

**CLARKE COUNTY PLANNING COMMISSION
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Clarke County Planning Commission

AGENDA – Business Meeting/Annual Organizational Meeting

Friday, February 7, 2020 – 9:00AM

Berryville/Clarke County Government Center – Main Meeting Room

1. Approval of Agenda
2. Approval of Minutes -- January 10, 2020 Business Meeting

Public Hearing

3. **SP-19-02, Clarke County Humane Foundation.** Request approval of a Site Plan Amendment to add a 1,090 square foot addition to an existing animal shelter to accommodate six additional dog kennels and a 12' by 24' pavilion to the property in the Agricultural-Open Space-Conservation (AOC) District. The property is located at 225 Ramsburg Lane, reference Tax Map 13-A-13A, in the Russell Election District. SP-19-02

Board/Committee Reports

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

Other Business

10. Discussion Items, Zoning and Subdivision Ordinance Update Project
 - A. Onsite Sales of Products at Farm Stores
 - B. Accessory Apartment Use

Adjourn

| UPCOMING MEETINGS: |
|--|
| Policy and Transportation Committee Meeting Friday, February 7 (immediately following Commission Business Meeting) |
| Commission Work Session Tuesday, March 3 (3:00PM) |
| Commission Business Meeting Friday, March 6 (9:00AM) |

Clarke County

PLANNING COMMISSION BUSINESS MEETING MINUTES - **DRAFT** FRIDAY, JANUARY 10, 2020



A regular meeting of the Planning Commission of Clarke County, Virginia, was held at the Berryville/Clarke County Government Center, Berryville, Virginia, on Friday, January 10, 2020.

Attendance

Present: George L. Ohrstrom, II (Chair); Robina Bouffault; Anne Caldwell; Mary Daniel (arrived late); Doug Kruhm; Frank Lee; Pete Maynard; and Gwendolyn Malone

Absent: Randy Buckley (Vice-Chair); Bob Glover; and Scott Kreider

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

CALLED TO ORDER

Brandon Stidham, as Clerk to the Commission, called the meeting to order at 9:03 a.m. and introduced the annual organizational meeting.

ORGANIZATIONAL MEETING

Election of Officers: Chair and Vice-Chair

Mr. Stidham opened the floor for nominations for Chair to the Planning Commission. Commissioner Caldwell nominated George Ohrstrom, II to continue serving as Chair, seconded by Commissioner Kruhm. No other nominations were offered. Mr. Stidham closed the floor to nominations.

The Commission voted to elect George L. Ohrstrom, II as Chair of the Planning Commission for 2020.

Yes: Bouffault, Caldwell (seconded), Kruhm (moved), Lee, Malone, Maynard, and Ohrstrom

No: No one

Absent: Buckley, Daniel, Glover, and Kreider

Mr. Stidham turned the meeting over to Chair-Elect Ohrstrom.

Chair Ohrstrom asked for nominations for Vice Chair to the Planning Commission. Commissioner Kruhm nominated Randy Buckley to continue serving as Vice Chair, seconded by Commissioner Caldwell. No other nominations were offered. Chair Ohrstrom closed the floor to nominations. Chair Ohrstrom noted that Randy Buckley is doing a great job as Vice Chair and we are pleased to have him as the only nominee.

The Commission voted to elect Randy Buckley as Vice Chair of the Planning Commission for 2020.

Yes: Bouffault, Caldwell (seconded), Kruhm (moved), Lee, Malone, Maynard, and Ohrstrom

No: No one

Absent: Buckley, Daniel, Glover, and Kreider

2020 Committees and Member Assignments

Mr. Stidham asked the members if they were comfortable continuing with the current committee assignments and members agreed by consensus to do so. He said that no motion is necessary.

Commissioner Daniel entered the meeting at 9:06 a.m.

2020 Meeting Schedule

Mr. Stidham reviewed the draft meeting schedule and noted two deviations in the schedule. He said that in July we are going to move the meetings ahead one week to avoid the July 4th Holiday, the Work Session meeting will be held on July 7th, and the Business Meeting will be held on July 10th. He stated that in January 2021, we are moving the meetings ahead one week to avoid the New Year Holiday. He said that the Work Session meeting will be held on January 5th and the Business Meeting will be held on January 8th.

