

**CLARKE COUNTY PLANNING COMMISSION  
TABLE OF CONTENTS  
January 8, 2021 Business Meeting/Annual Organizational Meeting Packet**

<b><u>Item #</u></b>	<b><u>Description</u></b>	<b><u>Pages</u></b>
<b>1</b>	<b>Meeting Agenda</b>	<b>1-2</b>
<b>2</b>	<b>Organizational Meeting</b>	<b>3-25</b>
	-- Staff Memo	3-4
	-- 2020 Committee Appointments	5-6
	-- 2021 Planning Commission Meeting Schedule (DRAFT)	7
	-- By-Laws of the Clarke County Planning Commission (DRAFT)	8-13
	-- 2021 Project Priorities (DRAFT)	14-15
	-- Comprehensive Plan/Component Plan Review Schedule	16
	-- Zoning and Subdivision Ordinance Update Project/Work Plan for Project Completion (Staff Draft 12/28/2020)	17-21
	-- Work Plan for Comprehensive Plan Review Process (June 15, 2020 Staff Memo)	22-25
<b>3</b>	<b>Approval of Minutes</b>	<b>26-33</b>
	-- December 1, 2020 Work Session	26-29
	-- December 4, 2020 Business Meeting	30-33
<b>4</b>	<b><u>TA-21-01, Manufactured Homes</u></b>	<b>34-36</b>
<b>5</b>	<b>Discussion, Short-Term Residential Rentals Text Amendment</b>	<b>37-49</b>
	-- Staff Memo	37
	-- Draft Staff Report for Text Amendment	38-49



# Clarke County Planning Commission

AGENDA – Business Meeting/Annual Organizational Meeting

Friday, January 8, 2021 – 9:00AM

Berryville/Clarke County Government Center – Main Meeting Room

**1. Approval of Agenda**

**2. Organizational Meeting**

- A. Election of Officers: Chair and Vice Chair
- B. 2021 Committees and Member Assignments
- C. Review and Adoption of 2021 Meeting Schedule
- D. Review and Adoption of 2021 By-Laws
- E. 2021 Project Priorities
  - (1) Work Plan for Zoning and Subdivision Ordinance Update Project Completion
  - (2) Review and Adoption of 2021 Project Priorities

**3. Approval of Minutes**

- A. December 1, 2020 Work Session
- B. December 4, 2020 Business Meeting

**Schedule Public Hearing Item**

**4. TA-21-01, Manufactured Homes**

**Discussion Items**

**5. Discussion, Short-Term Residential Rentals Text Amendment**

**6. Board/Committee Reports**

- A. Board of Supervisors (Matthew Bass)
- B. Board of Septic & Well Appeals (George Ohrstrom, II)
- C. Board of Zoning Appeals (Anne Caldwell)
- D. Historic Preservation Commission (Doug Kruhm)
- E. Conservation Easement Authority (George Ohrstrom, II)
- F. Broadband Implementation Committee (Brandon Stidham)

**Other Business**

**Adjourn**

<b>UPCOMING MEETINGS:</b>
<b>Comprehensive Plan Committee</b> Tuesday, January 12 (2:00PM) Main Meeting Room
<b>Work Session</b> Tuesday, February 2, 2021 (3:00PM) Main Meeting Room
<b>Business Meeting</b> Friday, February 5, 2021 (9:00AM) Main Meeting Room



## Clarke County Planning Department

101 Chalmers Court, Suite B

Berryville, Virginia 22611

(540) 955-5132

[www.clarkecounty.gov](http://www.clarkecounty.gov)

**TO: Planning Commission members**

**FROM: Brandon Stidham, Planning Director**

**RE: 2021 Annual Organizational Meeting**

**DATE: December 29, 2020**

The Commission's Annual Organizational Meeting will be held at the Business Meeting scheduled for **Friday, January 8 at 9:00AM**. Items for the Organizational Meeting include:

- **ACTION ITEM -- Election of Chair and Vice-Chair.** As with previous Organizational Meetings, Staff will begin the meeting with the election of Chair for 2021. Once the Chair has been elected, the meeting will be turned over to the Chair-Elect who will conduct the election for 2021 Vice-Chair.
- **2021 Committee assignments.** Please review your Committee assignments and determine whether you want to continue with your current Committee(s) or switch to a different Committee. A copy of the 2020 Committee list is included for your reference. The By-Laws state that Committee appointments are made by the Chair so formal action to adopt the 2021 Committee assignments is not necessary.
- **ACTION ITEM -- Adoption of 2021 meeting schedule.** Staff is requesting formal action to adopt the 2021 meeting schedule as presented (See enclosed draft). There is only one schedule deviation – the November Work Session is moved to Wednesday to avoid conflict with the new Election Day holiday.
- **ACTION ITEM -- Adoption of the 2021 By-Laws.** This item requires formal adoption by the Commission. The enclosed draft includes the Commission's recently adopted "Conditional Approval Policy" under a new Article 9 reserved for Commission operating policies. Electronic meeting participation provisions were added to the By-Laws earlier this year under new Article 8.
- **ACTION ITEM -- Adoption of 2021 Project Priorities.** Staff is requesting formal adoption of the draft 2021 Project Priorities that are enclosed for your review. The Commission's top priority is completion of the Ordinance Update Project. For your reference, Staff has included a revised work plan with a new timeline for project completion. Discussion of this work plan is also included on the agenda.

You will also note that the remaining projects include the update of the 2013 Comprehensive Plan and new five-year reviews of the Waterloo Area Plan, Double

Tollgate Area Plan, and Agricultural Land Plan. The Comprehensive Plan Update project has been underway for the past few months with the Comprehensive Plan Committee conducting the work. Completion of additional tasks will be contingent upon the Commission's and Planning Staff's workload with the Ordinance Update Project completion.

The component plan five-year reviews will involve development of resolutions to initiate these component plan reviews including a general scope of work and key issues. As you may remember, resolutions must be adopted by the five-year anniversary date of the adoption of the Comprehensive Plan and its component plans per Code of Virginia requirements in order to indicate whether the plans will be reviewed and updated. Staff notes that the five-year review milestone for the Berryville Area Plan will also occur in 2021. The Berryville Area Development Authority (BADA) will be responsible for developing and taking action on that review resolution.

Staff has also included the updates of the Transportation Plan, Economic Development Strategic Plan, and Mountain Land Plan, along with the development of a new Village Component Plan, on the priority list. Staff is recommending that work on these plans be delayed until the Comprehensive Plan update is complete. The revised Comprehensive Plan will be used to inform the update of these component plans.

If you have questions about the items, please do not hesitate to contact me.

**CLARKE COUNTY PLANNING COMMISSION  
2020 COMMITTEE APPOINTMENTS (updated 6/15/2020)**

**Permanent Committee Descriptions**

- **Policy and Transportation.** Charged with focused study of general planning-related policy issues and matters affecting the County’s transportation network.
- **Plans Review.** Charged with review and comment on the following:
  - Site plan applications for Commission review (including those filed in conjunction with rezoning and special use permit applications)
  - Major subdivisions
  - Other administrative site plan, minor subdivision, or other land development applications on which Staff requests input from the Committee.
- **Comprehensive Plan.** Charged with initial management of the five-year review process for the Comprehensive Plan and implementing component plans.
- **Ordinances.** This Committee was created initially to serve as the steering committee for the project to review and update the Zoning and Subdivision Ordinances. Following completion of the project, the Ordinances Committee could also be charged with work on future proposed text amendments.

**2020 Permanent Committees**

<b>Policy &amp; Transportation</b>	Scott Kreider	Douglas Kruhm	Gwendolyn Malone	Bob Glover
<b>Plans Review</b>	Anne Caldwell	Scott Kreider	Frank Lee	Pearce Hunt
<b>Comprehensive Plan</b>	Bob Glover	Douglas Kruhm	Anne Caldwell	Matthew Bass
<b>Ordinances</b>	Randy Buckley	Anne Caldwell	Frank Lee	Gwendolyn Malone

**Special Subcommittees and Appointments – 2020 Members**

<b>Board of Zoning Appeals (BZA)</b>	Anne Caldwell
<b>Berryville Area Development Authority (BADA)</b>	George L. Ohrstrom, II
<b>Historic Preservation Commission (HPC) – Liaison</b>	Douglas Kruhm
<b>Board of Supervisors (BOS) – Liaison</b>	Matthew Bass
<b>Board of Supervisors (BOS) – Alternate</b>	Doug Lawrence
<b>Conservation Easement Authority (CCEA)</b>	George L. Ohrstrom, II

<b>Board of Septic and Well Appeals (Planning Commission Chair and Vice-Chair)</b>	George L. Ohrstrom, II Randy Buckley (alternate)
<b>Agricultural &amp; Forestal District (AFD) Advisory Committee – Liaison</b>	Randy Buckley
<b>Broadband Implementation Committee</b>	Douglas Kruhm Buster Dunning

**NOTE:** The Commission Chair is ex-officio member of all committees, but will chair no committee.

## 2021 PLANNING COMMISSION MEETING SCHEDULE -- **DRAFT**

### **Work Sessions**

Work Sessions are held monthly (except August) on the Tuesday before the Planning Commission's Business Meeting at 3:00PM in the Berryville-Clarke County Government Center, 101 Chalmers Court, 2<sup>nd</sup> Floor (unless otherwise scheduled). The purpose of the Work Session is to review agenda items for the upcoming Business Meeting and to discuss projects and issues in a workshop setting. Formal actions may be taken at Work Sessions but are limited to the annual organizational meeting items and those items specifically deferred from a previous Business Meeting. Work Sessions are open to the public.

### **Business Meetings**

Business Meetings are held monthly on the first Friday of every month (except August) at 9:00AM in the Berryville-Clarke County Government Center Main Meeting Room, 101 Chalmers Court, 2<sup>nd</sup> Floor (unless otherwise scheduled). The Commission conducts official business at these meetings including taking formal action on pending land use applications and text amendments, conducting required public hearings, and receiving reports from committee and board representatives. Business Meetings are open to the public.

<b>Work Session Meeting Dates</b>	<b>Business Meeting Dates</b>
Tuesday, February 2	Friday, February 5
Tuesday, March 2	Friday, March 5
Tuesday, March 30	Friday, April 2
Tuesday, May 4	Friday, May 7
Tuesday, June 1	Friday, June 4
Tuesday, June 29	Friday, July 2
No meeting in August	No meeting in August
Tuesday, August 31	Friday, September 3
Tuesday, September 28	Friday, October 1
Wednesday, November 3*	Friday, November 5
Tuesday, November 30	Friday, December 3
Tuesday, January 4, 2022	Friday, January 7, 2022

\* **Schedule deviation to avoid Election Day Holiday (November 2)**

### **Standing Committee and Special Subcommittee Meetings**

Meetings of Planning Commission committees and subcommittee are scheduled on an as-needed basis, often immediately following Work Sessions and Business Meetings. Dates, times, and locations for committee and subcommittee meetings are posted to the meeting calendar on the County website ([www.clarkecounty.gov](http://www.clarkecounty.gov)).

### **Inclement Weather and Other Schedule Deviations**

In the event that a meeting is cancelled due to inclement weather, efforts will be made to reschedule the meeting within one week of the original meeting date. If this cannot be accomplished, the agenda items will be forwarded to the next Work Session or Business meeting date. Deviations in the meeting schedule may be made to account for conflicts with holidays, government meetings, or other events of significance.



**BY-LAWS OF THE CLARKE COUNTY PLANNING COMMISSION  
(Draft for Consideration – January 8, 2021 Organizational Meeting)**

**Article 1 – Purposes, Duties, and Authority**

The Clarke County Planning Commission is created and organized pursuant to Code of Virginia §15.2-2210, et seq., and shall have the purposes, duties, and authority set forth therein. Meetings shall be held in accordance with Code of Virginia §15.2-2214. Provisions regarding conflicts of interest are set forth in Code of Virginia §2.2-3100 et. seq.

Provisions regarding Commission membership, terms of office, required oath of office, quorum, and officers are located in the Article 1, Section C of the Clarke County Zoning Ordinance.

