

**CLARKE COUNTY PLANNING COMMISSION
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Clarke County Planning Commission

AGENDA – Business Meeting

Friday, February 5, 2021 – 9:00AM

Berryville/Clarke County Government Center – Main Meeting Room

1. Approval of Agenda
2. Approval of Minutes – January 8 Business Meeting/Annual Organizational Meeting

Public Hearing Item

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

Schedule Public Hearing Item

4. **TA-21-02, Short-Term Residential Rental, Home Occupation Bed and Breakfast, and Country Inn**

Discussion Items

-- None Scheduled

5. **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

-- None Scheduled

Adjourn

UPCOMING MEETINGS:
Work Session Tuesday, March 2, 2021 (3:00PM) Main Meeting Room
Business Meeting Friday, March 5, 2021 (9:00AM) Main Meeting Room



Clarke County Planning Commission

DRAFT MINUTES -- Business Meeting

Friday, January 8, 2020 – 9:00 AM

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)	X	Douglas Kruhm (Buckmarsh)	✓ L
Anne Caldwell (Millwood)	✓	Frank Lee (Berryville)	✓
Buster Dunning (White Post)	✓	Gwendolyn Malone (Berryville)	✓
Robert Glover (Millwood)	✓	Doug Lawrence (BOS alternate)	✓ ¹

E – Denotes electronic participation

L – Denotes arrived late

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

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

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

CALL TO ORDER:

Mr. Stidham, as Clerk to the Commission, called the meeting to order at 9:02 AM and introduced the annual organizational meeting.

1. Approval of Agenda

The Commission voted 9-0-2 to approve the meeting agenda as presented by Staff.

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

2. Organizational Meeting

A. Election of officers: Chair and Vice-Chair

Mr. Stidham opened the floor for nominations for Chair to the Planning Commission for 2021. Commissioner Caldwell nominated George Ohrstrom, II. There were no further nominations. The Commission voted 9-0-2 to elect George Ohrstrom, II to continue serving as Chair of the Planning Commission for 2021.

Motion to elect George Ohrstrom, II as Chair to the Planning Commission for 2021:			
Ohrstrom (Chair)	AYE	Hunt	AYE
Buckley (Vice-Chair)	AYE	Kreider	AYE
Bass	ABSENT	Kruhm	ABSENT
Caldwell	AYE (Moved)	Lee	AYE (Seconded)
Dunning	AYE	Malone	AYE
Glover	AYE		

Chair Ohrstrom asked for nominations for Vice-Chair to the Planning Commission. Commissioner Lee nominated Randy Buckley. There were no further nominations. The Commission voted 9-0-2 to elect Randy Buckley to continue serving as Vice-Chair of the Planning Commission for 2021.

Motion to elect Randy Buckley as Vice-Chair to the Planning Commission for 2021:			
Ohrstrom (Chair)	AYE	Hunt	AYE
Buckley (Vice-Chair)	AYE	Kreider	AYE
Bass	ABSENT	Kruhm	ABSENT
Caldwell	AYE	Lee	AYE (Moved)
Dunning	AYE	Malone	AYE (Seconded)
Glover	AYE		

B. 2021 Committees and Member Assignments

Chair Ohrstrom asked the Planning Commission if they are comfortable continuing with the current committee assignments and the members agreed by consensus to do so. He said that no motion is necessary.

C. Review and Adoption of 2021 Meeting Schedule

Mr. Stidham reviewed the draft meeting schedule for 2021. He said the only change is on November 2, 2021 which is the Election Day Holiday so the Planning Commission Work Session will be moved to Wednesday, November 3, 2021. The Commission voted 9-0-2 to adopt the meeting schedule for 2021 as presented.

Motion to adopt the meeting schedule for 2021 as presented :			
Ohrstrom (Chair)	AYE	Hunt	AYE
Buckley (Vice-Chair)	AYE	Kreider	AYE
Bass	ABSENT	Kruhm	ABSENT
Caldwell	AYE	Lee	AYE (Seconded)
Dunning	AYE	Malone	AYE (Moved)
Glover	AYE		

Commissioner Doug Kruhm entered the meeting at 9:05 AM.

D. Review and Adoption of 2021 By-Laws

Mr. Stidham said that a few meetings ago the Commission adopted a conditional approval policy. He said that the Commission wanted a place where it would be easy to find and decided to include it into the By-Laws. He said it is under new Article 9 (Operating Policies).

The Commission voted 10-0-1 to adopt the 2021 By-Laws as presented.

