

# Clarke County Planning Commission

MINUTES – Business Meeting

Friday, May 5, 2023 – 9:00AM

Berryville/Clarke County Government Center – Main Meeting Room

ATTENDANCE:			
George L. Ohrstrom, II (Chair/Russell)	✓	Ronnie “Ron” King (Buckmarsh)	✓
Randy Buckley (Vice-Chair/White Post)	✓	Scott Kreider (Buckmarsh)	✓
Terri Catlett (Board of Supervisors)	✓	Frank Lee (Berryville)	X
Buster Dunning (White Post)	✓	Gwendolyn Malone (Berryville)	✓
Robert Glover (Millwood)	✓	John Staelin (Millwood)	✓ <sup>E</sup>
Pearce Hunt (Russell)	✓	Doug Lawrence (BOS alternate)	X <sup>1</sup>

E – Denotes electronic participation

<sup>1</sup> – Commissioner Lawrence attended the meeting but did not serve as the BOS alternate

**STAFF PRESENT:** Brandon Stidham (Director of Planning), Jeremy Camp (Senior Planner/Zoning Administrator), Kristina Maddox (Office Manager/Zoning Officer), Lorien Lemmon (Preservation Planner/GIS Coordinator)

**OTHERS PRESENT:** Langdon Greenhalgh (Carter Hall Estate), David Frank (Pennoni), Chris Boies (County Administrator), Doug Lawrence (Board of Supervisors)

**CALL TO ORDER:** By Chair Ohrstrom at 9:00AM.

## 1. Approval of Agenda

The Commission voted 10-0-1 to approve the May 5, 2023 Business Meeting agenda as presented by Staff.

Motion to approve the May 5, 2023 Business Meeting agenda as presented by Staff:			
Ohrstrom (Chair)	AYE	King	AYE
Buckley (Vice-Chair)	AYE (moved)	Kreider	AYE
Catlett	AYE	Lee	ABSENT
Dunning	AYE	Malone	AYE
Glover	AYE	Staelin	AYE
Hunt	AYE		

## 2. Approval of Minutes

### A. April 4, 2023 Work Session

The Commission voted 10-0-1 to approve the April 4, 2023 Work Session meeting minutes as presented.

<b>Motion to approve the April 4, 2023 Work Session meeting minutes as presented:</b>			
Ohrstrom (Chair)	<b>AYE</b>	King	<b>AYE</b>
Buckley (Vice-Chair)	<b>AYE</b>	Kreider	<b>AYE (seconded)</b>
Catlett	<b>AYE</b>	Lee	<b>AYE</b>
Dunning	<b>AYE</b>	Malone	<b>AYE (moved)</b>
Glover	<b>AYE</b>	Staelin	<b>AYE</b>
Hunt	<b>AYE</b>		

**B. April 7, 2023 Business Meeting**

The Commission voted 10-0-1 to approve the April 7, 2023 Business Meeting minutes as presented by Staff.

<b>Motion to approve the April 7, 2023 Business Meeting minutes as presented by Staff:</b>			
Ohrstrom (Chair)	<b>AYE</b>	King	<b>AYE</b>
Buckley (Vice-Chair)	<b>AYE (moved)</b>	Kreider	<b>AYE (seconded)</b>
Catlett	<b>AYE</b>	Lee	<b>ABSENT</b>
Dunning	<b>AYE</b>	Malone	<b>AYE</b>
Glover	<b>AYE</b>	Staelin	<b>AYE</b>
Hunt	<b>AYE</b>		

**CONTINUED PUBLIC HEARING**

**3. SUP-22-02/SP-22-03, Carter Hall Estate, LLC.**

Chair Ohrstrom noted Vice Chair Buckley and Commissioner Dunning previously read their conflict of interest statements on August 30, 2022 disqualifying themselves from participating in the deliberation of this matter.

Mr. Camp presented the changes made by the applicant to the special use permit application as well as a summary of special conditions set forth by Staff. He said Staff feels it is appropriate to recommend approval of the special use permit and site development plan. He added that the matter could be deferred for another month but would require action before or at the June 2, 2023 Planning Commission Business Meeting. Mr. Camp noted that the applicant requested a change to condition eight, however, Staff recommends to continue with the prohibition on special events in Chapter 57 originally listed in the Staff report.

