

# Clarke County

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## PLANNING COMMISSION REGULAR MEETING MINUTES FRIDAY, JULY 7, 2017

A regular meeting of the Planning Commission of Clarke County, Virginia, was held at the Berryville/Clarke County Government Center, Berryville, Virginia, on Friday, July 7, 2017.

### ATTENDANCE

**Present:** George L. Ohrstrom, II, Chair; Anne Caldwell, Vice Chair; Robina Bouffault; Randy Buckley; Mary Daniel; Doug Kruhm; Frank Lee; Gwendolyn Malone; Cliff Nelson and Jon Turkel.

**Absent:** Scott Kreider

**Staff Present:** Brandon Stidham, Planning Director; and Ryan Fincham, Senior Planner/Zoning Administrator;

### CALLED TO ORDER

Chair Ohrstrom called the meeting to order at 9:02 a.m.

### APPROVAL OF AGENDA

The Commission voted to approve the revised Agenda as presented.

**Yes:** Bouffault, Buckley, Caldwell, Daniel, Kruhm, Lee, Malone (seconded), Nelson (moved) Ohrstrom and Turkel

**No:** No one

**Absent:** Kreider

### APPROVAL OF MINUTES

The Commission voted to approve the briefing meeting minutes of May 30, 2017 with one spelling correction.

**Yes:** Bouffault, Buckley, Caldwell (moved), Daniel, Malone (seconded), Nelson, Ohrstrom and Turkel

**No:** No one

**Absent:** Kreider

**Abstained:** Kruhm and Lee

The Commission voted to approve the regular meeting minutes of June 2, 2017.

**Yes:** Bouffault (moved), Buckley, Caldwell, Daniel, Kruhm (seconded), Lee, Malone, Nelson, Ohrstrom and Turkel

**No:** No one

**Absent:** Kreider

Chair Ohrstrom stated that the Piedmont Environmental Council fellows are here today to see how a small rural Planning Commission works. He asked the PEC students to introduce themselves and thanked them for coming.

Commissioner Caldwell stated that she was able to get her daughter in-law to be, Pamela Cabrera from Lima, Peru, to come in to today and talk about her most unique international environmental project. She said that Ms. Cabrera and her son have been working and living in Lima, Peru, for the last three years and are now relocating to this country. She stated that Ms. Cabrera is still very involved in this international volunteer project and she asked Pamela to give some insights into what this project is about and how she is involved. Ms. Cabrera stated she has been working for a non-profit Peruvian organization. She stated that the organization is doing research work across different communities in the rain forest areas in rural communities. She stated that the organization has been researching the challenges of living in these areas and how we can help the communities to preserve the rain forests without damaging them. She said that starting from Peru they traveled to Honduras, Cameroon, and Indonesia and they are typing a research project which they hope will become a documentary. She stated that they are hoping to bring back a lot of resources to non-profits in each of those countries so it can provide support to those communities to grow within their own identity and resources without damaging the rain forest.

### **Set Public Hearing Items**

**SUP-17-03/SP-17-01, Clarke County Board of Supervisors.** Request approval of a Special Use Permit (SUP) and Site Development Plan (SP) for Public Utility Uses and Structures per §3-A-1-a-3-p of the Zoning Ordinance. The purpose is to construct a County-operated citizens' convenience center for drop-off of household waste and recycling to be located on a 2 acre portion of a 149 acre property. The property is zoned Agricultural-Open Space-Conservation (AOC) District and is identified as Tax Map #16-A-33. The proposed use would be located on the west side of Quarry Road (Rt. 612) approximately 500 feet south of its intersection with Harry Byrd Highway (Rt.7) in the Buckmarsh Election District.

Mr. Fincham stated that the applicant is requesting approval of a Special Use Permit and Site Plan to construct a citizen convenience center on a portion of the subject property. He said that the proposed facility is designed for three trash holding containers and one trash compactor on a 36' by 62' concrete pad. He said that the applicant has proposed a 2 acre lease area for the facility on the 149 acres parcel which fronts on and is accessed from Quarry Road. He stated that the majority of the subject property is currently used as a limestone/dolomite quarry and asphalt plant. He said the leased area for the proposed convenience center is a mostly wooded area and not actively mined. He stated that Staff recommends that the Commission schedule a Public Hearing on this application for the September 1, 2017 meeting. He said all documentation has been provided by the applicant to constitute a complete Special Use Permit and Site Plan application and there are no outstanding concerns regarding use to warrant a delay at this time in scheduling the Public Hearing. After discussion with Staff and the Commission, Chair Ohrstrom called for a motion.

