



Clarke County Planning Commission

AGENDA – Business Meeting

Friday, May 3, 2024 – 9:00AM

Berryville/Clarke County Government Center – Main Meeting Room

For more information on this public meeting, please contact the Clarke County Department of Planning at (540) 955-5132 or visit the Clarke County website at www.clarkecounty.gov.

<u>CALL TO ORDER/ADMINISTRATIVE MATTERS</u>		
1	Approval of Agenda	pp. 1-3
2	Approval of Minutes	pp. 4-13
	-- April 2, 2024 Work Session	pp. 4-7
	-- April 5, 2024 Business Meeting	pp. 8-13

<u>CONTINUED PUBLIC HEARING</u>		
3	<p><u>SUP-23-03/SP-23-04, Harry Z. Isaacs % Long Branch Farm.</u> Request approval of a special use permit (SUP) and site development plan to operate a minor commercial public assembly use per Section 5.2D (Recreation/Education/Assembly Uses) of the Zoning Ordinance. The property is subject to a 2002 SUP approved for a house museum and equine veterinary clinic. The proposed special use would include using the historic house and adjoining yards for events that are not covered by the existing SUP including weddings. No new development is proposed except for improvements to existing facilities required by State and County agencies. The public hearing includes consideration to revoke the equine veterinary clinic approval on grounds that this use is discontinued. The subject property is approximately 390 acres, zoned Agricultural-Open Space-Conservation (AOC), identified as Tax Map #29-A-29, and is located in the White Post Election District at 830 Long Branch Lane (private road) with primary entrance on Nelson Road (Route 626).</p>	pp. 14-28
	-- Staff Report	pp. 14-22
	-- Applicant’s email with proposed changes (4/24/2024)	pp. 23-27
	-- Virginia Department of Health (VDH) review letter (4/25/2024)	p. 28

<u>MINOR SUBDIVISION</u>		
4	<p><u>MS-24-02, Pleasant View Farms PVFC, Corporation (owner)/Jared Shiley (applicant).</u> Request approval of a two-lot minor subdivision for the property identified as Tax Map #27-A-1, located on the south side of Chrismore Road (Route 642) approximately 0.4 miles west of Gun Barrel Road (Route 644) and extending to the Frederick County/Clarke County boundary, White Post Election District, zoned Agricultural-Open Space-Conservation (AOC).</p>	pp. 29-40
	-- Staff Report	pp. 29-33
	-- Land development application	pp. 34-35

	-- Resistivity testing approval letter (1/9/2024)	p. 36
	VDH review letter (3/8/2024)	p. 37
	-- Virginia Department of Transportation (VDOT) review email (3/29/2024)	p. 38
	-- VDH review email (4/23/2024)	p. 39
	-- Subdivision plat	p. 40

<u>SCHEDULE PUBLIC HEARING</u>		
5	<u>TA-24-01, Cesspools and Other Unpermitted Onsite Sewage Disposal Systems.</u> Proposed text amendment to amend Section 4.5.6E of the Subdivision Ordinance. The purpose is to require any existing cesspool or unpermitted onsite sewage disposal system to be replaced or upgraded to a Virginia Department of Health (VDH) approved system prior to final approval of a subdivision plat.	pp. 41-43
6	<u>TA-24-02, Minor Commercial Public Assembly Accessory Use – Country Inns.</u> Proposed text amendment to amend the “country inn” use per Section 5.2C (Uses, Definitions, and Use Regulations – Business Uses) of the Zoning Ordinance. The purpose is to eliminate minor commercial public assembly as an allowable accessory use and to clarify that the sale of meals or prepared food is limited to overnight guests only. The text amendment also deletes reference to Code of Clarke County Chapter 57 (Special Events).	pp. 44-46
7	<u>TA-24-03, Helicopter Landing Area Use and Prohibition of Private Airstrips and Airports.</u> Proposed text amendment to add “helicopter landing area” as a new special use in AOC District per Section 5.2E (Uses, Definitions, and Use Regulations – Public and Miscellaneous Uses) of the Zoning Ordinance. The purpose is to require a special use permit and compliance with use regulations for departures and landings of non-commercial helicopters for personal use. The text amendment also clarifies that helicopter landing areas for commercial use and private or public airstrips or airports for aircraft other than helicopters are prohibited.	pp. 47-49

<u>REPORTS/OTHER BUSINESS/ADJOURN</u>		
8	Board and Committee Reports	--
	<ul style="list-style-type: none"> • Board of Supervisors (Terri Catlett) • Board of Septic & Well Appeals (George Ohrstrom, II) • Board of Zoning Appeals (John Staelin) • Historic Preservation Commission (Bob Glover) • Conservation Easement Authority (George Ohrstrom, II) 	

9	Other Business	--
A	Initiate Consideration of Text Amendment <u>TA-24-04</u> , Temporary Use of Major Recreational Equipment	pp. 50-52
10	Projected Upcoming Agenda Items, May -- August	pp. 53-54
11	Adjourn	--

UPCOMING MEETINGS:	
Comprehensive Plan Committee	Monday, May 20 (2:00PM) – A/B Meeting Room
Policy & Transportation Committee	No upcoming meetings
Plans Review Committee	No upcoming meetings
Ordinances Committee	No upcoming meetings
Commission Work Session	Tuesday, June 4 (3:00PM) -- Main Meeting Room
Commission Business Meeting	Friday, June 7 (9:00AM) -- Main Meeting Room



Clarke County Planning Commission

DRAFT MINUTES – Work Session

Tuesday, April 2, 2024 – 3:00PM

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

STAFF PRESENT: Brandon Stidham (Director of Planning), Jeremy Camp (Senior Planner/ Zoning Administrator), Alison Teetor (CCEA Specialist)

OTHERS PRESENT: None.

CALL TO ORDER: By Chair Ohrstrom at 3:00PM.

1. Approval of Agenda

The Commission approved the agenda by consensus as presented by Staff.

2. Review of April 5 Business Meeting Agenda Items

A. Conflict of Interest Statements

Mr. Stidham noted Vice-Chair Buckley’s conflict of interest with the Long Branch Farm special use permit (SUP) and site development plan application as he is the applicant in that case.

B. Agenda Review

Vice-Chair Buckley left the dais prior to the discussion of the Long Branch Farm SUP and site development plan application.

Mr. Camp reviewed the staff report for the Long Branch Farm SUP and site development plan application (SUP-23-03/SP-23-04). He noted the applicant’s modifications to the original application including a reduction in the number of events. He also provided an overview of Staff’s draft conditions. Regarding draft condition #8 pertaining to noise, Chair Ohrstrom asked for confirmation that the noise ordinance states that it does not apply to SUPs. Mr. Camp replied that this is correct but we can require an SUP holder to comply with the noise ordinance by making it a condition of the SUP. Commissioner Staelin noted that the noise ordinance specifies times at which the noise must be quieter, specifically at 10:00PM and not 11:00PM. Mr. Camp replied that the ordinance does have different decibel limitations at those times. Commissioner

Staelin questioned asking a band to play quieter starting at 10:00PM and said this is an issue that needs to be addressed.

Mr. Camp noted that the Virginia Department of Health (VDH) provided updated comments on March 26 which reiterated that the existing drainfield is inadequate for the proposed use. He said the applicant recently submitted a minor modification application to VDH to add a new pump tank that is set for time dosing to address system capacity, and added that this is under review. He also said they are addressing discrepancies in the length of the drain lines and whether there may be a blockage in the lines. He concluded by saying that Staff recommends deferral until such time as the VDH issues are resolved. He also said that a public hearing has been advertised for Friday, adding that he has received some comments from neighbors regarding noise.

Chair Ohrstrom asked whether the applicant is interested in a voluntary deferral. Mr. Camp replied that the applicant has not requested a deferral at this time. Mr. Stidham suggested hearing from the applicant on this matter. Mr. Buckley said that it is likely that he will be requesting a deferral but he is trying to get a consensus on this from his board. He added that he hopes to have an answer by the Business Meeting on Friday.

Commissioner Staelin said that his biggest concern is that Long Branch is requesting 25 major events which is basically six months of events every Saturday night. He said you have 30 other events plus events for the house museum and the ability to apply for special events. He said that he did not think that traffic is going to be an issue but noise will be an issue, adding that music could be played every Saturday night from 10:00PM to 11:00PM all summer long. He noted that we were worried about setting precedent with Carter Hall and the impacts on adjacent properties. He added that the applicant may want to consider the scale of their request in light of these concerns. Mr. Buckley replied that if they defer the matter, it will give them more time to work out these concerns with the scope. Chair Ohrstrom said that he would think if people had a problem with events in the past that they will express these concerns at the public hearing. He acknowledged Commissioner Staelin's comparisons to Carter Hall and added that these two properties are different. Commissioner Staelin noted that it was previously said that Long Branch holds about 10 events and they may want to consider going down to that number. Mr. Buckley replied that this was the volume during COVID, adding that he does not have access to the records to determine past volumes of events. He also said that at one time, Long Branch employed people who were responsible for planning and holding weddings there. He noted that the current board does not want to be in that position and wants to provide a scenic open space to people that do not have their own scenic open space to enjoy. He added that they do not want to be in the wedding business but the money does help them to operate as a nonprofit and to maintain the property. Commissioner King asked Mr. Buckley if they have had a lot of complaints about noise and Mr. Buckley replied that the only complaints they received were in regards to the former balloon festival.

Mr. Buckley said that it gets tricky determining the number of events and attendees, adding that there are some house museum events that can exceed the maximum 25 people allowed under the current SUP. He said the extra events being requested would allow them to continue doing these types of events. He noted that they are not looking to do multiple events on the weekend

because they do not have the staff to manage two weddings on a weekend. He said they asked for so many events because a Friday rehearsal dinner and a Saturday wedding would be considered two separate events.

There were no additional questions or comments from the Commission. Vice-Chair Buckley returned to the dais.

Mr. Camp reviewed the staff report for the Robert A. McDonald 2012 Irrevocable Trust minor subdivision application (MS-24-01/MLSE-24-01). He noted that the applicant is currently pursuing a conservation easement with the County Easement Authority, adding that the justification for the maximum lot size exception is that the property will be in conservation easement. He explained the sequence of events necessary for the minor subdivision and maximum lot size exception to be approved. Chair Ohrstrom asked a question about the ownership of a lot shown on the plat and whether the lot will also be placed into conservation easement. Ms. Teetor clarified that the lot is not owned by the applicant and is not going to be placed in easement.

Mr. Camp said that Staff is recommending conditional approval and explained the remaining items to be addressed. Members had no additional questions or comments.

Mr. Stidham reviewed the other items on the April 5 Business Meeting agenda. Members had no questions or comments.

3. Old Business

B. Discussion, Primitive Campground Regulations – Modifications to TA-23-01

Mr. Stidham provided an overview of the draft primitive campground regulations developed by the Policy & Transportation Committee and Staff.

Chair Ohrstrom asked if temporary camping deals with camping on river lots and Mr. Stidham replied yes as well as the parameters for private camping. Chair Ohrstrom said that he was confused about whether primitive campground operators will be required to provide a water source and electrical source for patrons. Mr. Stidham replied that they have the option to provide water and electric but will not be required to do so. Chair Ohrstrom added that permanent electrical connections are not allowed in conjunction with river lot camping. Mr. Stidham replied that river lot camping is a temporary use but a primitive campground would be a permanent use. He added that campsite amenities for primitive campgrounds are limited to water and electric.

Regarding the limitation on retail sales, Chair Ohrstrom asked if a primitive campground operator could do a retail store with other zoning. Mr. Stidham replied that a special use and site development plan would be required.

Regarding the requirement that public ingress/egress be via direct access to a public road, Commissioner Staelin noted that on the mountain there are a huge number of private roads and

not as many public roads. He asked whether we could have a legal issue if a primitive campground applicant had consent from his neighbors to use a private road for public ingress/egress. Chair Ohrstrom said that there are many more public roads in the AOC District than in the FOC District. Mr. Stidham said that the regulation is designed to prevent lots without direct access to a public road from being eligible for a primitive campground. He added that the Commission could change this regulation and default to the current rule for special uses on private roads which requires all property owners with rights to use a private road to sign on as applicants. He added that direct access to a public road was required in the recent changes to the farm winery, farm brewery, and farm distillery regulations.

Regarding the onsite manager requirement, Commissioner Catlett asked what type of structure the owner or manager is required to live in. Mr. Stidham replied that they would live in the residence located on the lot. Commissioner Catlett asked for confirmation that it would be a residence that uses a dwelling unit right and Mr. Stidham replied yes. Mr. Stidham added that if the lot is currently vacant, the primitive campground owner would have to construct a residence for the onsite manager. Chair Ohrstrom asked if a minor dwelling could be used and Mr. Stidham replied yes, adding that if a dwelling of less than 600 square feet is the only dwelling on the property it would require a dwelling unit right.

Commissioners had no additional questions or concerns. Mr. Stidham noted that there is an item on the Business Meeting agenda for the Commission to take action on a formal recommendation to the Board of Supervisors on this change. Chair Ohrstrom asked if we are going to hold a public hearing on the changes before sending to the Board. Mr. Stidham replied no because we want the Board to review and comment on the changes before going through the public hearing process.

ADJOURN

The Commission agreed by consensus to adjourn the meeting at 4:00PM.

George L. Ohrstrom, II (Chair)

Brandon Stidham (Clerk)



Clarke County Planning Commission

DRAFT MINUTES - Business Meeting

Friday, April 5, 2024 - 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)	✓E	Ryan Reed (Buckmarsh)	✓
Robert Glover (Millwood)	X	John Staelin (Millwood)	✓
Pearce Hunt (Russell)	✓	Doug Lawrence (BOS alternate)	X

✓E – Participated electronically

STAFF PRESENT: Brandon Stidham (Director of Planning), Jeremy Camp (Senior Planner/ Zoning Administrator), Lorien Lemmon (Conservation Planner/GIS Coordinator), Alison Teetor (CCEA Specialist)

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

1. Approval of Agenda

The Commission voted 10-0-1 to approve the agenda as presented by Staff.