Langdon Greenhalgh (965 Red Gate Rd) said the they have eliminated future wedding events and the construction of any new buildings including the originally proposed conservatory building, the gatehouse, and pool. He continued that the new elements are now minor changes to the entrance for safety to meet VDOT requirements and the installation of a new septic system to meet VDH requirements. He added that the revised application is now for a twelve-bedroom country inn and that it is their hope that a country inn without the events such as weddings will be approved by the county and supported by the community. He

added that Carter Hall will assess the final terms and conditions set forth by the county and will determine whether a prosperous business is viable.

David Frank (Penoni) said they have revised their plan based on the comments and concerns of the Commission and the community. He said they have one exception to the conditions that Staff recommends, which is the restriction placed in number 8 special events. He believes there could be potential unintended consequences by placing a permanent restriction on the property. He continued that Carter Hall needs to strengthen their relationship with the Millwood community and hopes to do so through the Village Plan process. He said the proposed language would prohibit items that have been occurring on the property for generations and that he believes opportunities exist in the future for the village of Millwood and Carter Hall to work together. He said he would like the Commission to consider that the Board of Supervisors have full authority over event approval and that they are in favor of adding the restriction regarding amplified music. There were no questions or comments from the Commission.

Chair Ohrstrom reviewed the rules of the public hearing and opened the continued public hearing.

Peggy Duvall (54 Cunningham Ln) said she wished to express her disappointment in the loss of Carter Hall entity's previous application and to show her support of the current application. She said the lack of vision and leadership in the county has left Carter Hall vulnerable as well as Millwood. She stated the previous application is the sort of development that will support the evolving economy while protecting the greenspace and historic character. She continued that by not supporting generous and thoughtful applications presented by Carter Hall that the county has not protected or strengthened itself and has rather exposed it to the sort of development at the North end of the county. She commends Carter Hall ownership in their fortitude and thanks them for their efforts to be flexible. She said she believed that hindsight will demonstrate the mistake the county has made in its lack of support of the previous application. She continued that she hopes that the more thoughtful heads are present today to allow this entity to survive if not thrive.

Alex Lee (24 Tannery Ln) said he strongly supports the idea of a country inn and wants Carter Hall to have a first class institution which would bring credit to the village of Millwood. He is also supportive of their non-governmental organizations (NGO) activities and conservation focus, however, he strongly objects to the special events request. He said he represents not only himself and his household but also others in the community unable to be present at the meeting. He continued that he believes it is a procedural objection to the effort of the applicants to introduce an element that goes against their initial pledges of a country inn. Additionally, he said he feels that it is not a last minute effort to jam in a decision and that by its very nature is divisive and that the neighboring properties will be impacted. He said these events are over 150 people whether small, medium, or large events and can go up to 1,000 people. He said that while the applicant says it will establish a collaborative community, he believes it will create more discussions that are divisive.

Charles Snead (1500 Millwood Rd) said there is a considerable amount of opposition for special events due to the closeness of the neighboring properties. He added that noise is impossible to control and that he does not see why Clarke County needs to entertain the rest of Northern Virginia. He asked the Commission to put a stop to the special events and noted that the decision made today will have an impact on future owners of the facility in which it would be difficult to retract later on.

Cabell Williams (960 Bishop Meade Rd) said he has been out of town and hopes the decision to take action is deferred to next month so that others can absorb the new information. He said he is not in favor of a country inn as Project Hope had guests attending events all of the time that would spill over into his property and swim in the spring. He said he is completely against any special events as Carter Hall has neighboring properties with horses which would be a disaster in regards to horse training with young people. If anything, he said, he wishes Carter Hall to be a country inn with no special events.

Tim Overcash (335 Mt Airy Farm Ln) said they received the new information early in the week and would like to defer the decision for another thirty days and allow them to formulate questions. He said he thinks it is going in a good direction and something they feel comfortable with but would like additional review time.

Wingate “Winkie” Mackay-Smith (1038 Carters Line Rd) said she is interested to review the application, restrictions, and other changes that the applicants have made in response to the community’s objections. She said she would like to ensure that the baby is not thrown out with the bathwater.

Jack Carter (664 Country Club Ln) said he is in support of the revised application and conditions especially if the inserted language is in favor of benefiting the Millwood community. He thanked the Carter Hall team as they have made a huge pivot in the large investment they have made.