The Commission voted to set public hearing for the September 1, 2017 Planning Commission meeting.  
**Yes:** Bouffault, Buckley, Caldwell (moved), Daniel, Kruhm, Lee, Malone, Nelson, Ohrstrom and Turkel (seconded)

**No:** No one

**Absent:** Kreider

**TA-17-03, Off-Street Parking Exemption for Certain Properties in Millwood.**

Proposed text amendment to amend Zoning Ordinance §3-A-12, Neighborhood Commercial District (CN). The purpose is to add a new subsection (e) to exempt permitted uses on specific properties in Millwood that are zoned Neighborhood Commercial (CN) District and Historic (H) District from the off-street parking requirements in §4-J. The exemption is established to preserve the historic character of these properties that lack available lot area to provide conforming off-street parking.

Mr. Stidham stated the proposed text amendment was developed following discussion of off-street parking requirements for businesses located on Neighborhood Commercial (CN) zoned properties in the village of Millwood. He said the issue was first presented to the Board of Supervisors by Planning Department Staff on May 8, 2017. He stated the Board forwarded the item to the Planning Commission for further evaluation and potential development of a text amendment. He said that recent re-development activity in this area located along Millwood Road at and immediately south of the intersection with Bishop Meade Road (Rt. 255) has raised the question of how to apply the off-street parking requirements found in §4-J as new businesses arrive and existing businesses seek to expand. He stated that while the proposed text amendment would not solve the parking limitations in this area, it would create a codified process that would place business owners and property owners on notice that there is limited parking. He said that business owners that consider locating here in the future would have clear regulatory information to make a value judgment on how the limited parking may impact the success of their business. After discussion with Staff and the Commission, Chair Ohrstrom called for a motion.

The Commission voted to set public hearing for the September 1, 2017 Planning Commission meeting.  
**Yes:** Bouffault (moved), Buckley, Caldwell, Daniel, Kruhm (seconded), Lee, Malone, Nelson, Ohrstrom and Turkel

**No:** No one

**Absent:** Kreider

**Public Hearing Items**

**SUP-17-01, Hecate Energy Clarke County LLC and Hecate Energy LLC.** Request amendment of special use permit (SUP) SUP-16-01, approved by the Board of Supervisors on June 21, 2016, to construct a 20MW solar power plant, large photovoltaic. The purpose of the request is to divide the SUP into two separate permits to allow for separate ownership and development of “Phase 1” and “Phase 2” of the facility as depicted on the approved site development plan (SP-16-01 as amended). The subject property is zoned Agricultural-Open Space-Conservation (AOC) District, identified as Tax Map #27-A-5, and is located on the north side of Lord Fairfax Highway (U.S. 340) with frontage on the west side of Gun Barrel Road (Rt. 644), north side of Double Tollgate Road (Rt. 670), north side of

Highland Corners Road (Rt. 669), and east side of Stonewall Jackson Highway (U.S. 522) in the White Post Election District.

Mr. Stidham stated that this request is an amendment of Special Use Permit (SUP) SUP-16-01 approved by the Board of Supervisors on June 21, 2016, to construct a 20MW solar power plant, large photovoltaic. He said the purpose of the request is to divide the SUP into two separate permits to allow for separate ownership and development of "Phase 1" and Phase "2" of the facility as depicted on the approved site development plan (SP-16-01 as amended). He said that in order to accomplish the applicants' desired end result, SUP-16-01 would have to be divided into two separate special use permits each with their own set of conditions that apply to the respective development phases. He stated that Hecate Energy Clarke County LLC would be the holder of a special use permit for Phase 1 (SUP-17-01) and Hecate Energy LLC would be the holder of a special use permit for Phase 2 (to be identified as SUP-17-02 if approved by the Board of Supervisors). He said that since no substantive changes are proposed by the applicants to the approved site development plan, no further action on the site plan would be required by the Commission and Board. He stated that Staff has identified changes of an administrative nature that would be required on the site development plan to reflect division of the SUP. He said that these changes can be addressed by Staff with the Applicants if the SUP amendment request is ultimately approved. After discussion with Staff and the Commission, Chair Ohrstrom opened the Public Hearing.

Patti Shorr, representing Hecate Energy Clarke County LLC, was present and said she has a video available for the Commission to view and it will give a clearer understanding as to what is proposed. She stated that this is a drone video that was flown on June 23<sup>rd</sup> and this is what the site looks like from an aerial view. She pointed out the 779 trees planted around the perimeter of Phase 1 and Phase 2. She said that she thought that showing this video would answer some questions for the Commission.

