



Clarke County Planning Commission

AGENDA – Briefing Meeting

Tuesday, June 3, 2014 – 3:00PM

Berryville/Clarke County Government Center– Main Meeting Room

- 1. Approval of Briefing Meeting Agenda**
- 2. Review Agenda Items for June 6, 2014 Regular Meeting**
- 3. Old Business Items**
 - a. TA-14-02, Administrative Land Divisions**
 - b. Update, TA-14-03 -- Establishment of Filing Deadlines for Rezoning, Special Use Permit, Site Plan, and Major Subdivision Applications**
- 4. New Business Items**
 - a. Request from Board of Supervisors – Commercial Boarding Kennels and Animal Shelters**
- 5. Other Business**
 - a. Update, Recreation Plan Subcommittee**
 - b. Berryville Area Plan (BAP) Update**
- 6. Adjourn**



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

TO: Planning Commission members

FROM: Brandon Stidham, Planning Director

RE: TA-14-02, Administrative Land Divisions

DATE: May 28, 2014

Attached for your consideration is a revised draft of the proposed Subdivision Ordinance text amendment to address concerns with administrative divisions of 100 acre parcels and boundary line adjustments as occurred in the recent Runyon plat transactions.

To recap the work to date, the Commission's Policy Subcommittee developed recommendations in January to define administrative divisions of 100 acre parcels as "administrative land divisions," to require administrative land divisions to comply with private access easement requirements if applicable, and to limit the frequency that such divisions may occur. The Commission received the Subcommittee's report in February but decided not to set public hearing on a text amendment at that time due to legal concerns expressed by the County Attorney. At the Commission's March 4 meeting, the members agreed by consensus to accept the following technical items for inclusion in the text amendment as Staff and the County Attorney continued to work on a substantive solution to address members' policy concerns:

- Establish a definition for "administrative land divisions" for transactions resulting in the creation of two or more parcels with each parcel being a minimum of 100 acres.
- Add "administrative land divisions" to the list of exemptions under the definition of "subdivide."
- Clarify language indicating that the Zoning Administrator acts for the Planning Commission in reviewing administrative land division plats.
- Require administrative land divisions proposed to be served by a private road to meet the County's private access easement design standards.
- Require administrative land divisions to meet utility installation design requirements.

As Planning Staff continued to work on possible solutions, the Commission had a roundtable discussion at the April 1 briefing meeting to identify the greatest issues of concern to each member regarding the Runyon plat transactions. Members specified several concerns but the greatest universal concern was the absence of Planning Commission oversight of the transactions. With this guidance in hand, Staff has worked with the County Attorney to revise the draft text amendment to address Commission oversight of these transactions in addition to other technical issues.

In addition to the technical points discussed above, the revised text amendment would establish a new section 10-F to address mergers, boundary line adjustments, and administrative land divisions that could occur similar to the Runyon transactions. The new language would require Planning Commission review and approval of any merger, boundary line adjustment, or administrative land division that involves a residual lot that was the subject of an administrative land division, merger, or boundary line adjustment within the previous two (2) years. The new language addresses Staff's concern about finding the appropriate point in the review process to trigger Commission review by focusing on subsequent modification to the boundary lines of the residual parcel of a previous administrative land division. The proposed process also does not adversely impact or limit the rights of any property owners to conduct these transactions. Commission review of such transactions would remain administrative in nature subject to the same review parameters as planning staff would have. As with the review of other subdivision plats, the Commission would have sixty (60) days to take action on such plats.

To place this language into perspective, if the new provisions were in place during the Runyon transactions, Planning Staff would have reviewed the initial plat depicting the first administrative land division into three 100+ acre parcels but the Commission would have had authority over all of the remaining plats.

