Clarke County

Planning Commission
Regular Meeting Minutes
December 6, 2013

A regular meeting of the Planning Commission of Clarke County, Virginia, was held at the Berryville/Clarke County Government Center, Berryville, Virginia, on Friday, December 6, 2013.

ATTENDANCE
George L. Ohrstrom, II, Chair; Anne Caldwell, Vice Chair; Robina Bouffault, Clay Brumback, Scott Kreider, Doug Kruhm, Tom McFillen, Cliff Nelson, John Staelin, Chip Steinmetz 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 9:02 a.m.

APPROVAL OF AGENDA
The Commission voted to approve the agenda.
Yes: Bouffault, Brumback, Caldwell (seconded), Kreider, Kruhm, McFillen, Nelson (moved), Ohrstrom, Staelin, Steinmetz and Turkel
No: No one

APPROVAL OF MINUTES
The Commission voted to postpone action on the regular meeting minutes of November 1, 2013 until the next regular Planning Commission on January 10, 2014.
Yes: Bouffault, Brumback, Caldwell (moved), Kreider, Kruhm, McFillen, Nelson, Ohrstrom, Staelin, Steinmetz (seconded) and Turkel
No: No one

The Commission voted to approve the briefing meeting minutes of October 29, 2013.
Yes: Bouffault, Brumback, Caldwell (moved), Kreider, Kruhm, McFillen, Nelson, Ohrstrom, Staelin, Steinmetz and Turkel (seconded)
No: No one

SPECIAL USE / SITE PLAN (SUP-13-02/SP-13-08) – CONT'D PUBLIC HEARING
Gina Schaecher (Happy Tails Development, LLC) requests approval of a Special Use Permit (SUP) and Site Plan to construct a commercial boarding kennel and animal shelter per §3-A-1-a-3(u) of the Zoning Ordinance. The facility would provide rescue and rehabilitation services for the purpose of finding permanent adoptive homes for dogs, and would include boarding and training for dogs. The property is identified as Tax Map #20-2-9, located in the 300 block of Bellevue Lane in the White Post Election District and is zoned Agricultural Open-Space Conservation (AOC).

Mr. Stidham stated that following the Public Hearing on the November 1, 2013, the Planning Commission moved to defer action on this request and to continue the public hearing until the December 6, 2013 meeting. He stated that at that meeting there were six items of concern that were identified for additional review during the deferral period.

1. Reconciliation of the outdoor lighting issues.
2. Reconciliation of landscaping issues.
3. Evaluation of the degree of sound-proofing to be provided with the Applicant's kennel building design.
4. Additional details on special events to be held at the site.
5. Additional details on proposed Condition #9 requiring dogs being kenneled or trained at the facility to be kept in the building or fenced training areas at all times unless being taken to and from a vehicle for transport.
6. Additional details on training classes for humans including septic system concerns.

Mr. Stidham indicated that on November 22nd, Staff received an email from the Applicant saying that they were finalizing a response to the issues raised at the Public Hearing but that one of their consultants had a family emergency that would delay provision of the response. He noted that at the time of drafting this report on November 27th, Staff has not received the additional materials from the Applicant. He said that on November 29 and December 2, 2013 the Applicant emailed additional responses to Staff regarding the concerns on this proposal made by the Planning Commission. He stated that the revised Staff Report that was distributed this morning to the Commission reflects those responses.

Mr. Stidham said that Staff recommends approval of the Special Use Permit based on the Applicant's proposal and meeting the technical requirements of the Zoning Ordinance. He stated that Staff also recommends conditional approval of the Site Plan based upon inclusion of language in the Septic Computations Plan note to indicate the maximum approved capacity of the septic system for clarity purposes. He reminded the Commission that the 100-day review period ends on December 15, 2013. He said the Commission could ask the Applicant if she would be willing to formally request a deferral to continue working with the Commission on any outstanding issues. He said that if the Applicant were to request a deferral, the Commission's review period could be further extended. He stated that absent a deferral request from the Applicant, Staff recommends that the Commission members take action based upon the materials that have been currently presented. He also mentioned that Bruce Welch and Gail Johnson submitted emails regarding this request which have been provided to the Commission. He stated that as with all special use permit/site plan approval requests, Staff notes that the Commission must pass separate motions in order to take action on the special use and the site plan. Mr. Stidham said that the Applicant is present today and available to answer questions.