Motion to approve the agenda as presented by Staff:			
Ohrstrom (Chair)	AYE	King	AYE
Buckley (Vice-Chair)	AYE (seconded)	Lee	AYE
Catlett	AYE	Malone	AYE (moved)
Dunning	AYE	Reed	AYE
Glover	ABSENT	Staelin	AYE
Hunt	AYE		

2. Approval of Minutes – March 1, 2024 Business Meeting

The Commission voted 9-0-2 to approve the March 1, 2024 minutes as presented by Staff. Commissioner Lee abstained as he did not attend that meeting.

Motion to approve the March 1, 2024 meeting minutes as presented by Staff:			
Ohrstrom (Chair)	AYE	King	AYE
Buckley (Vice-Chair)	AYE (seconded)	Lee	ABSTAINED
Catlett	AYE	Malone	AYE (moved)
Dunning	AYE	Reed	AYE
Glover	ABSENT	Staelin	AYE
Hunt	AYE		

Chair Ohrstrom noted for the record that Commissioner Dunning is participating electronically for personal reasons.

Vice-Chair Buckley left the dais prior to the discussion of the Long Branch Farm special use permit and site development plan application.

PUBLIC HEARING

3. SUP-23-03/SP-23-04, Harry Z. Isaacs % Long Branch Farm

Chair Ohrstrom stated that Vice-Chair Randy Buckley has a conflict of interest with this application as he is the applicant. He read statements into the record of the January 2, 2024 work session disqualifying himself from participating in the deliberation of this matter.

Mr. Camp noted that the applicant has requested a 30-day deferral of this application to address Virginia Department of Health (VDH) comments and community concerns that have been raised. He then presented the staff report for the special use permit (SUP) and site development plan application. He concluded the report by stating that Staff supports the applicant's request for deferral and added that the application does not meet the Commission's criteria for a conditional approval at this time. He also said that a public hearing is scheduled and noted that it would be appropriate to continue the public hearing to the next meeting if the Commission decides to defer the application.

Chair Ohrstrom asked for comments or questions from the Commission and none were offered. Chair Ohrstrom then stated the following:

For this morning's public hearing, please state your name and address for the record prior to addressing the Commission.

You will have a maximum of three minutes to address the Commission or ten minutes if you are identified as representing a recognized group or are speaking on behalf of a group of citizens present at the public hearing. The Planning Director will serve as the timekeeper for the public hearing.

All speakers shall be civil in tone and demeanor and shall not make personal, impertinent, slanderous, or profane remarks, or any threatening or intimidating gestures, to any commissioner, staff, the applicant, or the general public.

Speakers shall address the Commission and shall not address the audience, answer questions from the audience, or engage in debate with anyone in the audience.

Please note that the purpose of the public hearing is to provide your comments to the Commission and for the Commission to receive those comments. The public hearing is not the appropriate forum to engage in dialogue with the Commission or staff. You are welcome to raise questions during your speaking time which the Commission may address after the public hearing.

If you have brought documentation for the Commission, please provide it to staff prior to or at the conclusion of your comments.

I also want to say that we all live in a small community and there are strong feelings on both sides of any issue in a public hearing. I would urge that everyone exercise restraint, respect each other, and remain polite to all.

I will now open the public hearing.

Jim Rieger (479 Red Gate Road) noted that he previously submitted comments in writing on the application. He said he lives catawampus to Long Branch Farm and noted that it is a great facility to have as it is open from dawn to dusk for people to walk. He said they are good neighbors and they have to be economically viable. He said if they need this use for income in order to support Long Branch, then it is a good thing. He noted that he has not had trouble with sound from past events and said the highway noise is actually louder. Regarding traffic, he said that the Balloon Festival that is no longer being held produced a lot of traffic and the attendees came from long distances and would not let him enter or exit his driveway. He said VDOT is projecting 120 transits which he believes means 60 trips in and 60 trips out, adding that he did not think this would be a particular problem for traffic. He wondered if deputies would be needed to manage traffic but suspected that they would not be needed. He added that if deputies were used, then we should get money from the events to recoup the cost of their services. He said the application seems like a big step up from its current usage and he is not particularly alarmed by it. He suggested including a provision to re-evaluate the use in the future and acknowledged that this could result in a lot of coming and going and maybe should be avoided. Regarding groundwater, he said we should ensure that the groundwater under our karst substrate should not be compromised and to make sure that VDH's concerns are addressed.

Andrew Ferrari (735 Nelson Road, White Post) said he is in a unique position as a member of the Long Branch Board of Trustees and, along with his wife Barbara, an adjacent owner of a property that was once part of Long Branch. He said that he and his wife are deeply invested in the well-being of our community and believe that Long Branch is a significant asset in this regard. He added that they also understand the importance of Long Branch being a considerate neighbor. He said while they support the SUP application, they are concerned that the application as currently written does not adequately ensure the protection of the quality of life for nearby property owners now and in the future. He said an amendment of the request is needed to address these concerns and the applicant's deferral will allow time to do this for the next Commission meeting.

There were no additional speakers. Chair Ohrstrom asked for a motion to accept the applicant's deferral request and to continue the public hearing. The Commission voted 10-0-1 to accept the applicant's deferral request and continue the public hearing to the May 3 Business Meeting.

Motion to accept the applicant’s deferral request and continue the public hearing to the May 3 Business Meeting:			
Ohrstrom (Chair)	AYE	King	AYE
Buckley (Vice-Chair)	AYE	Lee	AYE (moved)
Catlett	AYE	Malone	AYE (seconded)
Dunning	AYE	Reed	AYE
Glover	ABSENT	Staelin	AYE
Hunt	AYE		

Commissioner Staelin said that he thinks that Long Branch Farm is a great community asset and that no one is opposed to that. He said that we started with the Kentlands SUP application but since then have updated the Comprehensive Plan, added farm winery and brewery regulations, and other special use permits regarding event-oriented things. He added that he does not think we can use the Kentlands SUP as a 100% model for evaluating these applications with the ever-changing environment we are in. He noted that we need input from the neighbors but personally he would not want that noise close to him every single weekend for six months which would be the 25 events that are shown. He said on the other hand, there are events such as dinners that do not have any noise at all. He suggested that the applicant consider a different number for events that will generate noise and to reconcile noise conditions with the noise ordinance requirements.

Vice-Chair Buckley returned to the dais.

MINOR SUBDIVISION

4. MS-24-01/MLSE-24-01, Robert A. McDonald 2012 Irrevocable Trust (Anne McDonald, Trustee)

Mr. Camp presented the staff report on this minor subdivision and maximum lot size exception application. He said that Staff is recommending conditional approval of the request subject to the conservation easement being recorded prior to or concurrently with the minor subdivision plat. He noted that the conditional approval complies with the Commission’s conditional approval policy.

Chair Ohrstrom asked if commissioners had any questions. Commissioner Lee asked for confirmation that the property originally had four dwelling unit rights (DURs) and that the applicant is giving up three DURs and using one DUR on the 20-acre lot. Mr. Camp replied that this is correct.

Chair Ohrstrom asked for a motion on the application. The Commission voted 10-0-1 for conditional approval of the minor subdivision and maximum lot size exception request conditioned on the conservation easement being recorded prior to or concurrently with the minor subdivision plat.

Motion for conditional approval of the minor subdivision and maximum lot size exception request conditioned on the conservation easement being recorded prior to or concurrently with the minor subdivision plat:			
Ohrstrom (Chair)	AYE	King	AYE
Buckley (Vice-Chair)	AYE	Lee	AYE (moved)
Catlett	AYE	Malone	AYE (seconded)
Dunning	AYE	Reed	AYE
Glover	ABSENT	Staelin	AYE
Hunt	AYE		

5. Board and Committee Reports

Board of Supervisors (Catlett)

Commissioner Catlett said the Board is holding public hearings on Monday on the budget and on the 2024 Transportation Plan. She noted that the Board did not change the Commission’s draft much but regrouped projects to facilitate communication with the Virginia Department of Transportation (VDOT) on our priorities with Route 7. She added that citizens came to the Board to present their concerns with traffic issues along Route 7. She also said that there is a work session on Monday with VDOT to update our road plans and projects that are in the pipeline.

Board of Septic & Well Appeals (Ohrstrom)

Chair Ohrstrom said that the Board has not met in the past month.

Board of Zoning Appeals (Staelin)

Commissioner Staelin said that the BZA heard an appeal regarding the notice of violation issued for illegal construction of yurts along the river. He noted that Mr. Camp has won the last two appeal cases and added that the appellants did not show up to the BZA meeting for their case.

Historic Preservation Commission (Glover)

Commissioner Glover was absent. Mr. Camp said that the HPC is planning an awards ceremony in May and would like to hold it at Blandy. He added that there will be four award recipients. He also said that they will be releasing public outreach information on the recipients. He also reported that a certificate of appropriateness at 300 Berrys Ferry Road was approved to allow replacement of windows. He noted that the applicant submitted a very clear application.

Conservation Easement Authority (Ohrstrom)

Chair Ohrstrom said that the Authority just approved the McDonald easement that was the subject of the minor subdivision application.

Broadband Implementation Committee (Stidham)

Mr. Stidham provided a report on All Points Broadband’s recent presentation to the Northern Shenandoah Valley Regional Commission (NSVRC). He said that they are finishing up low-level design for all eight counties in the project which involves reviewing the power poles to which the fiber optic cabling will be connected as well as locations for equipment cabinets. He noted that All Points is paid on a reimbursement basis after the Virginia Department of Housing

and Community Development has confirmed that the work has been completed satisfactorily. Commissioner Staelin asked about the size of the equipment cabinets and whether they would be above ground. Mr. Stidham said that they would be above ground and he believes they will be about the size of the cabinet recently installed in Millwood. Commissioner Staelin asked for confirmation that they will not be the size of the cabinet on Browntown Road and Mr. Stidham replied that he did not think they would be that large. Mr. Stidham noted that they will be negotiating with property owners for placement of the cabinets. He also said they remain on target to start offering connections in the second quarter of 2025 and will be holding off on sending correspondence to property owners until that time.

6. Other Business

A. Primitive Campground Modifications to TA-23-01

Mr. Stidham noted that this is the action item on the primitive campground modifications requested by the Board of Supervisors that was discussed at the Work Session. He said that the Commission is welcome to include any additional recommendations on the text amendment.

Motion to forward primitive campground modifications to the Board of Supervisors as presented by Staff:			
Ohrstrom (Chair)	AYE	King	AYE
Buckley (Vice-Chair)	AYE (moved)	Lee	AYE
Catlett	AYE	Malone	AYE (seconded)
Dunning	AYE	Reed	AYE
Glover	ABSENT	Staelin	AYE
Hunt	AYE		

7. Projected Upcoming Agenda Items, April -- July

Mr. Stidham briefly reviewed the upcoming agenda items, noting that the Long Branch Farm application will be added to the May 3 Business Meeting agenda.

ADJOURN

The Commission voted 10-0-1 to adjourn the meeting at 9:42AM.

Motion to adjourn:			
Ohrstrom (Chair)	AYE	King	AYE
Buckley (Vice-Chair)	AYE	Lee	AYE (moved)
Catlett	AYE	Malone	AYE (seconded)
Dunning	AYE	Reed	AYE
Glover	ABSENT	Staelin	AYE
Hunt	AYE		

George L. Ohrstrom, II (Chair)

Brandon Stidham (Clerk)

SPECIAL USE PERMIT & SITE DEVELOPMENT PLAN (SUP-23-03 / SP-23-04)

May 3, 2024 Planning Commission Business Meeting – **Continued Public Hearing**

STAFF REPORT– Department of Planning

The purpose of this staff report is to provide information to the Planning Commission & Board of Supervisors to assist them in reviewing this land use request. It may be useful to members of the general public interested in this request.

Case Summary

Applicant:

Randy Buckley

Property Owner:

Harry Z Isaacs % Long Branch Farm

Location:

The subject property consists of approximately 390 acres in the Agricultural-Open Space-Conservation (AOC) Zoning District. The parcel is identified by tax map #29-A-29. It has frontage to Nelson Road, Red Gate Road, and Bordens Spring Road. The proposed use would be located within the mansion house (830 Long Branch Lane) and the grounds immediately adjacent to it. The mansion is listed on the Virginia Landmark Register and National Register of Historic Places, and the property is within the Greenway Rural Historic District and White Post Election District.¹



Request:

The applicant requests approval of a special use permit and site development plan to operate a Minor Commercial Public Assembly use per Section 5.2D of the Clarke County Zoning Ordinance. Since the April 3, 2024 Planning Commission Business Meeting, the Applicant has amended their application to further limit the proposed use. These changes are included in the recommended SUP conditions within this updated report along with recommended edits from Staff. The Applicant has also proposed a new drainfield and reserve area which is discussed in this report. Previously included background and analysis sections are omitted in this updated report to focus on the current status issues.

¹ Planning Commission Representatives: Buckley & Dunning
Board of Supervisors Representative: McKay

Below is the table that was included in previous reports to breakdown the events on the Long Branch property. This table was updated to reflect changes submitted by the applicant since the April 3, 2024 Planning Commission Business Meeting.

	House Museum <i>(SUP-01-07)</i>	Minor Commercial Public Assembly <i>(SUP-23-03)</i>	Special Events <i>(Chapter 57)</i>
<u>Quantity</u>	No limit	57 events, as follows: --12 events of up to 149 persons with amplified sound --20 events of up to 149 persons without amplified sound --25 events of up to 50 persons without amplified sound	Up to 5 per year (days)
SEE THE UPDATED / RECOMMENDED SUP CONDITIONS FOR ADDITIONAL LIMITATIONS			
<u>Type</u>	Events and activities held for a purpose directly related to the functions of the House Museum	A venue for temporary public or private assemblies including meetings, conferences, weddings, parties, and similar events	As defined by Chapter 57 of the County Code. Generally described as outdoor events that involve any type of re-couping of funds
<u>Location</u>	Historic house	Within the historic house and in the yards immediately surrounding the historic house (approximately 1 acre)	Entire property subject to permit review
<u>Attendees</u>	25 persons or fewer	149 persons or fewer by code.	Over 149 persons
SEE THE UPDATED / RECOMMENDED SUP CONDITIONS FOR ADDITIONAL LIMITATIONS			
<u>Hours</u>	12PM to 4PM, Saturday and Sunday 8:30AM -5PM for employees	11PM for amplified sound 12PM max duration of events	7AM-12AM (midnight) for activities unless otherwise specified by the Board
SEE THE UPDATED / RECOMMENDED SUP CONDITIONS FOR ADDITIONAL LIMITATIONS			

Current Review Status:

In previous staff reports the comments of multiple agencies were discussed. At this time, there are no outstanding issues other than with the Planning Department and Virginia Department of Health (VDH). Below is an update of the current review status by the Planning Department and VDH.