The Commission voted to approve the 2020 Meeting Schedule as presented.

Yes: Bouffault (moved), Caldwell, Daniel, Kruhm (seconded), Lee, Malone, Maynard, and Ohrstrom

No: No one

Absent: Buckley, Glover, and Kreider

2020 By-Laws

The Commission voted to adopt the By-Laws for 2020 as presented.

Yes: Bouffault (moved), Caldwell (seconded), Daniel, Kruhm, Lee, Malone, Maynard, and Ohrstrom

No: No one

Absent: Buckley, Glover, and Kreider

2020 Project Priorities

Mr. Stidham reviewed the draft list of Project Priorities for 2020. He stated that we have updated the version that we last looked at in July. He said that our number one priority is to finish the Zoning & Subdivision Ordinance update project and he described the remaining items for the Commission to complete.

After discussion with Staff, Chair Ohrstrom called for a motion.

The Commission voted to approve the 2020 Project Priorities.

Yes: Bouffault (moved), Caldwell (seconded), Daniel, Kruhm, Lee, Malone, Maynard, and Ohrstrom

No: No one

Absent: Buckley, Glover, and Kreider

Approval of Agenda

The Commission voted to approve the revised agenda as presented.

Yes: Bouffault (moved), Caldwell, Daniel, Kruhm (seconded), Lee, Malone, Maynard, and Ohrstrom

No: No one

Absent: Buckley, Glover, and Kreider

Approval of Minutes

The Commission voted to approve the Planning Commission Work Session Meeting minutes of December 3, 2019 with two minor corrections. One is on page 5 of 23 in the last paragraph in the first sentence the words “is the Town” should read “is in the Town.” The second correction is on page 6 of 23 in the last paragraph the fourth line down the words “to have spelled” should read “to have that spelled.”

Yes: Bouffault, Caldwell (moved), Daniel, Lee, Malone (seconded), Maynard, and Ohrstrom

No: No one

Absent: Buckley, Glover, and Kreider

Abstained: Kruhm

The Commission voted to approve the Planning Commission Business Meeting minutes of December 6, 2019.

Yes: Bouffault (seconded), Caldwell (moved), Daniel, Kruhm, Lee, Malone, Maynard, and Ohrstrom

No: No one

Absent: Buckley, Glover, and Kreider

The Commission voted to approve the Planning Commission Joint Workshop #4 with the Board of Supervisors Meeting minutes of December 6, 2019.

Yes: Bouffault, Caldwell (moved), Daniel, Kruhm, Lee, Malone (seconded), Maynard, and Ohrstrom

No: No one

Absent: Buckley, Glover, and Kreider

Set Public Hearing

SP-19-02, Clarke County Humane Foundation. Request approval of a Site Plan Amendment to add a 1,090 square foot addition to an existing animal shelter to accommodate six additional dog kennels and a 12’ by 24’ pavilion to the property in the Agricultural-Open Space-Conservation (AOC) District. The property is located at 225 Ramsburg Lane, reference Tax Map 13-A-13A, in the Russell Election District. SP-19-02

Chair Ohrstrom stated that he will recuse himself from this request as he is the Chairman of the Humane Foundation. Commissioner Daniel stated that Vice-Chair Buckley is absent for this meeting therefore a temporary Chair needs to be appointed.

The Commission voted to appoint Commissioner Anne Caldwell as the temporary Chair for this item.

Yes: Bouffault, Caldwell, Daniel (moved), Kruhm, Lee, Malone, and Maynard (seconded)

No: No one

Absent: Buckley, Glover, and Kreider

Recused: Ohrstrom

Chair Ohrstrom turned the meeting over to Commissioner Caldwell and moved to the audience.