The revised text amendment also contains the following provisions not previously considered by the Commission:

- Added a new definition for the term, "residual lot (or residual parcel)."
- Added a new section 10-D-6 under boundary line adjustments indicating that such transactions shall be approved by the Zoning Administrator. This language was added at the County Attorney's request because the section – unlike the current section for mergers and the proposed section for administrative land divisions – does not specify the agent for approval of boundary line adjustment plats.
- Added a new section 10-D-7 that requires compliance with the Subdivision Ordinance's water and sewage disposal requirements if a lot of 40 acres or greater is reduced in size below 40 acres. The purpose of this addition is to ensure that lots are not reduced below the threshold set forth in 7-C-3-d without confirmation of well and drainfield sites.

One additional issue for the Commission's consideration is provided by Commissioner Anne Caldwell. In discussing potential approaches to the Runyon type transactions, she suggested requiring any DUR allocation in an administrative land division to comply with the DUR allocation chart set forth in 3-D-2 of the Zoning Ordinance. Instituting this requirement would prevent a property owner from retaining a larger balance of DURs on a residual parcel than corresponds to the allocation chart when the residual parcel is reduced in size by boundary line adjustment. There is currently no such requirement in the Zoning or Subdivision Ordinances and Staff has frequently approved plats over the years in which property owners sell off portions of their land with one or two DURs but retain the large balance of DURs on the residual parcel. Maintaining the balance of DURs on the residual parcel was one of the approaches taken in the Runyon transaction.

Staff is concerned that this approach could have unintended consequences with other types of transactions, including forcing landowners to sell more or less land and DURs than they intend to in order to avoid losing DURs. Staff recommends that the Commission discuss this approach at the June 3 briefing meeting and provide Staff with direction as to whether it should be included in the text amendment. If the Commission is interested in including the language in the text amendment, Staff recommends delaying setting public hearing on the text amendment until July when this additional language can be included. If not, then Staff recommends placing the attached text amendment on the agenda to set public hearing at the June 6 regular meeting.

If you have any questions or concerns in advance of the meeting, please do not hesitate to contact me.

SUBDIVISION ORDINANCE TEXT AMENDMENT (TA-14-02)
Administrative Land Divisions
(June 3, 2014 Planning Commission Briefing Meeting)

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

Additions to Section 2-B, Definitions (addition of two new definitions will require this section to be renumbered):

***ADMINISTRATIVE LAND DIVISION.** A division of land into two or more parcels with each parcel being a minimum of 100 acres. Such divisions shall not be considered a major or minor subdivision and shall be acted upon administratively by the Zoning Administrator.*

***LOT, RESIDUAL (or RESIDUAL PARCEL):** The portion of a lot of record that remains after the creation of a new lot or lots.*

SUBDIVIDE (2/16/01): To divide any tract, parcel, or lot of land into two or more parts, with the following exceptions:

- 2-B-50-(a) Boundary Line Adjustments (see Special Regulations, Article 10-D).

- 2-B-50-(b) The use of one of the parcels will be public utility uses and not more than
(6/21/05) two parcels would result from the division of land.

- 2-B-50-(c) All persons proposing to divide and/or merge land who contend such
(6/13/89) division is exempted from the provisions of this Ordinance under
(2/20/90) subsections (a) or (b), above, shall submit to the Zoning Administrator a
(7/20/93) plat of the proposed division, or other documents, plats, or evidence
(6/21/05) satisfactory to the Zoning Administrator, and if in the opinion of the
 Zoning Administrator the division is accepted, he shall so certify on said
 plat or on the deed of conveyance by which the property is to be divided.
 The Zoning Administrator's certificate shall state that the division is
 accepted under (a) or (b), above, and shall be signed by the Zoning
 Administrator. No person shall record a plat or conveyance for the
 division of land without complying with the provisions of this Ordinance
 or without the Zoning Administrator's certificate as aforesaid.

- 2-B-50-(d) *Administrative Land Divisions*

Addition to Section 3, Administration

3-A-2. The Commission may act through its Zoning Administrator and/or Planning Staff duly appointed as provided in Section 15.2-2217 of the Code of Virginia, to the extent that the Commission finds appropriate for the administration of this Ordinance; provided, however, that

no person may act for the Commission in approving, conditionally approving, or disapproving any Preliminary Plat or Record Plat *of a major or minor subdivision.* ~~except~~ The Zoning Administrator shall act for the Commission in approving, conditionally approving, or disapproving any ~~Preliminary Plat or Record Plat in which all lots proposed are 100 acres or greater in area of an administrative land division.~~

Addition to Section 4, Procedure for Subdivision Approval

4-M. Administrative Land Divisions.

