

# Clarke County Planning Commission

MINUTES – Business Meeting

Friday, December 1, 2023 – 9:00AM

Berryville/Clarke County Government Center – Main Meeting Room

## ATTENDANCE:

George L. Ohrstrom, II (Chair/Russell)	✓	Ronnie “Ron” King (Buckmarsh)	✓
Randy Buckley (Vice-Chair/White Post)	✓	Frank Lee (Berryville)	✓
Terri Catlett (Board of Supervisors)	✓	Gwendolyn Malone (Berryville)	✓
Buster Dunning (White Post)	✓	Ryan Reed (Buckmarsh)*	✓
Robert Glover (Millwood)	X	John Staelin (Millwood)	✓
Pearce Hunt (Russell)	✓	Doug Lawrence (BOS alternate)	X

\* Attended the meeting but was ineligible to vote and did not count towards the quorum

**STAFF PRESENT:** Brandon Stidham (Director of Planning), Jeremy Camp (Senior Planner/Zoning Administrator), Kristina Maddox (Office Manager/Zoning Officer), Chris Boies (County Administrator)

**OTHERS PRESENT:** None.

**CALL TO ORDER:** By Chair Ohrstrom at 9:00AM.

### 1. Approval of Agenda

The Commission voted 9-0-1 to approve the December 1, 2023 Business Meeting agenda as presented by Staff.

Motion to approve the December 1, 2023 Business Meeting agenda as presented by Staff:			
Ohrstrom (Chair)	AYE	King	AYE
Buckley (Vice-Chair)	AYE	Lee	AYE (seconded)
Catlett	AYE	Malone	AYE (moved)
Dunning	AYE	Reed	N/A
Glover	ABSENT	Staelin	AYE
Hunt	AYE		

### 2. Approval of Minutes

#### A. October 31, 2023 Work Session

The Commission voted 9-0-1 to approve the October 31, 2023 Work Session meeting minutes as presented by Staff.

Motion to approve the October 31, 2023 Work Session meeting minutes as presented by Staff:			
Ohrstrom (Chair)	AYE	King	AYE
Buckley (Vice-Chair)	AYE	Lee	AYE
Catlett	AYE	Malone	AYE (seconded)
Dunning	AYE	Reed	N/A
Glover	ABSENT	Staelin	AYE (moved)
Hunt	AYE		

**B. November 3, 2023 Business Meeting**

The Commission voted 9-0-2 to approve the November 3, 2023 Business Meeting minutes as presented by Staff.

<b>Motion to approve the November 3, 2023 Business Meeting minutes as presented by Staff:</b>			
Ohrstrom (Chair)	<b>AYE</b>	King	<b>AYE (seconded)</b>
Buckley (Vice-Chair)	<b>AYE</b>	Lee	<b>AYE (moved)</b>
Catlett	<b>AYE</b>	Malone	<b>AYE</b>
Dunning	<b>AYE</b>	Reed	<b>N/A</b>
Glover	<b>ABSENT</b>	Staelin	<b>AYE</b>
Hunt	<b>AYE</b>		

**PUBLIC HEARING**

**3. TA-23-04, Solar Power Plant Use and Regulations.**

Mr. Stidham provided a PowerPoint presentation on the proposed text amendment.

Chair Ohrstrom asked for clarification that no solar power plants could be developed until a future substation had gone through the special use permit process and was operational. Mr. Stidham replied that the new language would remove that potential by stating solar power plants can only be placed adjacent to the two existing substations within the county. He commented that the existing facilities would be considered conforming uses meaning they can expand without being restricted by the non-conformity regulations.

There were no further questions or comments from the Commission.

Chair Ohrstrom read the rules for and opened the public hearing.

Bob Stieg (2299 Bishop Meade Rd) said he manages a 360-acre farm in Clarke County and has worked closely with Virginia Tech and the extension service studying the use of agrovoltatics. He explained that agrovoltatics is the layering of solar arrays over producing farmland and cropland. He said it is a practice which generates electricity but does not remove the land under the array from production agriculture even at utility scale. He said this practice is now common in Europe and Australia and even in various examples in Virginia. He noted he objects to the text amendment as he believes it does not distinguish between forms of solar power generation that do not remove land from agricultural production from those that do. He said the proposed text amendment also does not encourage farmers to layer solar generation over producing crop or pastureland as opposed to the current text amendment and that only discourages the removal of land from agriculture for solar use in producing electricity. He said his assumption is that public policy objective is to maintain as much agricultural and open space land as possible due to the county’s Comprehensive Plan. He continued that farming is changing and that there are economic pressures for farmers. He said agrovoltatics is one of the programs the university and the Virginia Extension Service are asking farmers to consider as it combines production farming with solar generation as it is part of the future to steady income to balance the uncertainties of commodity prices. He added that some citizens believe the objective of the text amendment is merely aesthetic in order to keep the county looking more bucolic and old-time farming. He said supporting the aesthetic opinions of some citizens

