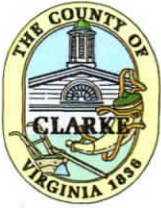


**CLARKE COUNTY PLANNING COMMISSION**  
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**December 2, 2016 Regular Meeting**

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# Clarke County Planning Commission

AGENDA- Regular Meeting

Friday, December 2, 2016 – 9:00AM

BERRYVILLE/CLARKE COUNTY Government Center – Main Meeting Room

1. Approval of Agenda
2. Approval of Minutes
  - a. November 1, 2016 Briefing Meeting
  - b. November 4, 2016 Regular Meeting

## Set Public Hearing Items

3. None

## Public Hearing Items

4. TA-16-04, Amend Stormwater Management Regulations

## Board/Committee Reports

5. Board of Supervisors (Mary Daniel)
6. Board of Septic & Well Appeals (George Ohrstrom, II)
7. Board of Zoning Appeals (Anne Caldwell)
8. Historic Preservation Commission (Doug Kruhm)
9. Conservation Easement Authority (George Ohrstrom, II)

## Other Business

## Adjourn

## UPCOMING MEETINGS

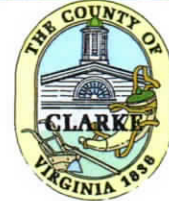
Tuesday, January 3, 2017 (3:00PM) – Briefing Meeting

Friday, January 6, 2017 (9:00AM) – Regular Meeting

# Clarke County

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**PLANNING COMMISSION  
BRIEFING MEETING MINUTES -- DRAFT  
TUESDAY, NOVEMBER 1, 2016**



A briefing meeting of the Planning Commission of Clarke County, Virginia, was held at the Berryville/Clarke County Government Center, Berryville, Virginia, on Tuesday, November 1, 2016.

## **ATTENDANCE**

**Present:** George L. Ohrstrom, II (Chair); Anne Caldwell (Vice Chair); Robina Bouffault; Randy Buckley (arrived late); Mary Daniel (arrived late); Scott Kreider; Douglas Kruhm; Frank Lee; Gwendolyn Malone; Cliff Nelson; and Jon Turkel.

**Absent:** None

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

**Others Present:** Emily Day (AFD Advisory Committee); Cathy Kuehner (Winchester Star)

## **CALLED TO ORDER**

Chair Ohrstrom called the meeting to order at 3:00PM.

## **AGENDA**

The members approved the agenda by consensus as presented.

Mr. Stidham began review of the November 4 meeting agenda by asking the members to provide Staff with any comments or corrections they may have to the October 4 and October 7 meeting minutes. He then turned the floor over to Mr. Fincham to review the minor subdivision applications.

Mr. Fincham reviewed the Dillow/Cather minor subdivision and maximum lot size exception request (MLSE-16-04/MS-16-08). He stated that he is still waiting for comments from the Health Department but expects to have that on Wednesday. He noted that he has received an approval recommendation from VDOT on the proposed ingress/egress. Mr. Fincham also reviewed the Applicants' proposed boundary line adjustment that would take place if the minor subdivision is approved, noting that this is all part of the family's estate planning. Chair Ohrstrom asked if a lot is going to be created without a dwelling unit right and Mr. Fincham replied no. Mr. Fincham concluded by stating that Staff is currently recommending deferral since the Health Department comments remain outstanding but that this will change to an approval recommendation with an approval letter from the Health Department. Mr. Kruhm asked for confirmation that the property is zoned AOC and Mr. Fincham replied yes. Mr. Fincham also clarified the status of an existing vacant

lot that adjoins the subject property. Mr. Kruhm asked how the property can be expanded to five acres through boundary line adjustment, and Mr. Fincham replied that the Applicants will be adjusting boundaries between two residential lots. Chair Ohrstrom added that the Applicants are able to accomplish this because they are eligible for a maximum lot size exception. Mr. Fincham reminded the Commission that for boundary line adjustment purposes, agricultural parcels are 20 acres or larger and residential lots are less than 20 acres. Boundary lot adjustments are not permitted between agricultural and residential lots if it increases the size of the residential lot over 3 acres unless the residential lot is increased to the size of an agricultural lot.

Mr. Fincham reviewed the DeHaven minor subdivision request (MS-16-09). He stated that the location of the proposed parcel is due to the location of the proposed septic system. He said that the proposed lot is not an "island lot" because one boundary line is shared with the residual lot. Chair Ohrstrom asked if the drainfield or reserve area is in the flood plain. Mr. Fincham replied that they are not and also noted that he can get the flood plain line shown on the plat. Chair Ohrstrom asked if there is a Karst plan for this subdivision and Mr. Fincham replied that the soil type is shale. Vice Chair Caldwell said that Flood Zone A is shown on the plat and the primary drainfield is in Flood Zone A, but asked what the unidentified dotted line also shown refers to. Mr. Fincham said that he would contact the surveyor to determine if this represents the 10 year floodway line. He did not think that there is a 10 year floodway designation for the Opequon Creek.