Commissioner Caldwell stated that this is a proposed sale and asked if Hecate Energy Clarke County LLC expects Phase 1 to be totally complete at the time of closing of the sale. She also asked if the project is not complete at the time of closing then what is the responsibility of the purchaser to complete the project so that it is operational. Ms. Shorr stated that we would not sell the project until it is complete. She said the project is now mechanically complete and has been sold to Dominion Energy. She stated that two representatives from Dominion Energy are here today, Gary Payne and Emmett Tom. Commissioner Caldwell asked when is the projected date to start producing electricity. Ms. Shorr said the target date is July 12<sup>th</sup> or shortly thereafter.

After discussion with Staff and the Commission, Chair Ohrstrom opened the Public Hearing.

Brenda Marshall Miles, stated that she lives straight across the road from the solar farm. She said the facility is beautiful now that it is complete but when it was under construction it was a living hell. She said that she contacted Sheriff Anthony Roper and expressed her concerns to him about her property. She said he told her to write down her concerns and to discuss them with the Planning Commission. She said that he is supposed to meet her here at the meeting but he has not shown up. She told the Commission that she had concerns about this project before it was even started which she explained to the Commission at a May 6, 2016 public hearing. She said at that time she expressed her concerns about trucks bringing in the solar panels on the lane fronting her property. She stated she was

worried the trucks would be cutting into her property and that is exactly what happened. She said that the tractor and trailers would line up early in the morning around 5:30 a.m. She said the traffic has been terrible and they put a noisy generator straight across from her bedroom window which runs 24/7. She said when the tractor and trailers are out when it is raining they have created deep grooves in her property. She said when it is really dry the dust is so bad she cannot sit outside in the yard and dust has covered her house and the garage. She said the trucks go very fast in and out of the lane and she called Sheriff Roper to tell him she wanted to file a destruction of property report and asked him to come out and look at her property.

Chair Ohrstrom said he remembered that back in May 2016 at the public hearing Hecate agreed to fix any damage that occurs on adjoining owner's property. Mr. Stidham stated that any damage to adjoining property owners would need to be repaired before a Certificate of Occupancy is issued. Mr. Stidham stated that he has completed the review of the zoning items and the only outstanding items related to the Special Use Permit conditions would be to follow up on are the impact to adjacent property and everything else is Erosion and Sediment (E&S) control and building code issues. He said there would be nothing else for Zoning Staff or the Planning Commission members to look at aside from that one issue. Commissioner Caldwell said it would be helpful for the Building Inspector to go out to the site at the same time as a joint inspection because he is the one that issues the Certificate of Occupancy.

Ms. Shorr stated she believes the issues for the Certificate of Occupancy have been completed. She said that they have done everything to meet the conditions for a Certificate of Occupancy and that a temporary Certificate of Occupancy has been issued. She said that DEPCOM has replaced three mailboxes and there has been a lot of interaction with the neighbors. She stated that they take pride in having good relations with the neighbors. She said she thinks they have worked very hard to make a construction site as neighbor friendly as possible. Commissioner Bouffault told Ms. Shorr that independently of anything that you have on a piece of paper for any reason whatsoever you stood up there and stated that you would correct any damage that has been done. She said that Dominion Energy representatives are sitting in the back of the meeting room and she believes they want to have good relationships with everyone in that area. She told Ms. Shorr that she has a moral responsibility to ensure that anything that has been damaged to the adjoining property owner will be repaired to its original state. She said she wants both entities to alleviate these problems for Ms. Miles. Ms. Shorr agreed that these problems need to be fixed.

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

The Commission voted to recommend approval as presented to the Board of Supervisors and that all final conditions are met before a final Certificate of Occupancy is issued.

**Yes:** Bouffault (seconded), Buckley, Caldwell, Daniel, Kruhm, Lee, Malone, Nelson, Ohrstrom and Turkel (moved)

**No:** No one

**Absent:** Kreider

## **Minor Subdivision Applications**

### **MS-17-02, Garland & Ida Pope**

Mr. Fincham explained this request. He said the property owners for this request are Garland and Ida Pope and the applicant is Jason Pope. He is requesting approval of a one lot Minor Subdivision for the property located at the end of Pope Lane and identified as Tax Map #7-A-116, in the Russell Election District and zoned Agricultural Open-Space Conservation. He said the entire lot is 166.96 acres and the applicant wants to split off a three acre lot that would obtain a dwelling unit right. He stated that this will make the residue lot 163.96 acres with four remaining dwelling unit rights left on the property after subdivision.

He stated that the ingress/egress to the proposed Lot 1 will be off of Crums Church Road. He said that Pope Lane is an existing private access easement currently 20' in width. He said that our subdivision ordinance requires that if you split off a new lot you have to have a minimum of 30' in width. He said that there is an agreement among all the property owners along Pope Lane to add an additional 10' easement to meet the 30' easement width requirement.