Planning Department Review Comments - UPDATED:

Staff has revised the recommended draft SUP conditions in this report based on input received from the Planning Commission during the public hearing held on April 3, 2024 at the Planning Commission Business Meeting. At that meeting the Planning Commission deferred the application and continued the public hearing until May 3, 2024. Changes to the SUP Conditions also include changes requested from the Applicant, including additional limitations they have proposed to mitigate concerns of impacts raised by the community and during the Planning Commission Public Hearing.

Based on VDH's comments on April 25, 2024, the site development plan is required to be updated to show the proposed new on-site septic disposal system and reserve area. Resistivity is required.

Virginia Department of Health Review Comments – UPDATED:

VDH provided comments on April 25, 2024 stating the following:

- 1) The CCHD received a conditional assessment report from the project OSE on April 24, 2024 indicating that the dispersal pipe in the existing drainfield is non-functional. Camera refusal was found in a previous inspection by a septic company at 65 feet. This indicates that the dispersal pipe may not be functioning beyond 65 feet. The cause of the malfunction was not reported, but could be attributed to a number of reasons. The project OSA in consultation with Long Branch staff determined that repairing or replacing the existing drainfield from the point of reported camera refusal to the distal end of the trenches would require invasive techniques that could potentially further compromise the functionality of the drainfield. A replacement drainfield site with a 100% reserve area is proposed to ensure that the system is restored to normal function. No increase in flow or waste strength to the drainfield is proposed.
- 2) The site and soils for the proposed replacement drainfield were field reviewed by this office on April 23, 2024 and appeared to be suitable for a conventional onsite sewage dispersal system with a 100% alternative drip reserve. No design information has been submitted to this office, but it appears to be of similar size as the existing drainfield. It is assumed timed dosing will be proposed. Final approval is pending resistivity approval and an application with full design specifications.

Recommended Special Use Permit Conditions:

Below is a draft of special use permit conditions for consideration by the Planning Commission. The text shown in **highlight** is proposed new language updated since the April Planning Commission Business Meeting along with ~~strikethrough~~ text that is proposed to be removed.

SPECIAL USE PERMIT/SITE PLAN (SUP-23-03/SP-23-04) Longbranch Farm

Special Use Permit (SUP) Conditions:

- 1. Special Use Permit purpose; nontransferable.** This Special Use Permit is issued specifically for the property identified as tax map #29-A-29, commonly referred to as Longbranch Farm, for the operation of a Minor Commercial Public Assembly use solely by the applicant/property owner, Harry Z. Isaacs % Longbranch Farm. **As requested by the applicant/property owner, this Special Use Permit shall not be transferable to any other person or entity. Upon transfer of the property to a different person or entity the SUP shall become void and automatically revoked.** ~~The Special Use Permit shall not be transferable to any other person or entity without prior approval by the Board of Supervisors as an amendment to the approved Special Use Permit conditions, such approval not to be unreasonably withheld.~~

Staff Comment (not part of SUP Conditions)

The Applicant voluntarily requested that the SUP not be allowed to be transferred to any other person or entity in the future. If the property is sold in the future the SUP would become void.

- 2. Applicant/Property Owner to sign list of adopted permit conditions.** The applicant/property owner shall sign the list of adopted conditions to indicate receipt of the conditions and the intention to comply fully with the conditions for the life of the Special Use Permit. A signed copy of the conditions shall be provided to Planning Department Staff ("Staff") within thirty (30) days of receipt of the adopted conditions by the applicant/property owner.
- 3. Access for inspections required.** Staff and other County officials shall have access to the property with 24 hour notice to applicant/owner in order to conduct periodic compliance inspections of the facility and the subject property throughout the life of the permit.
- 4. Ongoing maintenance of site features.** The following site features shall be properly maintained throughout the life of the permit:
 - Property entrance shall be maintained consistent with VDOT regulations.
 - The existing driveways and parking area shall be maintained for safe travel and parking.
 - The well and septic system shall be maintained consistent with VDH regulations.
 - Access for emergency service and law enforcement shall be permitted in conjunction with all events.

5. **Entrance requirements.** Access to the property for all events shall be limited to the existing entrances located along Nelson Road (Route 626). Use of the existing southern entrance, located off of Bordens Springs Road (Route 622), shall be prohibited for all events, except for emergency access purposes.
6. **State and Federal permits.** The Applicant shall comply with all state and federal regulations. A copy of all state or federal permits shall be provided to the County for documentation purposes. This includes, but is not limited to, final approval from the Virginia Department of Health for the proposed new onsite-septic disposal system and 100% reserve area. Resistivity approval is required as a prerequisite to VDH approval.
7. **Business license.** The Applicant must maintain a valid Clarke County business license for the event venue for the life of the Special Use Permit
8. **Noise.** ~~All live or amplified music shall end no later than 11:00 PM. In addition, all event activities, or other uses of the property, shall adhere to the same noise regulations as those specified under Clarke County Code Chapter 120. All events shall conclude no later than 12:00 PM.~~ All amplified sound and live music shall conclude no later than 11:00 PM. All events shall conclude no later than 12:00 AM (midnight). With the exception of the more restrictive SUP conditions herein, all noise generated from event activities, or other activities on the property, shall adhere to the noise regulations specified under Clarke County Code, Chapter 120, or as it may be amended in the future.

Staff Comment (not part of SUP Conditions)

A concern was raised at the initial public hearing that the noise ordinance includes regulations that are somewhat conflicting regarding nighttime hours. Staff understands this comment to be based on the difference of what is considered nighttime hours between Sections 120-6 (sound audible from buildings, generally) and 120-9 (amplified sound).

Section 120-6 of the noise regulations includes maximum decibel (dBA) levels that apply in general to all properties and activities. It defines nighttime hours as between 10PM and 7AM. The maximum dBA during nighttime hours is 55 dBA, versus 65 dBA during daytime hours. This standard is measured from inside nearby residential dwellings.

Section 120-9 of the noise regulations includes different dBA maximums that are specific for amplified sound, which are measured from the property line. In these standards, the dBA standard is 80 dBA between the hours of 7AM and 11PM, and 75dBA between the hours of 11PM and 7AM. Again, these are measured from the property line and not from inside of houses.

As written under Chapter 120, both of these regulations apply despite the different hours used in the dBa standards. Enforcement of these regulations fall under the authority of the Sheriff's Office upon complaint.

9. **Lighting and temporary lighting for events.** Lighting shall adhere to the County's outdoor lighting regulations in order to limit impacts on adjacent and nearby properties.

- 10. Minor Commercial Public Assembly Events - Limitations.** Exclusive from events associated with the House Museum (condition #11) or Special Events (condition #13), **except where otherwise noted**, the following limitations shall apply to the Minor Commercial Public Assembly use:
- A. The maximum allowable persons (participants, spectators, staff, etc.) on-site shall be 149.
 - B. All event activity is limited to the historic house, approximately 1-acre of yard area around the historic house, and the designated parking area.
 - C. The maximum number of events per calendar year shall be ~~55~~ **57** events, or fewer, in accordance with the following breakdown:
 - ~~○ Larger Events: 25 events of up to 149 persons, or less~~
 - ~~○ Smaller Events: 30 events of 50 people, or less~~
 - 1. Events with Amplified Sound:**
 - a. Up to 12 events of 149 persons or less, with amplified sound.**
 - (1) Such events shall be limited to no more than 1 per day, and shall not occur on the same day as a Special Event (condition #13).**
 - (2) There shall be no more than two (2) events with amplified sound that are held after 6:00 PM per calendar month. For the purpose of this condition, amplified events held after 6:00 PM shall include both Minor Commercial Public Assembly events and Special Events.**
 - 2. Events without Amplified Sound:**
 - a. Up to 20 events of 149 persons or less, with no amplified sound except incidental amplified sound for short announcements that shall be limited to 15 minutes in total per event.**
 - b. Up to 25 events of 50 persons or less, with no amplified sound except incidental amplified sound for short announcements that shall be limited to 15 minutes in total per event.**
 - D. For the purpose of the above, each day that an event is held shall be counted as 1 event, regardless if the event extends over multiple days or not.
 - E. ~~Of the larger events (25 events of up to 149 persons), no more than 1 such event shall occur per day and shall not occur on the same day as a Special Event (condition #13).~~ **The applicant shall give notice to the public in advance of each event held that includes amplified sound, including those authorized under 10C-1a. above, and any Special Events (Condition #13) that may be authorized in the future. Notice may include posting the event information online on the applicant's website. Such notice shall be provided at least thirty (30) days in advance of the event.**
 - F. The applicant shall supply a list of the past year's events to the Department of Planning by January 15 of each year.
 - G. **The applicant shall have an employee or representative on site at all times for each event with amplified sound and shall provide contact information for the employee or representative to adjoining property owners upon request.**

Staff Comment (not part of SUP Conditions)

The above changes were recommended by the applicant to mitigate concerns raised by the community and Planning Commission. Staff has made some editorial changes from the language provided by the Applicant.

- 11. House Museum (SUP-01-07) – Clarification.** SUP-01-07 shall be considered exclusive from the Minor Commercial Public Assembly use and shall remain in effect, except for the revocation of the veterinary clinic as described under condition #12. Events held for the house museum shall be subject to compliance with its original SUP conditions. For clarification purposes, this includes the following stipulations:

 - The House Museum will continue to be able to hold public visitation hours between 12:00 p.m.(noon) and 4:00 p.m., Saturday and Sunday.
 - Staff working hours are between 8:30 a.m. and 5:00 p.m., Monday through Friday.
 - In regards to events, the House Museum may hold events of 25 or fewer persons that are primarily held within the historic house and occasionally held outdoors. Events larger than 25 persons are not permitted for the House Museum unless counted against the maximum number of events for the Minor Commercial Public Assembly Use (condition #10), or as may be permitted as a Special Event (condition #13).
 - The smaller events of 25 persons or less shall only include events held for a purpose directly related to the functions of the House Museum.
- 12. Veterinary Clinic (SUP-01-07) – Revocation.** The SUP previously issued for a Veterinary Clinic, specifically for R.E.A.C.H Equine Veterinary Clinic, documented by an approval letter dated January 4, 2002, is hereby revoked. Such revocation is based on condition #5 of its SUP conditions; and, that the use is no longer in existence.
- 13. Special Events.** Upon approval of a permit for a Special Event, pursuant to Clarke County Code Chapter 57, up to 5 Special Events may be held on the property during a calendar year. Such authorized Special Events shall be governed by the regulations of Clarke County Code Chapter 57 and shall be considered exclusive from the events associated with the Minor Commercial Public Assembly use and House Museum use. Furthermore, such Special Events shall not be counted toward the maximum number of events stipulated under condition #10, except for the limitations related to frequency of amplified events described under condition 10C-1a.
- 14. No lodging or food preparation on site.** There shall be no overnight accommodations or food preparation on site. Licensed caterers may provide food services provided that the number of catering employees shall be counted towards the maximum number of persons for the type of event being held.
- 15. Fireworks prohibited.** The use of fireworks for public assembly events on the subject property is prohibited.

Conclusions:

The Applicant has submitted a complete Special Use Permit Application and Site Development Plan Application. All review agency comments have been resolved at this time other than comments from the Planning Department and comments from the Virginia Department of Health (VDH) regarding the required improvements to the on-site septic disposal system and draft SUP conditions as they relate to the mitigation of impacts associated with the proposed use.

The recent comments from VDH clarify what needs to occur for the applicant to obtain approval from VDH and Clarke County in regards to the on-site septic disposal system. This includes the following:

- Submission of a Resistivity Application and report for the new drainfield and reserve area. Review typically takes 2 weeks from the County's Karst Consultant following submission of this information by the applicant.
- Submission of a revised site development plan to show the new on-site septic disposal system and reserve area that is proposed for the proposed use. Review by Planning Staff and VDH staff is expected to occur within 15 days of submission.
- Submission of an application to VDH with design specifications of the new on-site septic disposal system. VDH has a 15-day review time period for such applications.

Acceptance, modification, or rejection of the drafted SUP conditions will be considered by the Planning Commission at the scheduled meeting on May 3, 2024.

The Planning Commission's conditional approval policy stipulates that conditional approval may be issued by the Planning Commission if all of the following criteria is met.

1. *The issue has been informally resolved and only requires final written submission by the applicant and confirmation by Planning Staff and/or the applicable review agency.*
2. *The issue is reasonably expected to be resolved fully within the next 21 days or finalizing of the Planning Commission's next meeting agenda, whichever is sooner.*
3. *The issue is not one that, in the Commission's opinion, warrants continuance of a public hearing (if applicable).*

Recommendation:

At the time this report was drafted the policy requirements for conditional approval do not appear to be met. Final approval within the next 21 days is not *reasonably expected* until the required information listed under the conclusions section is submitted in complete form by the applicant. Upon submission of this information by the applicant, and acceptance of the final version of the SUP conditions, the Planning Commission, at their discretion, may consider conditional approval of the special use permit and/or site development plan applications.

At this time, Staff recommends deferral of these applications until the approval process of the proposed new drainfield is further underway. Continuation of the public hearing would be recommended if deferral action is taken.

A continued public hearing is scheduled for the May 3, 2024 Planning Commission Business Meeting for the subject special use permit and site development plan applications. Additional information that may be received by the community during the public hearing should be considered.

