

VIRGINIA: MINUTES FOR THE REGULAR MEETING OF THE DINWIDDIE COUNTY PLANNING COMMISSION HELD IN THE BOARD MEETING ROOM OF THE PAMPLIN ADMINISTRATION BUILDING ON THE 14<sup>th</sup> DAY OF FEBRUARY 2018 AT 7:00 P.M.

PRESENT:	SAMUEL W. HAYES		AT-LARGE
	BUTCH CUNNINGHAM		DIST #4
	EVERETTE PROSISE		DIST #1
	EDWARD TITMUS		DIST #2
	JOHN HARVELL	CHAIRMAN	DIST #3
	THOMAS TUCKER		AT-LARGE
	ANTHONY SIMMONS	VICE CHAIRMAN	DIST #5
OTHER:	MARK BASSETT	PLANNING DIRECTOR	
	TYLER SOUTHALL	COUNTY ATTORNEY	

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**IN RE: CALL TO ORDER**

The Chairman called the meeting to order at 7:00 p.m.

**IN RE: PLEDGE OF ALLEGIANCE AND MOMENT OF SILENCE**

The Chairman asked everyone to stand for the pledge of allegiance and a moment of silence.

**IN RE: ROLL CALL**

The Chairman asked for the roll to be called and all members were present.

**IN RE: APPROVAL OF AGENDA**

The Chairman asked if there were any additions or corrections to the agenda. He said since there are none he would entertain a motion to accept the agenda as presented.

Mr. Titmus made a motion that the agenda be accepted as presented. It was seconded by Mr. Cunningham and with Mr. Hayes, Mr. Prosise, Mr. Cunningham, Mr. Tucker, Mr. Titmus, Mr. Simmons and Mr. Harvell voting "AYE" the agenda was accepted as presented.

**IN RE: MINUTES**

The Chairman said the members have before them the minutes for the January 10, 2018 regular/organizational meeting and he asked if there were any corrections. He said since there are none he would entertain a motion to accept the minutes as presented.

Mr. Cunningham made a motion that the minutes be accepted as presented. It was seconded by Mr. Titmus and with Mr. Tucker, Mr. Cunningham, Mr. Hayes, Mr. Prosise, Mr. Titmus, Mr. Simmons and Mr. Harvell voting "AYE" the minutes were accepted as presented.

**RE: CITIZEN COMMENTS**

The Chairman opened the citizen comment portion of the meeting and asked if anyone had signed up to speak. He said since there is no one he was closing the citizen comments portion of the meeting. The Chairman said he was turning the meeting over to Mr. Bassett for the listed public hearing case.

**RE: PUBLIC HEARING**

**Planning Staff Report**

File #:	C-18-2
Applicant:	Diane & Charles Gendrow
CUP Request:	To operate a Commercial Kennel in the A-2 Zoning District
Property Location:	5228 Cox Road, Wilsons, VA 23894
Tax Map Parcel #:	26-8A
Property Size:	9.65 acres
Magisterial District:	Darvills District
Planning Commission Mtg.:	February 14, 2018

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**CASE OVERVIEW**

The applicants, Diane & Charles Gendrow, are requesting a conditional use permit to utilize the following described property for a commercial kennel, as such term is defined in the Dinwiddie County Code. The Agricultural, General, A-2, zoning classification allows for single-family residential and general business pursuant to the Zoning Ordinance allowed density. The property is located at 5228 Cox Road, Wilsons, VA 23894 and is further defined as Tax Map Parcel 26-8A. As indicated in the Dinwiddie County Comprehensive Land Use Plan, the subject property is located within the Rural Conservation Area, which recommends agricultural residential and limited commercial and service development for this general area.

The applicants intend to have the commercial kennel in order to breed, raise, and sell American Kennel Club (AKC) registered Labrador retrievers as well as train the subject dogs for participation in AKC shows and as service dogs. Sometime in the future the applicants intend to board dogs, but the major focus of their business is for breeding and training. The applicants stated that there would be a maximum of 20 dogs for breeding and training and a maximum of 4 dogs for boarding, totaling 24 dogs on the property associated with this conditional use permit.

**ATTACHMENTS**

- Attachment A - Rezoning Application
- Attachment B - Property Location Map
- Attachment C - Property Pictures

**LAND USE/ZONING ANALYSIS**

The properties adjacent to the subject property to west, north and east are all zoned A-2, Agricultural, General. Cox Road (Route 460) is immediately to the south of the property with the Norfolk Southern rail line running along southern border of the road.