Motion to adopt the meeting schedule for 2021 as presented :			
Ohrstrom (Chair)	AYE	Hunt	AYE
Buckley (Vice-Chair)	AYE	Kreider	AYE (Moved)
Bass	ABSENT	Kruhm	AYE (Seconded)
Caldwell	AYE	Lee	AYE
Dunning	AYE	Malone	AYE
Glover	AYE		

E. 2021 Project Priorities

Mr. Stidham stated that on page 14 of 49 is the 2021 Project Priorities. He said that the top priority is completing the long overdue Zoning & Subdivision Ordinances project. He stated that on page 17 of 49 is the revised timeline summary for this project. He said that Bob Mitchell (County Attorney) has given him a commitment to have the Subdivision Ordinance legal review done by the end of January. He said that his entire timeline is predicated on Mr. Mitchell making that deadline. He said presuming that this takes place we will work with him to complete a version of the Subdivision Ordinance that is ready for your review as well as completing the Zoning Ordinance and Definitions update. He said that Mr. Camp brought to his attention that we have another mandated review of our Flood Plain District regulations of which he was not aware. He stated that Staff has been working to overhaul these regulations which are rather extensive. He said that this is a change that the Commission has not seen previously. He said that our goal will be to present the final version of all of our drafts to you at the May 4, 2021 Planning Commission meeting. He said that there will be a two-month review time for the public hearing process and then the public hearing could be scheduled for June and the Commission can take action on the ordinances in July. He stated that if these milestones are met then we can move this on to the Board of Supervisors for their July meeting to set public hearing for August and then take action at their September meeting. He asked the Commission if they have any questions about the work plan assuming the legal work is done.

Chair Ohrstrom asked Commissioners if they are comfortable with getting this on May 4th Work Session agenda. He said that we would have two full months to look at this before we voted to present it to the Board of Supervisors. Mr. Stidham said when it is finalized he will send it out to the full Commission so that everybody will have a copy of the draft. Chair Ohrstrom said that is an excellent idea.

Commissioner Caldwell stated that there are a number of new members in the Commission that have probably have not been through the workshop process. She said that this is an enormous amount of material to review and it might be helpful to have a special meeting just devoted to the

presentation Mr. Stidham did which was excellent. She said that we could have one meeting focused just on that and it would help people to review it in more detail. Mr. Stidham said when the first drafts come up which will be the first versions you have seen since those joint workshops, each Ordinance will have a table of changes.

Mr. Stidham said that the second priority is the five year review of the Comprehensive Plan and he would like by the end of the year for the Commission to have completed the initial draft but it will be heavily dependent on our general workload. He stated that we also have five-year review resolutions due for Waterloo and Double Tollgate Area Plans and the Comprehensive Plan Committee will be looking at those and they are due in December. He said that the Berryville Area Plan update five year review is due this year and the Berryville Area Development Authority will be working on that and the deadline is May. He said at the end of this year we will also have preliminary work for the Agricultural Land Plan resolution and that will be due in February 2022.

Chair Ohrstrom said that every time we look at these reviews he noticed that we have not done the Mountain Land Plan since the adoption date which was over fifteen years ago. He said that he knows it was a very contentious process to go through all that. He said it has not been reviewed on the five year schedule and it strikes him that if anyone wanted to challenge Clarke County from a mountain based prospective and the fact that we have not updated this implementing component plan, we might have a big problem.

Mr. Stidham said that before going into that question he said Items 5 and 6 are all of the tasks for the remaining projects that we need to do with the component plans. He said that we have adopted the five year review resolutions for the Transportation Plan and the Economic Development Strategic Plan. He said that Item 6 is where he has mentioned the Mountain Land Plan update and the task to develop a new Village Component Plan, noting that he had dropped those from previous priority lists because we had other project priorities. He stated that he had included them this year to drive in the point that we need to get through the five-year update of the Comprehensive Plan and use any changes we make to the Comprehensive Plan to inform all the processes for all of the Component Plans that we still have on deck. He said that the Mountain Land Plan has been for the most part fully implemented through ordinance changes over the years and we would be looking at potentially a new re-write of the plan. He said setting the stage for that and considering merging the Mountain Land Plan with the Agricultural Land Plan is something we can discuss and as we go through the Comprehensive Plan update.

In regards to Chair Ohrstrom's question about would this open up legal concerns for Clarke County, Mr. Stidham said he thinks we should be more concerned about the Comprehensive Plan and making sure it is up to date. He stated that Component Plans are part of the Comprehensive Plan and it is not mandated in every County. He said it is something we do in Clarke County as long as we are keeping the base Comprehensive Plan updated and on a five-year review schedule he thinks it is the most important thing to making sure our plan is legally defensible.

Chair Ohrstrom said he understands and he is comfortable with what Mr. Stidham said.