Mr. Fincham reported that he has received comments from VDOT on the minor subdivision and explained VDOT's recommendation that the property owner and Board of Supervisors consider abandoning a portion of Neill Road from the property entrance to the Opequon Creek. Mr. Lee noted that there was once a ford leading to Frederick County at the end of Neill Road that was closed long ago. Mr. Fincham said that his recommendation will change from defer to approve since he has received comments from both VDOT and the Health Department. Mr. Lee noted that the detail on the turnaround needs to be changed to a cul-de-sac and Mr. Fincham said that he would have the surveyor correct it.

**Old Business Items**

Mr. Stidham began the continued discussion of agricultural business uses in the AOC District by reviewing Staff's memo for the Commission's consideration. He said that Staff has attempted to capture the Commission's discussion and issues of concern from the October meeting into a series of initial recommendations for the members to review. He noted that these recommendations are specifically for the Commission's continued discussion and are not intended to be ready for advancement to public hearing as a text amendment at this stage. He added that the County Attorney should review any proposed text amendment before the Commission decides to schedule public hearing.

Mr. Stidham then outlined initial recommendations on farm machinery sales/service and farm supplies/sales. Ms. Daniel asked whether Staff has solicited input from either the Farm Bureau or the Southern States Co-op, and Mr. Stidham replied that he has not pursued outside input at this early stage until the Commission decides the direction they wish to pursue. Mr. Lee asked about septic and well requirements and Mr. Stidham replied that they would have to meet State and County regulations. Mr. Lee cautioned that customers coming to these facilities could trigger a public well

requirement and Mr. Stidham added that this could constitute a “waterworks” that would be prohibited for use in the AOC District. Ms. Bouffault noted that there is a blurring of the line between sales of equipment for purely agricultural purposes and sales of lawnmowers and equipment typically used by homeowners. Chair Ohrstrom said that Anderson’s Nursery is an example of this. He added that we may not have a problem with these uses on primary highways but would have a problem with them on secondary roads. Ms. Bouffault asked why there is a prohibition on outdoor storage. Mr. Lee noted that it is difficult to store large tractors in a 15,000 square foot building, and Mr. Buckley noted that feed stores often store their fence posts and other supplies outdoors. Mr. Buckley asked if retail is allowed by right in the AOC District and Mr. Stidham replied that it is allowed only by special use permit. Mr. Buckley asked whether there is a need to distinguish between the agricultural and retail components of a primarily agricultural business. Mr. Stidham noted that Tractor Supply is an example of this. Chair Ohrstrom said that it is a really blurry line. Mr. Buckley added that Southern States in Winchester attempted to focus sales of items for urban customers in that location. Mr. Stidham said that one way to address this issue is to allow non-agricultural related retail if it is accessory and clearly incidental to an agricultural business. Chair Ohrstrom added that the argument could be made that a store that sells high-end boots and clothing is an agricultural business.

Mr. Kruhm stated that there is a tractor business looking to expand in this area, noting that they sell both farm equipment and residential mowers. He asked whether the proposed language would prevent such a business from locating here. Mr. Stidham said that adding “accessory and clearly incidental to” language would allow the residential products to be sold provided they were a smaller portion of the tractor business. Mr. Buckley said that if you want to have these businesses, you have to allow the sale of residential equipment to make the businesses work.

Chair Ohrstrom asked if there is language to address fluid containment and disposal for these farm equipment repair businesses. He noted that this concern was one of the biggest reasons why these uses were previously removed from the AOC District. Mr. Stidham said that waste fluid disposal would be regulated by DEQ. Chair Ohrstrom asked if it could be regulated with our site plan requirements. Mr. Stidham replied that it could be addressed in the supplementary regulations. Chair Ohrstrom said that it is important to include this if the use is added into the AOC District. Mr. Stidham cautioned that enforcement would be complaint-driven and could occur after a violation has already taken place. Mr. Kruhm asked if we could require a plan to be submitted to demonstrate how the waste fluids would be contained. Mr. Stidham replied yes and noted that the plan could be reviewed by the County’s engineering consultant. Ms. Daniel suggested that similar rules should be included for containment of fertilizers as well.

Mr. Stidham then reviewed the proposed deletion of “horticulture” and clarification that it is part of agriculture. Mr. Kruhm asked how this would impact intensive horticulture operations and Mr. Stidham replied that they would be allowed under the definition of “agriculture.” He also said that it might be protected by the Right to Farm Act. Chair Ohrstrom asked about how this would impact landscaping companies, citing a company that proposed a landscaping business on U.S. 340 near White Post a number of years ago. Mr. Buckley said that he thought the business was allowable under the Zoning Ordinance but that they could not comply with VDOT requirements for their proposed entrance. Mr. Stidham asked what their agricultural operation would have been, and

several of the members said that some of their plants would have been grown onsite. Mr. Stidham said that under the proposed language, the business would have to be predominately an agricultural one and the landscaping function would have to be accessory and clearly incidental to the agricultural operation.