The rail line is zoned Business, limited, B-1 with the property further south and adjacent to the rail line zoned A-2, Agricultural, General. With the exception of rail line, the surrounding properties consist of single-family dwellings, and large farmland and forestal land uses.

As indicated in the Dinwiddie County Comprehensive Land Use Plan, the subject property is located within the Rural Conservation Area, which recommends agricultural residential and limited commercial and service development for this general area. The commercial kennel would allow for a limited service use to be added as an accessory use to the primary residential use of the property.

The location of the commercial kennel is well sited on the subject property. The proposed kennel area would be located approximately 150 feet from the primary dwelling and consists of three existing accessory out-buildings.

The proposed kennel structures are utilizing the existing accessory out-building identified in the attached pictures. The subject property is partially wooded and the residence and kennel related activities are located in the eastern portion of the subject property and not visible from Cox Road. The outdoor kennel related activities are located adjacent to the kennel buildings and is fenced.

## **OVERVIEW OF IMPACTS**

### **Public Utilities & Public Safety Impacts**

Currently, there is no impact to the public utility system. Any future expansion beyond what is allowed under the conditional use permit will be subject to governmental agency reviews and permitting. The potential impact on public safety is limited.

### **Transportation Impacts**

With the proposed use of the property generating very few vehicle trips, the impacts on the existing transportation network are negligible. However, the applicants are subject to all Virginia Department of Transportation requirements.

### **Planning Staff Recommendation:**

The planning staff has reviewed the impacts of the request for a conditional use permit to utilize the subject property for an accessory commercial kennel, and staff recommends **APPROVAL WITH CONDITIONS** of the request subject to the following conditions:

CUP, C-18-2, Conditions:

1. There shall be no more than twenty (20) dogs of permanent status (i.e. any dog over six months of age) kept on the premises for breeding, raising, training, and selling.
2. There shall be no more than four (4) dogs boarded at any time other than the allowed twenty (20) dogs referenced in # 1 of this permit.
3. All defactory matter shall be placed in a controlled location covered and disposed of per County and State Codes.
4. The dogs that are part of the kennel operation shall be kept in a fenced area, in dog runs, or inside a structure for boarding dogs.
5. Operation of the kennel shall comply with all applicable County, State, and Federal Codes.

6. The conditional use permit shall be reviewed for compliance with stated conditions at least every two (2) years.

### **PLANNING COMMISSION ACTION**

Since this is a zoning matter, the standard statement regarding Planning Commission action on this zoning matter must be read. In order to assist, the following motion is attached as follows:

**BE IT RESOLVED, that in order to assure compliance with Virginia Code Section 15.2-2286(A) (7) it is stated that the public purpose for which this Resolution is initiated is to fulfill the requirements of public necessity, convenience, general welfare and good zoning practice, I move that conditional use permit request C-18-2 be recommended for (approval with conditions OR disapproval) as presented to the Board of Supervisors.**

Mr. Bassett added that the adjacent property owner who owns the piece of property that directly abuts the applicant's property came into the office. He indicated that he would not be able to make the meeting and he wanted the Commissioners to know he didn't have any problems with what the applicant wants to do.

Mr. Bassett said when staff discussed the application with the Land Development Committee no one indicated that they would like any particular conditions placed on the property. He said after that and before staff came up with their recommendations we looked back at past request that were similar. The information from those past requests led us to the above mentioned conditions and our decision to recommend approval.

The Chairman asked if there were any questions for Mr. Bassett.

Mr. Tucker asked how often will someone go to this property and check, ensuring the applicant does not have more than twenty four (24) dogs at one time.

Mr. Bassett said at a minimum once every two years, however that minimum changes when there is a complaint from a citizen in the County.

Mr. Tucker asked how we will know which four dogs, according to condition number two, belong to the applicant.

Mr. Bassett said we will have to rely on the applicant or the operator of the facility to give us that information.

Mr. Titmus said he just wants to be clear. When you say twenty dogs (20), that does not apply to any dogs under six months of age correct.

Mr. Bassett said that is correct.

Mr. Titmus said so in theory you could have twenty (20) female dogs with litters of puppies on the property at any given time.

Mr. Bassett said we have had that topic come up in similar cases and in the end we haven't ever had to address that issue.

