CLARKE COUNTY
Planning Commission
Minutes
2010 January 8 – 9:00 a.m.

A regular meeting of the Planning Commission of Clarke County, Virginia, was held at the Town/County Joint Government Center, Berryville, Virginia, on Friday, January 8.

ATTENDANCE
George Ohrstrom, II; Chair; Vice Chair, Anne Caldwell; Jay Arnold, Barbara Batterton, Beverly McKay, Cliff Nelson, Kathy Smart, Richard Thuss, Chip Steinmetz, and Bob Wade.

ABSENT
A.R. Dunning, Jr.

STAFF
Charles Johnston, AICP, Planning Director; Jesse Russell, Zoning Administrator; Nancy Olin, Code Enforcement; and Debbie Bean, Recording Secretary.

CALL TO ORDER
Mr. Johnston, Clerk to the Commission called the meeting to order at 10:05 a.m.

ELECTION OF CHAIR AND VICE CHAIR
Mr. Johnston asked for nominations of Chair to the Commission.

The Commission voted unanimously to elect Commissioner Ohrstrom as Chair to the Planning Commission for 2010.
Yes: Arnold, Batterton, Caldwell (moved), McKay (seconded), Nelson, Ohrstrom, Smart, Steinmetz, Thuss, and Wade
No: No one
Absent: Dunning

Mr. Johnston asked for nominations of Vice Chair to the Commission.

The Commission voted unanimously to elect Commissioner Caldwell as Vice Chair to the Planning Commission for 2010.
Yes: Arnold, Batterton, Caldwell, McKay, Nelson, Ohrstrom (moved), Smart, Steinmetz (seconded), Thuss, and Wade
No: No one
Absent: Dunning

APPROVAL OF AGENDA
The Commission voted unanimously to approve the agenda.
Yes: Arnold, Batterton, Caldwell, McKay (moved), Nelson (seconded), Ohrstrom, Smart, Steinmetz, Thuss, and Wade
No: No one
Absent: Dunning

COMMITTEE ASSIGNMENTS FOR 2010

The Commission voted unanimously to postpone approval of the 2010 committee assignments until the next regular meeting of the Commission on 2010 February 5.

Yes: Arnold, Batterton, Caldwell, McKay, Nelson (seconded), Ohrstrom, Smart, Steinmetz, Thuss, and Wade (moved)
No: No one
Absent: Dunning

2010 MEETING SCHEDULE

The Commission voted unanimously to approve the meeting schedule for 2010 as presented.

Yes: Arnold, Batterton, Caldwell (seconded), McKay, Nelson, Ohrstrom, Smart (moved), Steinmetz, Thuss, and Wade
No: No one
Absent: Dunning

APPROVAL OF MINUTES

The briefing minutes of 2009 December 1 were unanimously approved.

Yes: Arnold, Batterton, Caldwell (moved), McKay, Nelson, Ohrstrom, Smart (seconded), Steinmetz, Thuss, and Wade
No: No one
Absent: Dunning

The Commission voted unanimously to approve the regular meeting minutes of 2009 December 4.

Yes: Arnold, Batterton, Caldwell (moved), McKay, Nelson, Ohrstrom, Smart (seconded), Steinmetz, Thuss, and Wade
No: No one
Absent: Dunning

MINOR SUBDIVISION

Raymond & Patricia Ragan requests approval for a two-lot subdivision and maximum lot size exception for Tax Map #16-((A))-66 located at 1543 Wickliffe Farm Lane, Battletown Magisterial District, zoned Agricultural-Open Space-Conservation (AOC). MS-10-01, MLSE-10-01

Mr. Russell explained this request. He stated that the applicant has met all the requirements as required by the County Subdivision Ordinance. He said that Commissioners Batterton and Thuss met on site and they stated that it seems appropriate to approve the two-lot subdivision and maximum lot size exception. After discussion with staff and the Commission, Chair Ohrstrom called for a motion.

The Commission voted unanimously to approve this request.