**Article 2 – Election of Officers**

- A. Selection of Chair and Vice-Chair. As required by Article 1, Section C of the Clarke County Zoning Ordinance, the Commission shall elect from its membership a Chair and a Vice-Chair to serve a one year term. Election of officers shall be held at the Commission’s annual organizational meeting.
  
- B. Election procedure. The Director of Planning or other Staff designee shall open the floor for nominations for Chair. Once all nominations are made, the floor shall be closed to nominations and opened for discussion of the nominees. Once discussion is complete and floor closed, the Director of Planning or Staff designee shall call for a vote on each candidate in the order of their nomination. The candidate receiving a majority vote of the members present shall be declared elected and shall assume office immediately. The Chair-Elect shall repeat the process above for election of the Vice-Chair.
  
- C. Vacancies. Any vacancies in office shall be filled at the next regular Commission meeting by the election procedure outlined in Section B above. Vacancies shall be filled for the unexpired term.

**Article 3 – Duties of Officers**

- A. Duties of the Chair. The Chair shall preside at all meetings, appoint standing and special committees, rule on all procedural questions subject to a reversal by 2/3 majority vote of the members present, coordinate the work of the Commission staff through close and continuing cooperation with the County Administrator, and carry out other duties as assigned by the Commission.
  
- B. Duties of the Vice-Chair. The Vice-Chair shall act in the absence or inability of the Chair, have the power to function in the same capacity as the Chair whenever so authorized by the Chair, and carry out other duties as assigned by the Chair.

#### **Article 4 – Committees and Liaison Members**

- A. The Chair shall appoint such standing and special committees as the Commission shall direct and may designate the member who shall chair each committee. The Chair is an ex-officio member of all committees.
- B. Membership on committees shall be limited to members of the Commission provided, however, that nonvoting advisory persons may be appointed by the Commission Chair from outside the Commission membership. Each committee shall determine its own policies as to attendance at meetings by advisory persons.
- C. The Chair shall confirm or revise the membership and chairmanship of all standing committees annually at the Commission’s organizational meeting.
- D. The Chair shall designate Commission members to serve as liaisons to other public organizations as the Commission shall direct. The designated liaison member shall be responsible for maintaining continuing communication and cooperation between the Commission and the organization to which the member is designated.

#### **Article 5 – Meetings**

- A. All meetings and public hearings shall be open to the public and conducted in accordance with Code of Virginia §15.2-2200 et. seq. and the Virginia Freedom of Information Act (§2.2-3700 et. seq.). Meetings shall be subject to the additional requirements included in this Article.
- B. Scheduling and Purpose of Meetings. The Commission shall schedule, on a monthly basis, a work session and a business meeting as described below. No work session or business meeting shall be scheduled for the month of August, however special meetings and committee meetings may be scheduled. The Commission shall establish the meeting schedule for the upcoming year at the Commission’s annual organizational meeting according to the dates described below. Deviations in this schedule may be made to account for conflicts with holidays, government meetings, inclement weather, or other events of significance.
  - 1. Business meetings. The purpose of the business meeting is to conduct scheduled Public Hearings; to take formal action on zoning and subdivision applications, ordinance or plan amendments, or other planning matters; and to discuss other matters pertinent to the Commission’s responsibilities. Business meetings shall be scheduled for the first Friday of each month.
  - 2. Work sessions. Formerly known as briefing meetings, the purpose of the work session is to receive information on the agenda items for the upcoming business meeting and to discuss projects and issues pertinent to the Commission’s responsibilities in a workshop setting. Formal actions taken at work sessions shall be limited to the annual organizational meeting action items and those items

specifically deferred from a business meeting to a work session. Work sessions shall be scheduled for the Tuesday prior to the Friday business meeting.

3. Committee meetings. Meetings of the Commission's standing and special committees may be scheduled on an as-needed basis at the discretion of Planning Staff or at the request of the Chair or Vice-Chair.
4. Special meetings. Special meetings of the Commission may be scheduled on an as-needed basis at the request of the Chair or Vice-Chair. Formal actions taken at special meetings shall be limited to those items specifically deferred from a business meeting to a special meeting.
5. Annual organizational meeting. The annual organizational meeting shall be conducted as the first item of business at the first Commission meeting of the calendar year. The annual organizational meeting shall consist, at a minimum, of:
  - a. Election of Chair and Vice-Chair;
  - b. Member assignments to committees;
  - c. Review and adoption of the meeting schedule for the year;
  - d. Review and adoption of the By-Laws; and
  - e. Review and adoption of the Commission's project priorities for the year.

C. Agendas. Planning Staff, under the direction of the Chair, shall be responsible for preparing the Commission's meeting agendas.

1. The regular meeting agenda shall include, at a minimum, the following items:
  - a. Call to order and determination of quorum
  - b. Approval of the agenda
  - c. Approval of minutes
  - d. Public hearing items
  - e. Technical reviews (e.g., site plans, subdivisions)
  - f. Board and Committee reports from designated liaisons
  - g. Other business items
2. The contents of work session agendas shall be prepared at the Planning Staff's discretion. The contents of special meeting agendas shall be prepared by Planning Staff at the Chair's or Vice-Chair's direction.
3. The order and content of the agenda may be changed by a majority vote of the members present at the meeting.

D. Parliamentary procedure in Commission meetings shall be governed by the most current edition of Robert's Rules of Order as modified by any applicable provisions of these By-Laws.

## **Article 6 – Meeting Decorum**

- A. The purpose of this article is to establish rules for public participation and conduct during Planning Commission meetings. The general conduct of the public must be civil in manner, directed to the business at hand, and must conform to the rules listed in this article.
  
- B. Public Hearings.
  - 1. Members of the public are encouraged to provide comments on matters before the Commission during the scheduled public hearings. At the Chair’s discretion, speakers may be required to fill out a sign-in sheet prior to commencement of the public hearing.
  - 2. Speakers shall state their name and address for the record prior to addressing the Commission.
  - 3. Speakers shall have a maximum of 3 minutes to address the Commission or 10 minutes if the speaker is identified as representing a recognized group or if they are speaking on behalf of a group of citizens present at the public hearing. The time limit may be extended or waived at the Chair’s discretion.
  - 4. Speakers shall be civil in tone and demeanor and shall not make personal, impertinent, slanderous, or profane remarks, or any threatening or intimidating gestures, to any member of the Board, the staff, or the general public.
  - 5. Speakers shall address the Commission and shall not address the audience, answer questions from the audience, or engage in debate with anyone in the audience.
  
- C. Conduct of Meeting Attendees
  - 1. Meeting attendees are to be respectful of the opinions of others and shall refrain from shouting, booing, hissing, stomping, clapping, holding side conversations, or any other disruptive behaviors which impede the orderly conduct of Commission meetings.
  - 2. Any meeting attendee that participates in unacceptable behavior shall be ruled out-of-order by the Chair and, if necessary, be asked to leave the premises.

## **Article 7 – Removal of Commission Member**

- A. Whenever a commission member has been absent from three (3) consecutive regular meetings, or absent from four (4) or more regular meetings in any twelve (12) month period, the Board of Supervisors shall inquire of the Commission Chair if there has been any mitigating circumstance that indicates the member’s attendance will improve in the future. In the absences of such an indication, the Board, in its discretion, may request the resignation of the member or may remove the member in accordance with Code of Virginia §15.2-2212.
  
- B. A commission member may be removed by the Board of Supervisors for malfeasance of office in accordance with Code of Virginia §15.2-2212.

## Article 8 – Electronic Meeting Participation

1. Pursuant to Code of Virginia §2.2-3708.2, the following procedures are established for members of the Clarke County Planning Commission (the “Commission”) to participate electronically in Commission meetings, and in meetings of the Commission’s standing and special committees, from remote locations for reasons specified as follows:
  - A. Such member is unable to attend the meeting due to a temporary or permanent disability or other medical condition that prevents the member’s physical attendance.
  - B. Such member is unable to attend the meeting due to a personal matter and identifies with specificity the nature of the personal matter. Participation by a member pursuant to this subsection is limited each calendar year to two meetings.
2. Procedures for authorizing electronic participation in a meeting.
  - A. Electronic participation in a meeting shall only be permitted if a quorum of the Commission, or a quorum of the standing or special committee, is physically assembled at the designated meeting location.
  - B. Commission meetings. Any member requesting to participate electronically in a Commission meeting shall notify the Chair of the Commission of the reason for electronic participation as specified in Subsection 1 above, on or before the day of the meeting. The Chair of the Commission shall determine whether the request for electronic participation complies with the provisions of Subsection 1 above and shall either approve or disapprove the request.
  - C. Standing or special committee meetings. Any member requesting to participate electronically in a standing or special committee meeting shall notify the committee chair of the reason for electronic participation as specified in Subsection 1 above, on or before the day of the meeting. The committee chair shall determine whether the request for electronic participation complies with the provisions of Subsection 1 above and shall either approve or disapprove the request. In the event that the standing or special committee does not have a chair, the Chair of the Commission shall be notified of the request and shall determine whether to approve or disapprove the request.
  - D. If electronic participation is approved, the Clerk of the Commission shall record in the meeting minutes the remote location from which the member participated. The meeting minutes shall also indicate the reason for the member’s electronic participation as described in Subsection 1 above.
  - E. If electronic participation is disapproved, the reason for such disapproval shall be recorded in the minutes with specificity.

- F. For any electronic participation, arrangements shall be made to ensure that the voice of the member participating electronically may be heard by all persons in the designated meeting location.

## ***Article 9 – Operating Policies***

### ***1. Conditional Approval Policy***

***The Planning Commission may, at its sole discretion, grant or recommend conditional approval of an application due to unresolved administrative issues provided that the following items are met:***

- A. The issue has been informally resolved and only requires final written submission by the applicant and confirmation by Planning Staff and/or the applicable review agency.***
- B. The issue is reasonably expected to be resolved fully within the next 21 days or finalizing of the Planning Commission's next meeting agenda, whichever is sooner.***
- C. The issue is not one that, in the Commission's opinion, warrants continuance of a public hearing (if applicable).***

***An administrative issue is one that requires verification of compliance with a technical requirement or requirements and involves no subjective interpretation by Planning Staff or the review agency.***

**2021 PROJECT PRIORITIES – PLANNING COMMISSION  
(DRAFT FOR CONSIDERATION – January 8, 2021 Organizational Meeting)**

The list is intended to aid the Commission and Staff to ensure that work on critical projects is prioritized and completed in a timely fashion. Project start dates and priorities may be affected by the Commission’s zoning case load (e.g., special use permit applications, rezoning, site plans, subdivisions), text amendments, or other special projects requested by the Board of Supervisors.

**1. Comprehensive Review and Update of the Zoning and Subdivision Ordinances**

UNDERWAY – Remaining items to complete include:

- Conduct initial review of draft Subdivision Ordinance (following completion of legal review) and provide direction to Staff on additional edits.
- Provide direction to Staff on any final edits to draft Zoning Ordinance and Definitions Article.
- Agree on final drafts of Zoning Ordinance, Subdivision Ordinance, and Definitions Article.
- Schedule and conduct formal public hearing and outreach initiatives, provide formal recommendation on draft Ordinances and Definitions Article to Board of Supervisors.

GOALS FOR 2021:

Complete this project and adopt the new Ordinances and Definitions Article.

**2. Five-Year Review and Update of Comprehensive Plan**

UNDERWAY – Work completed or in progress:

- Resolution was adopted by the Planning Commission on January 4, 2019 to initiate review of the Plan.
- Comprehensive Plan Committee began work on June 22, 2020 with review of Chapter II’s Goals, Objectives, and Policies. Work on this task remains in progress.
- An initial work plan for the update project was reviewed by the Committee and accepted by consensus.

GOALS FOR 2021:

- Complete Task 1A – Committee review of current Chapter II (Goals, Objectives, and Policies) and Chapter III (Implementing Components) with drafting direction to be provided to Staff.
- Complete Task 1B – Staff to update demographics, statistical data, and outdated text in Chapter I (General Information).
- Complete Task 2 – Develop initial draft of the revised Comprehensive Plan for evaluation by the full Planning Commission.
- Further progress on this project in 2021 is contingent upon the workload necessary to complete the Zoning and Subdivision Ordinance Update project.