Mr. Stidham asked the Commission if they are comfortable with the 2021 Project Priorities and if so there needs to be a motion. Chair Ohrstrom called for a motion for approval of the 2021 Project

Priorities as presented. The Commission voted 10-0-1 to approve the 2021 Project Priorities as presented.

Motion to approve the 2021 Project Priorities as presented:			
Ohrstrom (Chair)	AYE	Hunt	AYE
Buckley (Vice-Chair)	AYE	Kreider	AYE (Moved)
Bass	ABSENT	Kruhm	AYE
Caldwell	AYE	Lee	AYE
Dunning	AYE	Malone	AYE (Seconded)
Glover	AYE		

3. Approval of Minutes

A. December 1, 2020 Work Session Minutes

The Commission voted 10-0-1 to approve the December 1, 2020 Work Session minutes as presented.

Motion to approve the December 1, 2020 Work Session minutes as presented:			
Ohrstrom (Chair)	AYE	Hunt	AYE
Buckley (Vice-Chair)	AYE	Kreider	AYE
Bass	ABSENT	Kruhm	AYE
Caldwell	AYE (Moved)	Lee	AYE (Seconded)
Dunning	AYE	Malone	AYE
Glover	AYE		

B. December 4, 2020 Business Meeting Minutes

The Commission voted 10-0-1 to approve the December 4, 2020 Business Meeting minutes as presented.

Motion to approve the December 4, 2020 Business Minutes as presented:			
Ohrstrom (Chair)	AYE	Hunt	AYE
Buckley (Vice-Chair)	AYE	Kreider	AYE
Bass	ABSENT	Kruhm	AYE
Caldwell	AYE (Moved)	Lee	AYE
Dunning	AYE	Malone	AYE (Seconded)
Glover	AYE		

Schedule Public Hearing Item

4. TA-21-01, Manufactured Homes

Mr. Stidham presented the Staff report for this item. He said that this text amendment proposal is to amend the current supplementary regulations for manufactured homes and the definition of “manufactured home” that are currently in our Ordinance. He said that 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” with language that tracks the Code of Virginia definition. He added that the 19-foot minimum width requirement would be deleted from the applicable supplementary regulation. He said that Staff has no outstanding concerns with the adoption of the text amendment. He said we are asking the Commission to set public hearing on this and noted that there is one nuance we are recommending that the Planning Commission do with future text amendments. He stated that as part of the action to set public hearing we are also asking the Commission to state that they are initiating consideration of the text amendment. He said that when we were going through the Zoning Ordinance it was noted that text amendments have to be formally initiated by the Planning Commission or the Board of Supervisors. He said that as a matter of practice when we are getting to the point to set a public hearing on a text amendment to take the extra step in the motion to say we are going to initiate consideration of this text amendment. Mr. Stidham asked if anyone has any questions.

Commissioner Lee asked what the width of a normal single wide mobile home is. Mr. Stidham said he imagines that the newer ones are about 12 or 14 feet.

Commissioner Kruhm asked if the County has had any experience with the trend of the tiny homes. He said that people build the houses on an axle frame and they can be towed around and set up out in a field. He said that they have chemical toilets in them. He said he was curious to know if this would have an impact on these tiny homes like the mobile homes. Mr. Stidham stated that we have had some inquiries about these tiny homes in general. He said that the last time Staff had a discussion about this, the Building Official noted that there are minimum requirements you have to have in a stick built constructed homes. He said the Building Official also noted that those requirements may exceed the tiny home threshold that people are looking at which is about 400 square feet. Commissioner Kruhm said that they look like a cross between a manufactured home and a recreational vehicle. Chair Ohrstrom said that there are some really nice ones and they are actually called tiny houses. He said it is a good questions because technically they are under 600 square feet so they really would not need a DUR. Mr. Stidham said if they are placed on the property as the primary structure it would use a DUR.

Commissioner Glover said it would be good to have a statement that these manufactured homes cannot stay along the river forever. Mr. Stidham stated that the new Flood Plain District regulations will have extensive requirements for manufactured homes.

Commissioner Lee said that if a mobile home is not maintained properly it can become derelict quite quickly. He said he would discourage the overall use of trailers and or trailer parks. He asked how many trailers would be allowed if there were five DURs on the property and would they have to follow the current County septic regulations. Mr. Stidham said that we would still not allow manufactured trailer parks as that would be a separate use that we do not allow. He said that the two that are in the County now are grandfathered.

A motion was adopted 10-0-1 to initiate consideration of this text amendment as presented and to set public hearing for the February 5 Business Meeting.

