



Clarke County Planning Commission

Business Meeting Minutes

Friday, September 4, 2020 – 9:00AM

Berryville/Clarke County Government Center – Main Meeting Room

ATTENDANCE:			
George L. Ohrstrom, II (Chair/Russell)	✓ E	Pearce Hunt (Russell)	✓
Randy Buckley (Vice-Chair/White Post)	✓	Scott Kreider (Buckmarsh)	✓
Matthew Bass (Board of Supervisors)	✓ L	Douglas Kruhm (Buckmarsh)	✓
Anne Caldwell (Millwood)	✓	Frank Lee (Berryville)	✓
Buster Dunning (White Post)	✓ L	Gwendolyn Malone (Berryville)	✓
Robert Glover (Millwood)	✓	Doug Lawrence (BOS alternate) ¹	✓

E – Denotes electronic participation

L – Denotes arrived late

¹ – Participated in but did not serve as the Board of Supervisors alternate for this meeting.

Note: George L. Ohrstrom, II participated electronically due to health issues related to the current pandemic.

STAFF PRESENT: Brandon Stidham (Director of Planning), Ryan Fincham (Senior Planner/Zoning Administrator) – electronic participant

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

1. Approval of Agenda

A motion to approve the meeting agenda as presented by Staff was adopted 9-0-2.

Motion to Approve September 4, 2020 Business Meeting Agenda as presented:			
Ohrstrom (Chair)	AYE	Hunt	AYE
Buckley (Vice-Chair)	AYE	Kreider	AYE (moved)
Bass	ABSENT	Kruhm	AYE
Caldwell	AYE (seconded)	Lee	AYE
Dunning	ABSENT	Malone	AYE
Glover	AYE		

2. Approval of Minutes – July 10, 2020 Business Meeting

Chair Ohrstrom stated that this set of minutes was well taken and he thanked Staff for their work. Mr. Stidham noted one edit presented by Staff on Page 13 of 61. He stated that Staff changed the wording of the middle paragraph for clarity purposes. Commissioner Caldwell said that she did not get a chance to go through the minutes in detail and did notice a few minor typos that are not worth mentioning. She added that she agreed that the minutes were very well done.

A motion to approve the meeting minutes with edits noted by Staff was adopted 9-0-2.

Motion to Approve the July 10, 2020 Business Meeting Minutes with edits:			
Ohrstrom (Chair)	AYE	Hunt	AYE
Buckley (Vice-Chair)	AYE	Kreider	AYE (moved)
Bass	ABSENT	Kruhm	AYE
Caldwell	AYE	Lee	AYE
Dunning	ABSENT	Malone	AYE (seconded)
Glover	AYE		

Commissioners Matthew Bass and Buster Dunning entered the meeting at 9:03AM.

3. Public Hearing

SP-20-02/CA-20-02, Sheetz, Inc. Request approval of a Site Plan Amendment and a Certificate of Appropriateness to add a 1,095.02 square foot addition to an existing convenience store to accommodate more retail space and indoor seating, partial removal of gas canopy, and building exterior changes to the property located in the Highway Commercial (CH) and the Historic Access Corridor Overlay (HC) Districts. The property is located at 12582 Lord Fairfax Highway, reference Tax Maps 20-A-36C & 36A and 28-A-17, in the White Post Election District.

Mr. Fincham gave a Power Point presentation summarizing the Staff Report and Supplementary Staff Report #1 for this item. Chair Ohrstrom asked if there were any questions from Commissioners. Hearing none, Chair Ohrstrom opened the Public Hearing. There were two speakers:

- Robin Levi (12470 Lord Fairfax Highway) – She stated that her property is adjacent to the Sheetz store. She said she was not notified of this meeting until last week when she received a notice in the mail. She said she knows nothing about the access easements and only knows that they are going to tear down the gas canopies and extend the building for seating. She said that she should have been notified sooner than last week. She said she has one request since it appears this body is going to approve the application and that is for Sheetz to remove the dead trees along her shared property line. She noted that this will prevent her from having to hire someone to remove tree debris when the next storm comes through. She added that this is a danger to her and to anyone else who might be in her yard. She said she called Sheetz but never got any response and noted that someone from one of the County departments came out to inspect the trees but that nothing was ever done.

Mr. Fincham asked for the site plan slide to be displayed again. He said that Staff received a complaint months ago, likely from Ms. Levi. He noted that the issue was discussed with Sheetz representatives and they are absolutely willing to take care of it. He added that a note has been included on the site plan to indicate that existing trees will be trimmed and that any dead trees will be removed along the northern property line. He asked Ms. Levi to leave her contact information and he would ask Sheetz representative Bob Franks to contact her. Regarding public hearing notification, he said that advertisements and notifications were sent on time and as required and apologized for the delay in Ms. Levi receiving her notice.