**3. Five-Year Reviews of the Waterloo and Double Tollgate Area Plans**

INCOMPLETE – Need to adopt a five-year review resolutions for both Plans by December 20, 2021. Assign task to Comprehensive Plan Committee in early Fall 2021.

**4. Preliminary work – Five-Year Review of the Agricultural Land Plan**

INCOMPLETE – The five-year review resolution for the Agricultural Land Plan will need to be adopted by February 21, 2022. Assign task to Comprehensive Plan Committee to begin work in late 2021.

**5. Five-Year Reviews/Updates of the Transportation Plan and Economic Development Strategic Plan**

INCOMPLETE -- The Commission adopted a resolution to initiate review of the Transportation Plan on January 4, 2019, and adopted a resolution to initiate review of the Economic Development Strategic Plan on October 4, 2019. Work should be delayed on these Plan updates until the review and update of the Comprehensive Plan is completed. The revised Comprehensive Plan will provide direction to inform the update of these two component plans.

**6. Mountain Land Plan Update and Development of New Village Component Plan**

INCOMPLETE – The Commission has not commenced work on evaluating the Mountain Land Plan for updating or development of a new Village Component Plan as recommended by the Comprehensive Plan. Work should be delayed on both projects until the review and update of the Comprehensive Plan is completed. The revised Comprehensive Plan will provide direction to inform the update of these two component plans. It should also be noted that work on both projects will likely be labor-intensive and are not recommended to be conducted while any other major projects are in progress.

**NOTE** – The five-year anniversary of the most recent Berryville Area Plan update is May 17, 2021. Adoption of a five-year review resolution will be required by this date but will be considered by the Berryville Area Development Authority (BADA) and not the Planning Commission.



Updated December 28, 2020

**COMPREHENSIVE PLAN/COMPONENT PLAN REVIEW SCHEDULE**

<b>Plan</b>	<b>Last Adoption Date</b>	<b>Next Review Deadline</b>	<b>Begin 5-Year Review Evaluation By</b>
<b>Comprehensive Plan</b>	March 18, 2014	5-year review initiated 1/4/2019	UNDERWAY
<b>Transportation Plan</b>	March 18, 2014	5-year review initiated 1/4/2019	Hold for completion of Comprehensive Plan update
<b>Economic Development Strategic Plan</b>	October 21, 2014	5-year review initiated 10/4/2019	Hold for completion of Comprehensive Plan update
<b>Berryville Area Plan</b>	May 10/17, 2016	May 2021	Early 2021 (Berryville Area Development Authority)
<b>Double Tollgate Area Plan</b>	December 20, 2016	December 20, 2021	Early Fall 2021
<b>Waterloo Area Plan</b>	December 20, 2016	December 20, 2021	Early Fall 2021
<b>Agricultural Land Plan</b>	February 21, 2017	February 21, 2022	Fall 2021
<b>Historic Resources Plan</b>	June 19, 2018	June 19, 2023	Early 2023
<b>Water Resources Plan</b>	September 25, 2018	September 25, 2023	Early 2023
<b>Recreation Component Plan</b>	December 15, 2020	December 15, 2025	Early 2025
<b>Mountain Land Plan</b>	June 21, 2005	Hold for completion of Comprehensive Plan update	Not scheduled
<b>Village Component Plan – NEW</b>	Not started	Hold for completion of Comprehensive Plan update	Not started

**ZONING AND SUBDIVISION ORDINANCE UPDATE PROJECT  
REVISED WORK PLAN FOR PROJECT COMPLETION  
(Staff Draft – 12/28/2020)**

**Project Completion Timeline Summary**

- February 1, 2021 – Completion of Subdivision Ordinance legal review
- February 26, 2021 – Staff completion of Subdivision Ordinance Article II (Version 3 -- Final)
- March 26, 2021 – Staff completion of Zoning Ordinance Article I (Version 5 – Final), Definitions Article III (Version 5 – Final), and Guidance Manual (Version 1)
- April 6, 2021 – Ordinances Committee meeting to review final versions of Zoning Ordinance Article I (Version 5 – Final), Subdivision Ordinance Article II (Version 3 – Final), and Definitions Article III (Version 5 – Final). Purpose is to discuss the final Subdivision Ordinance and changes to the Zoning Ordinance and Definitions Article since the 2019 joint workshops. Action item is to recommend presentation of final versions to the full Planning Commission at their May 4 Work Session. Guidance Manual Version 1 will also be presented to the Committee at this meeting.
- May 4, 2021 – Presentation of final versions of the revised Ordinances and Definitions Article to the full Planning Commission at the monthly Work Session. Action item is to consider accepting the final versions and scheduling formal Public Hearing and outreach initiatives. This would mark completion of Step 5 and beginning of Step 6.
- May 10, 2021 – Staff update on project to Board of Supervisors at their monthly work session. Copies of revised Ordinances and Definitions Article will be provided to the Board members at this meeting provided that the Commission accepted the drafts for public hearing at their May 4 meeting.
- June 4, 2021 – Planning Commission Public Hearing on draft Ordinances and Definitions Article.
- July 2, 2021 – Planning Commission action to recommend adoption of revised Ordinances and Definitions Article.
- July 20, 2021 – Board of Supervisors consideration of revised Ordinances and Definitions Article. Action item is to schedule Public Hearing for August 17, 2021 meeting.
- August 17, 2021 – Board of Supervisors Public Hearing on revised Ordinances and Definitions Article.
- September 21, 2021 – Board of Supervisors adoption date.

**Steps Completed to Date:**

**STEP 1 – Adopt work plan, project policies, and timeline**

**STEP 2 – Discuss and provide formal direction on policy and technical issues**

**STEP 3 – Approve framework for draft Ordinances**

**STEP 4 – Present draft Zoning Ordinance, Subdivision Ordinance, Definitions Article, and Guidance Manual to Ordinances Committee for final approval**

**Steps Remaining:**

**STEP 5 – Presentation of Initial Draft Ordinances for Planning Commission and Board of Supervisors Review**

**Summary**

Planning Staff presented drafts of the revised Zoning Ordinance (Article I) and Definitions Article (Article III), and conceptually presented revisions to the Subdivision Ordinance (Article II), to the Planning Commission and Board of Supervisors over a series of four joint workshops in late 2019. The revised Subdivision Ordinance draft remains under legal review and was not presented to the Board and Commission at the joint workshops. **It is anticipated that legal review will be completed by February 1, 2021.**

The final action item for Step 5 is for the Commission to accept the drafts of the revised Zoning Ordinance, Subdivision Ordinance, and Definitions Article for final consideration, Public Hearings, and adoption.

**Status of Drafts**

- **Zoning Ordinance Article I -- VERSION 5:**
  - Version 4 was reviewed by the Commission and Board at the joint workshops.
  - Version 5 has been initially compiled by Staff to include Commission and Board comments and Staff edits. A table listing the changes from Version 4 to Version 5 has also been assembled.
  - **TO DO** – Commission review of any remaining policy and technical issues identified by Staff.
  - **TO DO** – Determine how final legal review will be conducted.
  - **TO DO** – Incorporate remaining edits to complete Version 5.
  - **TO DO** – Present Version 5 to the Commission for acceptance.
  
- **Subdivision Ordinance Article II – VERSION 3:**
  - The full Commission has not reviewed a draft of the Subdivision Ordinance. Copies of Version 2 (for legal review) were provided to the Ordinances Committee.

- Version 3 has been initially compiled by Staff to include comments received from the joint workshops. No table of changes was generated since the Commission has not reviewed any drafts. A copy of Version 3 was provided to the County Attorney via email on May 5.
  - **TO DO** – County Attorney to complete cover-to-cover legal review.
  - **TO DO** – Incorporate legal edits to complete Version 3.
  - **TO DO** – Present Version 3 to the Commission for acceptance.
- **Definitions Article III – VERSION 5:**
    - Version 4 was reviewed by the Commission and Board at the joint workshops.
    - Version 5 has been compiled by Staff to include Commission and Board comments and Staff edits. A table listing the changes from Version 4 to Version 5 has also been assembled.
    - **TO DO** – Determine if County Attorney has any further legal concerns with Article III.
    - **TO DO** – Incorporate any remaining edits to complete Version 5.
    - **TO DO** – Present Version 5 to the Commission for acceptance.

**Timeframe for Completion**

Once legal review is complete, Staff will incorporate changes, finalize the drafts, and produce hard copies for the Commission’s review.

Given the time that has lapsed since the joint workshops and with the addition of new Commissioners, Staff anticipates that at least one Ordinance Committee meeting and one meeting of the full Commission will be required to complete review of the final drafts (minimum of two months). Formal action by the Commission will need to be taken at a scheduled Business Meeting to accept the drafts for final consideration, Public Hearing, and adoption.

**Guidance Manual**

Staff continues to work on the initial draft of the Guidance Manual – the companion document to the Ordinances that presents regulations, processes, and other important information in a customer-friendly format for citizens, business owners, and design professionals.

The current layout of the Guidance Manual consists of the following sections:

- General Information (DRAFT COMPLETE) – How to Use the Guidance Manual; Zoning Ordinance, Subdivision Ordinance, and Related Ordinances; FAQs on Sliding-Scale Zoning, the Clarke County Comprehensive Plan, conservation easements, and Karst; Relationships to Towns; and List of Key Agencies and Departments
- Information for Residents (DRAFT COMPLETE) – Permit Applications Generally; FAQs on small residential construction projects, subdividing new lots, adjusting property lines, additional dwellings on a lot, remedies, filing zoning complaints, and County’s relation to deed restrictions and neighborhood covenants

- Information for Businesses (DRAFT COMPLETE) – FAQs on approvals needed to operate a business, running a home based business, rules for transient lodging, and rules for commercial breeding and boarding kennels
- Agricultural Information (INCOMPLETE) – What is Agriculture; Constructing agricultural buildings; Regulations for agribusinesses; Land application of biosolids
- Special Events (INCOMPLETE) – Regulations for holding special events and special events as a business
- Information for Design Professionals (INCOMPLETE) – Current versions of the Ordinances; Filing Deadlines; Pre-Application Meetings; Required Components of a Complete Application; Fees; Timelines for Review Processes; Annexation Area Applications; Application Checklists
- Appendices (INCOMPLETE) – Current Application Forms; Fee Schedule; Setback Tables

Since the Guidance Manual is not part of the Ordinances, it is not required to be adopted by the Commission and Board of Supervisors separately or in conjunction with the Ordinances. Staff hopes to have a complete initial draft for the Commission’s review in conjunction with Step 6 below at the latest.

## **STEP 6 – Public Outreach, Formal Public Hearings, and Adoption**

### Summary

Step 6 will begin concurrently with the Commission’s acceptance of the final draft Ordinances and Definitions Article. In determining when to schedule a formal Public Hearing, the Commission will also need to decide whether to conduct additional public outreach measures such as informal workshops prior to conducting the Public Hearing. Once the Public Hearing is conducted, the Commission will need to take formal action in the form of a recommendation to the Board of Supervisors on the draft Ordinances and Definitions Article.

After the Commission has acted on their formal recommendation, the draft Ordinances and Definitions Article will be forwarded to the Board of Supervisors for final consideration. The process will be repeated at the Board level to schedule a formal Public Hearing, determine whether to hold additional public outreach measures, conduct the Public Hearing, and take formal action on the draft Ordinances and Definitions Article. Formal action by the Board would be one of the following: (1) to adopt the Ordinances and Definitions Article, (2) defer action for additional work by Staff, (3) defer action for additional work and remand to the Planning Commission, or (4) deny adoption of the Ordinances and Definitions Article. Staff strongly recommends against adopting either Ordinance or the Definitions Article individually – all three Articles were developed as a unit and are not designed to work in conjunction with the current Ordinances.