Mr. Hayes asked if there is anything here that is different than the other recent cases.

Mr. Bassett said not that he is aware of.

Mr. Cunningham asked if the conditions were set by the applicant or were they set by staff.

Mr. Bassett said they were set by staff looking at past cases as well as staff working with the applicant.

Mr. Prorise asked what the procedure was for disposing of the animals waste. Is there a specific procedure based on County code related to the number of dogs? Does there have to be in a septic type system for the waste? Does the waste need to be covered?

Mr. Bassett said we usually rely on Alvin Langley, who is in charge at Animal Control if we get a complaint about waste. Animal Control usually will call in the State Veterinarian to address any issues.

The Chairman asked if there are any more questions for Mr. Bassett. He said if not will the applicant like to come forward and add anything.

Diane Gendrow 5228 Cox Road, Wilson VA said there have been some very valid points made. In regards to the number of dogs that we have in our kennel, routinely we have about fifteen (15). We don't anticipate have more than that. As to the question of knowing who owns the dogs, we microchip all the dogs. As to dogs having puppies, the majority of the dogs we bore have been spayed or neutered. It is a requirement in our contract to our clients. As to the waste removal, kennels are cleaned twice a day. The waste is kept in a waste container that is covered. The waste is removed daily.

The Chairman asked if there were any questions for the applicant.

Mr. Tucker asked Ms. Gendrow how an inspector would know which dogs, according to condition number two (2), belong to you and how would they know which are there temporarily.

Ms. Gendrow said we don't plan on taking just anybody's dogs. The dogs we do have are normally our client's dogs. They are very well known to us and are microchipped. We have a scanner on site and it helps us to identify who each dog belongs to.

The Chairman asked if there are any more questions for the applicant. He said if not he was opening the public hearing for the cases. He said since there was no one signed up to speak he was closing it. He asked the commissioners if they had any more questions. If not he would entertain a motion.

Mr. Titmus made a motion and read the following: BE IT RESOLVED, that in order to assure compliance with Virginia Code Section 15.2-2286(A) (7) it is stated that the public purpose for which this Resolution is initiated is to fulfill the requirements of public necessity, convenience, general welfare and good zoning practice, I move that conditional use permit request C-18-2 be recommended for approval with conditions as presented to the Board of Supervisors. It was seconded by Mr. Simmons and with Mr. Prorise, Mr. Titmus, Mr. Tucker, Mr. Cunningham, Mr. Hayes, Mr. Simmons and Mr. Harvell voting "AYE" C-18-2 with conditions was approved.

**RE: NEW BUSINESS**

**MEMORANDUM**

**TO: Dinwiddie County Planning Commission**  
**FROM: Tyler Southall, County Attorney**  
**DATE: February 9, 2018**  
**SUBJECT: Noise Ordinance re: ATVs and Dirt Bikes**

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**Background:**

Due to citizen complaints, the County Attorney's Office drafted an amendment to the noise ordinance to deal with certain noise coming from ATVs and dirt bikes.

Although Planning Commission approval is not required, the Board of Supervisors directed the County Attorney's Office to seek Planning Commission feedback on the attached ordinance. Section 46.2-100 of the Code of Virginia is also included in the attachment.

**Action:**

No formal action is required, but the County Attorney's Office can convey your feedback to the Board of Supervisors.

After Mr. Southall read the background and the action he asked the commissioners if they had any feedback on the noise ordinance as it is a matter that does deal with items closely related to zoning. He gave them a copy of the current noise ordinance with the changes he is recommending to the Board of Supervisors.

Mr. Hayes asked Mr. Southall where the idea of one minute out of five minutes, which is highlighted in the ordinance, originate from.

Mr. Southall said presently there is a rule against animals and birds, except from farm animals, making noise that's plainly audible at least once a minute for ten consecutive minutes either inside the confines of someone's dwelling or more than a hundred feet from the animal or bird. Having a discussion with the citizen that came to the County the question was raised if it is unlawful for an animal or bird to make this type of noise why can't it be unlawful for an ATV or Dirt Bike to make that type of noise. So after looking into it and bringing it back to the Board of Supervisors in January the consensus was for me to move forward with adding something to the ordinance. The initial draft said ten consecutive minutes, but on request from a Law Enforcement Official we downgraded it to five to make easier for them to enforce.