- Bob Franks (Sheetz representative) – Mr. Franks indicated that the representative from Greenway Engineering is late and will be bringing full-size copies of the revised site plan. He said that he just spoke with Ms. Levi and told her that they will replace the dead trees and clean up the tree line

along her property. He said the two sections of the gas canopy shown on the site plan will be eliminated and that the appearance changes will help to soften the look of the building. He noted that there will be indoor and outdoor seating, that the exterior will be brick with stone along the bottom, and that the canopies will be metal. He said that they have not addressed the monument signs yet but they intend to leave the current signs as is and change the brick and stone around the signs to match the building.

With no further speakers, Chair Ohrstrom closed the Public Hearing and opened the floor for questions and comments from the Commission. Commissioner Kruhm asked about the documents that the applicant's engineer is bringing and whether they are supposed to be part of the package that the Commission is considering. Chair Ohrstrom said that he is under the impression from Mr. Fincham's comments that they are not really germane to this application at present. Mr. Fincham said that the large site plan was being provided in the event that Commissioners wanted to look at it in detail. He said that the elevation pages were being provided at the request of the Plans Review Committee. He noted that this would only be an issue if a Committee member or Commission member wanted to see the documents before taking action. He noted that the font on the elevation was hard to read in the electronic version. Chair Ohrstrom asked for confirmation that they are not really necessary for the approval of the application and Mr. Fincham replied correct.

Mr. Stidham added one clarification regarding the plan note for tree removal and maintenance along the northern property line. He said that since the applicant has provided this note, it becomes a requirement of the site plan and the work will have to be completed and inspected prior to final approval upon completion of construction. He also noted that the applicant's engineer has arrived with large copies of the site plan and elevations. There was a brief pause in the meeting to allow Commissioners Caldwell, Kruhm, and Dunning time to review the elevations.

Chair Ohrstrom called for a motion on the application. Commissioner Kruhm said that he wanted to make a motion to approve the site plan and Certificate of Appropriateness applications as recommended by Staff, and Chair Ohrstrom noted that they should be voted on by separate motions. Commissioner Kruhm then made a motion to approve the Site Plan Amendment application as recommended by Staff, which was adopted unanimously.

Motion to Approve SP-20-02 as presented by Staff contingent upon the recording of the lot consolidation plat of the three subject parcels and that the recorded plat also show the joint-use access easements required by VDOT shown on the revised site plan dated 9/3/2020:

Ohrstrom (Chair)	AYE	Hunt	AYE
Buckley (Vice-Chair)	AYE	Kreider	AYE (seconded)
Bass	AYE	Kruhm	AYE (moved)
Caldwell	AYE	Lee	AYE
Dunning	AYE	Malone	AYE
Glover	AYE		

Mr. Stidham said that the Commission needs to make a motion on the Certificate of Appropriateness application. Commissioner Kreider made a motion to approve the Certificate of Appropriateness application, which was adopted unanimously.

Motion to Approve CA-20-02 as presented:			
Ohrstrom (Chair)	AYE	Hunt	AYE
Buckley (Vice-Chair)	AYE	Kreider	AYE (moved)
Bass	AYE	Kruhm	AYE
Caldwell	AYE	Lee	AYE
Dunning	AYE	Malone	AYE (seconded)
Glover	AYE		

4. Minor Subdivision Application -- Deferred

MS-20-01, Mt. Hebron, LLC. Request approval of a two lot Minor Subdivision for the property identified as Tax Map #26-A-6, located at 2000 Springsbury Road in the Millwood Election District zoned Agricultural Open-Space Conservation (AOC).

Mr. Fincham presented the Staff Report for this item. He noted one minor error on the first page of the Staff Report regarding the number of dwelling unit rights to remain on the residual lot, adding that the correct information is reflected on the plat.

Chair Ohrstrom asked if Commissioners had any questions or comments. Commissioner Kruhm asked about the 19-acre Lot 1 and Mr. Fincham replied that he is referencing a lot that will be discussed in the next minor subdivision application in agenda item #5.

A motion to approve the Minor Subdivision application was adopted unanimously.

Motion to Approve MS-20-01 as presented:			
Ohrstrom (Chair)	AYE	Hunt	AYE
Buckley (Vice-Chair)	AYE (seconded)	Kreider	AYE (moved)
Bass	AYE	Kruhm	AYE
Caldwell	AYE	Lee	AYE
Dunning	AYE	Malone	AYE
Glover	AYE		

Chair Ohrstrom asked Staff if Vice-Chair Buckley can sign the final plat after the meeting since he is participating electronically. Mr. Stidham and Mr. Fincham replied that this would not be a problem. Mr. Fincham noted that he will be working remotely for the next two weeks but has already signed the final plats.