Commissioner Bouffault stated on the revised staff report under **"Proposed Special Use Permit Conditions for Consideration by the Planning Commission"** #9, Staff has added the following language, "*or to dogs that are brought to the property by event attendees in conjunction with events as specified in Condition #11.*" She stated that although this condition would limit the freedom of the kennel dogs, the new addition would result in the dogs brought in by event attendees being allowed to run free throughout the entire ninety-one acre property and as the boundaries of the property are not fully fenced this would result in effectively allowing the dogs to run free throughout the entire neighborhood. She said she has two questions regarding this additional language. She asked if this was the intent of Staff and secondly, how would you be able to identify the kennel dogs that are limited as separate from the event attendee dogs if the Applicant chooses to let all or some loose at the same time.

Mr. Stidham replied to the first question. He said consistent with how Staff has presented this proposed frame work of conditions for the Commission to consider, the condition was drafted based on the Applicant's operating parameters. He added that the Applicant has not expressed interest in keeping the event attendees and their dogs within the kennel building or the kennel complex during events. He stated that Staff has included the language to reconcile the November version of the conditions which did not mention this issue. He explained to the Commission that in their legislative review of this case, the Commission has the authority to consider whether this is an acceptable condition, whether it needs to be further limited or prohibited altogether. He told the Commission that this decision is entirely up to them. He said that this is essentially a point of departure for the Commission to begin their discussion.

Commissioner Bouffault stated that her second question for Mr. Stidham is if he could advise whether the Applicant has confirmed her acceptance of all fifteen proposed conditions. Mr. Stidham stated that he has not received formal acceptance of the conditions. He said that in response to Commissioner Bouffault's second question about being able to tell the kennel dogs apart from the event attendee dogs he said that it would be very difficult to do so.

Commissioner McFillen asked Mr. Stidham if he could state what requires the trigger for a Special Event Permit. Mr. Stidham said that an event with 150 attendees or greater requires a County Special Event Permit.

Gina Schaecher, the Applicant, said that first of all she wanted to thank the Commission for their time this morning and to Staff for all the consideration they have given this project as well as the Commission. She stated that she wanted to introduce some people to the Commission that came to the meeting today to answer questions regarding particular topics. She introduced Joe Slusser, their Soil Scientist for the project and said that he would be able to answer questions about the septic system. She said that David Jordan, engineer on the site plan, has been with them since the beginning of this project and is available to answer questions the Commission may have.

Ms. Schaecher stated that she wants to renew her request for Commissioner Bouffault to recuse herself from voting on this case. She said this is in response to her earlier correspondence to the Commission and also based on the documents that were produced in response to the FOIA request and to the current pending litigation. Commissioner Bouffault stated that she does not see the need to recuse herself from voting. Chair Ohrstrom said that the County's legal counsel, Bob Mitchell, said it would not be necessary for Commissioner Bouffault to recuse herself from voting on this request. Ms. Schaecher said that she understands but advised that there is still pending litigation which she thinks also impacts the conflict of interest. Chair Ohrstrom stated that we will go with what our legal counsel has advised. Ms. Schaecher said she does not think that our legal counsel has weighed in on that particular issue. She said it was not contained in the letter she received from Mr. Mitchell.

Ms. Schaecher said she would like to briefly talk about why they are here. She stated that they have spent the majority of their time talking about technical requirements, construction, and meeting the criteria. She stated that during this process in talking with colleagues, friends and family they have repeatedly been asked the question "why do you want to do this". She said she thinks this is an appropriate time to remind everybody why they are here. She said people have asked her why would you subject yourself, your friends, your colleagues and your family members to this process and the scrutiny, opening your life as an open book. She stated that the reason is that they believe in this project