Mr. Fincham explained that the Applicant is requesting approval of a site plan amendment to add a 1,090 square foot addition to the existing shelter. He stated that the addition will accommodate six additional dog kennels for quarantine purposes. He said that the added kennel area will have a separate ingress/egress so that law enforcement officials can drop off animals and not have to walk through the rest of the facility. He stated that a 12' x 24' pavilion is also proposed in the visitation area for potential adopters to find shelter and shade and for employees to utilize for breaks. He said that the Applicant submitted a site development plan on December 6, 2019 containing all of the required elements to constitute a complete submission. He stated that the site plan has been routed to the Clarke County Sanitary Authority and the Building Department/Emergency Services for review and comment. He said that the proposed addition is not expected to increase existing traffic. He said that an Erosion and Sediment Control plan is not required and no stormwater review is required for this request. He stated that the property is served by public water and sewer by the Clarke County Sanitary Authority. He said that there is no karst plan required since there are no proposed septic systems for this project and no facilities proposed near any known karst features. He stated that there will be no changes to lighting, signage, parking, or landscaping is proposed. He said that Staff recommends to schedule Public Hearing for the Planning Commission's February 7, 2020 meeting. He asked the Planning Commission if there are any questions.

Commissioner Maynard stated that where the proposed pavilion is on the plan he is unable to read what is written and would like it to be clarified. Mr. Fincham said that on the plan, Stuart Dunn (Surveyor) has identified this as the existing fenced in area for the dogs. He said that this is where the proposed pavilion and visitation area will be located. He said that he was notified by the Humane Foundation that they would prefer to call this the Picnic Area and Picnic Pavilion.

Commissioner Bouffault moved to set the Public Hearing for this request at the next meeting of the Planning Commission on February 7, 2020.

Commissioner Caldwell asked if there are any more questions for the Applicant or Mr. Fincham on this proposal.

Commissioner Kruhm asked when the Clarke County Sanitary Authority is going to submit their reply regarding the water supply and waste disposal. Mr. Fincham said that he has not received a projected date.

Chair Ohrstrom stated that the actual water supply is not from Berryville water. He said that the Animal Shelter is on Berryville sewer and they have their own well on the property. He stated that the reason they are building this is not that we are overcrowded and need more space. He said that we do not have that many dogs but we have a lot of cats. He said that we really do not need 6 new runs for capacity, we really need to get the deputies their own entrance on weekends, after hours, and holidays and a real quarantine space if we need it. He stated there is an illness called kennel cough that dogs get and it is very contagious. He said that if you have a quarantine area it is very helpful. He stated that this is why there is a need for a separate entrance.

Commissioner Daniel asked how many kennels are there now. Mr. Fincham said there are 26. She said we are approved for 26, so will we need to approve more. Mr. Fincham said that we will be bumping it up to 32.

Commissioner Caldwell said that there is a motion on the floor and asked for a second. Commissioner Daniel seconded.

The Commission voted to set the Public Hearing for the February 7, 2020 Planning Commission meeting.

Yes: Bouffault (moved), Caldwell, Daniel (seconded), Kruhm, Lee, Malone, Maynard

No: No one

Absent: Buckley, Glover, and Kreider

Recused: Ohrstrom

Commissioner Caldwell turned the meeting over to Chair Ohrstrom, who rejoined the meeting.

Board of Supervisors (Mary Daniel)

Commissioner Daniel said at the work session on January 6th, Mike Legge gave a presentation on procurement for the County and a lot of things have changed over the years. She said that we are now able to go in with other larger Jurisdictions and piggy back onto their contracts. She said it has saved us ridiculous sums of money. She stated that not only do they have the economy of scale for a big order we also do not have to go through the procurement process which takes time and money. She said that the presentation was very interesting and it shows just what a great job Mike Legge does. She said that we have started the budget process and it is exciting to have the budget calendar set. She said that at the Work Session the Board of Supervisors had their Organizational Meeting and David Weiss is the Chair for 2020 and Bev McKay is the Vice Chair for 2020. She said that she promised Staff that she would remind everyone to turn their Financial Disclosures and Disclosure of Real Estate Holdings in that are due at the end of this month. She said that there is a penalty for not filing.

Board of Septic Appeals (George Orstrom, II)

Chair Ohrstrom said that the 7-Eleven system was approved and it will be a much better situation.

Board of Zoning Appeals (Anne Caldwell)

Commissioner Caldwell said that a side line variance was approved for a solar array. Mr. Fincham said that we will have a variance coming up for Stond's Mill, LC.

Historic Preservation Commission (Doug Kruhm)

No report.

Conservation Easement Authority (George Ohrstrom, II)

Chair Ohrstrom said that the Conservation Easement Authority is having the annual awards ceremony on January 16th and will be rewarding Michael Hobert with the Winkie Mackay-Smith Conservation award.