5. New Minor Subdivision and Maximum Lot Size Exception Application

MS-20-03/MLSE-20-01, Thomas Moore Lawson/L Seven Farm, LC. Request approval of a two lot Minor Subdivision and Maximum Lot Size Exception for the property identified as Tax Map #27-A-8, located at 15799 Lord Fairfax Highway in the White Post Election District zoned Agricultural-Open Space-Conservation (AOC).

Mr. Fincham presented the Staff Report and Supplementary Staff Report for this item. Commissioner Kruhm asked about the 19-acre lot and said that he thought there is a requirement that the lot must be at

least 20 acres. Mr. Fincham replied that a maximum lot size exception allows a lot area of any size. He added that the 20-acre threshold applies to boundary line adjustments between residential and agricultural lots – the residential lot size must be increased to at least 20 acres. He said that this might be the criteria that Commissioner Kruhm is referencing. Commissioner Lee said that the 19-acre lot shows a drainfield and reserve area plus a 200 percent reserve area. He asked if this had to do with the previous subdivision and Mr. Fincham replied that there were a number of certification letters done for potential drainfield sites on this property. He added that we require drainfield sites with certification letters on file to be shown on the plat.

Chair Ohrstrom asked if there were any additional questions or comments on this application. Vice-Chair Buckley stated that he is recusing himself from voting on this application.

A motion to approve the Minor Subdivision and Maximum Lot Size Exception applications was adopted 10-0-1.

Motion to Approve MS-20-03 and MLSE-20-01 as presented:			
Ohrstrom (Chair)	AYE	Hunt	AYE
Buckley (Vice-Chair)	Recused	Kreider	AYE
Bass	AYE (moved)	Kruhm	AYE
Caldwell	AYE	Lee	AYE (seconded)
Dunning	AYE	Malone	AYE
Glover	AYE		

Discussion Items

6. Continued Discussion, Short-Term Residential Rentals Text Amendment

Mr. Stidham reviewed the Staff Memo (dated August 27, 2020) for this item. He said that this item is on the agenda for the Commission’s continued discussion and that Staff is looking for directions on next steps with the text amendment and enforcement process.

Regarding the memo from Felicia Hart (Director of Economic Development and Tourism), Commissioner Glover asked what the lodging business owners meant by registered businesses. Mr. Stidham replied that they are likely referring to lodging businesses that have obtained a business license and all required governmental permits to operate. Commissioner Glover said he was wondering if this meant being registered with a bed-and-breakfast professional organization, and Mr. Stidham replied that he took this to mean someone who is operating in full compliance with all code requirements. Commissioner Bass asked Mr. Stidham if he knew the context in which the comments about registered businesses were made and Mr. Stidham replied that he did not attend the meeting at which it was discussed. Mr. Stidham added that based on comments from Ms. Hart, the lodging business owners want to have a level playing field and that they are examples of businesses that have gone through all required approval processes. Commissioner Lee said that the business owners commented that the Virginia Department of Health (VDH) inspects lodging businesses but noted that VDH will not inspect them because they are business uses. Mr. Stidham then recapped how VDH would be involved in the review of short-term residential rental applications under the proposed text amendment.

Regarding the three-bedroom specification, Commissioner Kruhm said that this fails to protect the river with the camps along the river that are being rented out as two-bedroom rentals. He said that these rentals would be getting a bye from the regulations and we would have no ability to require suitable septic systems. Mr. Stidham said that we are not including campsites in this text amendment and Commissioner Kruhm clarified that he is talking about single-family dwelling rentals and not camping sites. He added that some of these residences have two bedrooms, are getting very heavy usage, and do not have septic systems of record. Commissioner Glover said that he agrees with Commissioner Kruhm's comments and said if two or more bedrooms are regulated it would still allow a property owner to rent out one bedroom. Mr. Stidham noted that the reason why we went with a total head count during the rental period is primarily because of the way online providers advertise their occupancy. He added that there is no translation from the number of bedrooms in the dwelling to the maximum number of people that are actually allowed to stay in the rental. He said the Committee felt that the head count approach that would include renters and resident occupants was a much more accurate method to use and goes to the heart of the matter of how much load is going to these septic systems. Commissioner Bass asked if the maximum occupancy number is eight. Mr. Stidham replied that we used ten as the dividing line for the different regulations because the Building Code requires a use change for rentals over ten occupants in a single-family dwelling. He also said it was discussed that a 10-person occupancy translates into a five-bedroom drainfield which may be difficult to get in Clarke County. Commissioner Lee said he thinks the number ten is too high given the state of drainfields in the County. Commissioner Caldwell said she had recommended decreasing the number to eight based on the drainfield capacity issue.