History:

November 27, 2023	Applications & fees submitted.
December 5, 2023	Applications transmitted to review agencies.
December 5, 2023	Sheriff's Office comments received.
December 6, 2023	Economic Development Dept. comments received.
December 7, 2023	Comments received from Fire, EMS & Emergency Services.
December 12, 2023	Comments received from the Virginia Outdoor Foundation (VOF)
December 14, 2023	2nd Review comments from Planning Department discussed with applicant following previous review comments sent on October 24th.
December 18, 2023	Applicant submitted partial revision of site development plan.
December 20, 2023	VDH comment letter received.
December 21, 2023	Applicant submitted a revised site development plan.
January 2, 2024	Scheduled Planning Commission Work Session.
January 5, 2024	Scheduled Planning Commission Business Meeting (set public hearing) – <i>Deferred at applicant's request</i>
January 23, 2024	VDOT comment letter received.
January 30, 2024	Scheduled Planning Commission Work Session.
February 2, 2024	Scheduled Planning Commission Business Meeting (set public hearing) - <i>Deferred at applicant's request</i>
February 9, 2024	On-site meeting with VDH and Longbranch.
February 13&16, 2024	Correspondence received from VDOT clarifying their original comments.
March 1, 2024	Planning Commission Business Meeting (set public hearing)
March 6, 2024	Updated comments received from VDOT
March 26, 2024	Updated comments received from VDH
April 2, 2024	Planning Commission Work Session
April 5, 2025	Planning Commission Business Meeting (public hearing)
April 22, 2024	Update to application received from applicant including recommended SUP conditions with further limitations
April 25, 2024	Updated VDH comments
April 30, 2024	Scheduled Planning Commission Work Session
May 3, 2024	Scheduled Planning Commission Business Meeting (continued public hearing)

Zimbra

jcamp@clarkecounty.gov

Long Branch SUP latest conditions

From : Randy Buckley <randybuckley100@gmail.com>
Subject : Long Branch SUP latest conditions
To : Jeremy Camp <Jcamp@clarkecounty.gov>

Wed, Apr 24, 2024 11:45 AM
📎 1 attachment

Here is the latest version

📎 **Long Branch SUP Conditions 3.docx**
21 KB

Note: changes to the SUP conditions are shown on the following pages as requested by the applicant. These changes add restrictions to address concerns raised in the community. Staff has incorporated these into the recommended SUP conditions listed in the Staff Report, with editorial changes.

1. **Special Use Permit purpose: nontransferable**, This Special Use Permit is issued specifically for the property identified as tax map #29-A-29, commonly referred to as Long Branch Farm, for the operation of a Minor Commercial Public assembly use solely by the applicant/property owner, Harry Z. Issacs c/o Long Branch Farm. The Special Use Permit shall not be transferable to any other person or entity ~~without prior approval by the Board of Supervisors as an amendment to the approved Special Use Permit conditions, such approval not to be unreasonably withheld.~~

2. **Applicant/Property Owner to sign list of adopted permit conditions.** The applicant/property owner shall sign a list of adopted conditions to indicate receipt of the conditions and the intention to comply fully with the conditions for the life of the Special Use Permit. A signed copy of the conditions shall be provided to Planning Department Staff ("Staff") within thirty (30) days of receipt of the adopted conditions by the applicant/property owner.

3. **Access for inspections required.** Staff and other county officials shall have access to the property with 24-hour notice to applicant/owner on order to conduct periodic compliance inspections of the facility and the subject property throughout the life of the permit.

4. **Ongoing maintenance of site features.** The following site features shall be properly maintained throughout the life of the permit.
 - a) Property shall be maintained consistent with VDOT regulations.
 - b) The existing driveways and parking areas shall be maintained for safe travel and parking.
 - c) The well and septic shall be maintained consistent with VDH regulations.
 - d) Access for emergency service and law enforcement shall be permitted in conjunction with all events.

5. **Entrance requirements.** Access to the property for all events shall be limited to the existing entrances located along Nelson Road (Route 626). Use of the existing south entrance, located off Borden Springs Road (Route 626) shall be prohibited for all events, except for emergency access purposes.

6. **State and Federal Permits.** The applicant shall comply with all state and federal regulations. A copy of all State and Federal permits shall be provided to the County for documentation purposes.

7. **Business license.** The applicant shall maintain a valid Clarke County business license for the event venue for the life of the Special Use Permit.

8. **Noise.** All live or amplified music shall end no later than 11:00 PM. In addition, all event activities, or other uses of the property, shall adhere to the same noise regulations as those specified under Clarke County Code Chapter 120. All events shall conclude no later than 12:00 ~~p.m.~~ a.m. (midnight). *This condition should apply to any version of the noise ordinance in effect.*

9. **Lighting and temporary lighting for events.** Lighting shall adhere to County's outdoor lighting regulations to limit impacts on adjacent and nearby properties.

10. **Minor Commercial Public Assembly Events – Limitations.** Exclusive of events associated with the House Museum (condition #11) or Special Events (condition #13), the following limitations shall apply to Minor Commercial Public Assembly use:
 1. The maximum allowable persons (participants, spectators, staff, etc.) on-site shall be 149.
 2. All event activity is limited to the historic house, approximately 1 acre of yard area around the historic house, and the designated parking area.
 3. The maximum number of events per calendar year shall be ~~55~~ 57 events or fewer in accordance with the following breakdown:
 - ~~Larger Events: 25 events of up to 149 persons or less.~~
 - ~~Smaller Events: 30 events of 50 people or less.~~
 - 12 Events of 149 persons or less, with amplified sound. Such events shall be limited to 2 events in any one month.
 - 20 Events of 149 persons or less, with no amplified sound except incidental amplified sound for short announcements that shall be limited to 15 minutes per event and must use the public address system provided by the applicant.
 - 25 events of 50 persons or less, with no amplified sound except incidental amplified sound for short announcements that shall be limited to 15 minutes per event and must use the public address system provided by the applicant.
 4. For the purpose of the above, each day that an event is held shall be counted as 1 event regardless if the event extends over multiple days.
 5. Of the larger events (~~25 events of up to 149 persons~~ 12 events with up to 149 persons with amplified sound) no more than 1 event shall occur per day and shall not occur on the same day as a Special Event (condition #13).

6. The applicant shall supply a list of the last year's events to the Department of Planning by January 15 of each year.
7. The applicant shall post larger events with amplified sound to a calendar on its website no later than thirty (30) days in advance. *This condition may need tweaking.*
8. The applicant shall have an employee or representative on site at all times for each event with amplified sound and shall provide contact information of said representative to adjoining property owners upon request.

11. House Museum (SUP-01-07) – Clarification. SUP-01-07 shall be considered exclusive from the Minor Commercial Public Assembly use and shall remain in effect, except for the revocation of the veterinary clinic as described under condition #12. Events held for the House Museum shall be subject to compliance with its original SUP conditions. For clarification purposes, this includes the following stipulations:

1. The house Museum will continue to be able to hold public visitation hours between 12 p.m. (noon) and 4 p.m. Saturday and Sunday.
2. Staff working hours are between 8:30 a.m. and 5:00 p.m. Monday through Friday.
3. Regarding events, the House Museum may hold events of 25 or fewer persons that are primarily held within the historic house and occasionally held outdoors. Events larger than 25 persons are not permitted for the House Museum unless counted against the maximum number of events to the Minor Commercial Public Assembly Use (condition #10), or as may be permitted as a Special Event (condition #13).
4. The smaller events of 25 persons or less shall only include events held for a purpose directly related to the functions of the House Museum.

12. Veterinary Clinic (SUP-01-07) – Revocation. The SUP previously issued for a Veterinary Clinic, specifically R.E.A.C.H. Equine Veterinary Clinic, documented by an approval letter dated January 4, 2002, is hereby revoked. Such revocation is based on condition #3 of the SUP conditions, and, that the use is no longer in existence.

- 13. Special Events.** Upon approval of a permit for a Special Event, pursuant to Clarke County Code Chapter 57, up to 5 Special events may be held on the property during a calendar year. Such authorized Special Events shall be governed by the regulations of Clarke County Code Chapter 57 and shall be considered exclusive from the events associated with the Minor Commercial Public Assembly use and House Museum use. Furthermore, such Special Events shall not be counted toward the maximum number of events stipulated under condition #10.
- 14. No Lodging or food preparation on site.** There shall be no overnight accommodations or food preparation on site. Licensed caterers may provide food services provided that the number of catering employees shall be counted towards the maximum number of persons for the type of event being held.
- 15. Fireworks prohibited.** The use of fireworks for public assembly events on the subject property is prohibited.
- 16. Evening amplified events.** There shall be no more than two events after 6 P.M. with amplified sound per month including Special Events (condition #13).



Lord Fairfax Health District

Clarke County Health Department

100 North Buckmarsh Street

Berryville, Virginia 22611

Tel. (540) 955-1033 ~ Fax (540) 955-4094

www.vdh.virginia.gov



April 25, 2024

Jeremy Camp
Zoning Administrator
101 Chalmers Court
Berryville, VA 22611

RE: SPECIAL USE ZONING PERMIT APPLICATION REVIEW COMMENTS

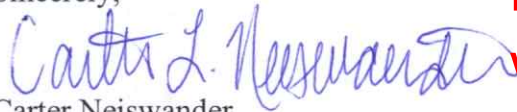
Applicant Name: Randy Buckley
Tax Map #: 29-A-29
Property Address: 830 Long Branch Lane; White Post, VA 22663

Dear Mr. Camp,

Pursuant to your verbal request on April 23, 2024, we have evaluated the sewage disposal system that serves the aforementioned property.

- 1.) The CCHD received a condition assessment report from the project OSE on April 24, 2024 indicating that the dispersal pipe in the existing drainfield is non-functional. Camera refusal was found in a previous inspection by a septic company at 65 feet. This indicates that the dispersal pipe may not be functioning beyond 65 feet. The cause of the malfunction as not reported, but could be attributed to a number of reasons. The project OSE in consultation with Long Branch staff determined that repairing or replacing the existing drainfield from the point of reported camera refusal to the distal end of the trenches would require invasive techniques that could potentially further compromise the functionality of the drainfield. A replacement drainfield site with a 100% reserve area is proposed to ensure that the system is restored to normal function. No increase in waste flow or waste strength to the drainfield is proposed.
- 2.) The site and soils for the proposed replacement drainfield were field reviewed by this office on April 23, 2024 and appeared to be suitable for a conventional onsite sewage disposal system with a 100% alternative drip reserve. No design information has been submitted to this office, but it appears to be of similar size as the existing drainfield. It is assumed timed dosing will be proposed. Final approval is pending resistivity approval and an application with full design specifications.

Sincerely,


Carter Neiswander
Environmental Health Specialist

Note: Staff has requested the a VDH representative attend the Planning Commission Business Meeting on May 3, 2024

MINOR SUBDIVISION (MS-24-02)

May 3, 2024 Planning Commission Meeting
STAFF REPORT -- Department of Planning

The purpose of this staff report is to provide information to the Planning Commission to assist them in reviewing this proposed minor subdivision request. It may also be useful information for the public.

CASE SUMMARY:

Applicant:

Jared Shiley

Owner:

Pleasant View Farms PVFC, Corporation

Location:

- Tax Map Parcel #27-A-1
- The subject property is located on the south side of Chrismore Road (Route 642) approximately .4 miles west of Gun Barrel Road (Route 644) and extending to the Frederick County/Clarke County boundary.
- White Post Election District (Commissioners Buckley & Dunning)
- AOC (Agricultural-Open Space-Conservation) Zoning District

Request:

The application proposes to create 1 new lot from an existing 110-acre lot, resulting in a new 3-acre lot (Lot 1) and a 107-acre lot (Residue).

Original Lots:

110.00 acres (27-A-1) – 0 dwl., 4 DURs

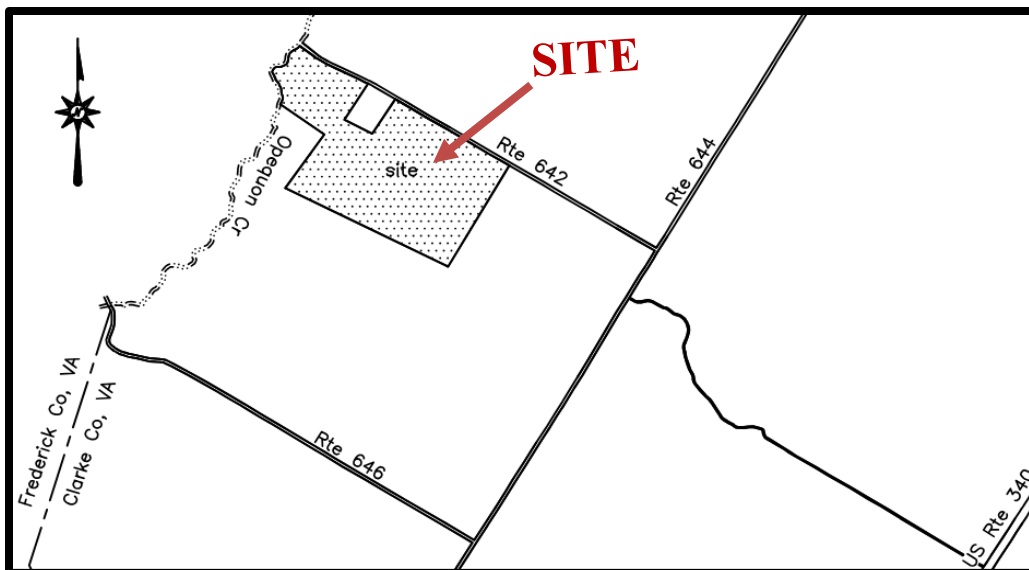
Proposed Lots:

3.00 acres (Lot 1) – 0 dwl., 1 DUR
107.00 acres (Residue) – 0 dwl., 3 DUR

110.00 acres

110.00 acres

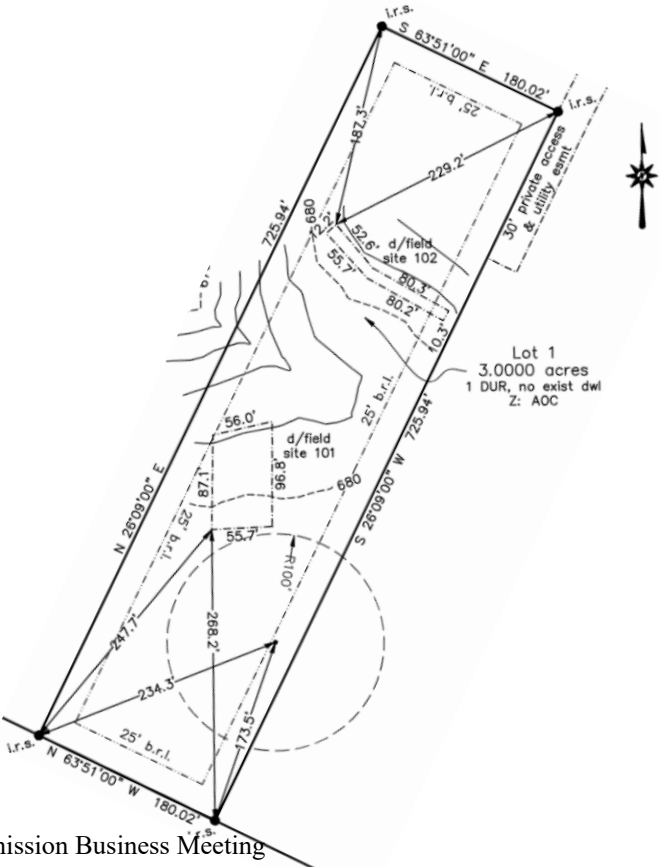
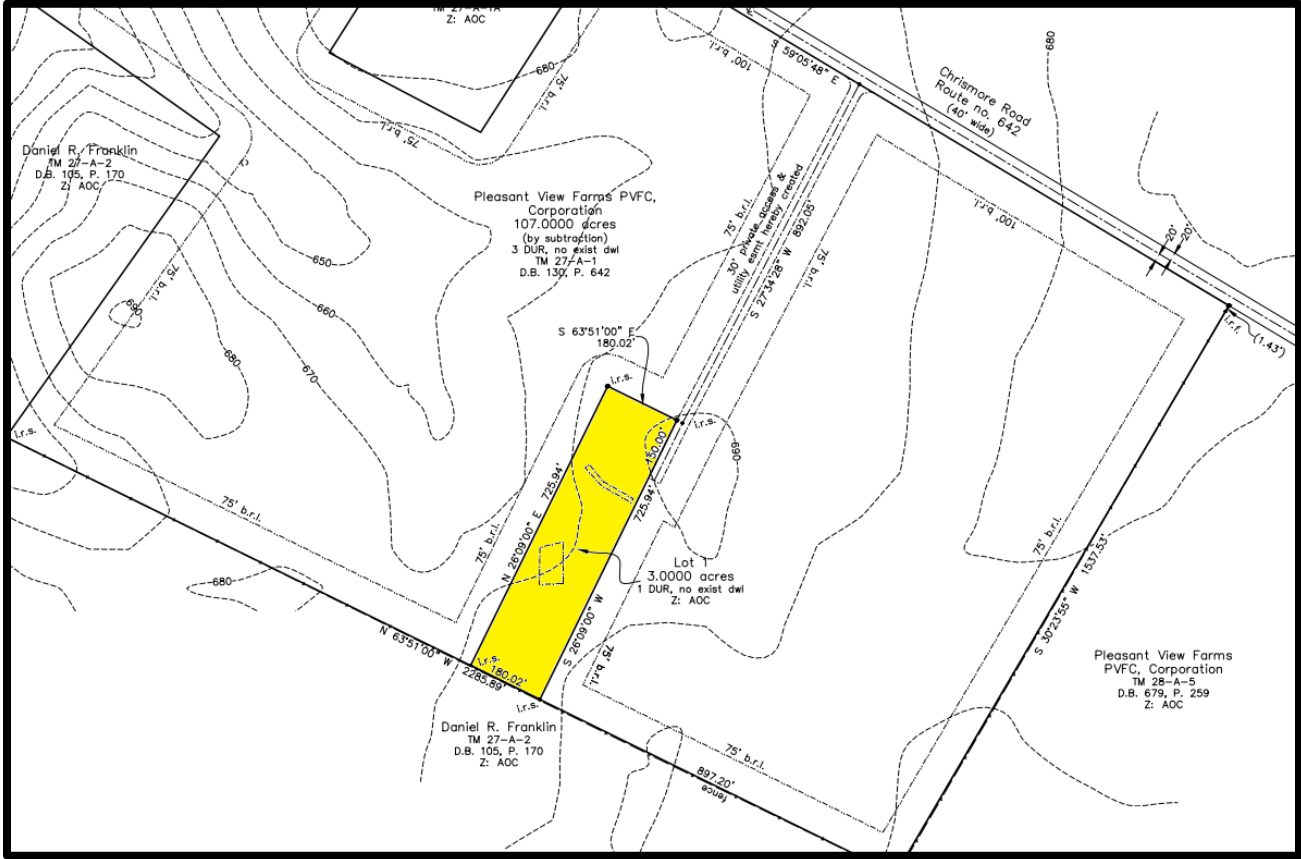
Vicinity Map:



AERIAL ILLUSTRATION



PLAT ILLUSTRATIONS



Staff Discussion/Analysis:

Agricultural and Forestal District:

The subject property is within the Agricultural and Forestal District, last updated by Clarke County in 2022. §48-4A-1 of the County Code allows lots in the Agricultural and Forestal District to be subdivided with a limitation that only “one additional lot shall be permitted for any parcel within the District during the term of the District...” The proposed subdivision conforms to this requirement.

Access:

Access to the new lot (Lot 1) is proposed via a 30’ private access easement off of Chrismore Road (Route 642). The residue lot would retain ample frontage along the state highway.

VDOT provided comments on March 29, 2024. They have no objections to the subdivision and commented that a permit with VDOT is required for all work within the right-of-way, and requested a 25’ right-of-way dedication.

Water and Sewage Disposal:

The plat identifies a 3-bedroom drainfield with a 100% reserve with a design capacity of 3 bedrooms, 6 people and 450 gallons per day (gpd).

VDH provided review comments on March 8, 2024. Their comments were as follows:

- 1) The project OSE located a drainfield site (d/field 101) with a 100% reserve area on proposed lot 1 (3.0000 acres). The proposed design is a shallow drip dispersal system. Treatment level, gallons per day, number of bedrooms, and occupancy is yet to be determined. The site and soil were field reviewed by this office on November 13, 2023 and appeared to be suitable for a shallow drip dispersal system. Resistivity has been conducted over this site and has been approved by the county.
- 2) The proposed residue Lot (107.0000 acres) is vacant and will remain vacant.
- 3) The applicant has not yet applied for a certification letter for proposed lot 1 (3.0000 acres) as required.

By email on April 23, 2024 VDH confirmed that the drainfield is designed as a 3 bedroom Alternative Onsite Sewage (drip) System with a maximum capacity of 6 people and 450 gpd. This stated under note 10 on the plat.

Karst Plan / Resistivity Test:

A resistivity report was submitted by the applicant from Forrest Environmental Services, Inc. Five minor Karst floats were noted under ER Lines 1 and 2 but were identified as a low risk for collapse or groundwater contamination and compliant with the County’s karst regulations. The County’s resistivity consultant, Hillis-Carnes, recommended approval on January 9, 2024. Approval by the County was granted the same day.



Staff Review Comments:

The existing 110-acre lot has 4 dwelling unit rights (DURs). The proposed subdivision would transfer 1 DUR to the new lot and the residue would retain the remaining 3 DURs. The proposed new 3-acre lot is designed to comply with the AOC District minimum and maximum lot size requirements.

Minor corrections were made to the plat by the surveyor based on review comments from Staff on the original plat submitted, dated February 29, 2024. This included errors in the setback information as illustrated on the plat. This was corrected in the plat identified with a March 4, 2024 revision date.

The applicant did not qualify for review in April despite its submission on March 1st because a pre-application meeting was not held at least 7 days prior to submittal. A pre-application meeting was held when the application was submitted and was therefore scheduled for the May Planning Commission Business Meeting.

The proposed subdivision appears to meet the requirements of Section 4.1.1 of the Clarke County Subdivision Ordinance and the AOC District regulations found under Section 4.1.2 of the Clarke County Zoning Ordinance. It is located within the Agricultural and Forestal District, but is allowed under the terms of that district.

Recommendation:

Staff recommends approval of this application for a minor subdivision (MS-24-02).

History:

January 9, 2024	Resistivity approval granted.
March 1, 2024	Application submitted.
	Pre-application meeting held
March 8, 2024	Effective application completion date.
	Submitted application to VDH and VDOT for review.
March 8, 2024	VDH review comments received.
March 29, 2024	VDOT review comments received.
April 23, 2024	Verified capacity of drainfields with VDH by email.
April 30, 2024	Scheduled date for Planning Commission Worksession.
May 3, 2024	Scheduled date for Planning Commission Business Meeting.



General Information

Date: 29 February 2024	Tax Map #: 27-A-1
Zoning District: AOC	Lot Size: 110 acres
Site Address: Chrismore Road, Route no. 642, West of Route no. 644	
Property Owner's Name: Pleasant View Farms PVFC, Corporation	
Property Owner's Mailing Address: 307 Chrismore Road, White Post, VA 22663	
Applicant's Name: Jared Shiley <i>(if different than owner)</i>	
Applicant's Mailing Address: <i>(if different than owner)</i>	
Phone: 540-550-2172	Email: jaredshiley@yahoo.com

Application Type

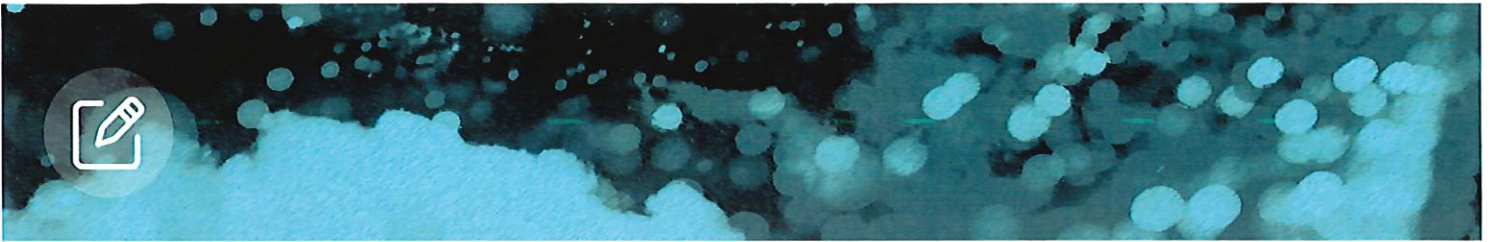
Site Plan	<input type="radio"/>	Major Subdivision	<input type="radio"/>
Administrative Site Plan	<input type="radio"/>	Minor Subdivision	<input checked="" type="radio"/>
Rezoning	<input type="radio"/>	Boundary Line Adjustment	<input type="radio"/>
Special Use Permit	<input type="radio"/>	Lot Consolidation / Merger	<input type="radio"/>
Karst Plan	<input type="radio"/>	Administrative Subdivision (>100 acre parcels)	<input type="radio"/>
Zoning Ordinance Text Amendment	<input type="radio"/>		
Other:	<input type="radio"/>		

Application Details

Name of Project or Subdivision: Pleasant View Farms Minor Division

Existing Use(s): agricultural

Proposed Use(s): agricultural & residential



Additional Details

Description of the proposed development or subdivision:

Subdividing 3.0000 acres out of parcel of 110 acres

Number of Existing Lots: 1

Number of Proposed Lots (proposed and residual): 2

Are you requesting any exemptions, such to the maximum average lot size?

If yes, describe the justification for such request.

no

Check all that apply:

Conservation Easement	<input type="radio"/>	Floodplain	<input type="radio"/>
Historic Overlay District	<input type="radio"/>	Public Water	<input type="radio"/>
Historic Accessory Corridor	<input type="radio"/>	Public Sewer	<input type="radio"/>
Spring Conservation Overlay District	<input type="radio"/>	Karst Soils	<input type="radio"/>

Jared Shiley 540-550-2172 29 February 2024
 Signature of Property Owner Date

Office Use Only

ACTION TAKEN: _____

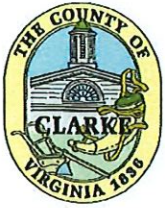
FEE: **PAID (\$4000)**

COMMENTS: _____

Zoning Administrator

Date

56609
GIS Acct #



Clarke County Planning Department
101 Chalmers Court, Suite B
Berryville, Virginia 22611
(540) 955-5132
www.clarkecounty.gov

January 9, 2024

Mr. Jared Shiley
Pleasant View Farms, PVFC Corp
307 Chrismore Road
White Post, VA 22663

RE: Resistivity Test
Tax Map# 27-A-1; Chrismore Road

A resistivity test was conducted on the property described above, and a report generated by Forrest Environmental Services, Inc. in December 2023 defined as Project Number 23257. The test results were sent to Hillis-Carnes Engineering Associates, Inc. for review.

Based on the engineer's report and the Hillis-Carnes Engineering Associate, Inc. review (Project H23085) dated January 9, 2024, this site passes the resistivity test, and if all other requirements are met, may be issued a permit by the Health Department.

If you have any questions or concerns regarding this information, please call the Planning Department at (540) 955-5132.

Sincerely,

A handwritten signature in blue ink that reads "Kristina Maddox".

Kristina Maddox
Clarke County Office Manager / Zoning Officer

c. Clarke County Health Department



Lord Fairfax Health District

Clarke County Health Department
100 North Buckmarsh Street
Berryville, Virginia 22611
Tel. (540) 955-1033 ~ Fax (540) 955-4094
www.vdh.virginia.gov



March 8, 2024

Jeremy Camp
Senior Planner/Zoning Administrator
101 Chalmers Ct
Berryville, Virginia 22611

RE: MINOR SUBDIVISION PRELIMINARY REVIEW COMMENTS

Health Department I.D. #: 043-24-055
Subdivision Name: Pleasant View Farms PVFC,
Corporation
Tax Map #: 27-A-1
Proposed Lots: 2 New Lots

Dear Mr. Camp,

Pursuant to your request, we have evaluated the aforementioned minor subdivision proposal, and offer the following comments at this point in the review process.

OWNER/APPLICANT ITEMS:

1. The project OSE located a drainfield site (d/field site 101) with a 100% reserve area on proposed lot 1 (3.0000 acres). The proposed design is a shallow drip dispersal system. Treatment level, gallons per day, number of bedrooms, and occupancy is yet to be determined. The site and soil were field reviewed by this office on November 13, 2023 and appeared to be suitable for a shallow drip dispersal system. Resistivity has been conducted over this site and has been approved by the county.
2. The proposed Residue Lot (107.0000 acres) is vacant and will remain vacant.
3. The applicant has not yet applied for a certification letter for proposed lot 1 (3.0000 acres) as required.

This letter does not serve as an approval of the proposed subdivision, or its parts. If you have any questions, please contact me at 540.955.1033

Sincerely,

A handwritten signature in blue ink that reads "Carter Neiswander".