and they know that it is necessary. She said that they believe that they can do it the right way and they know they can do some good for animals and also for people. She said that she was reminded of this lately when she was reviewing a September issue of Northern Virginia Magazine and there was an article in it regarding the need for rescue and what they do. She said that in the magazine they cited a statistic from the Humane Foundation of the United States stating that approximately 6 to 8 million dogs and cats are cared for by animal shelters every year. She said it further stated that half of those animals are euthanized. She stated that the magazine article posed the question "what is the problem". She went on to say that in the magazine it stated it is due to over population and over population is what plagues almost every county in Virginia. She stated that research shows that the main cause of over population is irresponsible breeding, failure to adopt available pets and an attitude that animals are disposable. She said that part of their mission is to address all three of these items. She stated that they want to provide support and financial contribution through their efforts for a low cost spay/neuter program. She said they also want to increase the exposure of rescue dogs and to provide education through classes for humans. She said they hope to work with local shelters to place these animals that need good homes. She stated people have asked why this proposal has to be here. She said that they have put in a lot of time, research and money into this area to show that they can be good neighbors. She stated they want the same things that some of the folks do who spoke in opposition to the application. She explained that they want privacy, open space, and peaceful enjoyment of our property. She said she feels she can say that everyone wants the same thing it is just a matter of how to get there. She stated that what they have done to ensure these things is that they have hired civil engineers, consulted with traffic engineers, and retained an acoustical engineer to conduct a sound study. She said they have hired soil scientists, designers, contractors, they have consulted with farm planners and consultants, they have also consulted with horticulturists, architects, animal facility planners, and designers, animal trainers, animal behaviorists, animal organizations including the Humane Foundation of the United States, Katherine Lynch, with the Shelter Outreach Coordinator, specifically with regard to sound prevention and noise lessening impact. She stated that they have consulted the Society of Animal Welfare Administrators and other shelter organizations in Virginia.

She said that they have spoken to local residents at community meetings and that they invited them to the property so that the neighbors can see what they plan to do. She stated they have conducted adoption events to show people the type of dogs they are working with and the homes they are looking for. She said that they have been to Farmer's Markets, and local restaurants and they have welcomed anyone to ask questions about this proposal for the last four months. She stated that they know there is support for what they want to do here today and they submit that the petitions they have provided will help demonstrate that. She noted that support has been hard to come by for some folks who are in favor of this proposal for a couple of reasons. She stated that some people said they have to work on Fridays and cannot attend meetings and others that are in favor of the proposal are concerned with the personal repercussions from others that are against this proposal. She said that they feel this is unfortunate but she has had people sign her petitions and send them well wishes that are in favor of the proposal. She stated that they feel it is unfortunate and disappointing that not all of the adjoining landowners are in agreement with this location. She said that even our opposition admitted on several accounts that this project is needed and it is a good idea. She stated that they understand that reasonable people do not always necessarily agree on everything, but they submit that reasonable people can come to a compromise. She said that they have submitted to the Commission today that they have done that and that they have reached a compromise on a responsible facility so that they can be good neighbors and become part of this community. She stated that they are here today asking that the Commission allow

them the opportunity to do so. She said that she wanted to thank the Commission for their time and invited them to ask any questions and if there are no questions she will turn it over to Mike Williams.

Commissioner Steinmetz asked Ms. Schaecher if it is correct that there has been a similar application filed in Loudoun County. Ms. Schaecher stated that they have been on a quest for a kennel since about 2009. She said that they first started with their own property on a very limited basis and then began looking for a much larger site because they thought they wanted more area to work with. She stated that they made an initial application on their own site which they did not complete and then they also made an application on a Leesburg site as well. Commissioner Steinmetz asked if the answer to the question "why here" is because they could not do it there. Ms. Schaecher said no it is not. She said there were other locations that would have worked but it did not meet the criteria for what they wanted to do. She stated that she believes if they move forward with an application for a full kennel permit on their current farm they would be allowed to do so. She said they have met the criteria and their neighbors have provided a license which is part of the public record allowing them to have a kennel operation as long as they own the property.

Commissioner Kruhm said that his question was about the special events. He said from reviewing the websites, comments and petitions it appears this business is going to be very successful as far as drawing people with like interest to the facility. He asked if the special events would be open to the public or is it by invitation only. Ms. Schaecher stated that what they have done in the past and what they plan to do in the future would be by invitation only. She said that in the past they have had a canine carnival at their farm and it was by invitation and people had to make a reservation and it was a fund raiser for Lost Dog Rescue. She said that all the dogs had to be in the fenced in area, had to be on a leash and escorted by their guardian at all times. She stated that they require this with all dogs and their guardians to maintain control and that they have never had an incident in the years that these events have been held. Commissioner Kruhm asked Ms. Schaecher if this type of pet restraint is a condition at all the events that are held. Ms. Schaecher stated that it is a requirement for dogs to be in a secure fenced-in area or on a leash and the guardians must be in control of the dogs at all times.