Mr. Stidham then provided an overview of onsite sales of farm products, nurseries and greenhouses, and processing of agricultural products. He began by explaining an approach that would allow wholesale and retail sale of products grown or processed in conjunction with the agricultural operation provided that sales are accessory and clearly incidental to the agricultural operation. He noted that sales would include products made with products both from the agricultural operation and from outside sources, such as apple pies made from apples grown on the farm. He also stated that sales of products or items not produced in conjunction with the agricultural operation would not be allowed as by-right agriculture. Chair Ohrstrom asked if they could sell clothing or work gloves and Mr. Stidham said no, that you cannot sell any items that were not produced in whole or in part using products from the agricultural operation. He said you would have to get a special use permit for retail sales in that case.

Mr. Kruhm asked why biosolids land application was included in the definition of agriculture and not any other types of fertilizing practices. Chair Ohrstrom and Ms. Daniel said that it may have been added to the ordinance when it was determined that localities could not prohibit biosolids. Chair Ohrstrom also noted that the County may not want to be in a position where it appears we are promoting biosolids land application. Mr. Kruhm recommended that the use be removed from the ordinance because it does not fit given that we do not regulate other types of fertilizers. Mr. Lee said that you have to have a permit to land apply biosolids but not for other fertilizers. Vice Chair Caldwell suggested removing biosolids from the definition of agriculture but that it should be included in a separate section. Mr. Stidham said that he would check with the County Attorney as he said he could not think of a reason why it needs to be in the Zoning Ordinance.

Mr. Stidham said that Staff is recommending deletion of “nurseries, greenhouses (commercial)” as it would be allowed by right under the definition of agriculture. He said that commercial retail nurseries would still be allowed as retail operations – by right in the Highway Commercial District and with a special use permit in the AOC District. He also reviewed the proposed changes dealing with the processing of agricultural products.

Mr. Stidham also addressed recommendations on feed and grain mills. Mr. Fincham provided the example of farmers mixing ingredients to make feed and often reselling excess feed. He noted that the proposed changes would make these activities part of by right agriculture. Mr. Lee asked about how to address the County’s two historical mills that sell products not produced onsite by an agricultural operation. Mr. Stidham suggested that both mills may have some nonconforming status that would have to be researched. Mr. Lee noted that Locke’s Mill grinds grains for distilleries and none of the grain is grown onsite. Mr. Stidham said that the Burwell-Morgan Mill may be zoned Neighborhood Commercial and not AOC. Ms. Bouffault asked whether it would be a question of volume and how much grain is milled. Vice-Chair Caldwell asked if you could add language to exempt restored historic water mills for the processing of grains. Ms. Bouffault said that there are

specific exclusions in the Code of Virginia and that the two mills should be exempted. Mr. Stidham said that he would work on proposed language for the Commission's consideration.

Mr. Stidham concluded the topic by reviewing Staff's recommendations on welding, blacksmith, tinsmith, and woodworking uses including a potential approach to allowing larger scale versions of these uses. Members had no additional comments on this item.

**New Business Items**

Mr. Stidham reviewed the proposed text amendment to reconcile the Zoning and Subdivision Ordinances with the recent repeal of the County's Stormwater Ordinance by the Board of Supervisors. Members indicated that they were comfortable with it and agreed by consensus to add it to the November 4 agenda to schedule public hearing.

Mr. Stidham also reviewed Staff's proposed changes to the Commission's standing committees to better handle current and upcoming workloads. Members agreed by consensus that this is a good approach and should be included in the items for the Organizational Meeting in January.

**Other Business**

None

The meeting was adjourned by consensus at 4:15PM.

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George L. Ohrstrom, II (Chair)

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Brandon Stidham, Planning Director

# Clarke County

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**PLANNING COMMISSION  
REGULAR MEETING MINUTES  
FRIDAY, NOVEMBER 4, 2016 DRAFT**

A regular meeting of the Planning Commission of Clarke County, Virginia was held at the Berryville/Clarke County Government Center, Berryville, Virginia, on Friday, November 4, 2016.

**ATTENDANCE**

George L. Ohrstrom, II, Chair; Anne Caldwell, Vice Chair; Robina Bouffault; Randy Buckley; Mary Daniel (arrived late); Scott Kreider; Doug Kruhm; Frank Lee; Gwendolyn Malone; and Jon Turkel.

**ABSENT:** Cliff Nelson

**STAFF**

Brandon Stidham, Planning Director; Ryan Fincham, Senior Planner/Zoning Administrator; and Debbie Bean, Recording Secretary.

**CALLED TO ORDER**

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

Commissioner Bouffault stated that she would like to add an item to the Agenda to discuss a the Telecommunications Study done by the Atlantic Group. Chair Ohrstrom stated that this discussion can be included under Other Business.