Carter Neiswander, EHS

Zimbra

jcamp@clarkecounty.gov

Clarke- Rt. 642- Shiley Subdivision- Pleasant View Farms

From : Boyce, Arthur (VDOT) <bobby.boyce@vdot.virginia.gov> Fri, Mar 29, 2024 09:01 AM
Subject : Clarke- Rt. 642- Shiley Subdivision- Pleasant View Farms 3 attachments
To : Jeremy Camp (jcamp@clarkecounty.gov) <jcamp@clarkecounty.gov>
Cc : Funkhouser, Rhonda (VDOT) <Rhonda.Funkhouser@VDOT.Virginia.gov>, Johnson, Joseph (VDOT) <JosephW.Johnson@vdot.virginia.gov>, Hoffman, Gregory (VDOT) <Gregory.Hoffman@VDOT.Virginia.gov>

Dear Mr. Camp:

We have reviewed the above referenced subdivision plat dated March 4, 2024 by Dunn Land Surveys for impacts to the local roadway system. Our comments are as follows:

1. The existing 40' right-of-way for Route 642 does not allow adequate area for VDOT to maintain or improve the existing roadway and/or drainage if needed. We recommend that a 25' right-of-way dedication from centerline of the road (5 additional feet) be dedicated to public use for roadway maintenance.
2. A VDOT Land Use Permit is required for any work within the VDOT right-of-way including entrance permits. These permit are issued by this office and require a \$100 fee and \$1500 surety bond. The owner or agent may apply for the private entrance permits online at the following link. [Land Use Permit Application](#)

We appreciate the County's efforts to include VDOT in the early planning stages for development and the opportunity to provide comments on this subdivision. We ask that you include a copy of this official public record in file for the subdivision. If you have any questions or need further information, please do not hesitate to give me a call.

Sincerely,



Bobby Boyce
 Land Development Engineer /
 Edinburg Residency
 Virginia Department of Transportation
 540-534-3211
 bobby.boyce@VDOT.Virginia.gov

From: Jeremy Camp <jcamp@clarkecounty.gov>
Sent: Friday, March 8, 2024 9:23 AM
To: Neiswander, Carter (VDH) <carter.neiswander@vdh.virginia.gov>; Boyce, Arthur (VDOT) <bobby.boyce@vdot.virginia.gov>
Cc: Funkhouser, Rhonda (VDOT) <rhonda.funkhouser@vdot.virginia.gov>; Kristina Maddox <kmaddox@clarkecounty.gov>
Subject: Fwd: Shiley MS - Pleasant View Farms

Hello Carter/Bobby,

Attached is a new minor subdivision application received for the division of tax map 27-A-1, a 110 acre lot. The division would result in the creation of a 3 acre lot and 107 acre lot. The property is proposed to be accessed via a 30' private access easement off of Chismore Road (Route 642). Resistivity was approved 1/9/2024.

Please review and provide review comments for consideration by the Planning Commission.

Thank you,
 May 9, 2024 Planning Commission Business Meeting

38 of 54

Zimbra

jcamp@clarkecounty.gov

Re: Shiley MS - Pleasant View Farms

From : Neiswander, Carter (VDH) <Carter.Neiswander@vdh.virginia.gov> Tue, Apr 23, 2024 11:02 AM
Subject : Re: Shiley MS - Pleasant View Farms 2 attachments
To : Jeremy Camp <jcamp@clarkecounty.gov>

We received a cert letter application for this lot on Friday. The DF is designed as stated on the plat.

Miss Carter Neiswander

Environmental Health Specialist
 Clarke County Health Department

Phone: (540) 277-3570 | Mobile: (804) 835-2904

[Lord Fairfax Health District](#) | [Facebook](#) | [Virginia Dept of Health](#)

Clarke County Health Department
 100 N Buckmarsh St
 Berryville, VA 22611

Main Phone: (540) 955-1033 | Fax: (540) 955-4094



From: Neiswander, Carter (VDH) <Carter.Neiswander@vdh.virginia.gov>
Sent: Monday, April 15, 2024 8:54 AM
To: Jeremy Camp <jcamp@clarkecounty.gov>
Subject: Re: Shiley MS - Pleasant View Farms

Good morning Jeremy,

I'll reach out to the project OSE and let him know the plats are ready and we need a cert letter application. The application will have all the design specifications regarding capacity.

Miss Carter Neiswander

Environmental Health Specialist
 Clarke County Health Department

Phone: (540) 277-3570 | Mobile: (804) 835-2904

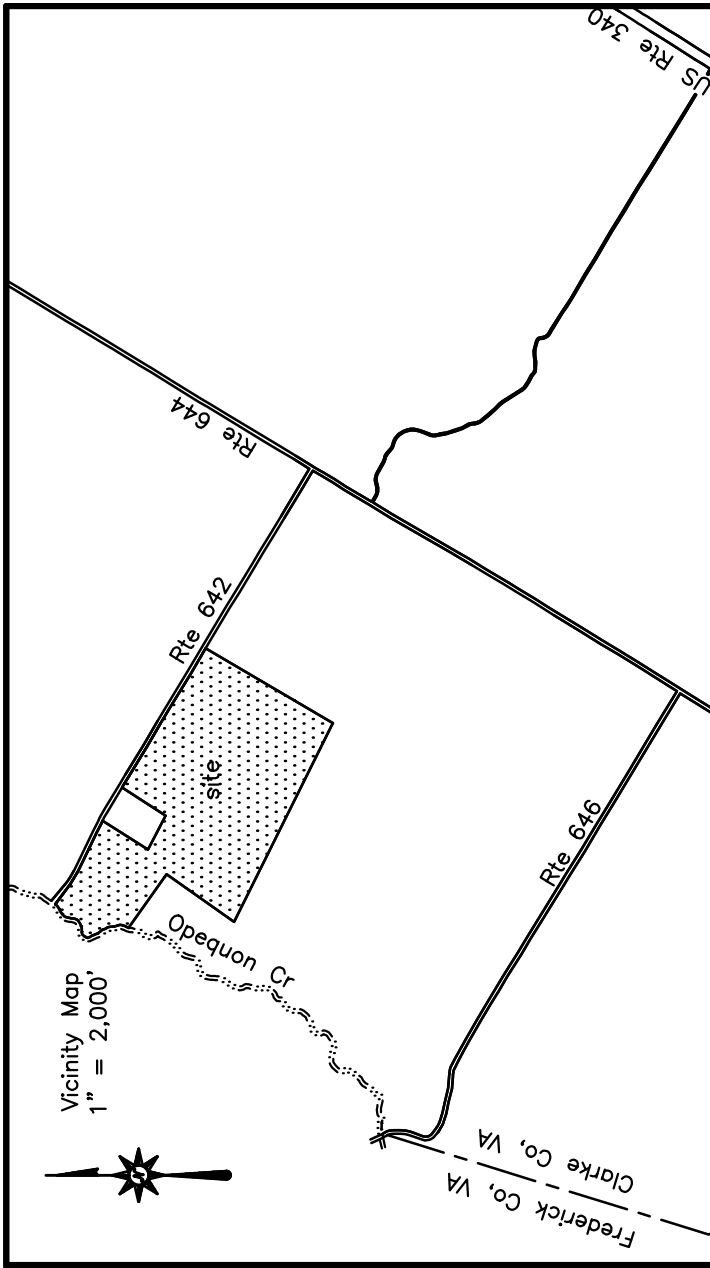
[Lord Fairfax Health District](#) | [Facebook](#) | [Virginia Dept of Health](#)

Clarke County Health Department
 100 N Buckmarsh St
 Berryville, VA 22611

Main Phone: (540) 955-1033 | Fax: (540) 955-4094

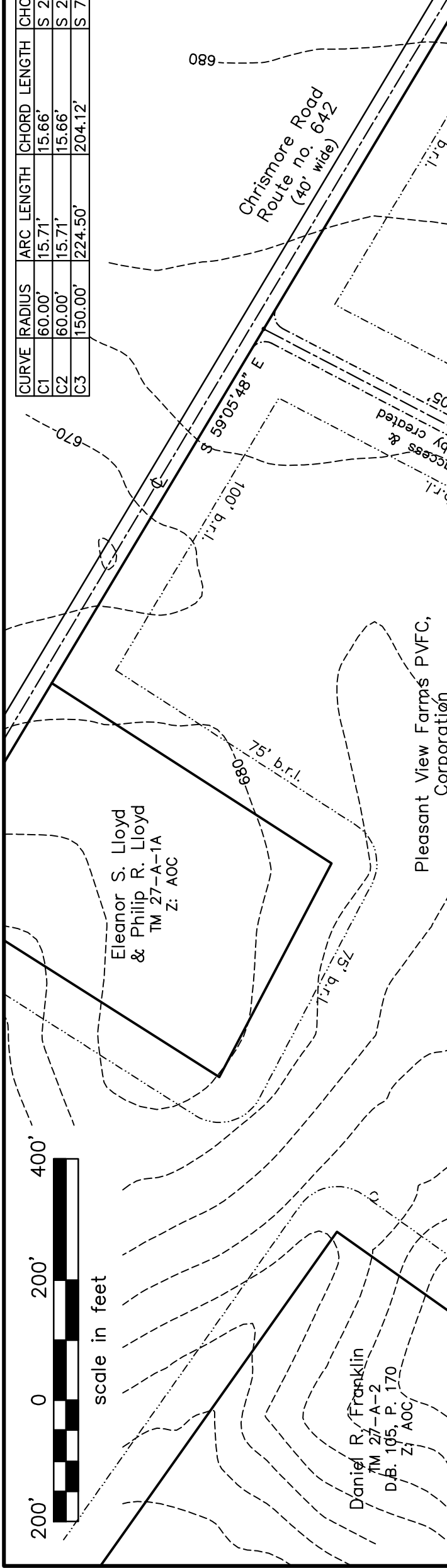


From: Jeremy Camp <jcamp@clarkecounty.gov>
Sent: Monday, April 15, 2024 8:51 AM
To: Neiswander, Carter (VDH) <Carter.Neiswander@vdh.virginia.gov>
Subject: Re: Shiley MS - Pleasant View Farms



CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE	TANGENT
C1	60.00'	15.71'	15.66'	S 22°53'55" W	15°00'00"	7.90'
C2	60.00'	15.71'	15.66'	S 22°53'55" W	15°00'00"	7.90'
C3	150.00'	224.50'	204.12'	S 73°16'28" W	185°43'05"	139.27'

LINE	BEARING	DISTANCE
L1	S 30°23'55" W	67.33'
L2	S 15°23'55" W	26.70'



Plat of Minor Subdivision of the Land of Pleasant View Farms PVFC, Corporation

Deed Book 679, Page 259 Tax Map 27-A-1
Greenway Magisterial District, Clarke County, Virginia

Surveyor's Certificate: I, W. Stuart Dunn, a duly authorized Land Surveyor in the State of Virginia, do hereby certify that this Plat of Minor Subdivision is of the land standing in the name of Pleasant View Farms PVFC, Corporation, and was acquired as stated in the Owner's Certificate. I certify that this parcel of land is properly and accurately described and that the corners designated here have been set in accordance with the Subdivision Ordinance of Clarke County, VA. I further certify that this plat is based on the meridian established in Deed Book 275, Page 215.

W. Stuart Dunn, C.S. #2000
Berryville, Virginia

Owner's Certificate: The undersigned fee simple owner hereby certifies that the foregoing Minor Subdivision of 3,000 acres, being a portion of Tax Map 27-A-1, assessed as 110 acres, standing in the name of Pleasant View Farms PVFC, Corporation in deed recorded in Deed Book 679, Page 259, of record in the Clerk's Office of the Circuit Court of Clarke County, Virginia, is made with the free consent and in accordance with the desires of the undersigned owner and trustees, if any, of said land and the same is hereby confirmed and submitted for record in the aforesaid Clerk's Office.

Bruce A. Shiley, President of Pleasant View Farms PVFC, Corporation
307 Christmore Road, White Post, VA 22663

State of Virginia, City/County of _____, to wit: I, _____, a Notary Public for said
City/County of _____, do hereby certify that Bruce A. Shiley, whose name is signed in the
Owner's Certificate has acknowledged the same before me.

My commission expires: _____ 2024

Notary Public: _____
Given under my hand this _____ day of _____

Notes:

- (1) Tax Map 27-A-1 is in both Flood Zones A and X, established from FIRM Community Panels no. 51043C0130D, effective September 28, 2007. Lot 1 is located in Flood Zone X.
- (2) Zoned: AOC; use: agricultural
- (3) Building setbacks as follows:
Lot 1: 25' all property lines, 50' from any intermittent stream, 100' from any perennial stream, spring or sinkhole
- (4) i.r.s. = iron rod set; i.r.f. = iron pipe found; d.w.l. = dwelling, esmt = easement; b.r.l. = building restriction line; DUR = Residue Lot of Tax Map 27-A-1; 75' from the edge of the 30' private access easement, 100' from the center line of Christmore Road, 75' all other property lines, 50' from any intermittent stream, 100' from any perennial stream, spring or sinkhole
- (5) These tracts are in the AOC (agricultural - open space - conservation) zoning district. Agriculture is the primary economic activity of this Zoning District. Owners, residents, other users of property in the AOC district may be subjected to inconvenience, discomfort and the possibility of injury to property and health arising from agricultural operations even though conducted in accordance with best management practices and/or in accordance with existing laws and regulations of the Commonwealth and County. Such agricultural operations may generate noise, odors and dust, may involve the operation of machinery, including aircraft, the storage and disposal of manure and the application of fertilizer, soil amendments and pesticides. Owners, occupants and users of land in the AOC District should be prepared to accept such inconveniences or discomfort as a normal and necessary aspect of living in a Zoning District in a County with a strong rural character and an active agricultural sector.
- (6) Vegetated property buffer except for those land uses listed as exempt, existing woody vegetation within 25' of all property lines shall be retained on parcels of less than 20 acres; as per Section 4-1 of the Clarke County Zoning Ordinance.
- (7) Before fertilizers and pesticides are used for lawn or landscaping purposes, a soil test should be conducted. The application of such chemicals shall be limited due to the potential for groundwater contamination and should not exceed that determined necessary by the soil test.
- (8) No private access easement shown hereon will conform to the requirements of the Clarke County Subdivision Ordinance Sections 4.3 and 4.5.3. No construction permit for the construction of a dwelling will be issued until the roadway is in compliance.
- (9) The private access easement in this subdivision does not meet the standards necessary for inclusion in the system of State highways and will not be maintained by VDOT or Clarke County and is not eligible for rural addition funds appropriated by the Virginia General Assembly and allocated by the Commonwealth Transportation Board.
- (10) The drainfield site for Lot 1 has been approved by the Clarke County Health Department for a 3 bedroom Alternative Onsite Sewage (drip) System with a maximum capacity of 6 people and 450 gpd.
- (11) This plat of Minor Subdivision is to be recorded within six months of the date of approval. Else it shall become null and void.