would not be an upholdable policy and that it is a burden that should not be placed on the decreasing number of modern farmers in the county who face economic pressures. He explained that his request is that the county Staff and Planning Commission support local farmers by consulting with appropriate experts at the College of Agriculture at Virginia Tech and the Virginia Extension Service about defining the practice of agrovoltatics in county code.

John Bradfield (Durham, NC) said he and his brothers are six-generation farm owners and taxpayers in the county and own 400 acres near Route 7 and the Opequon. He said he is speaking in opposition of the restrictions of the proposed text amendment. He continued that the zoning change would deny a higher tax base which would allow the county to keep taxes low to benefit taxpayers. He continued that none of the solar panel installation companies are looking at farmland and said that only allowing current installations seems unfair. He said the solar farm that is in question will not be visible to the public and that he would not object to reasonable tree plantings or visual barrier zoning requirements. He added that beauty is in the eye of the beholder and that opinions change over time. He said he sees progress in consideration for the needs of his children and their future when he sees solar panel farms. He continued that his neighborhood, which was once restricted from solar panels, is now reaping the benefit of utility costs and that no one objects to the appearance anymore. He said farmers are free to choose the crops they will harvest based on the income they can expect to receive. He said he does not find the harvesting of sunlight for energy to be philosophically different from any of the crops grown on his farm. He said it seems unfair to restrict income-generating opportunities as energy companies are likely to pay a farmer more than corn or hay would. He concluded that the zoning restrictions would be inconsistent with Virginia law as the state passed legislation requiring the State to achieve carbon neutrality in the near future. He said the county should be seeking ways to participate in that future rather than setting roadblocks and that it may be putting the county in legal jeopardy.

Rob Propes (Senior Development Manager at Urban Grid) said he has been working with Audley Farm for over a year to help them explore adding a solar facility on 15% of their property. He said they were aware that the solar project did not meet the existing requirements of the solar ordinance when they began the work at Audley Farm and that he thought they could develop a project that would continue to use the agricultural land and design it with little to no impact to the surrounding community. He continued that he hoped by working with the neighboring community to obtain their support that the county would be willing to work with them to permit the project that he believes is a win for Audley Farm and the county. He explained that the Board passed a resolution directing the Planning Commission to modify the solar ordinance and prohibit any future solar projects other than the proposed Horus Virginia project during the time he was working with the community to gain their support. He said he has been repeatedly asked by the community why the county would want to close the door on a landowners desire to use their land for solar in which he does not have a good answer to offer. He said it generates a domestic source of clean energy and provides tax revenue to the county and that solar energy is a commodity that allows landowners to continue operating their farm. He continued that it is hard to understand why the county would not want to at least leave the door open to evaluate well-sited projects that are hidden from view and quietly operate. He said Urban Grid believes that the project designed for Audley Farm has been carefully thought out, will utilize a small fraction of the property, and will not be visible to major roads or for most of the neighboring landowners. He continued that the project would incorporate sheep grazing and bee hives so that the land can continue to be used for agriculture and provide a much-needed source of income to help Audley Farm become a financially self-sustaining operation. He continued that they are concerned that it will foreclose any opportunity for the county to consider well-sited projects if the proposed text amendment is adopted. He said he recognizes that some county folks may be concerned about a

proliferation of solar projects, however, he does not believe that is a realistic scenario due to utility scale solar being limited to connect into the existing 138 kilovolt transmission line that runs from one end of the county to the other. He said Tom Peters is a legendary business consultant and author of “In Search of Excellence” and closed his comment by quoting Mr. Peters saying, “if a window of opportunity appears, don’t pull down the shade.”