**APPROVAL OF AGENDA**

The Commission voted to approve the amended Agenda.

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

**No:** No one

**Absent:** Daniel and Nelson

**APPROVAL OF MINUTES**

The Commission voted to approve the briefing meeting minutes of October 4, 2016.

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

**No:** No one

**Abstained:** Lee

**Absent:** Daniel and Nelson



The Commission voted to approve the regular meeting minutes of October 7, 2016.

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

**No:** No one

**Absent:** Daniel and Nelson

**MLSE-16-04/MS-16-08, Margaret R. Dillow, Joyce R. Singhas, Thomas A. Cather, Michael R. Cather, and Raymond N. Cather.** Request approval of a two lot Minor Subdivision and Maximum Lot Size Exception for the property identified as Tax Map #7-A-7E located at 189 Cather Road in the Russell Election District zoned Agricultural Open-Space Conservation (AOC).

Mr. Fincham explained this request. He said the applicants are requesting approval for a two lot Minor Subdivision and Maximum Lot Size Exception. He said that Lot 1 is 5.888 acres with 1 existing house and no dwelling unit right remaining. He stated that the Residue Lot 3 is 19.624 acres with no existing dwelling and 1 dwelling unit right remaining. He said that the Health Department has completed their review and is prepared to sign the final plats. He stated that VDOT has contacted Staff in regard to the proposal and has no objection to the subdivision as proposed. He said that the recommendation of Staff is to approve the two-lot Minor Subdivision. After discussion with Staff and the Commission, Chair Ohrstrom called for a motion.

The Commission voted to approve this request as presented

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

**No:** No one

**Absent:** Daniel and Nelson

**MS-16-09, Ronald E. DeHaven.** Request approval of a two lot Minor Subdivision for the property identified as Tax Map #6-A-16 located at 197 Neill Road in the Russell Election District zoned Agricultural Open-Space Conservation (AOC).

Mr. Fincham explained this request. He said that the applicant is requesting approval for a two lot Minor Subdivision. He said that Lot 1 is 3.00 acres with no existing dwelling and one dwelling unit right remaining. He stated that the Residue lot is 44.933 acres with one existing dwelling and no dwelling unit right remaining. He said that VDOT has requested a 50' radius cul-de-sac right of way be dedicated to public use at the intersection of Neill Road and the proposed private access easement which has been provided on the revised plat. He stated that VDOT asked that the property owner and the County Board of Supervisors consider officially abandoning Neill Road beyond the entrance to the DeHaven property. He said that the recommendation of Staff is to approve the two-lot Minor Subdivision. After discussion with Staff and the Commission, Chair Ohrstrom called for a motion.

Commissioner Daniel entered the meeting.

The Commission voted to approve this request as presented.

**Yes:** Bouffault (seconded), Buckley, Caldwell, Daniel, Kreider (moved), Kruhm, Lee, Malone,

Ohrstrom, and Turkel  
**No:** No one  
**Absent:** Nelson

### **Set Public Hearing**

#### **TA-16-04, Amend Stormwater Management Regulations**

Mr. Stidham explained this proposed Text Amendment. He said that the proposed amendment is to reconcile the Zoning and Subdivision Ordinances with the recent repeal of Chapter 154, Stormwater Management, Code of Clarke County. He said that former local stormwater management regulations will be replaced with reference to State regulations and additional edits are proposed for clarity purposes. He stated that it is the recommendation of Staff to set public hearing for this proposed text amendment at the next meeting of the Planning Commission on December 2, 2016. After discussion with Staff and the Commission, Chair Ohrstrom called for a motion.

The Planning Commission voted to set public hearing for the next regular meeting of the Planning Commission on December 2, 2016.

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

**No:** No one

**Absent:** Nelson

### **Board/Committee Reports**

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

Commissioner Daniel stated that the Board of Supervisors had their meeting yesterday to avoid conflict with upcoming events. She said that a traffic light at the Lake Frederick intersection on Route 522 South will be activated on November 10<sup>th</sup> between 10:00 a.m. and noon. She stated that the Board of Supervisors want to have a public meeting to hear the presentation from the engineering firm that did the Telecommunications Study and they prefer to do it at a time in the evening when more members of the public can attend. She said that the Board of Supervisors emphasized that they want the Planning Commission to attend this meeting. She said what has been tentatively set subject to participation by the Planning Commission is November 29<sup>th</sup> at 7:00 p.m. Mr. Stidham stated that this date is available for the engineering firm and as soon as he gets official confirmation he will let everyone know. She stated the Board of Supervisors will be having a public meeting with the State Legislators and possibly a Congressional representative on December 5<sup>th</sup> and this will be a public meeting. She said that at the December 20<sup>th</sup> Board of Supervisors meeting there are nine public hearings scheduled starting at 6:30 p.m.

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

No report.

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

No report.