Chair Ohrstrom said he thinks we need to examine this issue much more closely and said until we have updated tables in front of us, it may be difficult to have this discussion. He said he does not feel like the Commission is in a position to take any formal action today. Commissioner Glover agreed that we are not ready to take formal action and suggested that Staff send out the occupancy chart again for discussion. He added that he likes the idea of a maximum of three bedrooms with two people per bedroom, and Vice-Chair Buckley noted that this is the VDH requirement and that drainfield sizes are based on two people per bedroom. Commissioner Glover said that spelling this out in our Ordinance would be ideal. Commissioner Kruhm said that if we lean towards three bedrooms, we could have a separate category for rentals near bodies of water such as the Shenandoah River. Commissioner Lee said that we could create some kind of environmental overlay and Vice-Chair Buckley said that the flood plain could be used. Chair Ohrstrom said we need to be careful to make sure that State Code will allow us to use the flood plain in that manner.

Regarding the occupancy issue, Mr. Stidham said that the current bed-and-breakfast regulations limit the maximum number of transient guests to five and there is no requirement for VDH approval of the septic system but such a requirement could be added. He said we could greatly simplify the text amendment by eliminating the owner-occupied vs. non-owner-occupied scenarios and say that anything that cannot be approved as a bed-and-breakfast would have to be approved as a country inn. He said that the latter would require a special use permit and site plan and would also require a septic system to be engineered to accommodate the larger occupancy. He did note that property owners that do not reside in the rental dwelling would not qualify for a bed-and-breakfast home occupation approval so that issue would still need to be addressed. He added that if you want to allow property owners in this scenario who only want to have a maximum of five guests, you will probably need to create a new use that could be similar to the bed-and-breakfast home occupation use. Chair Ohrstrom said that maybe we should explore this approach and he noted that the Board of Supervisors wants something simplified to consider.

Mr. Stidham said that the Commission can defer this item to October to allow Staff time to develop a different approach, or they can assign it to the Policy & Transportation Committee for further work. Chair Ohrstrom said the Policy & Transportation Committee should work on this for one or two meetings and see if the river issues can be folded into the discussion. Commissioners agreed that this item should be forwarded to the Policy & Transportation Committee. Commissioner Caldwell said that the owner-occupied vs. non-owner-occupied issue still needs to be discussed including the issues raised by Mr. Stidham. She added that she sees a difference between a County resident who wants to rent out a house in their property or nearby and a property owner who does not live in the County but wants to do a short-term residential rental for commercial purposes. Commissioner Bass asked for confirmation that we do not want to overregulate property owners that live close to the rental or in the County and Commissioner Caldwell said yes, in particular by making them get a special use permit. Vice-Chair Buckley asked if we are missing a category of property owners who own a number of short-term residential rentals in the County and are operating them all for commercial purposes. Chair Ohrstrom agreed that this is a different category but did not know how they should be regulated differently. Mr. Stidham said that you have a lot of people who rent out homes in the County on a long-term basis as a business and asked if there is a difference between renting out by the month or year as opposed to by the day or week.

Mr. Stidham said that he will try to schedule the Policy & Transportation Committee meeting for October 2 immediately following the Business Meeting so that Commissioners not on the Committee may attend and listen to the discussion.

7. Board/Committee Reports

Board of Supervisors (Matthew Bass)

Commissioner Bass reported that the Board did discuss the short-term residential rental issue at their work session and thanked the Commission for working on the issue. He said the Board is considering a request for additional paid staffing at Blue Ridge Volunteer Fire Department and have approved both permanent and temporary funding for staffing support. He said they allocated \$300,000 of CARES Act funding to create a child care program to be operated through the Parks & Recreation Department and have also allocated funding for a business assistance program. He also reported a recent large refund made for overpayment of taxes.

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

Chair Ohrstrom said that the Board recently considered a complicated case at Lockes Mill. He noted the property owner intends to operate the Mill as a historical education site and the presence of flood plain adds to the complications.

Board of Zoning Appeals (Anne Caldwell)

Commissioner Caldwell had nothing to report.

Historic Preservation Commission (Doug Kruhm)

Commissioner Kruhm noted two recent articles in the Winchester Star about historic preservation efforts in the County.