Broadband Implementation Committee (Mary Daniel)

Commissioner Daniel said that we did not meet. She stated that she has been seeing the 5G advertisements. Commissioner Bouffault said she was on the Visual Link website and they were offering a Tower Beam Service and it is rather expensive. She said that they did not give any detail about how they are going to be doing this. She stated that it is a flashy website but she is waiting to see how it gets implemented because it was not precise.

Other Business

Mr. Stidham stated that he reviewed the Zoning and Subdivision Ordinance Update Project and the outstanding items from the four workshops with the Commission and the Board of Supervisors. He said that he made a list of the items that we decided to hold off on until further discussion by the Commission. He stated that what we are looking for is whether the Commission wants to have this at the next workshop session in February or to sit down and work through these issues as a committee of the whole or delegate this back to the Ordinances Committee. Commissioner Bouffault said she thinks that everyone should weigh in on this all together. Commissioner Caldwell stated that it will save from having another meeting because if the Ordinances Committee meeting does it we would still have to bring it back to the full Commission. She said she thinks it would be better to do it all together. He said he will try to get them back together sometime this month and report back in February. He stated he also wants to make sure there are not any issues missing or anything else that we wanted to add to the list. Mr. Stidham said that for the next work session he will flesh these issues out where applicable. He stated he will have Staff recommendations on what we are going to do with them.

On motion by Commissioner Malone and seconded by Commissioner Maynard the meeting was adjourned at 9:55 a.m.

George L. Ohrstrom, II, Chair

Debbie Bean, Recording Secretary

**SITE PLAN AMENDMENT (SP-19-02)
Clarke County Humane Foundation
February 7, 2020 Planning Commission Meeting – PUBLIC HEARING
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 site plan amendment. It may be useful to members of the general public interested in this proposed amendment.

Case Summary

Applicant(s):

Clarke County Humane Foundation

Location:

- 225 Ramsburg Lane
- Tax Map #13-A-13A (Parcel Size: 10 acres)
- Russell Election District (Ohrstrom/Maynard)

Zoning:

Agricultural-Open Space-Conservation (AOC)

Request:

Request approval of a Site Plan Amendment to add a 1,090 square foot addition to an existing animal shelter to accommodate six additional dog kennels and a 12' by 24' pavilion to the property in the Agricultural-Open Space-Conservation (AOC) District. The property is located at 225 Ramsburg Lane, reference Tax Map 13-A-13A, in the Russell Election District.

Case Update:

As noted at the January Commission meeting, since the facility is served by a private well Staff forwarded the site plan to the Health Department for review. On January 16, 2020, the Health Department commented by email that they have no issues with the proposal.

The Clarke County Sanitary Authority notified Staff that the wastewater disposal system for the facility is not regulated by their department. The system is an extension onto the Town of Berryville system which is owned by the County and maintained by the County Maintenance Department. Staff sent the site plan for review to the Town of Berryville and to County Maintenance.

David Tyrrell, Town of Berryville Director of Utilities, noted that the Town code states that no animal waste may be deposited on land or in an unsanitary manner within the jurisdiction of the Town or areas served by the Town. He noted that animal waste provides unique challenges in both the collection and treatment systems mostly from excessive hair. Director Tyrrell requested that the Applicant provide additional information on the pretreatment tank that is indicated on the plans and how it has been maintained over the years since its installation. The Applicant has not responded as of the drafting of this report.

Staff has not received comments from County Maintenance, the Building Department, or Emergency Services. Staff has also received no sets of revised plans from the Applicant's agents.

Staff Discussion/Analysis:

The Applicant is requesting approval of a Site Plan Amendment to add a 1,090 square foot addition to the existing animal shelter to accommodate six additional dog kennels for quarantine purposes. The added kennel area will have a separate ingress/egress so that law enforcement officials can drop off animals and not have to walk through the rest of the facility. A 12' by 24' pavilion is also proposed in the existing visitation area for potential adopters to find shelter and shade and for employees to utilize for breaks. The subject property is located on the south side of Ramsburg Lane.