**Historic Preservation Commission (Doug Kruhm)**

Commissioner Kruhm stated that there was a public meeting in which Maral Kalbian did a presentation. He said he was unable to attend that meeting but asked Commissioner Caldwell to comment on the meeting. She said that the Historic Preservation Commission has obtained a grant from the State to develop a book documenting Clarke County through its architecture. She stated that Maral Kalbian, Architectural Historian for the County, has done a similar book for Frederick County. She said that the public meeting was held to get input into the outline/organization of the book. She stated that it was a good presentation and there were a lot of interesting comments made.

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

Chair Ohrstrom stated that we are working on closing some easements. He said we are still working on the easement template and any conflict in language between the easement holder and the land holder should now be looked at and approved in favor of the land owner not the easement holder.

**Other**

**Telecommunications Study – Discussion**

Commissioner Bouffault stated that Commissioner Daniel has already referred to the Telecommunications Study that is going to be presented to the Board of Supervisors on November 29th for final approval. She said that the Telecommunications Subcommittee of this Commission has not had the chance to review or comment on the study. She stated that this would not be a problem if not for the fact that we are currently working on the Telecommunications Ordinance which refers to this study and incorporates it into the ordinance. She said that if the study was not being used as a basis for the ordinance it would be a different issue. She asked the Commission for comments on this matter.

Chair Ohrstrom asked if it would be appropriate for the Planning Commission to look at the study beforehand. Commissioner Bouffault said that Mr. Stidham referred to the study as the final draft for approval. Mr. Stidham said that the study is still Draft #1 so it has not been finalized. Commissioner Bouffault asked who is going to finalize it. Mr. Stidham said he is confused because we did provide copies of this study to the Telecommunications Subcommittee. Commissioner Bouffault said that they received copies one day after the Board of Supervisors. She said she sent an email stating she did not consider it appropriate for the Subcommittee to be commenting on something that is in front of the Board of Supervisors when the Planning Commission has not been given an opportunity to consider it. Commissioner Turkel said that the study probably has information that the Subcommittee could review and study. He said it seems as though the Subcommittee is out of the loop and everything has gotten off track. Commissioner Daniel asked if the Board of Supervisors received a copy of this document and Mr. Stidham said yes around the 17<sup>th</sup> or 18<sup>th</sup> of October. He stated that this document is a public record and he said he has had someone from the public request a copy because it was mentioned in the minutes.

Commissioner Bouffault said her only concern is not whether a copy has been distributed but the fact that the Subcommittee is going to be asked to work on the corresponding ordinance with this as not just a referral document but the basis of the Ordinance. She stated that Broadband is probably the most pressing issue in our County right now and there will be no Economic Development of any businesses if we do not have adequate Broadband. She said that using this study as the basis of an

ordinance without the Planning Commission having read it ahead of time is not the right procedure. Commissioner Daniel said the only question that is going to be in front of the Board is whether this study is compliant with the Request for Proposal (RFP). She stated that the intention is to use the study as a planning guide not only for this Commission but several other Boards, panels and committees. Chair Ohrstrom stated that basically what the Board of Supervisors is saying is that this report answered the request for proposal and it therefore means the County coffers can go ahead and pay the Atlantic Group for the study. He said that it does not mean they are approving this proposed study as the basis for the future ordinance. Mr. Stidham said the way he described it to the Board was that we would ask the Board to recommend that they act to accept the study. He stated that this is not the same as adopting the County's Comprehensive Plan. He said that the Board is giving it some level of weight so that we can continue to work on the Zoning Ordinance Text Amendment. He stated that we can then reference that document if that is what the Planning Commission and the Subcommittee wants to do. He said that the Text Amendment is the Planning Commission's document. Commissioner Bouffault said she knows that and that is what she is trying to clarify. She said she understands it to mean that it will come back to the Subcommittee and we will continue working on the ordinance and a make a determination at that time. Mr. Stidham confirmed that it would. She said that she wanted to clarify that since the Board of Supervisors is accepting it that it does not mean that this is going to be the ordinance as is. She said she thought that the Planning Commission would have to recommend it to the Board of Supervisors. Chair Ohrstrom said that the Planning Commission would recommend this to the Board of Supervisors because the Planning Commission is the entity that writes the Text Amendment. Commissioner Bouffault said that she understands now and is fine with the process.