Selena Smart (Boyce, VA) said she lives on a 134-acre farm in the county and is in opposition to the proposed amendment as she believes it is a much better alternative to what could happen. She said there are almost 80 dwelling unit rights (DURs) that have yet to be used at Audley Farm. She said that instead of putting up a solar array that is quiet, does not use water, does not create traffic that we could potentially have a future housing development. She continued that some people are already fighting a 200 housing community across the street from Clermont. She said she believes this is a valid and thoughtful use of land that is out of view, does not use water, and helps with the issue of climate change and noted the current county-wide drought. She said the county does not have a power plant but it does have some solar energy coming from Double Tollgate. She continued that the county is importing all of its energy which means we have no control over whether it is green energy, coal production, nuclear, or natural gas. She said Clarke County uses over 200,000 megawatt hours of electricity and that while each person uses 14.81 megawatt hours per capita, the average in the United States is 9 megawatt hours. She said the reason for the difference is that a lot of residents have farms and use a lot of electricity to run outbuildings, etc. She said she has a solar array on her property but that Rappahannock limits the rate at 20 kW which is only half of the electricity that they use. She said one citizen claims they were not able to get an array as their heat is based on woodburning and that their electricity usage is minimal. She said it is important that Clarke County do their part and noted they are doing a great job in conservation, trying to limit development, and other items supporting farming.

Chris King (400 Blossom Drive) said he does not own a farm or have a vested interest but that he likes the county and wants to keep it quiet and natural. He said he was taught to go for the good deal when he was in government service for over 34 years and said this is a good deal as it is a commodity that will produce millions of dollars for the county in the end. He said this will benefit taxpayers, help build a new middle school, help fix problems with the high school, and provide a new piping infrastructure for the roads. He continued that the county wants to propose text to ostensibly preserve the farmland and the bucolic nature but that it will hurt the farmers by limiting what they can do. He added that farms are being converted into housing developments and can be seen from US 340 and Route 7 which ruins his reason for moving to the county. He said the Audley Farm solar plant project would have zero impact to the land, to everyone that is concerned, and that it would bring rewards to the county.

There being no further public comments, Chair Ohrstrom closed the public hearing.

When asked by Commissioner Staelin, Mr. Stidham provided a summary of community-scale solar where multiple landowners have smaller arrays that together could equal the size of a typical utility scale solar project. He said one of the regulatory hurdles with this is that the service providers cap the amount that one can sell back to the grid through net metering although he said it appears that there is some momentum moving forward on this and that perhaps some of these regulations will be relaxed in the future. He said Staff also researched agrovoltatics which seemed to mostly deal with sheep farming. He said the county does not have a large sheep farming industry and that there were other concerns regarding long-term use and impacts. He said if we were to require agrovoltatics as a use regulation for a solar power plant, it would be difficult to revoke the special use permit if farming were discontinued. He further commented that the

Planning Commission can look at creating policies within the Rural Lands Plan to deal with agrovoltaics and community scale solar as it develops.

Chair Ohrstrom said he believes the text amendment is a mistake but he is interested to learn what the future holds. He continued that there will be future movement within the General Assembly to force these electrical providers to remove their cap and a large push from the General Assembly to incentivize solar development in urban brownfield areas such as suburban parking lots, malls, etc. He said he thinks it would have been good for the Planning Commission to write reasonable legislation properly buffering utility scale plants, etc. While he realizes the problem is precedent setting, he said he does not believe it would take over the county. He continued that he understands the Board's point of view on the matter but that he would like to go on record that he does not particularly agree with their views.

The Commission voted 8-1-1 to recommend approval of **TA-23-04**, **Solar Power Plant Use and Regulations** to the Board of Supervisors.

<b>Motion to recommend approval of <u>TA-23-04</u>, Solar Power Plant Use and Regulations to the Board of Supervisors:</b>			
Ohrstrom (Chair)	<b>OPPOSED</b>	King	<b>AYE</b>
Buckley (Vice-Chair)	<b>AYE (seconded)</b>	Lee	<b>AYE</b>
Catlett	<b>AYE</b>	Malone	<b>AYE</b>
Dunning	<b>AYE</b>	Reed	<b>N/A</b>
Glover	<b>ABSENT</b>	Staelin	<b>AYE (moved)</b>
Hunt	<b>AYE</b>		

**CONTINUED PUBLIC HEARING**

**4. SUP-22-01/SP-22-02, Horus Virginia I LLC (applicant)/Bellringer Farm, LLC (owner)**

Mr. Camp provided a brief summary of the special use permit and noted that the applicant requests a thirty-day deferral as they have received delays in getting some of the requested items for Staff. He said Staff recommends approval of the deferral request and continuation of the public hearing.

Chair Ohrstrom opened the public hearing and hearing no public comments, continued the public hearing for the next meeting.