Approval:

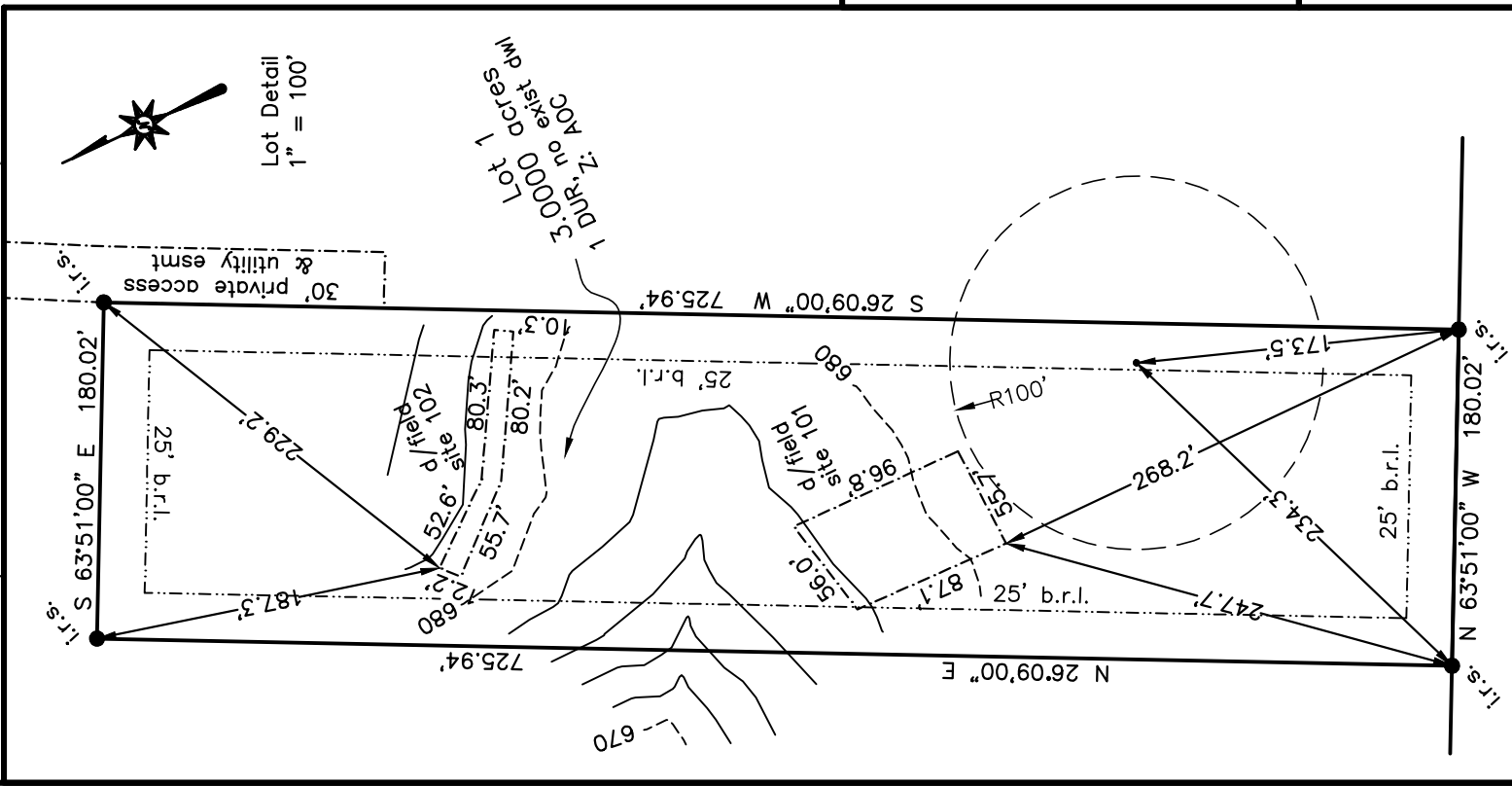
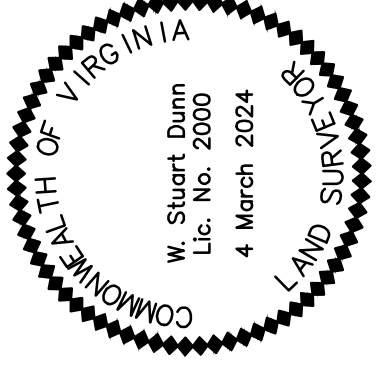
Clarke County Zoning Administrator _____ date: _____

Chairman of Planning Commission _____ date: _____

Clarke County Health Department _____ date: _____

Area Tabulation:

Area	acres	area of TM 27-A-1	no exist dwl, 4 DUR
110	acres	area of TM 27-A-1	no exist dwl, 1 DUR
3,000	acres	area of Lot 1	no exist dwl, 3 DUR
107,000	acres	area of TM 27-A-1 (Residue)	



ZONING ORDINANCE TEXT AMENDMENT (TA-24-01)
Cesspools and Other Unpermitted Onsite Sewage Disposal Systems
April 30, 2024 Planning Commission Work Session – INITIAL DISCUSSION
STAFF REPORT – Department of Planning

The purpose of this staff report is to provide information to the Planning Commission and Board of Supervisors to assist them in reviewing this proposed ordinance amendment. It may be useful to members of the general public interested in this proposed amendment.

Description:

Proposed text amendment to amend Section 4.5.6E of the Subdivision Ordinance. The purpose is to require any existing cesspool or unpermitted onsite sewage disposal system to be replaced or upgraded to a Virginia Department of Health (VDH) approved system prior to final approval of a subdivision plat.

Requested Action:

Initiate consideration of this text amendment and schedule public hearing for the June 7, 2024 Business Meeting.

Staff Analysis:

When subdividing a lot containing an existing dwelling, Subdivision Ordinance Section 4.5.6E requires the plat to show either:

1. *Location of an existing approved standard septic system as shown by VDH record and a 100% reserve drainfield area, or*
2. *Location of a new primary and 100% reserve drainfield area as approved by VDH.*

The wording of 4.5.6E only obligates the applicant to demonstrate that the Virginia Department of Health (VDH) has approved their existing or proposed system and to show that system on the plat. The applicant is not obligated to construct the new system. This is particularly problematic for existing dwellings served by a cesspool or other substandard, unpermitted system as 4.5.6E contains no requirement to install the proposed system.

The proposed text amendment would require any existing cesspool or unpermitted system (no VDH records of approval exist) to be replaced or upgraded to a VDH-approved system before final approval of the subdivision plat. The draft text amendment would not apply to nonconforming systems that are currently permitted in good standing with VDH. The justification for this rule is to protect groundwater from contamination. Cesspools have never been an approved method of sewage disposal per VDH and should be replaced to guard against groundwater contamination before a failure occurs. Unpermitted systems may be just as problematic or may be able to be deemed compliant upon inspection by a design professional, making repairs or modifications if required, and with review/approval by VDH.

As a matter of practice, Staff would recommend that any applicant in this situation conduct the work to replace or install a compliant system before filing their subdivision application. Staff

would not recommend the Commission grant a conditional approval in these cases contingent upon the system being replaced or installed before final plat approval. 3.1.3C requires subdivision plats to be recorded within six months of approval and it could take longer than six months for a property owner to complete the replacement or upgrade.

One problem with requiring an existing unpermitted system or cesspool to be replaced is that it could be a financial burden on the applicant. For example, you could have a low income property owner who is subdividing simply for financial reasons or estate settlement purposes and who does not have the resources to construct a new system. It could also be difficult to justify requiring an existing substandard system to be replaced if there is no evidence that it is failing. The Commission should discuss this policy issue in particular in considering this text amendment.

One additional technical issue is noted. Under subsection E, the word “standard” in first bullet is unnecessary and could be interpreted as only allowing “conventional” systems to qualify. Staff recommends deleting this word.

The Policy & Transportation reviewed this text amendment at their April 18 meeting and agreed by consensus to forward it to the full Commission for consideration.

Staff Recommendation:

Staff recommends that the Commission initiate consideration of this text amendment and schedule public hearing for the June 7, 2024 Business Meeting.

History:

April 18, 2024.

Policy & Transportation Committee agreed by consensus to forward the proposed text amendment to the full Commission for consideration.

April 30, 2024.

Placed on the Commission’s Work Session agenda for initial discussion.

Ordinance Amendment Text (changes shown in bold italics with strikethroughs where necessary):

4.5.6 Private Wells and Onsite Sewage Disposal Systems

E. Existing Onsite Sewage Disposal Systems.

1. If any lot contains an existing dwelling, the plat shall indicate one of the following:

- Location of an existing approved ~~standard~~ septic system as shown by the Virginia Department of Health (VDH) records and 100% reserve drain field area, or
- Location of a new primary and a 100% reserve drain field area, as shown in a permit, approved by VDH, pursuant to a certificate of approval signed by the Health Official evidencing conformity with VDH requirements with respect to individual on-site subsurface septic systems and potable water supply systems, as applicable. Such location shall be shown by distance and bearing to one corner of the primary drain field and one corner of the reserve drain field from two property corners.

2. *If any lot contains a cesspool or an onsite sewage disposal system for which no records of VDH approval exist, the cesspool or unpermitted system shall be replaced with or upgraded to a system that can be approved by VDH. Such system shall be replaced or upgraded and VDH approval obtained prior to final approval of the subdivision plat.*

ZONING ORDINANCE TEXT AMENDMENT (TA-24-02)
Minor Commercial Public Assembly Accessory Use – Country Inns
April 30, 2024 Planning Commission Work Session – INITIAL DISCUSSION
STAFF REPORT – Department of Planning

The purpose of this staff report is to provide information to the Planning Commission and Board of Supervisors to assist them in reviewing this proposed ordinance amendment. It may be useful to members of the general public interested in this proposed amendment.

Description:

Proposed text amendment to amend the “country inn” use per Section 5.2C (Uses, Definitions, and Use Regulations – Business Uses) of the Zoning Ordinance. The purpose is to eliminate minor commercial public assembly as an allowable accessory use and to clarify that the sale of meals or prepared food is limited to overnight guests only. The text amendment also deletes reference to Code of Clarke County Chapter 57 (Special Events).

Requested Action:

Initiate consideration of this text amendment and schedule public hearing for the June 7, 2024 Business Meeting.

Staff Analysis:

The “country inn” special use allows minor commercial public assembly to be approved as an accessory use subject to the requirements of use regulation 3. Following the Carter Hall special use permit application deliberation, some commissioners indicated a preference for removing this as an accessory use. If this accessory use is removed, applicants who want to operate a country inn and have minor commercial public assembly activities would be required to get a special use permit for a country inn and a separate special use permit for a minor commercial public assembly use.

The proposed changes below would remove use regulation 3 and reference to “permanent place(s) of public assembly” in the definition of “country inn.” Staff also recommends removal of use regulation 8 referencing compliance with County Code Chapter 57 requirements for any special events. Special events are not considered to be minor commercial public assembly uses however reference to them in the use regulations could give the impression that country inns are appropriate places to hold special events. Removal of use regulation 8 would not prohibit special events from being approved at country inns. Should the Commission want to prohibit special events, use regulation 8 should be replaced with language stating that special events per Chapter 57 are prohibited.

One unrelated change is also recommended. Staff has added language to use regulation 2 to clarify that meal service is only allowed for overnight guests of the country inn. This ensures that meal service is not expanded to the general public and operated as a restaurant. The language would also prohibit meal service to individuals who may be visiting guests at the country inn but who are not staying overnight. Corresponding language in the definition would also be deleted.

The Policy & Transportation reviewed this text amendment at their April 18 meeting and agreed by consensus to forward it to the full Commission for consideration.

Staff Recommendation:

Staff recommends that the Commission initiate consideration of this text amendment and schedule public hearing for the June 7, 2024 Business Meeting.

History:

April 18, 2024. Policy & Transportation Committee agreed by consensus to forward the proposed text amendment to the full Commission for consideration.

April 30, 2024. Placed on the Commission’s Work Session agenda for initial discussion.

Ordinance Amendment Text (changes shown in bold italics with strikethroughs where necessary):

COUNTRY INN	
Permitted Use	CN
Accessory Use	None
Special Use	AOC, FOC

Definition:

A business offering for compensation to the public guestrooms for transitory lodging or sleeping accommodations for a period of fewer than 30 consecutive days. ~~As accessory uses to a country inn, meal service and/or permanent place(s) of public assembly may be provided.~~

Use Regulations:

1. Maximum occupancy and use of onsite sewage disposal system.
 - a. A maximum of 15 guest rooms for transitory lodging or sleeping accommodations shall be permitted subject to compliance with Virginia Department of Health (VDH) regulations for onsite sewage disposal systems if applicable. The maximum occupancy shall not exceed the maximum occupancy allowed by the onsite sewage disposal system permit issued by the Virginia Department of Health (VDH). If the onsite sewage disposal system serving the country inn is shared with another structure or structures, the maximum occupancy of all structures shall not exceed the maximum occupancy allowed by the onsite sewage disposal system permit.