Commissioner McFillen said that the county has established that a Special Event Permit is needed for 150 people or more. He asked Ms. Schaecher if she envisions that she will do more than that. Ms. Schaecher said she does not. Commissioner McFillen asked what she envisions for the size of the people training classes. She stated that if they are doing it by reservation they will have control of the size of the classes and in the past they were small classes of 10 to 12 people.

Mike Williams, 15268 Shannondale Road, Purcellville, VA, stated that Gina Schaecher is his spouse. He said he wanted to thank the Commission for their time in listening to this request. He said he also wanted to thank the Planning Department for recommending moving forward with this proposal. He said that there have been some rumors and accusations of what this request is going to look like and what it is going to sound like. He said he would like to provide the facts of the proposal. He presented an architectural drawing of the proposed structure and he provided copies for the Commissioners. He said that this is an actual rendering of the proposed structure which was taken from a photograph. He gave a brief discussion of how the building will be constructed and the landscaping around the structure. He stated that the building is to resemble buildings in the area and will blend in with other structures in the area. He said he attended the acoustic study with Kevin Miller, Acoustic Engineer, and he said that he is a professional exterior wall consultant and many years ago sold acoustic buildings. He said he was with Mr. Miller when he was doing a survey on the 3 Dog Farm property. He stated that he made a

sound chart of the results of the survey and made copies which he distributed to the Planning Commission. He explained the different decibels that are shown on the sound chart. He said that there is a range from low to high of decibels that were recorded from an array of different noises. He said that this chart can give you an idea of how much louder some noises are compared to dogs barking.
He stated that they have seen some letters to the Commission talking about the world's loudest dogs and the fear of all the noise that is going to be created. He said that he researched one letter and found where he believes their information came from because the verbiage on the website information sound chart is verbatim to the language in the letter. He said he could be wrong but he found a blog called "No Dogs Please" where the person talks about barking dogs in neighborhoods. He stated that this person actually advocates 100 ways to kill your neighbor's dog if it barks. He said that any information from this website cannot be trusted, is purely subjective and he would not rely on anybody that advocates killing their neighbor's dogs for barking.

Commissioner Kruhm asked for the website name. Mr. Williams's said the website is anilak.com.

Commissioner Turkel asked Mr. Williams if he could tell him what the capacity of the liquid waste tank is and the estimated usage per dog per day for liquid waste production. Mr. Williams said that Mr. Slusser could answer that question better than he can. Mr. Slusser said that the variables per dog are up and down and when he looked at the numbers he came up with an allotted use per month, volume wise, with an estimate being close to 3,000 gallons a month. Commissioner Turkel asked if this number is per dog. Mr. Slusser said no this number is for the entire use including washing the inside play arena, the outside paved areas, and the typical grooming and laundering. Commissioner Turkel asked what the size of the tank is. Mr. Slusser said the size of the tank is to be determined. He said it they can make all different sizes of these tanks such as 3,000 gallons, 6,000 gallons, etc; he said there are many options. He stated that it is his understanding that the pump and haul coming from the kennel is variable. Commissioner Turkel asked if the 3,000 gallons per month is based on 40 dogs. Mr. Slusser said that is correct.

Commissioner Steinmetz said he had some questions for Ms. Schaecher about the road. He said that he rode up to the area recently and he said that clearly there is not much of a gravel base on the road nor is there much maintenance being done on the road. He said that other than ruining the tranquility of the road by the traffic he has not heard any information about the maintenance of the road. He said that he assumes there must be some sort of road maintenance agreement among the neighbors and he said that with the addition of a fairly substantial amount of traffic on the road whether Mr. Hales's organization will be doing more to maintain the egress and ingress road. He asked how the Applicant plans on maintaining the road. Ms. Schaecher said that they have had discussions and this has been a concern and there is a recorded road maintenance agreement in place so that they share in road maintenance and obviously they are mindful of this proposal having a greater impact. She stated that their research did not show a greater impact to the road when compared to the by right use. She said that obviously there will be a greater impact because currently there is no one there. She stated that other than the allowed by right use they do not anticipate having a greater impact on that road.