Staff recommends the Commission and Board schedule their formal Public Hearing process over two months instead of the typical one month timeframe. This extended timeline can be used in the following ways:

- Schedule Public Hearing one month in advance. Hold the Public Hearing but defer any action until the next monthly meeting. This approach is shown in the Timeline Summary on Page 1.
- Schedule Public Hearing two months in advance instead of one month and hold an informal public information meeting (or meetings) during this time period.
- Schedule Public Hearing one month in advance. Hold informal public information meeting (or meetings) on the same afternoon/evening (or a few days prior to) as the Public Hearing. Defer any action until next monthly meeting.

### **STEP 7 – Wrap-Up Activities**

Following Board adoption of the Ordinances and Definitions Article, Staff will incorporate any changes made by the Board in conjunction with their adoption and will create the final adopted versions of the Zoning Ordinance (Article I), Subdivision Ordinance (Article II), and Definitions (Article III). Any changes made by the Board to the final adopted versions will be communicated to the Planning Commission at their next scheduled meeting.

Electronic copies of all three Articles will be finalized and made available within one week of the adoption date. Hard copies will be sent out for printing with a small number of copies printed in-house for immediate usage.

Staff will finalize the Guidance Manual and make it available to the public within 30 days of the adoption date of the Ordinances and Definitions. The Guidance Manual does not have to be formally adopted by the Commission or the Board.

Copies of all pertinent meeting minutes, public drafts, tracking spreadsheets, and other important information will be archived by Staff within 60 days of the adoption date.



## Clarke County Planning Department

101 Chalmers Court, Suite B

Berryville, Virginia 22611

(540) 955-5132

[www.clarkecounty.gov](http://www.clarkecounty.gov)

**TO: Planning Commission members**

**FROM: Brandon Stidham, Planning Director**

**RE: Work Plan for Comprehensive Plan Review Process**

**DATE: June 15, 2020**

Item #3b is a discussion regarding work plan development for the upcoming Comprehensive Plan review process. As you are aware, the Planning Commission initiated a review of the Comprehensive Plan by resolution in January 2019 but the start of the review has been impacted by delays in completing the Ordinance Update Project. In an effort to gain some forward progress on the Comprehensive Plan review, Staff would like the Committee's initial comments and direction on the work plan for the review process along with some tasks to be completed this summer.

### 2014 Comprehensive Plan Review Process

The previous Comprehensive Plan review process conducted in 2012 and 2013 was a detailed, cover-to-cover evaluation of the document. Prior to this review, the Plan had been amended several times over the years but it had been many years since a complete review was last conducted. The review process was conducted with the following general goals:

- Update any information that may be out of date or obsolete.
- Commit to and prioritize any unfulfilled strategies for completion over the next five years.
- Reconcile any Plan recommendations that may be inconsistent with recent State code changes or local ordinance changes.
- Strive to coordinate recommendations across topical lines to avoid potentially conflicting or contradictory recommendations and to produce well-rounded strategies.

Beginning in Fall 2012, the Commission agreed to review the Comprehensive Plan as a committee of the whole rather than delegating work to the Comprehensive Plan Committee. Staff held visioning workshops with the Commission to identify key policy questions to be addressed in the update, and also provided updated statistical data and other information inputs for the Commission to consider. The Commission then reviewed the current Plan to identify specific sections to be updated and provide direction to Staff to draft revised text. The Commission also evaluated each Goal, Objective, and Policy in Chapter II to answer the following questions:

- Is the Goal, Objective, or Policy still relevant (in whole or in part)? If not, does it need to be modified or eliminated?

- If still relevant, has the Goal, Objective, or Policy been fully implemented? If not, why has implementation not occurred and how can we prioritize implementation in the coming years?
- Are there Goals, Objectives, and Policies to be added and, if so, how should they be prioritized?

To facilitate this evaluation, Staff provided suggested changes to address these points and also to address any key policy questions that were identified in the visioning workshops. The Commission finalized an initial draft for public comment in May 2013 and held informal public input sessions at three locations around the County in June 2013 (Government Center, Boyce Fire Hall, Blue Ridge VFD). Input from these comment sessions was incorporated into a final draft Comprehensive Plan document in September 2013. The Commission held a formal public hearing and recommended adoption of the revised Plan in October 2013. The Board of Supervisors held their formal public hearing on March 18, 2014 and adopted the revised 2013 Comprehensive Plan.

#### Proposed work plan for the current Plan review process

Since the last Plan review was an in-depth, cover-to-cover review, Staff envisions the scope of this review process to be more straightforward with a focus on the impact of guidance developed in recent component plan updates along with new or evolving issues facing the County since the last update. The Commission's 2019 review resolution included the following list of scoping issues to evaluate:

1. Evaluate the current Goals, Objectives, and Strategies for relevance and consistency with recent Implementing Component Plan updates. Consider adding or revising language to address any new County priorities such as broadband internet access for residents and businesses.
2. Update demographics and statistical information that have changed since 2013 and for which new data is currently available.
3. Determine whether to incorporate data or other information from the Cost of Community Services Study.
4. Update Implementing Component Plan descriptions in Chapter III to reflect recent updates of these Plans.
5. Evaluate whether to conduct a comprehensive review and update of the Mountain Land Plan and, if so, develop objectives and strategies that will inform the update process.
6. Determine whether to retain reference to the Capital Improvement Plan as an Implementing Component Plan and make changes to the applicable objectives and strategies as necessary.

Staff recommends that with a narrower review scope as compared to the previous review, the Comprehensive Plan Committee should act as the steering committee for this effort as opposed



to the Commission acting as a committee of the whole. Staff's recommended work plan is outlined as follows:

**TASK 1A – Evaluate Issues and Provide Drafting Direction to Staff (3-4 months concurrently with Task 1B).**

- Committee and Staff will evaluate each current Plan Goal, Objective, and Policy in Chapter II to determine their relevance and consistency with recent component plan updates. New Goals, Objectives, and Policies will also be considered to address any new or insufficiently addressed issues such as broadband internet access for residents and businesses.
- Committee and Staff will evaluate the component plan descriptions and priorities in Chapter III and amend them to reflect recent component plan updates. The Committee will provide direction on the status of existing component plans such as whether the Capital Improvement Plan and Economic Development Strategic Plan should remain as implementing component plans. The Committee will also evaluate how to prioritize the update of the Mountain Land Plan and development of the new Village Plan, and whether any new component plans should be developed in the future.
- Deliverables – Staff will create a report of the Committee's recommended changes to Chapters II (Goals, Objectives, and Policies) and III (Implementing Component Plans) and will present them to the full Commission for review and comment.

**TASK 1B – Update Demographics, Statistical Data, and Outdated Text (3-4 months concurrently with Task 1A).**

- Conduct a cover-to-cover analysis of the current Plan and flag data, statistics, and text that is outdated, replacing with current information. Most of this work will impact data and statistics in Chapter I but Staff will review the entire Plan for consistency.
- Incorporate any new factual information, milestones, or applicable reports that have occurred or created since 2014. Examples of reports would be the Cost of Community Services Study and the Telecommunications Infrastructure and Broadband Study 2020.
- Deliverables -- Staff will incorporate all updated information into the revised draft Plan Document and generate a table of changes to catalog all of the information that will be updated from the 2013 Plan.

**TASK 2 – Develop Initial Draft of the Revised Comprehensive Plan for Evaluation by Planning Commission (1-2 months).**

- Following review of the Committee's recommended Task 1A changes by the full Commission, Staff will develop an initial draft of the revised Comprehensive Plan for the Committee's review and comment. The Committee's requested changes will be

incorporated into the initial draft and the Committee will determine whether to take formal action to forward to the full Commission for review.

- Deliverables – Initial Draft of the revised Comprehensive Plan and a complete table of changes will be developed by Staff.

### **TASK 3 – Develop Final Draft of the Revised Comprehensive Plan; Conduct Formal Public Hearings and Adopt Plan (4-6 months)**

- The Committee and Staff will present the Initial Draft of the revised Comprehensive Plan to the full Commission for review and comment. Any changes requested by the Commission will be used to develop a Final Draft for the Commission’s consideration.
- The Commission will determine whether to accept the Final Draft and schedule formal public hearing on the Final Draft of the revised Comprehensive Plan. Following the formal public hearing, the Commission will take action to recommend adoption of the revised Plan.
- Once the Commission has made their formal recommendation to adopt the revised Plan, it will be presented by Staff to the Board of Supervisors. Any changes requested by the Board will be incorporated into the revised Plan. If there are significant changes requested, Staff will recommend that the Plan be remanded to the Commission for review and additional recommendations. Once the Board is satisfied with the revised Plan document, the Board will schedule formal public hearing on the Final Draft and take formal action to adopt it.

### **TASK 4 – Component Plan Review Prioritization (1 month)**

- In conjunction with or shortly after the Board’s adoption of the revised Comprehensive Plan, the Commission will be asked to prioritize component plan review process work plans. As of the drafting of this memo, the Commission has initiated review of the Transportation Plan and the Economic Development Strategic Plan.

#### Near-Term Activities for the Committee

If the Committee is comfortable with the proposed work plan, Staff would recommend working over the summer on the evaluation steps in Task 1A. Committee members should review Chapters II and III and develop lists of questions, comments, edits, or additions/deletions for discussion at a Committee meeting to be scheduled in August. Ideally we may be able to complete a significant amount of work on Task 1A before pausing again to resume the Ordinance Update Project work. Staff is looking for direction from the Committee as to whether this is an acceptable approach.

If you have questions or concerns in advance of the June 22 meeting, please feel free to contact me.



# Clarke County Planning Commission

**DRAFT MINUTES** – Work Session

Tuesday, December 1, 2020 – 3:00PM

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)	✓	Douglas Kruhm (Buckmarsh)	✓
Anne Caldwell (Millwood)	✓	Frank Lee (Berryville)	✓
Buster Dunning (White Post)	✓	Gwendolyn Malone (Berryville)	✓
Robert Glover (Millwood)	X	Doug Lawrence (BOS alternate)	X

E – Denotes electronic participation

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

**STAFF PRESENT:** Brandon Stidham (Director of Planning), Jeremy Camp (Temporary Planner/Zoning Official), Chris Boies (County Administrator)

**CALL TO ORDER:** By Vice-Chair Buckley at 2:59PM.

## 1. Approval of Agenda

The agenda was approved by consensus as presented by Staff.

## 2. Review of Agenda Items for December 1, 2020 Business Meeting

### Approval of Minutes

Mr. Stidham noted that the draft minutes from the November 4 Work Session and November 6 Business Meeting are included for the Commission’s consideration.

### Draft Capital Improvement Plan for Clarke County (2021-2026)

Mr. Stidham noted that the draft Capital Improvement Plan (CIP) is on the agenda for the Commission’s action. He said that new cost information for the projects has been provided and a copy of Planning Staff’s memo is included for reference. He said that Staff is looking for a formal recommendation on the draft CIP from the Commission and referenced draft motions included in the packet. He noted that the Commission can include specific recommendations and changes as part of the motion to the Board.

Chair Ohrstrom said that the draft CIP is a well-formed document and he encouraged Commissioners with any questions to discuss them today. Commissioner Kruhm noted in the CIP narrative that the Commission will review the Schools’ capital projects in the future and asked what the Commission’s role would be in evaluating those projects. Chair Ohrstrom said that he thinks we would be evaluating how the Schools’ proposed capital projects fit with the Comprehensive Plan. He added that budget numbers are included in the Commission’s materials for informational purposes but the Commission does not have anything to do with evaluating the dollars and cents of the projects. Mr. Stidham noted the bulleted list on Page 21 of 25 in the meeting packet which outlines the scope of the Commission’s

review. He confirmed that the Commission's role is not to review the cost of each project. He also gave an example of a hypothetical Schools' capital project to build new athletic fields out in the County as opposed to one of the incorporated towns, noting that this project would not be in conformance with the Comprehensive Plan's recommendations for public infrastructure location.