Yes: Arnold, Batterton (seconded), Caldwell, McKay, Nelson, Ohrstrom, Smart, Steinmetz, Thuss (moved), and Wade
No: No one
Absent: Dunning

TEXT AMENDMENT – PUBLIC HEARING

The Clarke County Planning Commission will consider the amendment of the County Zoning Ordinance:

Section 9-B, Definitions, so as to modify the definitions of the terms 'Kennel', 'Commercial Boarding Kennel', and Commercial Breeding Kennel', so as to replace the references to dogs, cats, or canine/feline animals with the term 'companion animals', to combine the terms 'Commercial Boarding Kennel', and Commercial Breeding Kennel', and to state that such use has or is determined to need a Business License and has five or more adult companion animals;

Section 3-C-2-l, Supplementary Regulation for Home Occupations, so as to include commercial boarding or breeding kennels as home occupations when such use has or is determined to need a Business License and has fewer than five adult companion animals; and

Section 3-C-2-gg, Supplementary Regulation for Commercial Boarding Kennels, Commercial Breeding Kennels, Animal Shelters so as to shift use and setback regulations for such uses from the definition section of the Zoning Ordinance to this section. TA-09-14

Mr. Johnston explained this request. He stated that the amendment had been revised due to concerns raised by the Board of Supervisors. He said this amendment combines the terms Commercial Boarding and Commercial Breeding Kennels, as did the previous amendment, but establishes five adult animals as the threshold at which the approval of a Special Use would be necessary and provides that such activities with less than five adult animals would be allowed as a Home Occupation.
The Commission discussed the proposal and determined that the amendment should be readvertised so as to allow a Commercial Boarding or Breeding Kennel as a Home Occupation only in the AOC and FOC Zoning Districts, in addition to the stipulation that such a facility would house less than five companion animals older than six months.

After discussion with staff and the Commission, Chair Ohrstrom asked for public comments.

There being no public comments, Chair Ohrstrom called for a motion.

The Commission voted unanimously to continue the public hearing and re-advertise this amendment so as to allow a Commercial Boarding or Breeding Kennel as a Home Occupation only in the AOC and FOC Zoning Districts.

Yes: Arnold, Batterton, Caldwell (seconded), McKay, Nelson, Ohrstrom, Smart (moved), Steinmetz, Thuss, and Wade
No: No one
Absent: Dunning

TEXT AMENDMENT – PUBLIC HEARING

The Clarke County Planning Commission will consider the amendment of the County Zoning Ordinance:

Sections 3-A-1-a-3 and 3-A-2-a-3, Special Uses in the AOC and FOC Zoning Districts, so as to change the term: "Retail Stores and Shops" to "Retail and Service Businesses"; and

Section 3-C-2, Supplemental Regulations for Uses in Various Districts, so as to add a section for Retail and Service Businesses that are permitted as special uses, stating that outdoor storage is not permitted, but allowing outdoor display to cover up to 750 square feet and the outdoor display of living plant material, top soil, or mulch to cover up to 2250 square feet. TA-09-15

Mr. Johnston explained this request. He stated that the amendment had been revised due to concerns raised by the Board of Supervisors. He said this amendment limits the outdoor display area to a specific square footage of the structure housing the business. After discussion with staff and the Commission, Chair Ohrstrom asked for public comments.

There being no public comments, Chair Ohrstrom called for a motion.

The Commission voted unanimously to recommend approval of the above text amendment as written to the Board of Supervisors.
Yes: Arnold, Batterton, Caldwell (moved), McKay, Nelson (seconded), Ohrstrom, Smart, Steinmetz, Thuss, and Wade
No: No one
Absent: Dunning

TEXT AMENDMENT – PUBLIC HEARING
The Clarke County Planning Commission will consider the amendment of the County Zoning Ordinance: Section 6-H-11, Outdoor Lighting Standards for Site Development Plans, so as to provide more comprehensive outdoor lighting standards for commercial site plans. TA-09-06

Mr. Johnston explained this request. He stated that this amendment is updating for commercial site plans and establishes more specific items. He said that elements of exterior lighting such as location, intensity, photometric data, and type of lighting are not addressed in the current regulations. He stated that planning staff and Chester Engineers prepared the attached amendment based on standard practice on this topic by lighting professionals and standards in other jurisdictions. After discussion with staff and the Commission, Chair Ohrstrom asked for public comments.