He said that has now changed because we discovered an existing garage sits in the proposed easement and the surveyor did not pick it up originally because he used existing plat work to locate the private easement. He said that once the garage was found we notified the applicant that we cannot approve an extension of an easement through a structure. He said that the applicant has gotten approval and added the property owned by Harrigan and they are now on the plat and will be added to the Deed of Dedication and any other legal documents that are required and they have granted an easement of 10 feet on the south side point of Pope Lane. Mr. Fincham then shared the new plat on the overhead screen and explained the changes. He said this was a major concern about two weeks ago but they have resolved it in the last two days.

He stated that Virginia Department of Transportation provided comments on June 28, 2017 that state, "The existing private right-of-way is not wide enough at the state road to accommodate the installation of a VDOT Private Subdivision Street Entrance." He said that he received revised plats with the changes and sent them to VDOT. He said he received comments by email from VDOT this morning which states that the revised plats meet all of their requirements. He said that we will not approve any new lots without a 30' access easement.

Mr. Fincham stated that according to the Health Department comments, the Residue Lot has no septic records, but there is a record of an agricultural well on the property. He said that Lot 1 will be served by a proposed private well and the proposed 3-bedroom primary and 100% reserve area both of which have been approved by the Health Department for TL-2 secondary treatment alternative sewage systems. He stated that the Health Department is awaiting final plats for signature. Mr. Fincham stated that Staff recommends approval for this minor subdivision contingent upon Staff and VDOT concerns being fully addressed.

Commissioner Nelson stated that he visited the site and a gentleman on the property explained that changes have been made to the plat which resolved the concerns. Commissioner Nelson stated that he

was happy that everything was resolved within a couple of days.

The Commission voted to approve the one lot minor subdivision contingent upon Staff and VDOT concerns being fully addressed.

**Yes:** Bouffault, Buckley, Caldwell, Daniel, Kruhm (seconded), Lee, Malone, Nelson (moved), Ohrstrom and Turkel

**No:** No one

**Absent:** Kreider

### **Board/Committee Reports**

#### **Board of Supervisors (Mary Daniel)**

Commissioner Daniel stated the Board of Supervisors is really interested in the Millwood parking situation as to how it progresses and also the progress on the Convenience Center. She stated that the next Broadband Implementation Committee meeting is scheduled for August 23<sup>rd</sup> at 2:00 p.m. in meeting room A/B. She asked Mr. Stidham if the Request for Information has been sent out. Mr. Stidham said that we have issued a Request for Information and we are asking for information, input, and any ideas from all kinds of different aspects and providers in the industry. He said this could be internet service providers, companies that lay fiber optic cable, and cell tower builders and we want them to give us feedback on how to expand broadband and telecommunications to residents and businesses throughout the county. He said we have already had a number of people contact Mike Legge about questions for the Request for Information and we are anticipating all kind of different responses from this. He said that the deadline for this information is the last week of July and the Broadband Committee will be getting together on August 23<sup>rd</sup> to review the responses.

#### **Board of Septic & Well Appeals (George Ohrstrom, II)**

Commissioner Caldwell stated that a variance was approved for the Septic Ordinance for a drainfield located more than 400 feet from the dwelling. She said that this is a conventional system as opposed to an alternative system as it was felt that the conventional system was needed due to the terrain and other issues so the system needed to be located much further from the house than 400 feet.

#### **Board of Zoning Appeals (Anne Caldwell)**

No report.

#### **Historic Preservation Commission (Doug Kruhm)**

Commissioner Kruhm stated that a meeting has been scheduled for the Historic Preservation Commission for July 19<sup>th</sup> at 4:00 p.m.

#### **Conservation Easement Authority (George Ohrstrom, II)**

Commissioner Buckley stated that the White Post Village Association was donated the old Sinclair Gas Station and another historic building in the village. He said the Association is now in the process of trying to stabilize these buildings and spruce them up as there is a lot of damage to the buildings. He said they have received permission form the Historic Preservation Commission to proceed with the repairs. He stated that the Association is now trying to raise money for this project.

**Other Business**

Chair Ohrstrom stated that we are going to have an open discussion about solar energy farms and invited the PEC participants to join in. Chair Ohrstrom concluded by inviting everyone to a barbeque lunch at his barn.

On motion by Commissioner Caldwell and seconded by Commissioner Malone the meeting was adjourned at 10:40 a.m.



George L. Ohrstrom, II, Chair



Brandon Stidham, Director of Planning

Minutes prepared by Debbie Bean, Recording Secretary