The existing animal shelter was approved for a special use permit for 18 dog kennels by the Board of Supervisors on October 16, 2001 (SUP-01-06). Prior to construction, the special use permit and site plan were amended (SUP-03-04/SP-03-07) so as to add eight additional dog kennels to the proposed shelter such that a total of 26 kennels were approved for the shelter. The site plan notes section limits the facility to a maximum of 34 dogs and 40 cats. There were no conditions placed on the special use permit approvals; therefore an amendment to the SUP is not warranted with this proposal.

Site Plan

The Applicant submitted a Site Development Plan on December 6, 2019 containing all of the required elements to constitute a complete submission per §6-E of the Zoning Ordinance.

The site plan has been routed to the following agencies for review and comment:

- Clarke County Sanitary Authority (Mary Meredith)
- Clarke County Building Department/Emergency Services (James Royston/Brian Lichty)

The following AOC setback requirements apply to the project and are depicted on the site plan:

- From property lines: 50 feet
- From the edge of private access easements 50 feet

In addition, Clarke County Zoning Ordinance §3-C-2-jj (Veterinary Services, Animal Hospitals, Commercial Boarding Kennels, Breeding Kennels, Animal Shelters) states that companion animals shall be confined in an enclosed building and may include a fenced exercise area and such facilities shall be at least 200 feet from any property line.

Access and Traffic

The proposed addition is not expected to increase existing traffic.

Erosion & Sediment Control (E&S) / Stormwater

No E&S Plan is required. The site plan proposes only minimal land disturbance during construction of the addition. Minor land disturbance permitting and inspecting will be handled by the Clarke County Building Department.

There is no stormwater review required for this request.

Water Supply and Waste Water Disposal

The property is served by a private well. The property is served by an extension of the Town of Berryville's wastewater system owned by the County.

Karst Plan

There is no karst plan required since there are no proposed septic systems for this project and no facilities proposed near any known karst features.

Lighting and Signage and Parking and Landscaping

No changes to lighting, signage, parking, or landscaping is proposed.

Building Department / Emergency Services

James Royston, Clarke County Building Code Official, and Brian Lichty, Director of Emergency Services, were routed a copy of the site plan and Staff awaits a response.

Staff Recommendation:

Conduct public hearing and defer action one month to the March 6, 2020 meeting pending outstanding review comments, or the Commission may also ask the Applicant to voluntarily defer action on the request for one month in order to stop the 60-day review clock. Note: The March meeting is within the required 60-day review period.

History:

| | |
|-------------------------|---|
| November 2019 | Pre-Application meeting held with Planning Staff. |
| December 6, 2019 | Site Plan Application filed by the applicant. |
| January 10, 2020 | Placed on the Commission’s meeting agenda to schedule Public Hearing. |
| February 7, 2020 | Placed on the Commission’s meeting agenda for Public hearing and advertised. |



Clarke County Planning Department

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TO: Planning Commission members

FROM: Brandon Stidham, Planning Director

RE: Onsite Sales of Products at Farm Stores (Ordinance Update Project)

DATE: January 24, 2020

At the November 1 joint workshop with the Board of Supervisors, a question was raised regarding whether the rules should be relaxed regarding the types of products that can be sold onsite in conjunction with an agricultural operation.

Background

The current rules were established with the agribusiness text amendment that was adopted by the Board of Supervisors in 2017. Prior to this text amendment, agricultural products could only be sold on AOC-zoned property by-right as a home occupation “wayside stand.” Any products sold at a wayside stand had to be produced primarily on the premises and the wayside stand had to clearly be a secondary use of the property. Onsite sale of agricultural products was not considered to be part of the “agriculture” use so farm operators were required to comply with home occupation regulations if they wanted to sell their products onsite. If a farm operator could not qualify as a home occupation, the alternative was to apply for a special use permit for a retail and service business use.

The 2017 text amendment established a new accessory use in the AOC and FOC Districts:

“The wholesale or retail sale of agricultural products, grown or processed in conjunction with an agricultural operation, that is clearly accessory and incidental to that agricultural operation.”

The by-right accessory use allows products to be sold (either wholesale or retail) at a farm which are grown or processed as part of that farm’s operations. The use does not allow any retail sale of products or items that are **not** grown or produced by the farm. The use does allow agricultural products to be sold that are processed with products that are not produced by that farm. An example would be an apple producer selling baked goods made with apples grown on that farm along with ingredients not produced on the farm. In the case of agricultural operations composed of multiple parcels, onsite sales may take place on any parcel where the farm’s operations are occurring. No site development plan is required for this use – any structure housing the sales activities would have to meet building envelope requirements for accessory structures in the AOC or FOC District as applicable.