Chair Ohrstrom closed the public hearing at 9:37am.

Commissioner Staelin asked Mr. Stidham to explain how White Post has maintained their events in the past. Mr. Stidham said that it is his understanding the White Post festivals held many years ago were approved by the Board of Supervisors. He said that if a potential Millwood community event would be proposed in the future from the local community or another entity, it would be looked at as a special event permit application by whoever the sponsoring entity is for the community as a whole and not necessarily have to be applied for at Carter Hall specifically. He continued that if a prohibition was placed on special event permits, the Carter Hall property would not be able to apply for one, nor would the board issue one. He said if one was applied for community wide and certain aspects of the community event were held at Carter Hall, Staff could evaluate the events proposed at the Carter Hall property in light of the controlling special events permit conditions.

Commissioner Glover said he would like additional time to review and defer the meeting to June.

Commissioner Catlett said we need more time to think and that most of the opposition was regarding an indoor event with just one-hundred forty-nine attendees let alone more than that. She said members of the Millwood community have attended several Board of Supervisors meetings to express their traffic concerns. She said as a result, VDOT has performed extensive studies regarding the prevention of volume and speed of drivers through the town of Millwood. She added that while VDOT has offered some recommendations, that there are no easy solutions.

Chair Ohrstrom said he has been thinking a lot about public events recently and noted that when Millwood does a village residential plan, they may be able to use Carter Hall for a village-wide celebration.

Commissioner Kreider said he has great concerns regarding changing section eight and also noted that the public has not had sufficient time to review.

David Frank said that if condition eight seemed to be the only concern, Carter Hall accepts the proposed conditions by Staff and would prefer not to wait another thirty days. He said it did not seem like there was enough support to have special events, however, there might be an avenue for events in the future if the village deems appropriate. He continued that the conditions as proposed with a modified condition to 7B with Staff's recommended approval is acceptable to Carter Hall to advance to the Board of Supervisors if the Commission feels it is appropriate.

Commissioners Glover and Kreider said they wished to defer. Commissioner Staelin said he does not see a reason to defer if the applicant agreed to Staff's proposal as the only objection is regarding section 8. Commissioner Glover said he wanted more time for the community to review the information as it was provided only a week ago.

Mr. Overcash said there are still things he does not understand and wants additional time. Commissioner Catlett asked if the public hearing was to discuss the non-conforming use or the special use permit. Mr. Camp replied that the conditions include some parameters to distinguish between the two uses as they are both on the same property. He said that condition number five stipulates that the subject property contains a non-conforming use and that Carter Hall Center for Conservation is the non-profit organization that applied after Project Hope. He said the base operation is out of the administration building even though they have the ability to use the entire property as Project Hope did and that these conditions would narrow their rights as far as non-conformity.

Chair Ohrstrom said the meetings would be restricted to sixty people maximum regardless of whether the property is sold. Mr. Camp said these conditions would apply to the whole property and that sixty is specific to the main house functions and not a limitation on the administration building, which is not currently limited other than the building code and other health code requirements. Commissioner Staelin said he thought the non-conforming use has been defined in previous letters which have been accepted by the applicants. He said that the non-conforming use is grandfathered and that we do not have control over it other than to make sure it has been well-defined. Mr. Stidham said that the non-conforming use was decided previously and that the property owner had requested a zoning determination letter as to what sort of uses have been legally established by Project Hope and are thereby non-conforming and could be carried forward to another non-profit entity with similar operations. He said the applicants filed a zoning permit for that non-conforming use which they are able to operate today. He continued that the conditions have been developed to deal with where the non-conforming use activities may overlap with the special use activities conducted by the country inn. He said that the main element is controlled by condition 7B which covers when the non-conforming use meetings and activities are to be held in the main house building. He noted that all of the buildings on the visual in pink that are going to be where the non-conforming use activities are conducted and will be controlled by the previously issued zoning permit.

Commissioner Glover asked for clarification regarding the number of overnight guests at the country inn to which Mr. Stidham confirmed twenty-four and noted that the non-conforming use is allowed to have overnight stays in the L-shaped building in the back. He said it is limited based on the occupancy of the building and that it is not regulated by the special use permit

Bridget Overcash commented that there will be a vote even before the building occupancy is known. Chair Ohrstrom said that it is based on the number of people allowed in that building after it is renovated and with a building code. Commissioner Kreider said that unfortunately some of the decisions can be

made by the Building Department regarding occupancy which will not be determined until the building has been renovated and that the Commission can only regulate what it says in the proposal.