Chair Ohrstrom said before he opened the continued public hearing he would like to go over a few rules. He asked that everyone please stay within the 3 minute limit and if someone spoke at the meeting last month and still had the same comments to please be brief and to the point. He also asked everyone to please be polite.

Chair Ohrstrom opened the continued public hearing.

Matt Hoff, 278 Ginns Road, Boyce, VA, said he owns property adjoining the proposed request. He said he spoke at the last meeting in opposition to this request for the following reasons: nuisance dog noise, increased traffic on scenic by-way, safety issues, decreased property values, and concern over the impact to the Comprehensive Plan. He said that his position has not changed and he feels this is a commercial business being located in an AOC zoned property. He said that the Applicant's website clearly advertises to the public, charges fees for services, and has employees and business partners. He stated that these are all characteristics of a commercial business. He said that by allowing a business with a non-agricultural nature in AOC zoned land is the first step of the camel getting his nose under the tent and before you know it you are sleeping with the camel. He stated that by granting the Special Use it will be a dangerous step to having the Comprehensive Plan challenged continually. He urged the Commission to deny this Special Use Permit.

Elizabeth Sell, 1321 Old Winchester Road, Boyce, VA, stated that she is an adjoining property owner. She said that last month she spoke to the Commission in opposition to this proposal. She said she is still very much opposed to this proposal. She said she is still wondering how a local dog kennel in an AOC zone with an easement conforms to the goals and objectives of the Clarke County Comprehensive Plan and Conservation Easement programs. She said that our Clarke County governing body allocates taxpayer's dollars for easement purposes which tells her that they value and encourage such programs. She said that a commercial dog kennel does not conform to the criteria which speaks to the protection of open space and farm land. She stated that if the Commission permits this kennel to be located in an AOC zoned area what will be next. She said that the Comprehensive Plan will weaken and a precedent will be set and we will have more of these land use operations. She asked the Commission to please not recommend this request.

Robert Sell, 1321 Old Winchester Road, Boyce, VA, said he is an adjoining property owner to the proposed site. He said that he spoke last month in opposition to this request and that he still feels the same way. He stated he believes this proposed kennel is a very worthy cause. He said his concern is the proposed location for this facility. He said that it would be great if it would be open to the public and everyone could see the dogs at all times. He stated that for this reason he urges the Commission not to recommend this request.

Teresa Miller, 1430 Old Winchester Road, Boyce, VA, said she lives across the road from the proposed site. She said she is concerned about the level of noise barking dogs can create. She stated that her husband, Bruce Welch, did a decibel level test and she provided the results to the Commission. She asked the Commission to please not recommend this request.

Eleanor Welch, 1430 Old Winchester Road, Boyce, VA, said she is the daughter of Bruce Welch and she is speaking today on his behalf as he was unable to attend the meeting today. She read a letter that her father had written regarding his concerns with this proposal. These concerns included the noise level of barking dogs, the appearance of the proposed facility, the hours of the proposed facility, and the last is the devaluation of the adjoining property owner's homes. She read that he urges the Commission not to recommend this request.

Gregory Peck, 196 Bellevue Lane, Boyce, VA, stated he is an adjoining property owner to the proposed site. He said that he and his wife submitted a written letter to the Commission this morning and now is

going to discuss his concerns with this request. He said he is here to reaffirm their opposition to this request. He said they are continually receiving new aspects for this proposal. He said their main concerns are barking dogs, the increased traffic on Bellevue Lane and the effect it will have on their property value. He asked the Commission to decline this application.

Kathi Colen Peck, 196 Bellevue Lane, Boyce, VA, stated that they have not been given sufficient time to evaluate the sound studies that were introduced this morning. She said they have concerns with the noise the barking dogs will create. She stated that they are concerned with the decreasing values of their property that this kennel will cause. She said they are upset about the increase of traffic that this proposal will create on Bellevue Lane. She asked the Commission to decline this request.

Giel Milner, 121 Kennel Road, Boyce, VA, stated that he lives across the road from the Blue Ridge Hunt Kennel. He stated that they have over 60 hounds at the Blue Ridge Hunt and they do not have any regulations or provisions at this site like the Commission is proposing for the Applicant on their kennel. He said that he has no problem with the proposal as he believes dogs are a part of life and that hunting is a traditional thing in this County. He said he thinks that the Applicant has made every realistic attempt to deal with the substantial issues that the neighbors have raised and he thinks they have accomplished that. He told the Commission that he hopes they approve this request.