Commissioner Kruhm said he does not believe that the study is ready to move forward as an official document and the Planning Commission needs to review the study. He said the Commission needs to review the Subcommittee's comments on the study and it will be a document that we can work with in the future. Chair Ohrstrom asked if we can do this by email. Mr. Stidham said he will email the Planning Commission a copy of the draft study that we have right now. He said that he would need these comments back from the Planning Commission by November 14<sup>th</sup>. He stated if we want the consultant to be ready to present this by the end of the month we are going to have to keep a tight deadline. Chair Ohrstrom suggested that the Subcommittee have a public meeting to go over their comments. Commissioner Caldwell stated that what is being presented is Draft #1 and there may be some issues with this draft before November 29<sup>th</sup>. She said that comments received before November 29<sup>th</sup> could possibly be presented on November 29<sup>th</sup> with the improved comments as the final draft. She said that in her perspective the group with the most weight in the evaluation of their comments would be the Telecommunications Subcommittee and hopefully they can meet sooner rather than later. She said that these comments should go to the Board of Supervisors and to the consultant. Mr. Stidham said it is still Draft #1 and we did provide copies of this to the Subcommittee. Commissioner Bouffault feels the Planning Commission and Subcommittee should be allowed to review it before the Board of Supervisors. Chair Ohrstrom stated that just because the Board of Supervisors is approving this does not mean it will be going in the ordinance. He said that the Planning Commission is the entity that writes the ordinance. Commissioner Daniel said that the input we receive from the Planning Commission is extremely important to the Board of Supervisors. Commissioner Bouffault said that the comments need to be approved by the Subcommittee before moving forward to the consultant and the Board of Supervisors. After discussion with the Planning

Commission it was agreed that the Subcommittee will have a meeting on November 14, 2016 at 4:00 p.m.

Mr. Stidham explained to the Planning Commission that there is enough funding to have three Commissioners attend the 89<sup>th</sup> Certified Planning Commissioner Program. He said that it is a ten-week program that runs from March 3, 2017 through May 6, 2016. He told the Commissioners if anyone is interested in attending this program to please let Staff know.

On motion by Commissioner Caldwell and seconded by Commissioner Malone the meeting was adjourned at 9:49 a.m.

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George L. Ohrstrom, III

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Brandon Stidham, Director of Planning

Minutes prepared by Debbie Bean, Recording Secretary

**ZONING AND SUBDIVISION ORDINANCE TEXT AMENDMENT (TA-16-04)**  
**Amend Stormwater Management Regulations**  
**December 2, 2016 Planning Commission Meeting – PUBLIC HEARING**  
**STAFF REPORT – Department of Planning**

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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.

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**Description:**

Proposed text amendment to amend Zoning Ordinance §3-A-8, Business Commercial (BC); §3-A-9, Business (B); §3-A-10, Business Park (BP); §3-E-1, Flood Plain District (FP); §4-F, Drainage; and Article 6, Site Development Plans; and to amend Subdivision Ordinance Article 4, Procedure for Subdivision Approval; §8-I, Drainage; §8-J, Private Access Easements; and §11-A, Improvements. The purpose is to reconcile the Zoning and Subdivision Ordinances with the recent repeal of Chapter 154, Stormwater Management, of the Code of Clarke County. Former local stormwater management regulations will be replaced with reference to State regulations, and additional edits are proposed for clarity purposes.

**Requested Action:**

Conduct advertised public hearing and take action on proposed text amendment.

**Staff Discussion/Analysis:**

In June 2016, the Virginia Department of Environmental Quality (DEQ) notified County Planning Department Staff that the County is not authorized to enforce its more stringent local stormwater regulations and that the County's stormwater ordinance is "null and void." State law only authorizes localities to have more stringent regulations if they are a Virginia Stormwater Management Program (VSMP) Authority responsible for issuing the State permits – also referred to as an "opt in" locality. Localities such as Clarke County that have "opted out" of accepting responsibility of managing the VSMP process are prohibited under State law from applying more stringent regulations. Those counties that have "opted in" and are VSMP Authorities can only have more stringent regulations if they are approved by the State to have such regulations. The County Attorney reviewed DEQ's position and concurred, ultimately resulting in action by the Board of Supervisors to repeal the County's stormwater ordinance on September 20.

As a final step, the Zoning and Subdivision Ordinances must be amended to replace all references to the former stormwater ordinance and local stormwater review process. The proposed text amendment is designed to accomplish the following:

- Replace references to the local stormwater plan review and permitting process with the State stormwater review and permitting process. Applicants would be required to provide a copy of a State permit or approval letter as a condition of final approval for site plans and record plats. Site plan and subdivision construction plan applications would still be required to include copies of the stormwater management plan so that they may be referenced as these plans are being reviewed by Staff, the Commission, and the County's

engineering consultant.

- Reference State regulations and processes generically rather than by specific names or titles in order to avoid the need for future text amendments to reflect changes in State law or processes.
- Replace certain uses of the term “drainage” with “stormwater management” to more accurately reflect the intent of the applicable provisions. Staff does not recommend amending all occurrences of the term “drainage” as in some cases they refer to VDOT drainage easements or the Town of Berryville’s municipal stormwater system.

**Staff Recommendation:**

Staff has no outstanding concerns with the adoption of the text amendment.