Conservation Easement Authority (George L. Ohrstrom, II)

Chair Ohrstrom said that there are some new easements in the works but are not ready to be announced publicly. Commissioner Caldwell asked about the size of the easements. Chair Ohrstrom said that one is about 250 acres in size and the other one he is not at liberty to discuss at all at this point.

Broadband Implementation Committee (Brandon Stidham)

Mr. Stidham said that the Committee has met once since the last Commission meeting. He said that the Committee has had two meetings since adding Dr. Houck as a citizen member and noted that Board member Doug Lawrence is chairing the Committee. He said the Committee has discussed ways of getting information from residents regarding what they are using for internet that works and does not work. He added that they discussed having a citizen roundtable for this effort but that is currently on hold due to meeting restrictions. He said they also discussed ways to get information out on providers to the public, noting that many residents do not understand the differences between the wireless internet technologies. Mr. Lawrence noted that the County broadband website www.clarkeconnect.org has also been recently updated.

Other Business

8. Letters of Appreciation

Chair Ohrstrom said that it has previously been the practice to do a formal resolution whenever a commissioner leaves the Commission, noting that the resolution usually included a personalized and humorous "whereas" clause and that a framed copy was given to the commissioner for their service. He said recently some outgoing commissioners did not want a formal framed resolution so letters of appreciation were sent instead. Chair Ohrstrom said that he had been working on letters of appreciation for Pete Maynard, Robina Bouffault, and Mary Daniel but that other approaches have also been discussed. Commissioner Caldwell said that the letters of appreciation are a very hard thing to do and perhaps we should come up with a way of doing a resolution without requiring the commissioner to come back to a meeting to receive it. She said maybe we should go back to the old system unless someone specifically objects, and in that case we can formally recognize them in the minutes. She said we need to be more flexible based on what the commissioner wants. Mr. Stidham said that the most important thing seems to be recognizing the commissioner's service on the record. He added that this does not need to be in the form of a resolution but could be a simple motion to recognize the commissioner's service. He said the motion could include the commissioner's term dates, committee assignments, and accomplishments and any comments made by other commissioners about them would appear in the minutes with the motion.

Commissioner Kreider said at a minimum a commissioner should receive a plaque to recognize their service and we do not have to make them come back to receive the plaque. Commissioners Malone and Bass agreed. Vice-Chair Buckley said that this would be a simple certificate of appreciation for the commissioner's time on the Commission as opposed to a detailed resolution. Mr. Stidham added that the accomplishments can be stated on the record. Commissioner Caldwell asked if we are agreeing that everyone would get a plaque and Mr. Stidham replied yes but with a simple, standard certificate of appreciation for service. Mr. Stidham said that he will work on designing a standard certificate and the wording for the accomplishments of Commissioners Maynard, Bouffault, and Daniel.

9. Scheduling of Remaining Work Sessions

Mr. Stidham reviewed the Staff Memo (dated August 24, 2020) for this item. Commissioner Kreider said he thinks we need to hold Work Sessions again because he thinks we are trying to accomplish too much at the Business Meetings. Commissioner Glover agreed and said that he does not think we are as well prepared as we have been previously. He added that we can work out more things in the Work Sessions and we are doing alright with the social distancing setup in the meeting room. Chair Ohrstrom said that we will have a lot to work on in the near future. Commissioner Glover said that if we had a Work Session this month, we could have discussed the short-term residential rentals issue and possibly had something to act on at the Business Meeting. Commissioner Lee said that attendance should be optional depending on the member’s comfort level but he is also in favor of holding Work Sessions again. Commissioner Caldwell favors an ad hoc approach and cancel Work Sessions if there are no items for consideration. Commissioner Glover said that the remote participation seems to be working. Mr. Stidham asked if the members want to resume with the September 29 Work Session and all members agreed. Commissioner Kruhm asked if they would be held on Tuesdays and Mr. Stidham replied that we would resume our previous schedule and members can call in with approval by Chair Ohrstrom.

10. Presentation, Clarke County Land Use and Zoning Overview

This agenda item was moved to the September 29, 2020 Work Session.

Commissioner Caldwell suggested that the members look at the recently updated Clarke County website and said it is an improvement over the previous website.

ADJOURN: Motion to adjourn meeting at 10:28AM was adopted unanimously.

Motion to Adjourn Meeting:			
Ohrstrom (Chair)	AYE	Hunt	AYE
Buckley (Vice-Chair)	AYE	Kreider	AYE (moved)
Bass	AYE	Kruhm	AYE
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George L. Ohrstrom, II (Chair)

Brandon Stidham (Clerk)

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 George L. Ohrstrom, II (Chair)



 Brandon Stidham (Clerk)