Commissioner Kruhm also asked whether the CIP projects are listed in a prioritized order. Mr. Stidham replied that they are organized by subject area. Commissioner Bass noted that the projects are organized by budget year which essentially is a prioritization. Commissioner Caldwell suggested that Commissioners review the Planning Staff memo starting on Page 21 of 25, stating that for each project recommendations are included regarding the degree of conformance with the Comprehensive Plan and other elements within the Commission's scope of review. Mr. Stidham reminded the Commission that the Route 7 Pedestrian Bridge Project on Page 25 of 25 is the only project identified by Planning Staff as not being in accord with the Comprehensive Plan. He noted that this may be one project that the Commission would want to provide a recommendation on to the Board of Supervisors. Chair Ohrstrom said that you could leave the project in the CIP since it addresses health, safety, and welfare issues and could be considered under that criteria. Mr. Stidham noted that with projects like this one, the Commission could recommend that it be pushed into an outlying year beyond the five-year scope of the CIP or brought back in a future budget year with more information to demonstrate conformance with the Comprehensive Plan and need.

Commissioners had no further questions and Mr. Stidham said that it would be on the Business Meeting agenda as an action item.

### **3. Old Business Items**

#### Discussion, Short-Term Residential Rentals Text Amendment

Mr. Stidham reviewed the Staff memo for this agenda item which describes the alternate approach to the proposed text amendment and the Policy & Transportation Committee's recommendations.

Commissioner Caldwell noted that the wording in the Staff memo is confusing regarding occupancies of 1-2 bedrooms with a maximum of four guests, stating that she had to read it a couple of times to understand that this is inclusive of permanent residents of the dwelling. Mr. Stidham asked if the wording of the draft text amendment clearly states this distinction. Commissioner Caldwell replied that the text amendment wording is clear but the Staff memo description needs to be clarified.

Chair Ohrstrom said that he understands that this approach is based on the dwelling's septic system capacity and number of bedrooms but this is where it is confusing to him. He noted that there may be cases in which an operator has an approved five-bedroom septic system with a capacity of ten people. He questioned whether those operators should be required to obtain a country inn special use permit in order to have more than four guests. He suggested not requiring operators with fully-approved septic systems for more than four persons to get a special use permit. Mr. Stidham replied that the original text amendment proposed a maximum of ten occupants before requiring a country inn special use permit. Chair Ohrstrom said that you would keep the metric in the new approach but go with the occupancy approved by the Virginia Department of Health (VDH) in determining whether a special use permit should be required. Mr. Stidham explained that VDH may find permits in their file review that do not fully meet current requirements, such as provision of a 100% reserve area, but will honor them for the purposes of determining short-term rental capacity. Chair Ohrstrom asked if you would be imposing an arbitrary

limitation at three bedrooms and six occupants, and Mr. Stidham replied that you have to decide on a number at some point. Mr. Stidham added that the Committee discussed that there are few properties in the County that have a four or five bedroom perc and that this played into the Committee's decision to support the alternate text amendment approach. Commissioner Caldwell said that she thinks this is fair because it imposes the least amount of restrictions on the smaller operators, noting that we could consider expanding the occupancy for the bed-and-breakfast home occupation permits. Mr. Stidham reviewed the bed-and-breakfast home occupation scenario and noted that the original version of the draft text amendment included raising this occupancy to five bedrooms and 10 occupants with VDH confirmation of septic system capacity. Chair Ohrstrom asked whether you could tie to the number of bedrooms approved by VDH instead of the number of guests. Mr. Stidham replied that you have to account for guests and permanent residents but you also have to account for large homes in which the rental operator advertises an occupancy in excess of two persons per bedroom. He gave examples of bedrooms with more than two beds and use of pull-out couches outside of bedrooms to accommodate more guests. He added that you do not want to hang your hat on the number of bedrooms because you need to back that up with a maximum number of guests.

Commissioner Kruhm asked what happens when a short-term residential rental is sold by the operator who obtained, or was in the process of obtaining, permits under the proposed regulations. Mr. Stidham replied that the new operator would have to get a new business license but the zoning permit would be honored if the new operator does not propose any changes to the rental operation. He added that if the original operator never obtained permits, the new operator would be required to comply with the regulations.

Regarding the proposed enforcement process with delayed implementation, Commissioner Caldwell said that this is the best approach compared to the others that the Commission has considered. Commissioner Kreider agreed noting that it gives operators a six month period to come into compliance and solves the septic system issue. He added that this seems to be the least intrusive and most effective approach. Mr. Stidham noted that if an operator is attempting to comply with the regulations but is not able to finalize all required approvals by the end of the six month period, Staff will continue to work with the operator so long as they are actively moving towards resolution. Commissioner Bass asked how we can publicize the proposed regulations if they are adopted. Mr. Stidham replied that working through Economic Development staff would be a good way to get the word out along with using social media. He said that he did not think that it would be difficult to inform operators.

Regarding how the proposed text amendment should be considered, Chair Ohrstrom said that this issue could be a serious red flag to the public and could hamper adoption of the revised Zoning Ordinance if the text amendment were to be folded into the Ordinance Update Project. He said that we should ensure that the Update Project is completed and the new ordinances are adopted before considering this text amendment. Commissioner Caldwell agreed that this should not be part of the Ordinance Update Project because the purpose of that Project is not to add a bunch of new regulations. She added that it would be useful to work with the Board of Supervisors informally before bringing it forward on a formal basis, noting that she is sure this will generate a lot of public comment. Commissioner Lee said that he would like to see this considered after the Ordinance Update Project because it is likely to be controversial and we have put a lot of time and work into the draft text amendment. Commissioner Kreider asked if there is a time frame on completing the Ordinance Update Project and Mr. Stidham replied that he is going to bring a proposed work plan forward to finish the project during the first part of next year. Vice-Chair Buckley said that since there is a window of opportunity to address this in the near term, he is almost in favor of processing this as an amendment of the current Zoning Ordinance instead of dragging it out until

after the Update Project is completed. He said that it seems as though this issue is becoming hotter. Commissioner Bass said that he agrees and noted that if we wait until after the Update Project is completed, we would be looking at next year before any action is taken. Vice-Chair Buckley agreed that we also need to do this in tandem with the Board. Mr. Stidham asked if there is a consensus that this should be an amendment to the current Zoning Ordinance. Commissioner Kreider said he would rather do this as a current amendment and the other Commissioners agreed. Commissioner Caldwell said that if we do have a clear window to completing this effort, it would be preferable to waiting until after completion of the Update Project. She added that summer is coming and we should have something on the books by then. Mr. Stidham said that timing wise, adoption could occur by the end of spring and with a six month grace period current operators would be able to finish out the season before having to comply with the new regulations.

Mr. Stidham asked if Commissioners wanted to make any changes to the draft including Chair Ohrstrom's suggestion about increasing the by-right occupancy limits. Commissioner Caldwell asked if the operator of a bed-and-breakfast home occupation could use a caretaker and Mr. Stidham replied no, they must be present during the rental periods. Chair Ohrstrom asked if a renter could operate a short-term residential rental without the property owner's permission. Mr. Stidham replied no and that the property owner would have to sign off on the zoning permit application. Commissioner Bass asked if you could increase the limit to four bedrooms and eight occupants as a compromise. Mr. Stidham replied that you have to pick a number somewhere and that the 10 occupant limit is based on building code requirements for change of use. He added that the change to three bedrooms and six occupants is a tweak of the current requirement of three bedrooms and five occupants, noting that the change aligns with VDH requirements. Chair Ohrstrom said that he would be fine with not changing the occupancy limits. Commissioners agreed to leave the current draft unchanged. Mr. Boies asked if the Commission wanted him to bring this to the Board at their work session on Monday and whether they were interested in having a joint meeting with the Board in January. Commissioners agreed to forward the draft text amendment to the Board for their informal feedback and did not think a joint meeting is necessary at this time.

#### **4. New Business Items**

##### 2021 Organizational Meeting Items

Mr. Stidham reviewed the materials provided to prepare the Commission for the January 5 Organizational Meeting. Chair Ohrstrom asked about the Recreation Component Plan being shown as pending on the enclosed chart. Mr. Stidham said that the Board is holding their public hearing in December and if they adopt the revised Plan, its status will be updated in a revised chart that will be provided to the Commission in January.

#### **5. Other Business**

None

**ADJOURN:** The Work Session was adjourned by consensus at 3:55PM.

---

Brandon Stidham (Clerk)



# Clarke County Planning Commission

**DRAFT MINUTES** -- Business Meeting

Friday, December 4, 2020 – 9:00 AM

Berryville/Clarke County Government Center - Main Meeting Room

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

**E** – Denotes electronic participation

**L** – Denotes arrived late

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

**STAFF PRESENT:** Brandon Stidham (Director of Planning), Jeremy Camp (Senior Planner/Zoning Administrator), and Debbie Bean (Recording Secretary).

**OTHERS:** Chris Boies (County Administrator)

**CALL TO ORDER:** By Vice Chair Buckley at 9:05AM and then he handed the meeting over to Chair Ohrstrom.

## 1. Approval of Agenda

Chair Ohrstrom called for a motion to approve the Planning Commission Business Meeting Agenda as presented.

A motion to approve the Planning Commission Business Meeting Agenda as presented was adopted 9-0-2.

<b>Motion to Approve the Planning Commission Business Meeting Agenda as adopted:</b>			
Ohrstrom (Chair)	<b>AYE</b>	Hunt	<b>AYE</b>
Buckley (Vice-Chair)	<b>AYE</b>	Kreider	<b>AYE (Moved)</b>
Bass	<b>AYE</b>	Kruhm	<b>ABSENT</b>
Caldwell	<b>AYE (Seconded)</b>	Lee	<b>AYE</b>
Dunning	<b>ABSENT</b>	Malone	<b>AYE</b>
Glover	<b>AYE</b>		

**2. Approval of Minutes**

**a. November 4, 2020 Work Session**

A motion to approve the November 4, 2020 Planning Commission Work Session Meeting minutes as presented by Staff was adopted 9-0-2.

<b>Motion to approve the November 4, 2020 Planning Commission Work Session Meeting Minutes as presented by Staff:</b>			
Ohrstrom (Chair)	<b>AYE</b>	Hunt	<b>AYE</b>
Buckley (Vice-Chair)	<b>AYE (Seconded)</b>	Kreider	<b>AYE</b>
Bass	<b>AYE</b>	Kruhm	<b>ABSENT</b>
Caldwell	<b>AYE (Moved)</b>	Lee	<b>AYE</b>
Dunning	<b>ABSENT</b>	Malone	<b>AYE</b>
Glover	<b>AYE</b>		

**b. November 6, 2020 Business Meeting**

Ms. Bean noted one edit needed on page 7 of 25 in this set of minutes. The title, “*b. Approval of Minutes – November 6, 2020 Planning Commission Business Meeting Minutes*” was left out. The Commission agreed to make this change.

A motion to approve the November 6, 2020 Planning Commission Business Meeting Minutes with one edit noted was adopted 9-0-2.

<b>Motion to approve the November 6, 2020 Planning Commission Business Meeting Minutes with one edit:</b>			
Ohrstrom (Chair)	<b>AYE</b>	Hunt	<b>AYE</b>
Buckley (Vice-Chair)	<b>AYE (Moved)</b>	Kreider	<b>AYE</b>
Bass	<b>AYE</b>	Kruhm	<b>ABSENT</b>
Caldwell	<b>AYE</b>	Lee	<b>AYE (Seconded)</b>
Dunning	<b>ABSENT</b>	Malone	<b>AYE</b>
Glover	<b>AYE</b>		

**3. Draft Capital Improvement Plan for Clarke County (2021-2026)**

Mr. Stidham said that Item #3 is the Draft Capital Improvement Plan (CIP) for Clarke County. He said that as we have discussed we are looking for a motion from the Commission today with recommendations to the Board of Supervisors on the draft CIP. He said that on page 12 of 25 there are two draft motions for the Commission to consider. He stated that if the Commission wants to recommend adoption as presented by Staff, the Commission would use the first motion. He said if the Commission wants to recommend specific conditions or corrections, the Commission would use the second motion. He added that any specific conditions recommended would need to be included in the body of the motion. He said that Mr. Boies is here today if the Commission has specific questions about the CIP. There being no questions, Chair Ohrstrom called for a motion.