Cindy Anderson, 2746 Springsbury Road, Berryville, VA, she said she spoke last time so she will make this quick. She stated that she wants to address the parties that are opposing this request. She said that since 2006 the property in question has been a vacant open space parcel. She stated that this has allowed enjoyment of the views, peace and serenity at the sole expense of the property owners. She stated that statistics show that it takes fourteen days for a new activity to become a habit. She said that certainly a habit of viewing this vacant piece of land has formed over the last seven years. She stated that she can understand their passion for wanting to keep the property the same after such a long time. She stated she can also understand that one day the property owner would want to utilize the property after such a long time. She said that this land has been for sale for a very long time and now someone actually wants to make changes to it. She stated that her client and her friend has been very open to what she wants to do with this property and she think that would be better than someone buying the land and moving animals on the property preparing them for slaughter. She said there are not many times in life that we get to know what someone is going to do with their property when they buy it. She thanked the Commission for all their work and said she knows that they will make the right decision.

Rick Senyitko, 918 Morning Star Lane, Boyce, VA, he said he and his wife's property is directly adjoining the proposed site. He said when they go outside now they cannot hear anything. He stated that the barking dogs will ruin this tranquility. He said that if the dogs are outside from 7:00 to 9:00 p.m. and they get home from work at 5:00 p.m., when they go to sit outside in the summer their quality of life will be gone.

Diane Senyitko, 918 Morning Star Lane, Boyce, VA, she said she was here last month so she will be brief. She said that this proposal will be placing a commercial enterprise right in front of or in back of their neighbor's property on Bellevue Lane. She asked the Commission to please vote no on this endeavor.

Eric Keen, 773 Old Winchester Road, Boyce, VA, he said he is here to help out his friends and neighbors who live near him. He said although this proposal will not affect him personally he has

farmed all the land on which this dog kennel will be located. He said this proposal is an improper use of agricultural land and it is an improper use of easement land. He stated that he is appalled that the Commission has gotten this far on this proposal with these two items right in the Commission's face. He asked who will police the events when they take place. He said that the property owners on Bellevue Lane need to be protected. He said the road is not designed for a commercial enterprise and will not be able to handle the traffic. He said that the Commission has to say no to this request.

Carl Hales, 241 Providence Lane, Bluemont, VA, said he is one of the owners of the property for the proposed dog kennel. He said over time the Commission has heard from individuals about barking dogs and in every incident they were dogs that were running loose, unattended and not inside. He said that this proposed facility will be a barn and the dogs will be in it. He said that the Commission heard that these dogs and this facility which is a barn will sully the scenic views. He said the Commission has heard concerns about the water supply affecting our neighbors. He said that there could be unlimited cows, horses, goats, sheep, llamas, any number of things that would consume far more water than these dogs. He stated that this is and will be a farm. He said that the house and the barn will take up about two acres and the remainder will be in crops, grass and trees. He said the County Staff has done more than due diligence on this request and they are to be commended because they have been put through the wringer. He stated that he asks for approval for this request and that it will be an asset to Clarke County.

Danielle Donohue, 165 Bellevue Lane, Boyce, VA, she stated she and her family wish to reiterate their concern that this proposed kennel will threaten their families safety, alter the peace and quiet of their neighborhood and devalue their property. She said that the Applicant dismisses their concerns regarding this proposal. She asked the Commission to deny this request.

Rod DeArment, 409 Bellevue Lane, Boyce, VA, said in his prior testimony that he pointed out the safety risks a large amount of commercial traffic will cause on Bellevue Lane. He said the Applicant's belated efforts to dismiss the neighbor's traffic concerns defy credulity since a large commercial kennel will dramatically increase traffic. He said he takes little comfort in the proposed facility and asks the Commission to deny this Special Use Request.