Chair Ohrstrom asked Ty Lawson (attorney for the applicant) if he thinks the applicants will be ready in thirty days. Mr. Lawson replied that he appreciates the Commission's patience but that they would like to continue with the deferral as most of the information was submitted via email to Mr. Camp the evening prior. He concluded that they are working with not only a property owner and an operator but also participants from all over the world including Spain and Texas to come together on this project.

There were no further questions or comments from the Commission.

The Commission voted 9-0-1 to approve the deferral request for **SUP-22-01/SP-22-02, Horus Virginia I LLC (applicant)/Bellringer Farm, LLC (owner)** to the January meeting.

<b>Motion to approve the deferral request for SUP-22-01/SP-22-02, Horus Virginia I LLC (applicant)/Bellringer Farm, LLC (owner) to the January meeting:</b>			
Ohrstrom (Chair)	<b>AYE</b>	King	<b>AYE</b>
Buckley (Vice-Chair)	<b>AYE (moved)</b>	Lee	<b>AYE (seconded)</b>
Catlett	<b>AYE</b>	Malone	<b>AYE</b>
Dunning	<b>AYE</b>	Reed	<b>N/A</b>
Glover	<b>ABSENT</b>	Staelin	<b>AYE</b>
Hunt	<b>AYE</b>		

**MINOR SUBDIVISION APPLICATION**

**5. MS-23-10, Corey A. Cather**

Mr. Camp reviewed the Staff Report for the minor subdivision and pointed out that this parcel has three alternative septic systems. He said that Staff recommends approval of the application as it meets the subdivision ordinance regulations.

Chair Ohrstrom commented that a future text amendment is planned to require a property owner to hook up to their upgraded sewage treatment system. Commissioner Lee concurred that one could use an older system from the 1950s and it is considered usable as long as it does not show any signs of failure. He said he is fine with that, however, some of the older systems are cesspools which should be upgraded. He continued that as it currently stands one has to have both the area for the new system and 100% reserve.

The Commission voted 9-0-1 to approve **MS-23-10, Corey A. Cather** as presented by Staff.

<b>Motion to approve MS-23-10, Corey A. Cather as presented by Staff:</b>			
Ohrstrom (Chair)	<b>AYE</b>	King	<b>AYE</b>
Buckley (Vice-Chair)	<b>AYE (moved)</b>	Lee	<b>AYE</b>
Catlett	<b>AYE</b>	Malone	<b>AYE (seconded)</b>
Dunning	<b>AYE</b>	Reed	<b>N/A</b>
Glover	<b>ABSENT</b>	Staelin	<b>AYE</b>
Hunt	<b>AYE</b>		

**BOARD AND COMMITTEE REPORTS**

**6. Board and Committee Reports**

**Board of Supervisors (Terri Catlett)**

Commissioner Catlett said the county recently underwent and passed an audit. She added that the Board is continuing to work on the campground regulations and encourages the Commission to speak to the supervisor in their district. Lastly she said that the Board will review the budget after the Christmas holiday.

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

Nothing to report.

**Board of Zoning Appeals - BZA (Jeremy Camp)**

Nothing to report.

**Historic Preservation Commission – HPC (Bob Glover)**

Mr. Camp said the HPC last met on November 15<sup>th</sup> and noted there were no applications to review. He said the committee discussed the potential for putting together a CLG grant to revamp their historic district guidelines which includes inventory review by Staff and the Historic Consultant.

Mr. Camp provided an update on the White Post garage case. He said the applicant presented alterations of the garage to the HPC which were ultimately denied. He said the applicant then had thirty days per the court order to submit a new plan. He continued that the first court status hearing was deferred and that the judge agreed to extend the date until January 21<sup>st</sup> for a new plan at the second court hearing. Mr. Camp said the applicant hired a designer who believes they will be able to develop a design to comply with the HPC and setback requirements.

**Conservation Easement Authority – CEA (George L. Ohrstrom, II)**

Vice Chair Buckley stated that the CEA is working on some nice easements for next year and that no further easements will close this year.

**Broadband Implementation Committee (Brandon Stidham)**

Nothing to report.

**OTHER BUSINESS**


**7. Projected Upcoming Agenda Items, January 2024 – March 2024**

Mr. Stidham reviewed the upcoming agenda items and committee meetings.

**ADJOURN:**

The Commission adjourned the December 1, 2023 Planning Commission Business Meeting at 9:47AM.

  
George L. Ohrstrom, II (Chair)

  
Kristina Maddox (Clerk)