On behalf of Commissioner Staelin, Chair Ohrstrom made the motion with Staff recommended alternative language to condition #7B to allow more people for events in the main house by the non-conforming use as requested by the applicant. Chair Ohrstrom said Commissioner Staelin moves to recommend approval of special use permit application SUP-22-02 and site development plan application SP-22-03 to the Board of Supervisors with the special use permit conditions drafted by County Staff and documented in the Staff Report, but with modifications to condition #7B as follows: “Meetings or similar gatherings conducted in Building A (Main House) shall be limited to a maximum of sixty people, provided that the maximum number of people does not exceed any occupancy limitations established by the Clarke County Building Official. The number of people shall include all participants and country inn guests that would be in Building A (Main House) during such meeting, or similar gathering.”

The Commission voted 8-0-2 to recommend approval of **SUP-22-04/SP-22-03, Carter Hall Estate, LLC** to the Board of Supervisors with the revisions provided by Staff.

<b>Motion to recommend approval of <u>SUP-22-02/SP-22-03, Carter Hall Estate, LLC</u> to the Board of Supervisors with the revisions provided by Staff.</b>			
Ohrstrom (Chair)	<b>AYE</b>	King	<b>AYE</b>
Buckley (Vice-Chair)	<b>ABSTAINED</b>	Kreider	<b>AYE (seconded)</b>
Catlett	<b>AYE</b>	Lee	<b>ABSENT</b>
Dunning	<b>ABSTAINED</b>	Malone	<b>AYE</b>
Glover	<b>AYE</b>	Staelin	<b>AYE (moved)</b>
Hunt	<b>AYE</b>		

Vice Chair Buckley urged the applicants to ensure that their guests not encroach on the surrounding properties.

Chair Ohrstrom thanked the applicants for their hard work on this application and their ability to work with the local community.

Chair Ohrstrom asked that there be a five minute recess at 9:57AM.

Chair Ohrstrom resumed the Planning Commission Business meeting at 10:02AM.

### **SCHEDULE PUBLIC HEARING**

#### **4. TA-23-01, Campground Regulations**

Mr. Stidham said there are campground regulations that the commission has been working with for some time and that he is looking for the commission to make a motion to formally initiate consideration of the text amendment and schedule the public hearing for the June Planning Commission Business Meeting. He noted there is one minor wording edit to use regulation 1 in the Staff Report to now say “the duration of all camping activities conducted on a lot of record shall not exceed a total of thirty days in a sixty day period and shall not be conducted for fourteen consecutive days.” He said this now clarifies that no matter how

many different groups are camping separately on a property, the full number is going to count as a whole as opposed to individual camping.

The Commission voted 10-01 to set public hearing for **TA-23-01, Campground Regulations** with the edit to Use Regulation 1 for the next Planning Commission Business Meeting on Friday, June 2, 2023 at 9:00am.

<b>Motion to set public hearing for <u>TA-23-01, Campground Regulations</u> for the June 2, 2023 Planning Commission Business Meeting as revised by Staff:</b>			
Ohrstrom (Chair)	<b>AYE</b>	King	<b>AYE</b>
Buckley (Vice-Chair)	<b>AYE (moved)</b>	Kreider	<b>AYE</b>
Catlett	<b>AYE</b>	Lee	<b>ABSENT</b>
Dunning	<b>AYE</b>	Malone	<b>AYE (seconded)</b>
Glover	<b>AYE</b>	Staelin	<b>AYE</b>
Hunt	<b>AYE</b>		

**MINOR SUBDIVISION APPLICATION**

**5. MS-23-05, Nathan Markee.**

Mr. Camp reviewed the Staff Report of the minor subdivision and noted that Staff recommends approval. There were no questions or comments from the Commission.

The Commission unanimously voted to approve **MS-23-05, Nathan Markee** as recommended by Staff.