A motion to approve the adoption of the Draft Capital Improvement Plan for Clarke County (2021-2026) subject to one recommendation was adopted 9-0-2. The recommendation to be included is Planning Staff's recommendation regarding the proposed project to construct a pedestrian bridge over Route 7 as noted in the October 29, 2020 Staff memo.

<b>Motion to approve adoption of the Draft Capital Improvement Plan for Clarke County (2021-2026) subject to Planning Staff's recommendation regarding the proposed project to construct a pedestrian bridge over Route 7 as noted in the October 29, 2020 Staff memo:</b>			
Ohrstrom (Chair)	<b>AYE</b>	Hunt	<b>AYE</b>
Buckley (Vice-Chair)	<b>AYE (Seconded)</b>	Kreider	<b>AYE</b>
Bass	<b>AYE</b>	Kruhm	<b>ABSENT</b>
Caldwell	<b>AYE (Moved)</b>	Lee	<b>AYE</b>
Dunning	<b>ABSENT</b>	Malone	<b>AYE</b>
Glover	<b>AYE</b>		

**4. Board/Committee Reports**

a. Board of Supervisors (Matthew Bass)

Commissioner Bass stated at the last meeting it was mostly standard items with Virginia Department of Transportation updates. He said that a public hearing was set for the Recreation Component Plan and the Watermelon Pickers Fest and that public hearing is scheduled for December 15 in the evening. He said that the Board approved a joint agreement with Fire & Rescue. He stated that the Board is moving forward with a new insurance provider. He said the other big news coming out of that meeting is we announced the members that are going to participate in the Statue Committee. He stated that Commissioner Malone is one of the members on the committee and he thanked her for serving and wishes the best of luck. Chair Ohrstrom said that this should be interesting. Commissioner Caldwell asked who else is on the committee. Commissioner Bass said John Staelin (Chair), Will Nelson, Daniel Nelson, Lee McGuigan, Bob Stieg, and Meg Roque.

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

Chair Ohrstrom said there is nothing to report this time.

c. Board of Zoning Appeals (Anne Caldwell)

Commissioner Caldwell said we had a zoning appeal for a setback variance to construct a carport at the house on Good Shepherd Road. She said that the setback was from a 50 foot centerline of the highway or the road in front of the house. She said she would like to comment that the application was extremely well done. She stated that it was well documented, well presented and it was done by the homeowner. She said that it was also in an area where most of the homes were constructed in the 1950s prior to zoning and many of them were within the zoning 50 foot setback. She said that it was a very easy and sensible application to approve.

Mr. Stidham announced that Charles Kackley has stepped down from the Board of Zoning Appeals (BZA). He said that Anne Caldwell was voted in to be the Chair of the BZA for this month. The re-elections will be done again at the January 2021 organizational meeting.

d. Historic Preservation Commission (Doug Kruhm)

Chair Ohrstrom said there is nothing to report this time.

e. Conservation Easement Authority (George Ohrstrom, II)

Chair Ohrstrom said that the Conservation Easement Authority (CEA) has an end of the year meeting coming up and the CEA is hoping that the easement for Smithfield Farm will be ready by the end of the year. Vice Chair Buckley said he regrets to announce that this easement will be postponed until probably February 2021 but it is moving forward.

f. Broadband Implementation Committee (Brandon Stidham)

Mr. Stidham said that the next meeting for the Broadband Implementation Committee is January 13, 2021 at 2:00 p.m.

**Other Business**

Mr. Stidham stated that the Comprehensive Plan Committee meeting is going to be meeting next Tuesday, December 8, 2020 at 2:00 p.m.

Mr. Stidham said that he wants to re-introduce Jeremy Camp as he has been officially selected as our permanent Senior Planner/Zoning Administrator. He said we are looking forward to a future with him serving in Clarke County. The Planning Commission welcomed Mr. Camp aboard.

**Adjourn**

There being nothing further to come before the Planning Commission, Chair Ohrstrom called for a motion to adjourn. A motion to adjourn the meeting at 9:19AM was adopted 9-0-2.

<b>Motion to adjourn the meeting at 9:19AM:</b>			
Ohrstrom (Chair)	<b>AYE</b>	Hunt	<b>AYE</b>
Buckley (Vice-Chair)	<b>AYE</b>	Kreider	<b>AYE (Moved)</b>
Bass	<b>AYE</b>	Kruhm	<b>ABSENT</b>
Caldwell	<b>AYE</b>	Lee	<b>AYE (Seconded)</b>
Dunning	<b>ABSENT</b>	Malone	<b>AYE</b>
Glover	<b>AYE</b>		

\_\_\_\_\_  
George L. Ohrstrom, II (Chair)

\_\_\_\_\_  
Debbie Bean (Recording Secretary)

**ZONING ORDINANCE TEXT AMENDMENT (TA-21-01)**

**Manufactured Homes**

**January 8, 2021 Planning Commission Meeting – SET 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 ordinance amendment. It may be useful to members of the general public interested in this proposed amendment.  
-----

**Description:**

Proposed text amendment to amend Zoning Ordinance §3-C-2-s, Manufactured Homes (Mobile Homes), and Article 9 (Definitions). The purpose is to delete the minimum width requirement of 19 feet for manufactured homes and to revise the definition of “manufactured home” to comply with Code of Virginia §36-85.3, §36-85.11, and §15.2-2290.

**Requested Action:**

Initiate consideration of this text amendment and schedule the proposed text amendment for Public Hearing at the February 5, 2021 Planning Commission Business Meeting.

**Background:**

The current supplementary regulations for manufactured homes as set forth in Zoning Ordinance §3-C-2-s include a minimum width requirement of 19 feet for all manufactured homes. In July 2020, a property owner was issued a Notice of Violation for bringing a manufactured home onto their property without zoning approval. The property owner filed a zoning permit application in August to address the Notice of Violation. Staff denied this zoning permit application on the grounds that the manufactured home did not comply with the 19-foot minimum width requirement as the structure is 14 feet wide. The property owner took no further action to comply with the Notice of Violation.

In discussing further enforcement action with the County Attorney and the Commonwealth’s Attorney, it was determined that the 19-foot minimum width requirement in the Zoning Ordinance does not comply with Code of Virginia requirements. Code of Virginia §36-85.3 defines “manufactured home” as follows:

*"Manufactured home" means a structure subject to federal regulation, which is transportable in one or more sections; is eight body feet or more in width and forty body feet or more in length in the traveling mode, or is 320 or more square feet when erected on site; is built on a permanent chassis; is designed to be used as a single-family dwelling, with or without a permanent foundation, when connected to the required utilities; and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure.*

Of particular note is the phrase “is eight body feet or more in width.” Code of Virginia §36-85.11 goes on to state:

*"...structures meeting the definition of "manufactured home" set forth in § 36-85.3 shall be defined in local zoning ordinances as "manufactured homes." The term "manufactured home" shall be defined in local zoning ordinances solely as it is defined in § 36-85.3.*

Code of Virginia §36-85.11 requires all local zoning ordinances to use the State code definition for “manufactured home” found in §36-85.3 which includes the minimum width requirement of 8 feet. The current definition of “Manufactured Homes (Mobile Homes)” does not contain language that matches the Code of Virginia definition.

Furthermore, Code of Virginia §15.2-2290 requires manufactured homes to be allowed in all zoning districts where agriculture is allowed by right subject to the same development standards that apply to site-built single-family dwellings:

*Localities adopting and enforcing zoning ordinances under the provisions of this article shall provide that, in all agricultural zoning districts or districts having similar classifications regardless of name or designation where agricultural, horticultural, or forest uses such as but not limited to those described in § 58.1-3230 are the dominant use, the placement of manufactured houses that are on a permanent foundation and on individual lots shall be permitted, subject to development standards that are equivalent to those applicable to site-built single family dwellings within the same or equivalent zoning district.*

The Zoning Ordinance currently applies the 19-foot minimum width requirement only to manufactured homes. There is no minimum width requirement for single-family dwellings.

In order to bring the Zoning Ordinance into compliance with Code of Virginia requirements, the County Attorney has recommended replacing the current definition of “Manufactured home (also known as MOBILE HOME)” with language that tracks the Code of Virginia definition, and that the 19-foot minimum width requirement be deleted from the applicable supplementary regulation found in §3-C-2-s.

**Proposed Text Amendment:**

The proposed text amendment would replace the current definition of “Manufactured home (also known as MOBILE HOME) found in Zoning Ordinance Article 9 with wording that tracks with the Code of Virginia definition of “manufactured home” as set forth in §36-85.3. The words “(also known as MOBILE HOME)” in the definition term would also be deleted. This would bring the Ordinance into compliance with Code of Virginia §36-85.11.

Regarding the “Manufactured Homes (Mobile Homes)” supplementary regulation found in Zoning Ordinance §3-C-2-s, the phrase “19 or more feet in width” would be deleted and replaced with the word “installed.” The words “(Mobile Homes)” in the supplementary regulation title would also be deleted. These changes would bring §3-C-2-s into compliance with Code of Virginia §15.2-2290.

The proposed Ordinance amendment text is included at the end of this Staff Report.

**Staff Recommendation:**

Staff recommends that the Planning Commission initiate consideration of the text amendment and schedule Public Hearing for the February 5, 2021 Commission Business Meeting. Regarding the Ordinance Update Project Policies for considering interim amendments to the current Zoning Ordinance, this text amendment would address a “critical procedural concern” as described in the Policies. Staff has no outstanding concerns with the adoption of the text amendment.

**History:**

**January 8, 2021. Placed on the Commission’s Business Meeting agenda to set Public Hearing.**

-----  
**Ordinance Amendment Text (changes shown in bold italics with strikethroughs where necessary):**

3-C-2-s      Manufactured Homes (~~Mobile Homes~~):

Manufactured homes, permitted in the AOC and FOC zoning districts only, shall be ~~19 or more feet in width, installed~~ on a permanent foundation with transportation tongue and axles removed, and subject to all other zoning standards applicable to conventional, site-built single family dwellings within the AOC and FOC districts. Skirting requirements and other applicable manufactured housing regulations of the Virginia Uniform Statewide Building Code shall be met.

**Article 9 – Definitions**

~~Manufactured home (also known as MOBILE HOME): A portable dwelling unit, built on a permanent chassis, transportable in one or more sections, and designed to be used as a dwelling, with or without a permanent foundation. "Mobile home" shall include a "manufactured home" as defined in Section 1200.2 of the 1987 edition of the Industrialized Building and Manufactured Home Safety Regulations of the Virginia Uniform Statewide Building Code. A manufactured home (mobile home) is not a modular home. For floodplain management purposes the term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.~~

***Manufactured home:***

***A structure subject to federal regulation, which is transportable in one or more sections; is eight body feet or more in width and forty body feet or more in length in the traveling mode, or is 320 or more square feet when erected on site; is built on a permanent chassis; is designed to be used as a single-family dwelling, with or without a permanent foundation, when connected to the required utilities; and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure.***



## Clarke County Planning Department

101 Chalmers Court, Suite B

Berryville, Virginia 22611

(540) 955-5132

[www.clarkecounty.gov](http://www.clarkecounty.gov)

**TO: Planning Commission**

**FROM: Brandon Stidham, Planning Director**

**RE: Discussion, Short-Term Residential Rentals Draft Text Amendment**

**DATE: December 30, 2020**

Item #5 on the Business Meeting agenda is a continued discussion of the short-term residential rentals text amendment issue.

Following the Commission's December 1 discussion, Planning Staff provided an update to the Board of Supervisors at their December 7 Work Session including the latest iteration of the text amendment and the proposed delayed implementation approach. Board members indicated that the new approach is an improvement and they expressed no concerns with the text amendment.