Mr. Simmons asked if a Deputy is called to a complaint of noise and when he arrives the noise is gone, how is the Deputy to enforce the complaint.

Mr. Southall said I have two thoughts on that. The first is it would be very difficult to enforce. The second is this ordinance is a good tool that will help law enforcement in defusing a situation.

Mr. Titmus asked if this noise ordinance applied to A-2 or R-R.

Mr. Southall said it does not apply to those zoning districts.

Mr. Tucker said this noise then only applies to the heavy residential populated areas.

Mr. Southall said the complaints we have are in the moderately to heavy populated residential areas.

Mr. Titmus said that only leaves R-1.

Mr. Southall said no in does include R-1, R-1A and R-2.

Mr. Cunningham asked what the reason is for us hearing this ordinance tonight. Are we being asked to suggest something?

Mr. Southall said the Board of Supervisors wanted to get the Planning Commission's input if they have any. If there are no objections to it, I will convey that to them.

## **MEMORANDUM**

TO: **Dinwiddie County Planning Commission**  
FROM: **Tyler Southall, County Attorney**  
DATE: **February 9, 2018**  
SUBJECT: **AMENDMENT TO CODE OF ETHICS AND STANDARDS OF CONDUCT FOR MEMBERS OF THE DINWIDDIE COUNTY PLANNING COMMISSION**

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### **Overview:**

Each year, at the organizational meeting, the Planning Commission reviews its bylaws, including the Code of Ethics and Standards of Conduct for Members of the Dinwiddie County Planning Commission (the "Code of Ethics"). On January 10, 2018, the Planning Commission asked that the County Attorney prepare an amendment of the Code of Ethics that removes the requirement that the Code of Ethics be read orally and in public session. Although the deletion of this language comes without the recommendation of my office, my office has complied with the request by including an amended copy of the Code of Ethics that includes the aforementioned change.

One other change recently made by the Board of Supervisors should be considered as well. Section 11 of the Code of Ethics states that the members of the Planning Commission shall: "Adhere to the principle that the public's business should be conducted in the public view by observing and following the letter and spirit of the Freedom of Information Act using closed sessions only to deal with sensitive personnel, legal or contractual matters as provided by the Code of Virginia."

Virginia Code Section 2.2-3711 gives 51 permitted areas to discuss in closed session. Many of those do not apply to the Planning Commission, but some of these permitted areas are broader than "personnel, legal, or contractual matters." One example of such an item may be discussions regarding building or cyber security under Virginia Code Section 2.2-3711(A) (19) in cases where such security discussion was not also related to a contractual discussion.

If the Planning Commission decided to amend the Bylaws and Code of Ethics to allow any closed session discussion allowed by the Freedom of Information Act, Section 11 could be amended to strike language as follows:

“Adhere to the principle that the public’s business should be conducted in the public view by observing and following the letter and spirit of the Freedom of Information Act using closed sessions only to deal with sensitive ~~personnel, legal or contractual~~ matters as provided by the Code of Virginia.”

A copy of the Code of Ethics with the aforementioned changes shown in strikethrough and underline is attached hereto.

It is also worth noting that a search of the Planning Commission’s minutes in the files of the legal and planning departments did not reveal the definitive version of the Planning Commission’s Code of Ethics. Only paragraphs five and six differ, but it would be suggested that the language in the attached version be adopted as the official language. Mr. Gurley, Secretary to the Planning Commission, has informed me that he believes the attached version is the correct version.

**Action:**

If the Planning Commission so desires, it may adopt the change to the Bylaws and Code of Ethics, but not until the March 14, 2018 meeting because of the thirty day notice rule for amendments in Section 12 of the Bylaws.

**Dinwiddie, Virginia**  
**Adopted March 8, 2007**  
**Revised March 14, 2018**

**CODE OF ETHICS AND STANDARDS OF CONDUCT FOR MEMBERS OF THE  
DINWIDDIE COUNTY PLANNING COMMISSION  
CODE OF ETHICS**

Recognizing that persons who hold public office have been given a public trust and that the stewardship of such office demands the highest levels of ethical and moral conduct, any person serving on the Dinwiddie County Planning Commission should adhere to the following Code of Ethics:

1. Uphold the Constitution, laws and regulations of the United States and of all governments therein and never knowingly be a part to their evasion.
2. Put loyalty to the highest moral principles and to the County as a whole above loyalty to individuals, districts, or particular groups.
3. Give a full measure of effort and service to the position of trust for which stewardship has been granted; giving earnest effort and best thought to the performance of duties.
4. Seek to find and use the most equitable, efficient, effective, and economical means for getting tasks accomplished.
5. Adopt policies and programs that provide equal opportunity to all citizens without regard to national origin, race, color, religion, gender, age, disability, pregnancy, or sexual orientation.
6. Ensure the integrity of the actions of the Planning Commissioners by conducting official and private affairs in a way that clearly conveys that you cannot be improperly influenced in performing your official duties.
7. Make no private promises of any kind binding upon the duties of any office, since a public servant has no private word, which can be binding on public duty.