Tom Wiseman, P.O. Box 285, Upperville, VA, said he lived at 97 Tilthammer Mill Road, Millwood, VA and has been a land owner for over 20 years. He stated that he has known the Applicant for over 5 years. He said that Mr. and Mrs. Schaecher will do what they say they will do. He said he owns a Great Pyrenees and that once he had three Great Pyrenees' on his property and the dogs did not bark much and did not make a lot of noise. He said the facility the Applicant owns in Loudoun County is really nice. He stated that he feels these folks have been through the wringer on this process. He said he does not see how it will have any more impact in the County than the vineyards, weddings or any other events. He said he is in support of this proposed application and asked the Commission to vote for it.

Commissioner McFillen asked Mr. Wiseman what the difference is between this proposed facility and the facility he spoke in opposition to thirteen years ago. Mr. Wiseman said that the proposed kennel from thirteen years ago which was located across from his farm was going to just be a dog kennel with about sixty dogs outside in kennels. He said it was his understanding that it was going to be the classic dog kennel with dog runs where the dogs run in and out all day long. He stated that he understands that this facility will have handlers when the dogs are outside. He said that it was thirteen years ago and he thinks that was the situation.

Chair Ohrstrom asked for further public comments and there being none he closed the continued public hearing.

Ms. Schaecher asked again that Commissioner Bouffault recuse herself from voting.

Commissioner Bouffault made a motion to forward a recommendation of denial to the Board of Supervisors and provided the following comments in support of her motion.

"I have passed out to you these documents that relate to the first of my reasons and the second of my reasons. There are four reasons that I have for this motion, three of them relate to paragraph 5-B-4 of the Zoning Ordinance. The first reason relates to point number "L" which is *'will not cause undue surface or subsurface water pollution.'* I have handed out to you a map of the groundwater recharge area for Clarke County which shows in yellow the subterranean limestone ridge of the groundwater recharge area which actually provides the groundwater for the County. I have marked an "X" in red which shows the location of the subject property on the map which is in that recharge area. I then on the second page included a copy of a page from 2013 Comprehensive Plan Final Draft that states in its summary at the beginning the Water Resources Plan and I am going to read it for the public's benefit.

'Water Resources Plan

1) Groundwater Resources: Three-fourths of the people in Clarke County depend on groundwater as their source of drinking water. Protection of groundwater from pollution is, and has been, of primary importance. The urgent need for protection was vividly demonstrated in 1981, when, because of pollution, the Town of Berryville had to abandon the wells that provided its public water supply. In the early 1990s wells were polluted by benzene in the White Post area and fuel contamination has occurred in Pine Grove and the Shepherd's Mill Road area. These events underscored the need for protection of groundwater. The Groundwater Resources section addresses related issues, including minimizing contamination from non-point sources, protecting the Prospect Hill Spring water supply (the public water supply serving the businesses and residents in Boyce, Millwood, Waterloo and White Post), and increasing public understanding of the sensitive nature of limestone geology and its susceptibility to contamination.'

I have also added a study done at Virginia Tech with some relevant points concerning the speeds at which water in the recharge area is disseminated rapidly. The 1,250 gallon dog liquid waste holding tanks which is indicated on our site plan can overflow if the septic tanker truck does not show up for any reason, such as a truck break down or an accident, a sick truck driver, a two or three foot snow fall making it impossible to access the site for several days, etc., as there are no contingency plans proposed for these possible situations. A permanent threat for contamination within the groundwater recharge area of the County definitely exists. I would also like to point out to the Commission on the site plan, in the soil notes, the Applicant's engineer states *'the slow permeability high clay content, high shrink swell potential and low strength in both soils a depth to bedrock in the carbo soils limit the use of this complex for septic tank absorption fields, sewage lagoons, sanitary landfills, shallow excavations, dwellings and small commercial buildings, roads and streets and some types of recreation. Sinkholes and solution channels in the bedrock increase the hazard of contamination of wells and groundwater by surface runoff and seepage from septic tank absorption fields.'* Approving this proposed design would be a direct violation of one of the core principals of our Comprehensive Plan, which is the protection of our County's groundwater supply and I cannot in good conscience vote for even a conditional approval of what I consider to be a flawed special use permit that places our groundwater supply in jeopardy.