Staff is now looking for direction from the Commission regarding whether to move forward on initiating formal consideration of the text amendment and scheduling public hearing. Enclosed you will find a draft Staff Report in the text amendment format for your review and discussion. This item is not on the Business Meeting agenda to schedule public hearing as Staff wanted to ensure that Commissioners were able to review the draft in its entirety, ask questions, and express any concerns that they may have. If Commissioners are comfortable moving forward with the text amendment at the Business Meeting, you can take formal action to initiate consideration and schedule Public Hearing for the February 5 Business Meeting.

If you have any questions prior to the Business Meeting, please do not hesitate to contact me.

**ZONING ORDINANCE TEXT AMENDMENT (TA-XX-XX)**

**Short-Term Residential Rental, Home Occupation Bed and Breakfast, and Country Inn  
January 8, 2021 Planning Commission Meeting – DRAFT FOR DISCUSSION  
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 ordinance amendment. It may be useful to members of the general public interested in this proposed amendment.  
-----

**Description:**

Proposed text amendment to amend Zoning Ordinance §3-C-2-g (Country Inn), §3-C-2-i (Dwellings, Single-Family), §3-C-2-n (Home Occupations), and Article 9 (Definitions). The purpose is to establish new regulations for the short-term residential rental of a room or rooms within a single-family dwelling by the owner of the dwelling to one or more transient renters for lodging purposes for a period of fewer than 30 consecutive days in exchange for a charge. Additional changes include:

- Occupancy for home occupation bed and breakfast operations would be modified to a maximum of six transient guests and permanent residents of the dwelling during rental periods.
- The maximum occupancy period for a short-term residential rental, home occupation bed and breakfast, and country inn would be fewer than 30 consecutive days.
- Regulations for home occupation bed and breakfast operations and country inns would be amended to require confirmation that onsite sewage disposal systems can support proposed maximum occupancies.
- Country inns in the Agricultural-Open Space-Conservation (AOC) or Forestal-Open Space-Conservation (FOC) Districts would be required to be developed in a single-family dwelling or in a structure designed to resemble a single-family dwelling, and that a dwelling unit right must be used for the proposed use.

**Requested Action:**

Discuss whether to initiate consideration of the text amendment and schedule a Public Hearing at an upcoming Commission Business Meeting.

**Background:**

Short-term residential rentals are not currently defined or regulated in the Zoning Ordinance. Staff historically has considered a short-term residential rental to be the rental of a portion of a dwelling (one or more rooms), or the rental of an entire dwelling, to a single paying customer for a period of less than 30 days. A single paying customer can be one person or can be a group of people that are renting together. If a property owner is operating a short-term residential rental within these parameters, then no zoning approval is required because the activity is not regulated by the Zoning Ordinance.

If a property owner is renting to two or more separate paying customers at a time, then the activity is regulated by the Zoning Ordinance either as a home occupation bed and breakfast operation, a country inn, or a hotel/motel depending upon how it is being operated.

## DRAFT FOR COMMISSION REVIEW – 1/8/2021 BUSINESS MEETING

Concerns were raised regarding the absence of regulations for short-term residential rentals due their apparent proliferation in the County via websites such as AirBNB. The Planning Commission began studying this issue in July 2019 and delegated work to the Commission’s Policy & Transportation Committee. This text amendment was developed over numerous meetings and included solicitation of informal feedback on regulations and process from the Board of Supervisors. The primary issue of concern identified is the potential adverse impacts that unregulated short-term residential rental activities may have on onsite sewage disposal systems and groundwater quality. Additional issues of concern are to create new regulations that establish a “level playing field” for all commercial lodging establishments and to develop these regulations within the existing ordinance framework.

### **Proposed Text Amendment:**

The proposed text amendment takes a three-pronged approach to regulating short-term residential rentals:

1. Adding new “short-term residential rental” regulations to the current use regulations for “Dwellings, Single-Family” to regulate short-term residential rentals of **up to two bedrooms and four occupants (including transient guests and permanent residents of the home)**. Operators would be required to obtain a zoning permit issued by the Zoning Administrator and would not be required to remain onsite during rental periods. Dwellings that are accessory to the single-family dwelling – including tenant houses and dwellings less than 600 square feet – can be used for short-term residential rental purposes.
2. Modifying the regulations for “home occupation bed and breakfast” operations to regulate rentals of fewer than 30 consecutive days of **up to three bedrooms and six occupants (including transient guests and permanent residents of the home)** in an owner or home occupation permit-holder situation. Current maximum occupancy regulations are three guest rooms and a maximum of five transient guests. Home occupation bed and breakfast operators are required to obtain a home occupation zoning permit issued by the Zoning Administrator.
3. Modifying the regulations for “country inns” to regulate rentals of fewer than 30 consecutive days that do not meet the occupancy requirements for rentals in a single-family dwelling or home occupation bed and breakfast operation. No changes are proposed to the current maximum occupancy for country inns which is a maximum of 15 guest rooms. Country inns require special use permit and site development plan approval by the Board of Supervisors following Planning Commission review and required public hearings.

Maximum occupancies are based on the Virginia Department of Health’s (VDH) metric for determining onsite sewage disposal system capacity – two occupants for each bedroom within the single-family dwelling.

As noted above, occupancies that do not meet the requirements for a short-term residential rental or a home occupation bed and breakfast operation could only be approved as a country inn –



## DRAFT FOR COMMISSION REVIEW – 1/8/2021 BUSINESS MEETING

including approval of special use permit and site development plan applications. These occupancy scenarios include:

- Rentals of three bedrooms in which the owner or operator does not reside on the property – therefore not qualifying the use as a home occupation bed and breakfast.
- Rentals of more than three bedrooms.
- Rentals with more than six occupants (including transient guests and permanent residents of the home) regardless of the number of bedrooms advertised. This would include rentals in which the operator intends to allow more than two persons per bedroom or provide additional sleeping accommodations in other rooms (such as a living room with a pull-out couch).

A table summarizing all of the potential occupancy scenarios is included at the end of this Staff Report.

### Regulation of onsite sewage disposal systems

To address concerns with potential adverse impacts of rental occupancies to onsite sewage disposal systems, review and confirmation by the Virginia Department of Health (VDH) will be required as a condition of approval for short-term residential rentals, home occupation bed and breakfast operations, and country inns. This review is required because many rental activities are operated in existing dwellings with septic systems designed to accommodate the number of bedrooms in the dwelling. Older dwellings may have septic systems approved many years ago under outdated regulations and even older dwellings may have systems that pre-date onsite sewage disposal system regulation. In order to ensure that an existing system can handle the sewage volume of a short-term residential rental use and the owner's residential occupancy, VDH review of the onsite sewage disposal system is necessary.

Planning Staff held discussions with VDH Staff regarding possible approaches to review rental applications under this proposed text amendment. VDH Staff agreed to provide "File Reviews" for applications as a County-initiated request for comments on zoning permit applications. This process would be similar to the process currently used to obtain VDH comments on site plan applications. Planning Staff would submit completed zoning permit application forms along with a comment request letter and any other pertinent information to VDH. VDH then would review the materials on file for the subject property and provide comments based on the file contents, application, and supporting materials. VDH would not make site visits in conjunction with a "File Review" request so their comments would be based on the written materials on file and documents provided by the applicant. Additionally, VDH would not issue a written "approval" of the proposed use – their comment letter would confirm whether or not the existing onsite sewage disposal system will meet the capacity of the maximum proposed occupancy.

The "File Review" process would likely be sufficient to confirm the validity of more recent VDH permits and their compliance with current regulations. VDH would review the current permit on file and compare it with the maximum occupancy that the applicant lists on the

## DRAFT FOR COMMISSION REVIEW – 1/8/2021 BUSINESS MEETING

application form. If VDH comments that the existing system has the capacity to support the stated use, then no further action or expense is required by the applicant. If VDH cannot confirm that the capacity for the proposed occupancy is compliant, then zoning approval could not be granted. The applicant then would have two options:

- Re-file the zoning permit application with a lower proposed occupancy that conforms to the existing system’s capacity and can be confirmed by VDH.
- Work directly with VDH through their application processes to make changes, modify, or expand the existing system to support the proposed maximum occupancy. This would require the applicant to incur costs of designing and installing the necessary system modifications according to current State and County septic system regulations. Once the modifications have been installed and approved by VDH, the applicant can re-file the zoning permit application.

New language is proposed in the text amendment for short-term residential rentals, home occupation bed and breakfast operations, and country inns to address this requirement as well as to require an onsite sewage disposal system to be maintained for the life of the short-term residential rental use.

### Additional proposed changes

Additional changes proposed by this text amendment are summarized below:

- The maximum rental period for home occupation bed and breakfast operations would be fewer than 30 consecutive days. There currently is no maximum rental period in the regulations although, as a matter of practice, Staff has interpreted the period to be fewer than 30 consecutive days.
- Language is added to clarify that bedrooms for a home occupation bed and breakfast operation may be located in accessory structures located on the same lot subject to compliance with Building Code and VDH requirements.
- Language is added to clarify that home occupation bed and breakfast operations do not need to comply with the maximum allowable area for home occupation uses set forth in §3-C-2-n-5.
- The maximum rental period for country inns would be increased from “not more than 14 days of continuous occupancy” to fewer than 30 consecutive days. This change is included to standardize the maximum rental period for country inns, short-term residential rentals, and home occupation bed and breakfast operations.

The following changes to the “country inn” regulations are currently proposed in the Zoning Ordinance update project and have been included in this text amendment for continuity purposes:

- Language is deleted in the supplementary regulations for country inn stating that the “term Country Inn includes Tourist Home, Guest Ranch, Guest Farm, or other similar

## DRAFT FOR COMMISSION REVIEW – 1/8/2021 BUSINESS MEETING

use.” These terms were used in earlier versions of the Zoning Ordinance but no longer exist in the current Zoning Ordinance.

- Regarding meal service and assembly activities at country inns, current subsection 2 is replaced by two subsections dealing with meal service and assembly activities separately. New subsection 3 addressing meal service clarifies that “the sale of meals or prepared food, which may include beverages and confections, is permitted as an accessory use to a country inn.” This subsection also requires all required approvals and permits to be obtained and maintained throughout the lifespan of meal service offerings. New subsection 4 addressing assembly activities clarifies that such activities are permitted as an accessory use and that the maximum occupancy of areas for assembly and/or meal service shall not exceed 149 persons or the occupancy approved by the Building Department, whichever is less.
- Current subsection 6 regarding compliance with “all applicable requirements of the Commonwealth of Virginia and the local Health Official” is deleted as being redundant. Such compliance would be determined in conjunction with the site development plan requirements set forth in Article 6 of the Zoning Ordinance. Compliance with onsite sewage disposal system requirements is addressed in new subsection 2.

- Current subsection 7 is proposed for deletion as it is unenforceable:

*All applicants for a country inn in an AOC zoning district shall accept the fact that adjoining agricultural land, due to fertilizing, manure spreading, lime spreading, feedlots, and other farming methods may produce offensive odors.*

- Current subsection 8 regarding country inns in the AOC and FOC Districts is amended as follows:
  - Reference to the country inn being allowed only as an accessory use to a single-family dwelling is removed. In most cases, the country inn use would operate as the primary use and not accessory/subordinate to a single-family residential use.
  - New language is added to require a country inn to be developed in an existing single-family dwelling or in a structure that is designed to resemble a single-family dwelling and constructed to allow conversion to a single-family dwelling use if the country inn use is discontinued. Architectural renderings and construction plans would be required to be submitted with the special use permit application.
  - New language is added to clarify that a country inn requires the use of a dwelling unit right (DUR).
- Subsection 9 is clarified to state that special events shall comply with Chapter 57 of the Code of Clarke County.

**Application and Enforcement:**

As previously noted, short-term residential rentals of a portion of a dwelling (one or more rooms), or the rental of an entire dwelling, to a single paying customer or group for a period of less than 30 days are not currently regulated by the Zoning Ordinance. In recent years, some rental operators have obtained business licenses for their short-term residential rental activities through the Commissioner of the Revenue Office. Business licenses require zoning review and action by the Planning Department as a condition of approval. In reviewing short-term residential rentals as described above, Planning Staff has typically written on the zoning approval portion of the business license application that no zoning approval is required for the use. If new proposed short-term residential rental regulations are adopted, the question was raised as to whether these regulations could be applied to existing operators with business licenses.