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**History:**

**November 4, 2016. Commission voted 10-0-1 (Nelson absent) to schedule Public Hearing for the December 2, 2016 meeting.**

**December 2, 2016. Placed on the Commission’s regular meeting agenda and advertised for Public Hearing.**

Proposed amendment text is included in the tables below. Changes are shown in red italics with strikethroughs where necessary:

ZONING ORDINANCE

Section	Title	Current	Proposed
3-A-8-g-5-b-3	BC District, Additional Regulations, Site Plan	b.Site plans shall include provisions for: (1) adequate public facilities, (2) development phasing, (3) stormwater management facilities to address the ultimate development coverage within the district, (4) lighting and signing, (5) building placement and lot configuration, and (6) other special site features and land use considerations deemed necessary to serve the district.	b.Site plans shall include provisions for: (1) adequate public facilities, (2) development phasing, (3) stormwater management facilities <i>that comply with State stormwater management regulations to address the ultimate development coverage within the district,</i> (4) lighting and signing, (5) building placement and lot configuration, and (6) other special site features and land use considerations deemed necessary to serve the district.
3-A-9-g-5-b-3	B District, Additional Regulations, Site Plan	b.Site plans shall include provisions for: (1) adequate public facilities, (2) development phasing, (3) stormwater management facilities to address the ultimate development coverage within the district, (4) lighting and signing, (5) building placement and lot configuration, and (6) other special site features and land use considerations deemed necessary to serve the district.	b.Site plans shall include provisions for: (1) adequate public facilities, (2) development phasing, (3) stormwater management facilities <i>that comply with State stormwater management regulations to address the ultimate development coverage within the district,</i> (4) lighting and signing, (5) building placement and lot configuration, and (6) other special site features and land use considerations deemed necessary to serve the district.



3-A-10-g-4-e	BP District, Site Plans and Special Use Permits	e. Site plans for development in BP Business Park Districts shall include provisions for (a) adequate public facilities, (b) development phasing, (c) stormwater management facilities to address the ultimate development coverage within the district, (d) lighting and signing, and (e) other special site features and land use considerations deemed necessary to serve the industrial district.	e. Site plans for development in BP Business Park Districts shall include provisions for (a) adequate public facilities, (b) development phasing, (c) stormwater management facilities <i>that comply with State stormwater management regulations to address the ultimate development coverage within the district</i> , (d) lighting and signing, and (e) other special site features and land use considerations deemed necessary to serve the industrial district.
3-E-1-e	Design Criteria for Utilities and Facilities in Flood Plain Districts	3. All storm drainage facilities shall be designed to convey the flow of surface waters without damage to persons or property. The proposed system shall insure drainage away from buildings and on-site waste disposal sites. The County may require a primarily underground system to accommodate frequent floods and a secondary surface system to accommodate larger, less frequent floods. Drainage plans shall be consistent with local and regional drainage plans. The facilities shall be designed to prevent the discharge of excess runoff onto adjacent properties.	3. All stormwater <del>drainage</del> facilities shall <i>comply with State stormwater management regulations be designed to convey the flow of surface waters without damage to persons or property. The proposed system shall insure drainage away from buildings and on site waste disposal sites. The County may require a primarily underground system to accommodate frequent floods and a secondary surface system to accommodate larger, less frequent floods. Drainage plans shall be consistent with local and regional drainage plans. The facilities shall be designed to prevent the discharge of excess runoff onto adjacent properties.</i>

4-F	<i>Drainage-Stormwater Management</i>	When required by the Planning Commission or the Virginia Department of Transportation, drainage systems shall be provided by means of culverts, ditches, catch basins, cross drains, curbs and gutters, and any other facilities that are necessary to provide adequate drainage and disposal of surface and storm waters from or across all streets and adjoining properties. Appropriate drainage easements shall also be provided as required by the Planning Commission, Board of Supervisors, and/or the Virginia Department of Highways and Transportation.	When required by <del>the Planning Commission or</del> the Virginia Department of Transportation <del>or by State stormwater management regulations,</del> <i>drainage stormwater management</i> systems shall be provided by means of culverts, ditches, catch basins, cross drains, curbs and gutters, and any other facilities that are necessary to provide adequate <del>drainage and disposal</del> <i>management</i> of surface and storm waters from or across all streets and adjoining properties. <i>Stormwater management features shall comply with State stormwater management regulations.</i> Appropriate drainage easements shall also be provided as required by the Planning Commission, Board of Supervisors, and/or the Virginia Department of Highways and Transportation.
6-G-16	Site Development Plans; Contents	Provision for the adequate disposition of natural and storm water indicating the location, sizes, types, and grades of ditches, catch basins, detention ponds (showing 10-year and 100-year elevations), and pipes and connections to existing drainage systems. Plans shall be in accordance with the Berryville Stormwater System Master Plan.	<i>For projects located in the Berryville Annexation Area, P</i> rovision for the adequate disposition of natural and storm water indicating the location, sizes, types, and grades of ditches, catch basins, detention ponds (showing 10-year and 100-year elevations), and pipes and connections to existing drainage systems. Plans shall be in accordance with the Berryville Stormwater System Master Plan.