8. Engage in no business with the county government, or the school system, either directly or indirectly, which is inconsistent with the conscientious performance of the Planning Commissioners duties except as may be consistent with the conflict of interest statutes in the Code of Virginia.
9. Never use any information gained confidentially in the performance of the Planning Commissioners duties as a means of making private profit.
10. Expose, through appropriate means and channels, corruption, misconduct, or neglect of duty whenever discovered.
11. Adhere to the principle that the public's business should be conducted in the public view by observing and following the letter and spirit of the Freedom of Information Act using closed sessions only to deal with sensitive ~~personnel, legal or contractual~~ matters as provided by the Code of Virginia.
12. Avoid using the position of public trust to gain access to the media for the purposes of criticizing colleagues or citizens, impugning their integrity or vilifying their personal beliefs.
13. Make sure, when responding to the media, that a clear distinction is made between personal opinion or belief and a decision made by the Commission.
14. ~~Review orally and in public session, at the annual organizational meeting, each of these principles.~~
15. ~~1415.~~ Pledge to honor and uphold these principles, ever conscious that public office is a public trust.

Mr. Southall said what you have before you is an amendment to the Code of Ethics and Standards of Conduct for members of the Dinwiddie County Planning Commission.

It shows item 14 being removed. This would accomplish what you all asked me to do. It should be noted that the change does not prohibit you from reading or otherwise looking over the by-laws. Also while I was in the mode of looking at amending the Code of Ethics, there were some words in item 11 that I thought could also be removed as well. As far as action is concerned you could adopt the changes but not until the March 14, 2018 regular meeting because of a 30 day notice requirement.

Mr. Tucker asked Mr. Southall how old was item 14 of the Code of Ethics.

Mr. Southall said it predates his tenure, but if he had to guess he believes it goes back to the 2006 era when some effort was made in 2005 and 2006 to harmonize the various By-laws and Codes of Ethics between the Board of Supervisors, Planning Commission and BZA.

**IN RE: COMMISSIONERS' COMMENTS**

Mr. Harvell informed the members that the Dinwiddie race track was sold and the new owners are repairing the track and adding more bleachers to accommodate the NHRA races coming in June 2018.

**IN RE: PLANNING DIRECTOR'S COMMENTS**

Mr. Bassett said he just has a couple of things. The first is we are still continuing to view the remainder of the Patton property. We are still reviewing his traffic impact analysis and we will be meeting again on Friday.

At the March meeting we will have a proffer amendment request for Chesdin Pointe coming before you. Whipponock, LLC has submitted the application to amend their cash proffer.

The Dominion Locks yard site plan is ready to be sign so they can begin work. The demolition work has already been going on. They are also working on a study with VDOT to get a traffic signal at their entrance.

Elite Fencing has submitted their site plan which is currently under review. As you may remember they purchased the Rohoic Elementary School building for their future business location. Demolition has already begun.

He said there is one more item he would like to mention and get some feedback from you all and the Board of Supervisors and that is solar generating facilities/farms. We continue to get requests and people inquiring about solar generating facilities and whether or not we allow them in the County. We inform them that it is not currently listed as a use in our Zoning Ordinance. If they are interested in doing it, they would have to petition to amend the Zoning Ordinance for that type of use. There was one individual who contacted me last week and made it seem like he would be bringing a request for it in the near future.

**IN RE: ADJOURNMENT**

The Chairman said if there is nothing else he would entertain a motion for adjournment. Mr. Cunningham made a motion to adjourn the meeting and Mr. Simmons seconded it and with all members in agreement the meeting adjourned at 8:15 p.m.

Respectfully submitted,

Mark Bassett  
Planning Director

Signed: \_\_\_\_\_  
Planning Commission Chairman

Dated: \_\_\_\_\_