Any resale of products not produced in conjunction with the farm would require a special use permit and site development plan as a “Retail and Service Business.” To continue with the apple producer example referenced above, the apple producer would not be allowed to sell apples grown by another farm or crafts manufactured by an outside artisan or company.

This use will be retained in the revised Zoning Ordinance as “*wholesale or retail sale of agricultural products*” which is defined as, “*The onsite sale of agricultural products by an agricultural operation.*” The following use regulations will be applied to this use which are consistent with the current use that was adopted in 2017:

1. *For the purposes of this use, an agricultural operation shall consist of all lots upon which the operation’s agricultural activities occur.*
2. *Only agricultural products that were grown by the agricultural operation shall be sold onsite. An agricultural product that was processed using offsite products may be sold onsite provided that a portion of the ingredients or materials used to make the agricultural product was produced by the agricultural operation.*
3. *The sale of agricultural products shall be clearly accessory or incidental to the agricultural operation.*

No other changes are currently proposed in the revised Zoning Ordinance for this use.

Concerns with Use

Concerns were raised at the November 1 joint workshop that the current regulations prevent smaller agricultural producers from being able to sell their products at a larger producer’s farm store unless that producer has a special use permit for retail sales. It was noted that if the County wants to support niche agriculture, the regulations need to allow more opportunities for these producers to sell their products. It was also suggested that consideration could be given to allowing products produced in Clarke County to be sold at a by-right farm store whether or not the products were produced in whole or in part by that farm.

Staff notes that determining the point of origin of a product can be difficult from a zoning enforcement standpoint. Previous zoning regulations allowed for the processing of agricultural products by a farm by-right if the products were grown in Clarke County and by special use permit if grown outside of the County. This distinction was removed in conjunction with the 2017 text amendment, allowing a farm to process products grown outside of the County only if such products are being processed with a product or products grown on that farm. An example would be the mixing of two types of feed – one produced on the farm and one produced elsewhere – to create a mixed product for sale by the farm. If Staff were to investigate a complaint about processing or sale of products from an outside producer, we would only need to verify that the resultant product being processed or sold onsite consists of products grown by that farm.

Whether to allow farm stores to sell products produced entirely offsite – whether from a producer in the County or elsewhere – is a policy decision for the Commission and Board. If

there is an interest in relaxing these regulations, Staff recommends that the Commission discuss the following points:

- What are the main policy goals of allowing onsite sale of agricultural products?
- Would expanded retail sales be consistent with the character of rural AOC and FOC-zoned land?
- Should a limit on the number or type of offsite products that can be sold at a by-right farm store be established?
- If a limit on the type of product is chosen, how should the allowable products be described or defined (e.g., “agricultural products”)?
- If any relaxed regulations are adopted, could they result in a farm store growing to an intensity equal to or greater than the agricultural production use on the property? If so, is the Commission comfortable with this use and its potential impacts (e.g., traffic) continuing to be by-right?

Please let me know if you have questions or concerns in advance of the business meeting.



Clarke County Planning Department

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TO: Planning Commission members

FROM: Brandon Stidham, Planning Director

RE: Accessory Apartment Use (Ordinance Update Project)

DATE: January 24, 2020

At the November 1 joint workshop with the Board of Supervisors, concerns were raised about the proposed accessory apartment use.

To recap, the accessory apartment use is a new accessory use that is proposed in the revised Zoning Ordinance. The accessory apartment use was created primarily to address the following issues:

- “Duplex” problem with “dwellings less than 600 square feet” – Current regulations allow the construction of a dwelling with a floor area of less than 600 square feet of living space that is accessory to a single-family dwelling on lots of six acres or more. These accessory dwellings can be attached to the single-family dwelling but must remain separate from and with no internal ingress/egress to the main dwelling. Staff noted that accessory dwellings constructed in this manner could be considered “duplexes” or “two-family dwellings” which are not allowed in the AOC or FOC Districts.
- Flexibility to accommodate family members – Current regulations prevent a single-family dwelling from having a “mother-in-law suite” or accessory apartment with separate sleeping, cooking, and bathroom facilities unless it is approved as a “dwelling less than 600 square feet.” Properties less than six acres in size do not qualify for a “dwelling less than 600 square feet.” As a result, homeowners wanting to add an accessory apartment for a relative often have to eliminate the second kitchen from their plans.

