

**AMHERST COUNTY  
PLANNING COMMISSION MEETING  
THURSDAY, MAY 3, 2012  
MINUTES**

**VIRGINIA**

A public meeting for the Amherst County Planning Commission was held on Thursday, May 3, 2012, in the Board of Supervisors Room located in the Administration Building at 153 Washington Street, Amherst, VA.

**MEMBERS PRESENT:** Donald Hedrick, Chairman  
Mitch Heishman, Vice-Chairman  
Donald Kidd, Board Liaison  
Leslie Irvin  
Derin Foor  
Beverly Jones  
George Brine

**STAFF PRESENT:** Matthew Rowe, Planner/Assistant Zoning Planner  
Stacey Stinnett, Administrative Assistant

**STAFF ABSENT:** Jeremy Bryant, Director of Planning/Zoning

**COUNTY ATTORNEY** Ellen Bowyer  
**PRESENT:**

**Agenda**

1. Call to Order
2. Approval of Agenda
3. Citizens Comments
4. Subdivision Plat Review
  - a. Ballard Tract Subdivision #0412-SUB-007
5. Comprehensive Plan Discussion
6. Old/New Business
7. Monthly Report for April 2012
8. Approval of Minutes for April 5, 2012
9. Adjournment

**1. CALL TO ORDER**

Chairman Hedrick called the meeting to order at 7:00 PM.

## **2. APPROVAL OF AGENDA**

The agenda was approved as submitted.

### **Planning Commission Recommendation:**

**Motion:** Jones

Motion to approve the agenda as submitted.

**Second:** Foor

**The motion carried by a 6-0 vote**

## **3. CITIZENS COMMENTS**

There were none.

## **4. SUBDIVISION PLAT REVIEW**

### **A. Ballard Tract Subdivision #0412-SUB-007**

In accordance with Section 1007, Appendix A of the Code of the Amherst County, Clayton C. Bryant, Jr. (contract owner) submitted a request for approval of a preliminary plat prepared by Michael Ray Goin, of Dickerson Surveying, LLC, dated May 8, 2012, for a seventeen (17) lot subdivision on the above-referenced property bordered by the Buffalo River to the North, Rocky Creek Lane (State Route 603) to the West, Richmond Highway (U.S. Route 60) to the South and Park Lane (State Route 602) to the South-East. The lots without public road frontage will be served by private road "Ballard Trail". The total project area is 179.10 acres. No common areas are being reserved for parks or open space, however, the plat does legitimize and reconfigures an existing family cemetery lot that has not been depicted on the County's Tax Map.

Mr. Rowe stated that the Staff was not recommending approval or denial. He gave the following staff recommended conditions if the Planning Commission decided to approve the plat:

1. The final subdivision plat shall show the location of the primary and 100 % reserve drainfields for all lots (excluding "Lot A", Evan Family Cemetery Lot).
2. The owner/developer shall provide a written statement to the county's Erosion & Sediment Control program Administrator (Kenneth M. Campbell) giving the square footage of land disturbance associated with proposed private road upgrades/construction.

3. The applicant shall provide evidence satisfactory to the County Attorney of the easement for the private road "Ballard Trail".
4. The applicant shall provide evidence satisfactory to the County Attorney indicating that all, lots, excluding *revised* parcel 98-A-13, will be included in the homeowner's association.
5. The applicant shall provide a copy of the homeowner's association agreement satisfactory to the County Attorney.
6. The subdivision shall comprise a total of 18 lots, including a residential lot comprised of approximately 58 acres. The residential lot shall be comprised of lots "1", "5" and 2 acres from lot "16" as shown on the preliminary plat titled "Preliminary Plat, Ballard Tract Subdivision", dated April 11, 2012, prepared by Micheal Ray Goins, L.S.
7. The applicant shall reconfigure and vacate the lot lines associated the residual lot comprised of approximately 58 acres and shall add the mentioned residual lot to parcel 98-A-13. The revised lot 98-A-13 shall comprise approximately 243 acres. These actions shall be shown and approved by the County's Department of Planning and Zoning through a formal reconfiguration plat. The owner of (revised) parcel 98-A-13 shall provide a notarized written statement stating that he will construct a new driveway to his property and will not use the easement known as Ballard Trail.

Mr. Irvin asked what the County Attorney advised because he was uncertain as to what the County could or could not allow.

Ms. Bowyer, the County Attorney explained that certain fundamental conditions had not been met. Ms. Bowyer stated that conditions three (3), four (4) and five (5) had not been met by the applicant.