<b>Motion to approve <u>MS-23-05, Nathan Markee</u> as recommended by Staff:</b>			
Ohrstrom (Chair)	<b>AYE</b>	King	<b>AYE</b>
Buckley (Vice-Chair)	<b>AYE (moved)</b>	Kreider	<b>AYE</b>
Catlett	<b>AYE</b>	Lee	<b>AYE</b>
Dunning	<b>AYE</b>	Malone	<b>AYE (seconded)</b>
Glover	<b>AYE</b>	Staelin	<b>AYE</b>
Hunt	<b>AYE</b>		

**BOARD AND COMMITTEE REPORTS**

**6. Board and Committee Reports**

**Board of Supervisors (Terri Catlett)**

Commissioner Catlett said they will be hearing from the Sanitary Authority at their next meeting regarding some changes they want to make.

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

Nothing to report.

**Board of Zoning Appeals - BZA (Jeremy Camp)**

Mr. Camp said there was one appeal case that was reviewed by the BZA where there was an appeal to a zoning violation letter regarding a short-term rental in the Shenandoah Retreat. He said their argument

was that they had purchased the property in 2019 and started the short-term rental a year after but before the revised regulations were adopted. He said they felt they should be grandfathered in, however, they failed to obtain their business license and were classified as unlawful before the regulation had passed. Mr. Camp said he was not able to say they were non-conforming in which the BZA was in agreement.

Mr. Camp said the White Post case went to court in April where the judge issued an order finding the owner in contempt of court and imposed some fines. He said the owner would not have to pay or go to jail as long as the court order was followed and deadlines met. He said the first deadline is June 16<sup>th</sup> for the owner to submit a demolition plan or some other modification plans in order for the structure to be in compliance.

#### **Historic Preservation Commission – HPC (Bob Glover)**

Commissioner Glover noted the 24<sup>th</sup> Annual HPC Awards luncheon this month and said they plan to do something special next year for the 25<sup>th</sup> anniversary.

#### **Conservation Easement Authority - CEA (George L. Ohrstrom, II)**

Chair Ohrstrom said the CEA approved an easement at the end of Tilthammer and Millwood Rd. He said this easement initiated a long discussion about impervious surface and what people might want to do on their property regarding riding rings, etc.

#### **Broadband Implementation Committee (Brandon Stidham)**

Mr. Stidham said there will be a lot of tree contractors in the area as they are working with Rappahannock Electric Cooperative to clear the area for fiber optic lines. All Points Broadband said Augusta and Fauquier counties will likely begin doing their hookups as early as next year.

### **OTHER BUSINESS**

#### **7. Projected Upcoming Agenda Items, May – October 2023**

Mr. Stidham announced that the Comprehensive Plan Committee and Ordinance Committee are both meeting on Monday, May 15<sup>th</sup> to discuss the Historic Resources and Water Resources Plan five-year review resolutions are due this year to be adopted. He added that there will be a planning level discussion on how to prioritize the Village Plan separately from the rural lands plan and the possibility of merging the two.

Mr. Stidham noted that July is when the commission looks at their priorities list and reorder based on how the year has progressed.

Mr. Stidham said the Ordinance Committee is going to be looking into potential text amendments to clarify the maximum lot size exception section to include the interpretation that the Commission helped with last year. Additionally, he noted the committee wishes to further clarify the farm winery, brewery, and distillery regulations while maintaining state code compliance.

Mr. Stidham said he received the conditional zoning application submission which is for more than sixty-five acres that fronts Route 340 and Featherbed Road. He said this would be conditional zoning to Highway Commercial and Highway Access Corridor Overlay District.




Lastly, Mr. Stidham announced that the Commission may see a special use permit submittal by the Appalachian Trail Club regarding Bears Den campground.


There were no questions or comments from the Commission.

**ADJOURN:**

The Commission voted 10-0-1 to adjourn the May 5, 2023 Planning Commission Business Meeting at 10:20AM.

<b>The Commission adjourned the Planning Commission May 5, 2023 Business Meeting at 10:20AM.</b>			
Ohrstrom (Chair)	<b>AYE</b>	King	<b>AYE</b>
Buckley (Vice-Chair)	<b>AYE (moved)</b>	Kreider	<b>AYE</b>
Catlett	<b>AYE</b>	Lee	<b>ABSENT</b>
Dunning	<b>AYE</b>	Malone	<b>AYE</b>
Glover	<b>AYE (seconded)</b>	Staelin	<b>AYE</b>
Hunt	<b>AYE</b>		

  
George L. Ohrstrom, II (Chair)

  
Kristina Maddox (Clerk)