Gary Pope, Building Official for Clarke County, was present and provided technical comments.

There being no further public comments, Chair Ohrstrom called for a motion.

The Commission voted unanimously to recommend approval of the above text amendment to the Board of Supervisors.
Yes: Arnold, Batterton, Caldwell, McKay, Nelson, Ohrstrom, Smart (moved), Steinmetz (seconded), Thuss, and Wade
No: No one
Absent: Dunning

TEXT AMENDMENT – PUBLIC HEARING
The Clarke County Planning Commission will consider the amendment of the County Zoning Ordinance:
Section 9-B-147 Definition of the term "Restaurant", so as to clarify the difference between a temporary food establishment and a restaurant. TA-09-07

Mr. Johnston explained this request. He stated that to help clarify the difference between a temporary food establishment at a special event and a restaurant. After discussion by staff and the Commission, Chair Ohrstrom asked for public comments.

There being no public comments, Chair Ohrstrom called for a motion.

The Commission voted unanimously to recommend approval of the above text amendment to the Board of Supervisors.

Yes: Arnold, Batterton, Caldwell, McKay, Nelson (seconded), Ohrstrom, Smart, Steinmetz (moved), Thuss, and Wade

No: No one

Absent: Dunning

TEXT AMENDMENT – PUBLIC HEARING

The Clarke County Planning Commission will consider the amendment of the County Zoning Ordinance:

Section 3-A-1-a, Permitted Uses and Structures in the AOC Zoning District, so as to add the use: "Farmers Markets, Seasonal"; and

Section 9-B-71, Definitions, so as to add the term: "Farmers Markets, Seasonal". TA-09-08

Mr. Johnston explained this request. He stated that with the interest to produce local foods and agricultural activities we could shift farmers markets into a permitted use. Mr. Johnston said he noticed that the advertised amendment did not include the Forestal-Open Space-Conservation (FOC) Zoning District. He stated that this reference had been inadvertently omitted. After discussion with staff and the Commission, Chair Ohrstrom asked for public comments.

There being no public comments, Chair Ohrstrom called for a motion.

The Commission voted unanimously to readvertise this amendment in order to include the Forestal-Open Space-Conservation (FOC) Zoning District in the advertised public hearing for the next regular meeting of the Commission on 2010 February 5.

Yes: Arnold, Batterton, Caldwell, McKay, Nelson (seconded), Ohrstrom, Smart (moved), Steinmetz, Thuss, and Wade

No: No one

Absent: Dunning

TEXT AMENDMENT – SET PUBLIC HEARING

The Clarke County Planning Commission will consider the amendment of the County Zoning Ordinance so as to delete the following sections:

Section 3-A-1, Schedule of District Regulations of the AOC Zoning District, Special Use: "Minor Commercial Public Assemblies";

Section 3-A-2, Schedule of District Regulations of the FOC Zoning District, Special Use: "Minor Commercial Public Assemblies";

Section 3-C-2, Supplementary Regulations for "Public Assemblies"; and

Section 9-B, Definitions, of the term: "Minor Commercial Public Assemblies". TA-10-01

Mr. Johnston explained this request. He said that this amendment use was approved on 2009 January 20 to include the above referenced uses, regulation and definition. He said the Board had just completed work on a rewrite to the County Code for Special Events, which was described as an outdoor public assembly. He said that Mr. Mitchell is of the opinion that if farm wineries are allowed to have supplementary events it is unfair not to allow other businesses the same standard. He said that it now seems inconsistent to allow wineries more latitude with such activities than other businesses so he recommends that these sections of the Zoning Ordinance is deleted. After discussion with staff and the Commission, Chair Ohrstrom called for a motion.

The Commission voted unanimously to set public hearing on this request for the next meeting on 2010 February 5.
Yes: Arnold, Batterton, Caldwell (moved), McKay, Nelson, Ohrstrom, Smart (seconded), Steinmetz, Thuss, and Wade
No: No one
Absent: Dunning

Commissioner Smart left the meeting.