Following discussions with the County Attorney, it was determined that any short-term residential rental operator with a valid County business license stating that no zoning approval was required would still be required to comply with the new use regulations for short-term residential rentals. This would include compliance with the proposed onsite sewage disposal system requirements. Rental operators who did not obtain a business license for their use, or who do not have a written determination from the zoning administrator that the use does not require zoning approval, would also have to comply with all new regulations including applicable permitting requirements. Any operator who has prior County zoning approval in the form of a zoning permit, zoning determination letter, or business license review indicating that they have zoning approval for their rental activity (as opposed to no zoning approval required) would be considered nonconforming and would not have to comply with the new regulations.

Regarding application and enforcement of the proposed regulations, Staff has recommended continuing with our standard complaint-basis enforcement. Since there potentially is a significant number of existing rental operators who would have to comply with the new regulations, Planning Staff would work with other departments to publicize the new regulations if they are ultimately adopted. As discussed at the December 1 Commission Work Session, the Commission could also recommend delaying the effective date of the regulations by six months. This would allow existing operators to contact Planning Staff and begin working on compliance with the regulations without being immediately in a state of noncompliance. If the Commission supports a delayed implementation, this recommendation should be included in the Commission's formal recommendation to the Board of Supervisors.

**Staff Recommendation:**

Staff recommends that the Planning Commission discuss whether to initiate consideration of the text amendment and schedule Public Hearing and provide further direction to Staff.

**History:**

**January 8, 2021.**

**Placed on the Commission's Business Meeting for further discussion**

**Ordinance Amendment Text (changes shown in bold italics with strikethroughs where necessary):**

3-C-2-i – Dwellings, Single-Family

- 1.** The number of persons, who are permanent full-time residents occupying a single-family dwelling served by an on-site sewage disposal system with a Virginia Department of Health Permit, shall not exceed two for the number of bedrooms allowed by that permit.
  - a** ~~1.~~ 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.
  - b** ~~2.~~ If the Health Department denies the expansion, the owner of the property shall apply for variance from Board of Septic and Well Appeals 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. *Short-term residential rental.***
  - a.** *A short-term residential rental is the rental of a room within or a portion of a single-family dwelling or accessory dwelling, or the rental of an entire single-family dwelling or accessory dwelling, by the owner of the dwelling to one or more transient renters for lodging purposes for a period of fewer than 30 consecutive days in exchange for a charge. Accessory dwellings include tenant houses and dwellings of less than 600 square feet of heated area on properties of six acres or more.*
  
  - b.** *A short-term residential rental may be conducted in a single-family dwelling or accessory dwelling subject to the following requirements:*
    - (1)** *The maximum occupancy shall not exceed two bedrooms and four persons during the rental period including transient guests and permanent residents of the single-family dwelling. In no case shall the maximum occupancy exceed the maximum occupancy allowed by the onsite sewage disposal system permit for the single family dwelling. The property owner is not required to reside in the single-family dwelling during rental periods or to maintain the single-family dwelling as their primary residence.*
  
    - (2)** *An application for a short-term residential rental that is served by an onsite sewage disposal system shall be reviewed by the Virginia Department of Health (VDH) in conjunction with the zoning permit application review. Written confirmation by VDH that the existing*

*onsite sewage disposal system can support the proposed maximum capacity of the short-term residential rental shall be a prerequisite to issuance of a zoning permit.*

- (3) *If a short-term residential rental is served by an onsite sewage disposal system, that system shall be maintained and remain in an operable condition for the life of the use. In the event that the system fails as determined by VDH, the Zoning Administrator may issue a notice of violation to cease the short-term residential rental use until the system is repaired or replaced and is approved in writing by VDH.*
- (4) *For occupancies greater than those described in subsection (1) above, a short-term residential rental may only be operated as a home occupation bed and breakfast or as a country inn.*

3-C-2-n – Home Occupations

6. *Bed and breakfast regulations.*

(a). *Maximum occupancy.*

- (1) *The maximum occupancy of a bed and breakfast shall not exceed three bedrooms and six persons during the rental period including transient guests and permanent residents of the dwelling. In no case shall the maximum occupancy exceed the maximum occupancy allowed by the onsite sewage disposal system permit for the single-family dwelling.*
- (2) *A bed and breakfast may use a maximum of three ~~guestrooms~~ bedrooms for the conduct of the home occupation, regardless of the floor area of the dwelling unit subject to Virginia Department of Health (VDH) regulations for onsite sewage disposal systems if applicable. Bedrooms may be located in accessory structures located on the same lot subject to compliance with Building Code requirements and VDH regulations.*

(b). *Use of onsite sewage disposal system.*

- (1) *The applicant shall state the maximum occupancy of the bed and breakfast, including transient guests and permanent residents of the dwelling, on the home occupation zoning permit application. The maximum occupancy of a bed and breakfast shall not exceed the maximum occupancy allowed by the onsite sewage disposal system permit issued by the Virginia Department of Health (VDH). If the onsite sewage disposal system serving the bed and breakfast is shared with another structure, the maximum occupancy of both structures shall not exceed the maximum occupancy allowed by the onsite sewage disposal system permit.*

- (2) *An application for a bed and breakfast that is served by an onsite sewage disposal system shall be reviewed by the Virginia Department of Health (VDH) in conjunction with the zoning permit application review. Written confirmation by VDH that the existing onsite sewage disposal system can support the proposed maximum capacity of the bed and breakfast shall be a prerequisite to issuance of a home occupation zoning permit.*
  - (3) *If a bed and breakfast is served by an onsite sewage disposal system, that system shall be maintained and remain in an operable condition for the life of the use. In the event that the system fails as determined by VDH, the zoning administrator may issue a notice of violation to cease the bed and breakfast use until the system is repaired or replaced and is approved in writing by VDH.*
  - (4) *A bed and breakfast shall not be subject to the maximum allowable area for home occupation uses set forth in Section 3-C-2-n-5.*
- (c) As an accessory use to a bed and breakfast, breakfast meal service may be provided only for overnight guests.

3-C-2-g – Country Inn

1. *An establishment offering, for compensation to the public, not more than A country inn may use a maximum of 15 guest rooms for transitory lodging or sleeping accommodations ~~of not more than 14 days of continuous occupancy~~, subject to Virginia Department of Health (VDH) regulations for onsite sewage disposal systems if applicable.*
2. *Maximum occupancy and use of onsite sewage disposal system.*
  - (a) *The applicant shall state the maximum occupancy of the country inn on the special use permit and site development plan applications. The maximum occupancy of a country inn shall not exceed the maximum occupancy allowed by the onsite sewage disposal system permit issued by the Virginia Department of Health (VDH). If the onsite sewage disposal system serving the country inn is shared with another structure, the maximum occupancy of both structures shall not exceed the maximum occupancy allowed by the onsite sewage disposal system permit.*
  - (b) *An application for a country inn that is served by an onsite sewage disposal system shall be reviewed by VDH in conjunction with the site development plan application review. Written confirmation by VDH that the existing onsite sewage disposal system can support the proposed maximum capacity of the country inn shall be a prerequisite to approval of a site development plan.*
  - (c) *If a country inn is served by an onsite sewage disposal system, that system shall be maintained and remain in an operable condition for the life of the use. In the event that the system fails as determined by the Virginia Department of*

*Health (VDH), the zoning administrator may issue a notice of violation to cease the country inn use until the system is repaired or replaced and is approved in writing by VDH.*

- ~~2. As accessory uses to a Country Inn, meal service and/or permanent places(s) of public assembly may be provided. The total maximum capacity of areas used for meal service and/or permanent places of public assembly shall be 149 people and as regulated by the Virginia Department of Health.~~
3. *The sale of meals or prepared food, which may include beverages and confections, is permitted as an accessory use to a country inn. Approvals or permits by applicable State agencies shall be obtained and remain active for the lifespan of this activity.*
4. *Assembly activities for compensation are permitted as an accessory use. The maximum capacity of areas used for meal service and/or assembly activities shall not exceed 149 persons, or the maximum occupancy of the facility as approved by the Building Department, whichever is less.*
5. One bathroom shall be provided per each bedroom in structures less than 50 years old or one bathroom shall be provided per each two bedrooms in structures 50 years or older.
6. Any need for parking shall be met off the street and other than in a required front yard, and shall conform in all other ways with the provisions of Section 4-J of this Ordinance;
7. No equipment, process, or vehicles which create unreasonable noise, vibration, glare, fumes or odors which are detectable to the normal sense off the premises shall be permitted;
- ~~6. The structure satisfies all applicable requirements of the Commonwealth of Virginia and the local Health Official;~~
- ~~7. All applicants for a country inn in an AOC zoning district shall accept the fact that adjoining agricultural land, due to fertilizing, manure spreading, lime spreading, feedlots, and other farming methods may produce offensive odors.~~
- ~~8. In the AOC or FOC Zoning Districts, a country inn shall be allowed only as an accessory use to a Single Family Detached Dwelling. Guestrooms shall be located in or attached to such a dwelling. For parcels larger than 20 acres, the Single Family Detached Dwelling may be the principal dwelling on the property and/or a tenant house. The defined accessory uses of meal service and/or permanent place(s) of public assembly shall be located in or attached to such a Single Family Dwelling.~~
8. *Regulations for country inns in the AOC and FOC Districts:*
  - (a) *A country inn shall require the use of a dwelling unit right (DUR).*
  - (b) *A country inn shall be developed in an existing single-family dwelling or in a structure that is designed to resemble a single-family dwelling and constructed*



*to enable the structure to be converted to a single-family dwelling if the country inn use is discontinued. Architectural renderings and construction plans for the proposed structure shall be submitted for review with the special use permit application.*

~~9. Events, as defined by Clarke County Code Chapter 57, shall obtain all necessary approvals.~~

*9. Special events shall comply with Chapter 57 of the Code of Clarke County.*

#### Article 9 – Definitions

Bed and Breakfast -- A home occupation where lodging or lodging and meals are provided for compensation ~~for up to five~~ transient guests *for a period of fewer than 30 consecutive days.*

Country Inn -- ~~An establishment~~ *A business* offering for compensation to the public guestrooms for transitory lodging or sleeping accommodations *for a period of fewer than 30 consecutive days.* As accessory uses to a country inn, meal service and/or permanent place(s) of public assembly may be provided. ~~The term Country Inn includes Tourist Home, Guest Ranch, Guest Farm, or other similar use.~~

**OCCUPANCY SCENARIOS**

Occupancy is based on the maximum number of bedrooms in use with the maximum number of transient guests and permanent residents limited to two persons per bedroom (consistent with Virginia Department of Health requirements for onsite sewage disposal systems).

<b>Occupancy</b>	<b>Short-Term Residential Rental (Zoning Permit)</b>	<b>Bed and Breakfast Home Occupation (Zoning Permit)</b>	<b>Country Inn (Special Use Permit and Site Plan)</b>
<b>Rental of <u>one</u> bedroom, maximum of <u>two</u> occupants.</b> Owner/operator may or may not live on the property and may or may not be present during rental periods. <sup>1</sup>	<b>X</b>		
<b>Rental of <u>two</u> bedrooms, maximum of <u>four</u> occupants.</b> Owner/operator may or may not live on the property and may or may not be present during rental periods. <sup>1</sup>	<b>X</b>		
<b>Rental of <u>three</u> bedrooms, maximum of <u>six</u> occupants.</b> Owner/operator lives on the property and is present during rental periods.		<b>X</b>	
<b>Rental of <u>three</u> bedrooms, maximum of <u>six</u> occupants.</b> Owner/operator does not live on the property and is not present during rental periods ( <u>does not qualify as a home occupation bed and breakfast</u> ).			<b>X</b>
<b>Any rental of <u>more than six</u> occupants,</b> regardless of number of bedrooms or owner/operator residency.			<b>X</b>

<sup>1</sup> – Can also be permitted as a bed-and-breakfast home occupation if owner/operator lives on the property