The proposed accessory apartment use is required to be located within the footprint of a single-family dwelling and cannot be physically separated from the balance of the single-family dwelling. This means that the accessory apartment has to contain an internal means of ingress/egress to enable full access to the balance of the single-family dwelling. Accessory apartments in single-family dwellings with onsite sewage disposal systems must upgrade the existing system to current Virginia Department of Health (VDH) standards including a 100% reserve drainfield area. VDH approval is a condition of zoning approval.

Specific concerns raised at the November 1 joint workshop included that the use would open the door to people renting out apartments in their homes, potentially exceeding the approved occupancy of a residence and overburdening the septic system. Staff previously noted that the requirement of internal ingress/egress would help to discourage renting of accessory apartments because those tenants would not be physically separated from the main dwelling. Additionally, the VDH approval use regulation would require the existing septic system to be upgraded to current standards based on the total number of bedrooms including ones added with the accessory apartment.

One suggested approach to address the concerns was to eliminate the accessory apartment use but fold the concept and regulations into the single-family dwelling use. Staff does not have a concern with this approach, which would appear in the next revised draft of the Zoning Ordinance as follows (changes in bold red italics):

| SINGLE-FAMILY DWELLING | |
|-------------------------------|--------------|
| Permitted Use | AOC, FOC, RR |
| Accessory Use | None |
| Special Use | None |

Definition:

A dwelling unit, other than a manufactured home, designed for and occupied by one family. A single-family dwelling shall not include attached dwellings such as duplexes and townhouses.

Use Regulations:

1. The number of persons, who are permanent full-time residents occupying a single-family dwelling served by an onsite sewage disposal system with a Virginia Department of Health Permit, shall not exceed two for the number of bedrooms allowed by that permit. If it is found that a property is not in compliance with this requirement, then the owner of the property shall apply for a permit with the Health Department to expand the current disposal system for a sufficient number of bedrooms to accommodate the number of permanent full-time resident occupants in the dwelling. If the Health Department denies the expansion, the owner of the property shall apply for variance from Board of Septic and Well Appeals per [County Code Chapter 143 \(Septic Systems\)](#) for a system designed for a sufficient number of bedrooms to accommodate the number of permanent full-time resident occupants in the dwelling and install such a system if approved. Such a variance can only be requested for owner occupied property.

2. An as-built setback certification, prepared by a licensed surveyor, is required for all new single-family dwellings constructed in the RR District as a prerequisite for issuance of a certificate of occupancy. The Zoning Administrator may also require an as-built setback certification for projects in the AOC and FOC Districts in the following situations:
 - a. For any proposed setback shown on the site sketch that is 10% or less of the minimum required setback.

- b. If, prior to issuance of a certificate of occupancy, the Zoning Administrator has reason to believe that the single-family dwelling may be constructed in violation of a minimum required setback.
3. ***Accessory apartments. An accessory apartment is an accessory dwelling that is located within the footprint of a single-family dwelling and is not physically separated from the balance of the single-family dwelling. For the purposes of this use, “physically separated” means that the accessory apartment has a separate means of exterior ingress/egress from the single-family dwelling and cannot access the single-family dwelling internally. Accessory apartments are subject to the following requirements:***
- a. ***An accessory apartment that is physically separated from the balance of the single-family dwelling as defined above shall be considered a minor dwelling and shall comply with the regulations for the minor dwelling use.***
 - b. ***For single-family dwellings with onsite sewage disposal systems, the addition of an accessory apartment shall require the existing onsite sewage disposal system to be upgraded to current Virginia Department of Health (VDH) regulations including provision of a 100% reserve area. VDH approval is a condition of zoning approval.***
 - c. ***An accessory apartment that is added to an existing single-family dwelling shall require approval of a Zoning Permit per Section 6.2.1.***

Staff is looking for direction from the Commission regarding whether to make this change in the next draft of the Zoning Ordinance. Please let me know if you have questions or concerns in advance of the business meeting.