Ms. Bowyer commented on several conditions which were also reflected in an email dated May 3, 2012, which she sent to the Planning & Zoning Director, Mr. Bryant. The email states:

Mr. Hedrick was concerned how this deed should read and if the neighbor's driveway should be included in that document. Ms. Bowyer replied that the applicant's attorney should do the title and deed work and then have her review it to make sure it is consistent with the County's Code. Mr. Hedrick asked if the applicant should provide a copy of the Home Owners Association (HOA) agreement prior to approval. Ms. Bowyer replied that this HOA document should be provided to the County prior to approval to make sure the document is consistent with the County's Code.

Mr. Phil Verdow, (applicant) stated that attorney H. Evans Thomas was representing Clayton Bryant, Jr. and he had already filed with the Virginia State Corporation Commission. Mr. Verdow stated that the easement for the private road "Ballard Trail" had been established and was complete. Mr. Verdow stated that Dr. Sonnes (adjoining property owner to lot 13) has purchased additional property and now has state road frontage and is building his own driveway, therefore lot 98-A-13 did not need to be part of the Homeowners Association. Mr. Verdow stated that his attorney was currently completing the Homeowners Association



document. Mr. Verdow asked that the Planning Commission grant approval of this subdivision plat review based on the completion of the County Attorney's requests.

Mr. Kidd asked the applicant why his attorney was not present at this meeting. Mr. Verdow replied that he had not been able to reach his attorney and the attorney's secretary stated that Mr. Thomas was waiting to get the information back from the Virginia State Corporation Commission to present to Ms. Bowyer.

Ms. Bowyer stated that she has seen nothing from the applicant or his attorney meeting the conditions.

Mr. Heishman asked how the Code read if a lot has access to a private road. Mr. Rowe read Section 1301.07 Number two (2) part (a) which states:

A private street or forest service road and all private streets or forest service roads connected to that private street system or forest service road system not constructed in accordance with the Virginia Department of Transportation subdivision street requirements or not otherwise in the State Secondary Road Maintenance System may provide access to a maximum of five (5) lots all of which are ten (10) acres or greater in size. A homeowners' association shall be established for the maintenance of the private street(s), and a copy of the homeowners' association agreement shall be submitted as part of the subdivision plat approval process. The homeowners' association shall include all lots accessing the private street(s).

Mr. Verdow answered the Planning Commissions questions.

There was discussion amongst the Planning Commission regarding the time frame. Mr. Rowe explained that the application was submitted on March 23, 2012 and if the Planning Commission deemed that the plat didn't contain any substantial changes then the deadline was 45 days from submittal. However, if the Planning Commission deemed that there was a substantial change in the plat then the deadline was 60 days from submittal, thus allowing the Planning Commission to have the ability to defer the matter to its next meeting.

Mr. Kidd asked how soon the applicant could get the necessary documents to the Planning & Zoning Department. Mr. Verdow stated he could get the work to the County Attorney within five (5) days but he didn't know if the County Attorney would delay him further.

Mr. Kidd stated that Ballard Tract is in his district and he is concerned that without a proper Homeowners Association Agreement the HOA could disband and there would be no control over the private road(s), leaving the County liable.

Mr. Kidd and Mr. Irvin both agreed that if the County Attorney is making a legal opinion then that opinion must be entirely considered.

**Planning Commission Recommendation:**

**Motion:** Heishman      Motion that there is a substantial change with this plat and that the applicant immediately get the Homeowner's Association document to the County Attorney for her review.

**Second:** Irvin

**The motion carried by a 6-0 vote.**

**Planning Commission Recommendation:**

**Motion:** Irvin      Motion to table the request Ballard Tract Subdivision#0412-SUB-007 to the Planning Commission meeting on Thursday May 17, 2012.

**Second:** Jones

**The motion carried by a 6-0 vote**

**5. COMPREHENSIVE PLAN DISCUSSION**

The Planning Commission agreed to table this to the next meeting on May 17, 2012.

**6. OLD/NEW BUSINESS**

There were none.

**7. MONTHLY REPORT FOR 2012**

There was a brief discussion about a farmer's market coming to Madison Heights. The farmers market will be located in the Madison Heights' Shopping Center where the Old Anderson's Store used to be located. The same tenant is conducting a hospice office and a driving school at this same site.

**8. MONTHLY REPORT FOR APRIL 2012**

Mr. Hedrick commented on the number of wireless communication permits and if this was new sites or modifications to existing sites. Mr. Rowe replied modifications to existing sites.

9. APPROVAL OF MINUTES FOR APRIL 5, 2012

Planning Commission Recommendation:

**Motion:** Heishman      Motion to approve the minutes for April 5, 2012 as submitted.

**Second:** Jones

The motion carried by a 6-0 vote

7. ADJOURNMENT

Planning Commission Recommendation:

**Motion:** Foor              Motion to adjourn.

**Second:** Brine

The motion carried by a 6-0 vote

There being no further business to discuss, the meeting was adjourned at 8:11 pm.

/ss/6.06.12

  
Chairman