6-H-8	Site Development Plans; Improvements and Minimum Standards; Stormwater Management	Stormwater management facilities shall be provided in conjunction with land development activities, which require the submission of a Site Plan. An evaluation shall be performed for each proposed land development project in accord with Clarke County Code Chapter 154. Stormwater Management.	Stormwater management facilities shall be provided in conjunction with land development activities, which require the submission of a Site Plan. <i>All stormwater management facilities shall comply with State stormwater management regulations. A copy of the permit or approval letter from the State stormwater management program authority shall be provided as a condition of final site plan approval. An evaluation shall be performed for each proposed land development project in accord with Clarke County Code Chapter 154. Stormwater Management.</i>
6-H-15-e-4	Site Development Plans; Sinkhole and Karst Features; Requirements and Restrictions	Stormwater runoff shall be addressed as outlined in the Chesapeake Stormwater Network (CSN) Technical Bulletin No.1 "Stormwater Design Guidelines for Karst Terrain in the Chesapeake Bay Watershed" Version 2.	Stormwater <del>runoff</del> management facilities shall <i>comply with State stormwater management regulations for Karst Terrain be addressed as outlined in the Chesapeake Stormwater Network (CSN) Technical Bulletin No.1 "Stormwater Design Guidelines for Karst Terrain in the Chesapeake Bay Watershed" Version 2.</i>

**SUBDIVISION ORDINANCE**

Section	Title	Current	Proposed
4-G-2-b-3	Action on Preliminary Plat	Has adequate drainage. In making this determination, it shall consider whether or not the surface or subsurface water retention and/or runoff is such that it constitutes a danger to the structural integrity of proposed dwelling units or other proposed on site structures, and whether or not proposed site grading and development will create harmful or damaging effects from erosion and siltation on downhill or downstream land.	<i>Complies with all State stormwater management regulations. <del>Has adequate drainage. In making this determination, it shall consider whether or not the surface or subsurface water retention and/or runoff is such that it constitutes a danger to the structural integrity of proposed dwelling units or other proposed on site structures, and whether or not proposed site grading and development will create harmful or damaging effects from erosion and siltation on downhill or downstream land.</del></i>
4-H-1-a	Submission of Plans and Profiles	Five copies of the complete Construction Plans and Profiles, including storm sewer design computations and storm water inlet computations.	Five copies of the complete Construction Plans and Profiles, including storm sewer design computations and storm water inlet computations. <i>Where applicable, a copy of the permit or approval letter from the State stormwater management program authority shall be provided as a condition of record plat approval.</i>

8-I	Drainage	Subdivisions shall be protected from flood hazard and inundation by storm water, springs, and other surface waters. The design and construction of drainage facilities shall be such that all water courses traversing the subdivision and water emanating from outside and/or within the subdivision will be carried through and off the subdivision without creating an adverse drainage condition to roadway, residential sites, or residences to be installed within the tract, and without any injury to roadways, residential sites, residences, structures, farmland, or open space abutting or in the vicinity of the tract. Stormwater Management shall be designed as described in the Clarke County Code Chapter 154.	Subdivisions shall be protected from flood hazard and inundation by storm water, springs, and other surface waters. The design and construction of drainage facilities shall be such that all water courses traversing the subdivision and water emanating from outside and/or within the subdivision will be carried through and off the subdivision without creating an adverse drainage condition to roadway, residential sites, or residences to be installed within the tract, and without any injury to roadways, residential sites, residences, structures, farmland, or open space abutting or in the vicinity of the tract. Stormwater Management shall be designed as <i>required by State stormwater management regulations described in the Clarke County Code Chapter 154.</i>
8-J-2-c-15	Design Standards (private access easements)	storm drain culverts shall meet VDOT standards; and	<i>stormwater management features, including storm drain culverts, shall meet VDOT standards and State stormwater management regulations, if applicable ; and</i>

11-A-6	Improvements; <i>Drainage Stormwater Management</i>	When required by the Planning Commission or the Virginia Department of Transportation, drainage systems shall be provided by means of culverts, ditches, catch basins, cross drains, curbs and gutters, and any other facilities that are necessary to provide adequate drainage and disposal of surface and storm waters from or across all streets and adjoining properties. Appropriate drainage easements shall also be provided as required by the Planning Commission, Board of Supervisors, and/or the Virginia Department of Highways and Transportation.	When required by <del>the Planning Commission or</del> the Virginia Department of Transportation <del>or by State stormwater management regulations,</del> <i>drainage stormwater management</i> systems shall be provided by means of culverts, ditches, catch basins, cross drains, curbs and gutters, and any other facilities that are necessary to provide adequate <del>drainage and disposal</del> <i>management</i> of surface and storm waters from or across all streets and adjoining properties. <i>Stormwater management features shall comply with State stormwater management regulations.</i> Appropriate drainage easements shall also be provided as required by the Planning Commission, Board of Supervisors, and/or the Virginia Department of Highways and Transportation.
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