- 1. If one or more of the parcels resulting from an administrative land division are to be served by a private access easement, the private access easement shall comply with all applicable design requirements set forth in §8-J.***
- 2. Utility installation on parcels resulting from an administrative land division shall comply with all applicable design requirements set forth in §8-G. The Zoning Administrator shall have the authority to act on behalf of the Planning Commission in applying §8-G-1, §8-G-3, and §8-G-11.***

Addition to Section 10, Special Regulations

10-D-6 Any boundary line adjustment shall require approval by the Zoning Administrator.

10-D-7 If a lot with an area equal to or greater than forty (40) acres is reduced in size by boundary line adjustment, the resultant lot shall comply with the water and sewage disposal system requirements set forth in §7-C-3-d.

10-F CERTAIN MERGERS, BOUNDARY LINE ADJUSTMENTS, AND ADMINISTRATIVE LAND DIVISIONS

10-F-1 Any plat depicting a merger or boundary line adjustment involving a residual lot that was the subject of an administrative land division within a two (2) year period shall require approval by the Planning Commission.

10-F-2 Any plat depicting an administrative land division involving a residual lot that was the subject of a merger or boundary line adjustment within a two (2) year period shall require approval by the Planning Commission.

10-F-3 A final plat showing the merger, boundary line adjustment, or administrative land division shall be filed with the Zoning Administrator and submitted to the Planning Commission for review. The Commission shall act on the plat within sixty (60) days of the filing date.

10-F-3

The final plat depicting a merger shall meet the requirements of §10-E; the final plat depicting a boundary line adjustment shall meet the requirements of §10-D; and the final plat depicting an administrative land division or divisions shall meet the requirements of §4-M except as otherwise provided herein.



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TO: Planning Commission members

FROM: Brandon Stidham, Planning Director

RE: Update, TA-14-03 – Establishment of Filing Deadlines for Rezoning, Special Use Permit, Site Plan, and Major Subdivision Applications

DATE: May 30, 2014

The purpose of this memo is to update you on Staff's progress in developing text amendment TA-14-03 which would establish filing deadlines for rezoning, special use permit, site plan, and major subdivision applications. As noted at the May briefing meeting, Staff is working with County Attorney Bob Mitchell to ensure that the new filing deadlines and pre-application meeting requirements comply with State code requirements and mesh with the Commission's public hearing process and timeline. Mr. Mitchell has also been working to update procedural language to ensure uniformity across the applicable chapters.

Unfortunately due to a computer issue, a significant portion of the working drafts were recently lost and were unable to be re-created in time for the June Commission meetings. We hope to be able to provide a complete package for the Commission's consideration in July which will include comprehensive markups of Chapters 5 (Special Use Permits), 6 (Site Development Plans), and 8 (Amendments) of the Zoning Ordinance and Chapter 4 (Procedure for Subdivision Approval) of the Subdivision Ordinance. We also intend to provide a draft timeline as requested by the members depicting how the review workflow would be managed with the new filing deadlines and pre-application meeting requirements implemented.

If you have any questions or concerns in advance of the meeting, please do not hesitate to contact me.



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TO: Planning Commission members

FROM: Brandon Stidham, Planning Director

RE: Request from Board of Supervisors – Commercial Boarding Kennels and Animal Shelters

DATE: May 29, 2014

The purpose of this memo is to provide you with an update on the Board of Supervisors' response to the Planning Commission's recommendation regarding commercial boarding kennels and animal shelters. Staff presented the Commission's recommendation to the Board at their May 20 regular meeting and following discussion, the Board moved to request the Commission to develop a text amendment that addresses the following items:

- Prohibit commercial boarding kennels and animal shelters in the AOC and FOC Districts as recommended by the Commission.
- Further define the Commission's proposed "animal shelter/governmental" use as a shelter owned and/or operated by Clarke County as opposed to another governing body.
- Designate the "animal shelter/governmental" use as a special use.
- Evaluate the current special use for commercial boarding kennels in the Neighborhood Commercial District for possible removal.
- Evaluate whether to amend the breeding kennel provisions to prevent large breeding kennels.