AGRICULTURAL/FORESTAL DISTRICT RENEWAL – PUBLIC HEARING
The Clarke County Board of Supervisors will be considering the renewal of the Clarke County Agricultural District. This District is enabled by the Code of Virginia to preserve land in agricultural use for six years. The current six-year term of the District expires in March of 2010.

Mr. Russell explained this request. He said that the public hearing had been continued from the 2009 December 4 Planning Commission meeting. He stated that the deadline for receiving applications was 2009 December 15. He stated that three additional parcels were submitted after the Planning Commission deadline. After discussion with staff and the Commission, Chair Ohrstrom asked for public comments.

There being no public comments, Chair Ohrstrom called for a motion.

Mr. Russell thanked the Ag Committee for their hard work. Commissioner Caldwell acknowledged Chair, Tom McFillen of the Ag Committee and all members of the committee for their work on this renewal process.

The Commission voted unanimously to recommend approval to the Board of Supervisors the renewal of the Agricultural and Forestal District, along with the applications for additions to the District that met the requirements and all policy recommendations from the Advisory Committee. The Commission also recommended approval to the Board of Supervisors three additional parcels that had missed the Planning Commission deadline for acceptance to be included in the District and be advertised with the BOS public hearing notice so as to comply with State Code requirements.
Yes: Arnold, Batterton, Caldwell (moved), McKay, Nelson, Ohrstrom, Steinmetz (seconded), Thuss, and Wade
No: No one
Absent: Dunning and Smart

Board/Committee Reports
Board of Supervisors – **Pete Dunning**
Mr. Johnston stated that at its 2009 December 15 meeting, the Board of Supervisors set public hearing on the following amendments to the County Subdivision Ordinance;

- Section 7-C-3-(d), Water and sewage disposal systems, so as to require approved septic systems and 100% reserve systems for all existing homes when subdivided; and
- Section 10-D, Boundary Line Adjustments, so as to establish criteria for showing well and on-site sewage disposal systems on Boundary Line Adjustment plats.

The Board held two public hearings for amendments to the County Zoning Ordinance and approved those changes to:

- Section 7-A-5, Board of Zoning Appeals – Organization and Procedures, deleting the requirement that any action must be taken by a majority of the entire Board, not just of those members present; and
- Section 7-C-5-b, Variances, deleting the requirement that the Board should not grant a variance unless a hardship that 'approaches confiscation' is alleviated.

- Section 3-A-1-f and 3-A-2-f, Vegetated Property Buffer in the AOC and FOC Zoning Districts, so as to require Zoning Administrator review of clearing activities within the vegetated property buffer's no-clear areas.

The Board approved the Special Use and Site Plan Request for the Town of Berryville for a Public Utility Facility (outfall line).

Sanitary Authority – **Pete Dunning**
No report.

Board of Septic & Well Appeals – **Pete Dunning**
No report.

Board of Zoning Appeals – **Anne Caldwell**
Commissioner Caldwell stated that the Board appointed Howard Means to replace Richard Thuss on the Board of Zoning Appeals.

Historic Preservation Commission – **Cliff Nelson**
Commissioner Nelson said the next meeting is scheduled for 2010 January 26.

Conservation Easement Authority – **George L. Ohrstrom, II**
Chair Ohrstrom stated that the Virginia Department of Agriculture and Consumer Services has extended the deadline for funds allocated to the Authority from 2010 February 28 until 2010 June 1.

Staff Reports
Natural Resource Activities – **Alison Teetor**
No report.

Enforcement Officer – **Nancy Olin**
Ms. Olin's progress reports for 2009 November 30 thru 2009 December 30 were reviewed.

There being no further discussion to come before the Planning Commission, the meeting was adjourned at 11:38 a.m. until the next regular scheduled meeting on 2010 February 5.

George L. Ohrstrom, II, Chair

Charles Johnston, Clerk

Minutes prepared by Debra L. Bean, Recording Secretary