November 12 on a well ordinance amendment.

Board of Zoning Appeals

– **Anne Caldwell**

Commissioner Caldwell stated that there was a public hearing on a setback variance for a pole barn that was unanimously approved on 2009 October 29.

Historic Preservation Commission

– **Cliff Nelson**

Commissioner Nelson stated that there was a meeting on 2009 October 6. He said that the new owner of Rosemont has contacted Maral Kalbian and she highlighted the need to put the property on the National Register in order to be eligible for tax credits. He stated that the next meeting is scheduled for 2009 December 1.

Conservation Easement Authority

– **George Ohrstrom**

Chair Ohrstrom stated that the Board of Supervisors would be having a public hearing on 2009 November 17 regarding the Conservation Easement Purchase Program.

Agriculture Land Plan update

– **Bev McKay**

Commissioner McKay stated the Agricultural District Committee is making progress but several members did not show up at the first meeting on 2009 October 7.

Staff Reports

Natural Resource Activities
No report.

– **Alison Teetor**

Enforcement Officer

– **Nancy Olin**

Ms. Olin’s progress reports for 2009 September 23 thru 2009 October 27 were reviewed.

Other

The Commission set up a vegetated buffer committee consisting of Commissioners Batterton, Nelson, Steinmetz and Wade.

There being no further discussion to come before the Planning Commission, the meeting was adjourned at 10:40 a.m. until the next regular scheduled meeting on 2009 December 4.

George L. Ohrstrom, II, Chair

Charles Johnston, Clerk

Minutes prepared by
Debra L. Bean, Recording Secretary