- b. An application for a country inn that is served by an onsite sewage disposal system shall be reviewed by VDH in conjunction with the site development plan application review. Written confirmation by VDH that the existing onsite sewage disposal system can support the proposed maximum capacity of the country inn shall be a prerequisite to approval of a site development plan.
 - c. If a country inn is served by an onsite sewage disposal system, that system shall be maintained and remain in an operable condition for the life of the use. In the event that the system fails as determined by the Virginia Department of Health (VDH), the zoning administrator may issue a notice of violation to cease the country inn use until the system is repaired or replaced and is approved in writing by VDH.
2. The sale of meals or prepared food *to overnight guests only*, which may include beverages and confections, is permitted as an accessory use to a country inn. Approvals or permits by applicable State agencies shall be obtained and remain active for the lifespan of this activity.
 - ~~3. Assembly activities for compensation are permitted as an accessory use. The maximum number of building occupants during an assembly activity shall not exceed 149, or the maximum occupancy of the facility as approved by the Building Department, whichever is lesser.~~
 3. One bathroom shall be provided per each bedroom in structures less than 50 years old or one bathroom shall be provided per each two bedrooms in structures 50 years or older.
 4. Any need for parking shall be met off the street and other than in a required front yard, and shall conform in all other ways with the provisions of [Section 7.2.5 \(Parking Regulations\)](#).
 5. No equipment, process, or vehicles which create unreasonable noise, vibration, glare, fumes or odors which are detectable to the normal sense off the premises shall be permitted.
 6. Regulations for country inns in the AOC and FOC Districts:
 - a. A country inn shall require the use of a dwelling unit right (DUR).
 - b. If a country inn is developed in a structure other than an existing single-family dwelling, the structure shall be designed to resemble a single-family dwelling and constructed to enable the structure to be converted to a single-family dwelling if the country inn use is discontinued. Architectural renderings and construction plans for the proposed structure shall be submitted for review with the special use permit application.
 - ~~8. Special events shall comply with [Chapter 57 of the Code of Clarke County](#).~~

ZONING ORDINANCE TEXT AMENDMENT (TA-24-03)
Helicopter Landing Area Use and Prohibition of Private Airstrips and Airports
April 30, 2024 Planning Commission Work Session – INITIAL DISCUSSION
STAFF REPORT – Department of Planning

The purpose of this staff report is to provide information to the Planning Commission and Board of Supervisors to assist them in reviewing this proposed ordinance amendment. It may be useful to members of the general public interested in this proposed amendment.

Description:

Proposed text amendment to add “helicopter landing area” as a new special use in AOC District per Section 5.2E (Uses, Definitions, and Use Regulations – Public and Miscellaneous Uses) of the Zoning Ordinance. The purpose is to require a special use permit and compliance with use regulations for departures and landings of non-commercial helicopters for personal use. The text amendment also clarifies that helicopter landing areas for commercial use and private or public airstrips or airports for aircraft other than helicopters are prohibited.

Requested Action:

Initiate consideration of this text amendment and schedule public hearing for the June 7, 2024 Business Meeting.

Staff Analysis:

Staff recently noted the provisions in Code of Virginia §15.2-2293.2, Regulation of Helicopter Use:

No local zoning ordinance shall impose a total ban on departures and landings within the locality by non-commercial helicopters for personal use, but local zoning ordinances may require a special exception, special use permit, or conditional use permit for repetitive helicopter landings and departures on the same parcel of land in some or all zoning districts. Special exceptions or special use permits may be made subject to reasonable conditions for the protection or benefit of owners and occupants of neighboring parcels, including but not limited to conditions related to compliance with applicable regulations of the Federal Aviation Administration.

The Zoning Ordinance is silent on the use of helicopter landing areas for personal use. Per Section 5.1.2A, if a use does not meet the definition of any use listed in Section 5, then it is considered to be a prohibited use. This would appear to mean that helicopter landing areas for personal use are a prohibited use. Because the Code of Virginia does not allow localities to prohibit these uses, a legal argument could be made that helicopter landing areas are unregulated and are therefore by-right uses allowable without regulations or permitting requirements. Since the Code of Virginia allows localities to require special use permits for helicopter landing areas and to include reasonable regulations, Staff recommends that a new special use and use regulations be created for them.

Staff has proposed some basic use regulations for helicopter landing areas. The use would only be allowed in the AOC District by special use permit. Use regulation 1 requires them to be

accessory to a residential use on the same lot – this is to ensure that a vacant lot is not used for helicopter landings. The minimum lot size is 50 acres and setbacks from property lines (300 feet) and residences on adjacent lots (500 feet) are proposed to minimize impacts on adjoining properties. Setbacks of 300 feet from overhead power lines and 100 feet from structures on the same lot are proposed for safety purposes.

Use regulation 5 allows helicopter landing areas to be hard surfaced and at a minimum requires them to be stabilized with grass or gravel to prevent erosion. The goal is to require these uses to be low impact and, similar to our approach with the draft primitive campground regulations, we would not require a site development plan. Improvements are limited to markings, lighting, or other equipment required by State or Federal law and use of required lighting is limited to takeoffs and landings – lights are to be turned off when the landing area is not in use. An applicant would not be prohibited from constructing a building or shelter to house the helicopter when not in use as that structure would have to be located a minimum of 100 feet from and would not be part of the landing area.

On a related note, the Zoning Ordinance also contains no allowable uses for private airstrips or commercial airports thereby making them prohibited uses. Staff recommends including language in the use regulations for “helicopter landing area” to reinforce this prohibition.

The Policy & Transportation reviewed this text amendment at their April 18 meeting and agreed by consensus to forward it to the full Commission for consideration.

Staff Recommendation:

Staff recommends that the Commission initiate consideration of this text amendment and schedule public hearing for the June 7, 2024 Business Meeting.

History:

- | | |
|------------------------|---|
| April 18, 2024. | Policy & Transportation Committee agreed by consensus to forward the proposed text amendment to the full Commission for consideration. |
| April 30, 2024. | Placed on the Commission’s Work Session agenda for initial discussion. |

Ordinance Amendment Text (changes shown in bold italics with strikethroughs where necessary):

<i>HELICOPTER LANDING AREA</i>	
<i>Permitted Use</i>	<i>None</i>
<i>Accessory Use</i>	<i>None</i>
<i>Special Use</i>	<i>AOC</i>

Definition:

An area designated exclusively for the takeoff and landing of helicopters for the personal use by the property owner and their guests.

Use Regulations:

- 1. Helicopter landing areas shall be accessory to a residential use located on the same lot.***
- 2. The minimum lot size for a helicopter landing area is 50 acres. Minimum setback distances are as follows:***
 - From all property lines – 300 feet***
 - From overhead utility lines – 300 feet***
 - From structures on the same lot – 100 feet***
 - From residences on adjacent lots – 500 feet***
- 3. Helicopter landing areas shall not be used for commercial purposes. Helicopter landing areas do not include private or public airstrips or airports for aircraft other than helicopters as these are prohibited uses.***
- 4. Helicopter landing areas shall conform to all State and Federal regulations.***
- 5. Helicopter landing areas may be hard surfaced and at a minimum shall be stabilized with grass or gravel to prevent erosion. Improvements shall be limited only to markings, lighting, or other equipment required by State or Federal law. Any use of required lighting shall be limited to takeoffs and landings and all lights shall be turned off when the landing area is not in use.***

Required Review Processes:

- 1. Special Use Permit Review is required per Section 6.3.1.***

ZONING ORDINANCE TEXT AMENDMENT (TA-24-04)
Temporary Use of Major Recreational Equipment
April 30, 2024 Planning Commission Work Session – INITIAL DISCUSSION
STAFF REPORT – Department of Planning

The purpose of this staff report is to provide information to the Planning Commission and Board of Supervisors to assist them in reviewing this proposed ordinance amendment. It may be useful to members of the general public interested in this proposed amendment.

Description:

Proposed text amendment to amend “temporary use of major recreational equipment” per Section 5.4 (Uses, Definitions, and Use Regulations – Temporary Uses and Structures) of the Zoning Ordinance. The purpose is to clarify that use of major recreational equipment for camping or sleeping is prohibited in the RR, OSR, DR-1, DR-2, and DR-4 zoning districts, and is allowed in the AOC and FOC zoning districts only in accordance with the “camping” temporary use. The text amendment also clarifies that major recreational equipment may not be used for residential purposes in these zoning districts except in accordance with the “temporary dwelling” use.

Requested Action:

Initiate consideration of this text amendment at the May 3 Business Meeting but delay scheduling public hearing until resolution of the Campground Regulations text amendment (TA-23-01).

Staff Analysis:

“Major recreational equipment” is defined as:

A boat, boat trailer, travel trailer, pick-up truck camper or cap, motor coach, motorized dwelling, tent trailer, or similar recreational vehicle or equipment, as well as any cases, boxes, or towing trailers used for transporting recreational equipment, whether or not occupied by such equipment.

Use regulation 1 for the temporary use, “Temporary Use of Major Recreational Equipment,” states that “no major recreational equipment shall be used for living, sleeping, or other occupancy on lots zoned RR, OSR, DR-1, DR-2, and DR-4 except as a temporary dwelling use.” The intent of this language is to prevent people from camping or residing in major recreational equipment in these zoning districts. This section does not reference any limitations on usage of major recreational equipment in the AOC and FOC Districts with the intent being that they can be used for camping by the property owner, family, and guests. The absence of language to address AOC and FOC usage could be interpreted by some as allowing major recreational equipment to be used for residential purposes in these districts.

Staff recommends cleaning up the language in this section to clarify that camping or sleeping in major recreational equipment is prohibited in the aforementioned residential zoning districts, and is allowed in the AOC and FOC zoning districts only in accordance with the “camping” temporary use. Language is also added to clarify that use of major recreational equipment for

residential purposes is only allowed with zoning permit approval as a “temporary dwelling” use during construction of a permanent residence or in hardship instances when the applicant’s residence on the same lot has been destroyed by natural causes.

Language should also be included to tie into the new “camping” temporary use that remains under consideration in Text Amendment TA-23-01 so these proposed changes should not be considered until after TA-23-01 is adopted when final terminology can be reconciled.

The Policy & Transportation reviewed this text amendment at their April 18 meeting and agreed by consensus to forward it to the full Commission for consideration.

Staff Recommendation:

Staff recommends that the Commission initiate consideration of this text amendment at the May 3 Business Meeting but delay scheduling public hearing until text amendment TA-23-01 is resolved.

History:

April 18, 2024.

Policy & Transportation Committee agreed by consensus to forward the proposed text amendment to the full Commission for consideration.

April 30, 2024.

Placed on the Commission’s Work Session agenda for initial discussion.

Ordinance Amendment Text (changes shown in bold italics with strikethroughs where necessary):

TEMPORARY USE OF MAJOR RECREATIONAL EQUIPMENT	
Permitted Use	None
Accessory Use	AOC, FOC, RR, OSR, DR-1, DR-2, DR-4
Special Use	None

Definition:

The temporary parking, storage, or non-residential use of major recreational equipment on a lot.

Use Regulations:

The following regulations shall apply to the temporary use of major recreational equipment which includes parking and storage.

1. ***Usage in residential zoning districts. Use of major recreational equipment for camping or sleeping is prohibited on lots zoned RR, OSR, DR-1, DR-2, and DR-4. Major recreational equipment shall only be used for residential purposes in accordance with the “temporary dwelling” use.***
2. ***Usage in the AOC and FOC Districts. Use of major recreational equipment for camping shall only be allowed in accordance with the “camping” temporary use. Major recreational equipment shall only be used for residential purposes in accordance with the “temporary dwelling” use.***

~~No major recreational equipment shall be used for living, sleeping, or other occupancy on lots zoned RR, OSR, DR-1, DR-2, and DR-4 except as a temporary dwelling use.~~

3. Major recreational equipment six feet or more in average height, not parked or stored in a garage, carport, or other building, shall not be located in any required front or side yard and shall be located at least three feet from all buildings.
4. Major recreational equipment that is not in operating condition shall not be parked outdoors and shall be stored in a garage, carport, or other building.

Required Review Processes: None

**PROJECTED UPCOMING AGENDA ITEMS, MAY -- AUGUST
(5/3/2024 Business Meeting)**

MAY

<u>COMMITTEE MEETINGS</u>
Comprehensive Plan Committee (Monday, May 20 at 2:00PM): <ul style="list-style-type: none">• Rural Lands Plan (continued discussion) – Recap of issue identification, planning next steps including outreach workshops

JUNE

<u>JUNE 4 WORK SESSION</u>
<ul style="list-style-type: none">• <u>TA-23-01</u>, Campground regulations – Review response from Board of Supervisors on primitive campgrounds
<u>JUNE 7 BUSINESS MEETING</u>
Schedule Public Hearings: <ul style="list-style-type: none">• <u>SUP-23-01/SP-23-01</u>, Blake & Tamara Bullard (Berryville Berries)• <u>SUP-23-02/SP-23-02</u>, John Miller (Watermelon Park)• <u>TA-23-01</u>, Campground regulations (modified to include primitive campgrounds), <u>if necessary</u>• <u>TA-24-04</u>, Temporary Use of Major Recreational Equipment
Minor Subdivisions: <ul style="list-style-type: none">• <u>MS-23-08</u>, Regan Partnership, LP• <u>MS-23-12/MLSE-23-05</u>, Suromi, LLC
Public Hearings: <ul style="list-style-type: none">• <u>TA-24-01</u>, Cesspools and Other Unpermitted Onsite Sewage Disposal Systems• <u>TA-24-02</u>, Minor Commercial Public Assembly Accessory Use – Country Inns• <u>TA-24-03</u>, Helicopter Landing Area Use and Prohibition of Private Airstrips and Airports
<u>COMMITTEE MEETINGS</u>
Comprehensive Plan Committee (to be scheduled): <ul style="list-style-type: none">• Rural Lands Plan (continued discussion) – Village workshop planning, continued work on plan development

JULY

<u>JULY 9 WORK SESSION</u>
<ul style="list-style-type: none">• No items identified
<u>JULY 12 BUSINESS MEETING</u>
Public Hearings: <ul style="list-style-type: none">• <u>SUP-23-01/SP-23-01</u>, Blake & Tamara Bullard (Berryville Berries)• <u>SUP-23-02/SP-23-02</u>, John Miller (Watermelon Park)• <u>TA-23-01</u>, Campground regulations (modified to include primitive campgrounds), <u>if necessary</u>• <u>TA-24-04</u>, Temporary Use of Major Recreational Equipment
<u>COMMITTEE MEETINGS</u>
Comprehensive Plan Committee (to be scheduled): <ul style="list-style-type: none">• Rural Lands Plan (continued discussion) – Possible Millwood and White Post Village workshops, continued work on plan development

AUGUST

***** NO PLANNING COMMISSION MEETINGS IN AUGUST!*****

<u>COMMITTEE MEETINGS</u>
Comprehensive Plan Committee (to be scheduled): <ul style="list-style-type: none">• Rural Lands Plan (continued discussion) – Continued work on plan development