Staff has placed this item on the June 3 briefing meeting agenda for discussion. We recommend that the Commission discuss the additional items noted by the Board before requesting Staff to prepare a draft text amendment for the Commission's consideration.

A copy of the memo to the Board of Supervisors regarding the Commission's recommendations is attached for your reference. If you have any questions or concerns in advance of the meeting, please do not hesitate to contact me.



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TO: Board of Supervisors members

FROM: Brandon Stidham, Planning Director

RE: Recommendation to the Board of Supervisors on Zoning Ordinance Commercial Boarding Kennel Provisions

DATE: May 12, 2014

At the February 18 meeting, the Board of Supervisors voted unanimously to request the Planning Commission to evaluate the concept of removing commercial kennels, animal shelters, veterinary services, animal hospitals, and breeding kennels uses from the AOC and FOC Districts as a special use and establishing them as by-right uses in the Highway Commercial (CH) District. The Board requested that the Commission provide a formal recommendation on this request including review of the individual uses that are grouped within this category.

Following discussion at their March and April briefing meetings including reviewing an evaluation of similar regulations in nearby counties (see attached), the Planning Commission voted unanimously to forward the following recommendation to the Board for consideration:

Move to recommend that the Board of Supervisors consider the following actions:

1. *Delete “Commercial Boarding Kennels of more than five canine or feline animals” and “Animal Shelters” as special uses in the AOC District (§3-A-1-a-3-u). These two uses would become prohibited uses in the AOC District, and existing commercial boarding kennels and animal shelters would become nonconforming uses.*
2. *Delete “Commercial Boarding Kennels of more than five canine or feline animals” and “Animal Shelters” as special uses in the FOC District (§3-A-2-a-3-q). These two uses would become prohibited uses in the FOC District, and existing commercial boarding kennels and animal shelters would become nonconforming uses.*
3. *Adopt a new use in the AOC District, “Animal Shelter/Governmental,” for animal shelters that are either owned and/or operated by the County government. The Clarke County Animal Shelter would be classified under this new use and would not be made nonconforming by deletion of “Animal Shelters” from §3-A-1-a-3-u*

Adopting a text amendment consistent with the Commission’s motion would produce the following results:

- “Commercial Boarding Kennels of more than five canine or feline animals” and “animal shelters” would become prohibited uses in the AOC and FOC Districts.
- Existing commercial boarding kennels would become nonconforming special uses. As a nonconforming use, they would be subject to the limitations of §4-K-4-b of the Zoning Ordinance including prohibition on expansion or relocation to another portion of the property.
- Commercial boarding kennels would continue to be a by-right use in the Highway Commercial (CH) District and a special use in the Neighborhood Commercial (CN) District.
- The former “animal shelter” use would be replaced by a new use entitled, “Animal Shelter/Governmental.” Such uses would have to be either owned and/or operated by the County government and would include the current Clarke County Animal Shelter. The Commission did not make a recommendation on whether this new use would be a by-right or a special use.

The Commission’s recommendations would have no impact on veterinary services, animal hospitals, and breeding kennels. Zoning Ordinance provisions for these uses would remain unchanged.

Commission members chose not to prepare a draft text amendment this time and are providing these recommendations for the Board’s consideration. Should the Board wish to develop this item as a text amendment, Staff recommends that the Board take action at the May 20 meeting to request the Planning Commission to prepare the text amendment for public hearing, provide a formal recommendation, and forward it for consideration by the Board of Supervisors. If you have any questions or concerns in advance of the meeting, please do not hesitate to contact me.