My second reason is point "Q" of 5-B-4 '*will not cause undue noise, light or glare, dust, odors, fumes or vibrations.*' The Code of Clarke County is very clear concerning both noise and dog nuisances and I would like to place"(pause)"the relevant clauses that I handed out to you: Chapter 120 in its preamble states, *'The Board of Supervisors hereby finds and declares that excessive or unwanted sound is a serious hazard to the public health, safety, welfare and quality of life and that the inhabitants of Clarke County have the right to and should be free from an environment of excessive or unwanted sound.'* Chapter 61, *'Article II - Dogs, § 61-15. Nuisances, Public Nuisance Dog – any dog which: (6) By loud, frequent or habitual barking or howling, causes annoyance and disturbs the peace and quiet of any person or neighborhood.'* Having 40 barking dogs outside on the top of a hill in over an acre of fenced in yard for potentially fourteen hours a day, I believe could definitely be considered 'undue noise' as defined by our own Code of Clarke County. The addition of special canine events that are proposed and which would potentially allow in excess of one hundred additional dogs on the property for several hours would only exacerbate the noise nuisance.

My third reason is point "F," '*will not cause unreasonable traffic congestion or unsafe conditions on existing or proposed public roads and has adequate road access.*' The number of vehicle trips per day off of Scenic Byway 723 has been seriously under estimated in this permit proposal. With only four trips corresponding to four dog handlers indicated and I believe the number has now been increased to five. The following trips would need to be added to obtain a more realistic number for evaluation of the potentially negative impact on Route 723. Trips of the pump and haul tanker truck, delivery trucks for dog food and other supplies, fund raising events that can generate potentially a hundred or more trips a day for each event, human training classes of various types over the course of the year, dog customer visits and kennel volunteers which I understand there are always a few at 3 Dog Farm. All of the above need to be properly evaluated and their impact on traffic on Route 723 realistically assessed.

My fourth reason concerns the additional activities proposed in the permit. Dogs are not agricultural animals and retail businesses, educational classes for humans and other events related to the kennel activities are not allowed by right in our AOC district zoning. I believe that allowing such activities in an AOC district would set a very bad precedent for future SUP requests."

Commissioner Nelson stated that he wanted to explain the reason for voting to abstain from the vote. He stated that he had adopted a dog from the Applicant and since there was an adoption fee it was a financial transaction.

The Commission voted to forward to the Clarke County Board of Supervisors a recommendation for denial of the Special Use Permit.
Yes: Bouffault (moved), Brumback, Caldwell, Kreider, and Steinmetz (seconded)
No: Kruhm, McFillen, Ohrstrom and Turkel
Abstained: Nelson and Staelin

The Commission voted to forward to the Clarke County Board of Supervisors a recommendation for denial of the Site Plan.
Yes: Bouffault (moved), Brumback, Caldwell, Kreider, Steinmetz (seconded), Kruhm, and Ohrstrom
No: McFillen and Turkel
Abstained: Nelson and Staelin

Board/Committee Reports

Board of Supervisors (John Staelin)
Commissioner Staelin stated that the group studying economic development had its first meeting. He said that there are some issues with some of the numbers in the technical reports. He said that at the work session meeting of the Comprehensive Plan there were ten words at the most that needed to be changed. He stated the Board has decided to have the public hearing on the Comprehensive Plan in January.

Sanitary Authority (John Staelin)
Commissioner Staelin stated that the applicant has changed the route of the sewer line on the parcel next to the Boyce School. He said if the line goes in this general direction they will not veto.

Board of Septic & Well Appeals (John Staelin)
No report.

Board of Zoning Appeals (Anne Caldwell)
No report.

Historic Preservation Commission (Douglas Kruhm)
Commissioner Kruhm stated that Tom Gilpin has retired as Chair of the HPC and that Betsy Fields will be taking over his position.

Conservation Easement Authority (George Ohrstrom, II)
Chair Ohrstrom stated that Ms. Teetor has sent out about 160 letters to land owners to take part in this program. Commissioner Bouffault said congrats to Ms. Teetor and Winkie Mackay-Smith for the entire Monastery going into easement.

Other Business
Mr. Russell said that there will be boundary line adjustments and large lot subdivision for the Runyan property some time in December. Chair Ohrstrom asked Staff to discuss this matter at next month's meeting.

There being no further business to come before the Planning Commission the meeting was adjourned at 11:24 a.m.

George L. Ohrstrom, II, Chair

Brandon Stidham, Director of Planning

Minutes prepared by Debbie Bean, Recording Secretary