Motion to initiate consideration of the text amendment as presented and to set public hearing for the February 5 Business Meeting:			
Ohrstrom (Chair)	AYE	Hunt	AYE
Buckley (Vice-Chair)	AYE	Kreider	AYE
Bass	ABSENT	Kruhm	AYE
Caldwell	AYE	Lee	AYE
Dunning	AYE	Malone	AYE (Seconded)
Glover	AYE (Moved)		

Discussion Items

5. Discussion, Short-Term Residential Rentals Text Amendment

Mr. Stidham said that this is a continued discussion of the short-term residential rentals text amendment. He stated that after the Commission’s December 1 discussion, Planning Staff provided an update to the Board of Supervisors at their December 7 Work Session meeting. He said that the Board of Supervisors indicated that the new approach is an improvement and they expressed no concerns with the text amendment. He said that Staff is now looking for direction from the Commission on whether to move forward. He asked if there are any comments.

Chair Ohrstrom said this whole thing give still gives him heartburn. He said that the reality is a homeowner can only rent two bedrooms because the owner needs a bedroom too. He stated what this is saying if someone wants to rent out more than two bedrooms in their house we are forcing them to become a country inn. He asked if anyone from the Commission has concerns about this.

Commissioner Caldwell said she thinks that Chair Ohrstrom’s point is a good one. She said that she is very conflicted with this whole issue. She said she also has another concern that is if we do limit people to just two bedrooms as was pointed out, she is not so sure we will get compliance for this regulation as we hoped. She is concerned that people would take a look at the special exceptions and requirements and say this is ridiculous and I am not doing it. She said she could see four bedrooms and eight people. Chair Ohrstrom said that at the same time if you only had a septic permit for three bedrooms you could not permit for four.

Mr. Stidham said he thinks we have locked down the septic system issue fairly well. He said that people are going to come in regardless of what number the Commission picks and be sent to the Health Department to work out those numbers. He said that we could increase the bed and breakfast occupancy to five bedrooms and 10 people to help with this with this problem. Chair Ohrstrom said that he would be happy with that.

Mr. Stidham wants the Commission to be comfortable with this text amendment and that is why he did not put it on the agenda to set public hearing yet. Commissioner Kreider said he has a problem with ten people in a house that does not seem to be conforming to regulations. Commissioner Lee said that since it is all keyed to the septic system approval for the house he thinks Chair Ohrstrom’s compromise is fine. He said that will limit them as to how many people they can have in the house. He said he agrees with Chair Ohrstrom’s compromise.

Commissioner Glover said he would like to have wording in the text amendment because these limits are put in place because of the septic system and right now someone could see that and they can assume that their place is able to handle it without even knowing about the septic system requirements. He stated that if they read this first they will know what to take to the Health Department.

Mr. Stidham stated that he can bring this to the February Planning Commission Business meeting in a text amendment format and have it as an item on the February Planning Commission Business agenda to set public hearing. Commissioner Kruhm asked what we will be modifying. Mr. Stidham stated that we are modifying the maximum occupancy for a home occupation bed and breakfast from three bedrooms and six people to five bedrooms and ten people. Chair Ohrstrom and Commissioner Glover said that we need to correlate these occupancy limits to the septic system approval by the Virginia Department of Health. Mr. Stidham replied that this is already included and the septic system regulations are covered extensively in all three uses. He added that this will also be included in a section of the proposed Guidance Manual to be developed. He stated he feels it is clear as it needs to be in the Ordinance and we can address the concerns of the Commission through the documents that we will be developing. Vice-Chair Buckley stated that he has a big concern with whether people have a five-bedroom drainfield or not they are essentially putting people in large closets because they have the space. He said that they have no regard for egress or safety.

Chair Ohrstrom asked the Commission what they want to do. Commissioner Kreider said he would like it if we could finalize this next month because we could work on this forever. He said that you cannot make everyone happy and we need to come up with something that works the best for what we have. He stated instead of waiting a few more months we need to figure something else out. Vice-Chair Buckley agreed that we need to finish this.

Mr. Stidham said one other thing he wants the Commission to look at is on page 41 of 49. He said that there are additional changes in this text amendment regarding country inn regulations that we have already agreed to implement in the revised Zoning Ordinance. He said if the Commission thinks any of the changes are too much to include in this text amendment right now to let him know.

Chair Ohrstrom asked what we are going to do. Mr. Stidham said we are doing nothing today. He said it will be on the February 5 Business Meeting agenda. He said that the draft you will see in February will show the changes we have discussed today.

Chair Ohrstrom thanked the Commission for listening to his concerns about this proposed text amendment.

6. Board/Committee Reports

A. Board of Supervisors (Matthew Bass)

Chair Ohrstrom read a report from Commissioner Bass in his absence today. Chair Ohrstrom stated that this is the report for the December 15, 2020 Board of Supervisors meeting. He said that the Board of Supervisors heard a presentation from new CEO of Rappahannock Electric John Hewa.

He stated that they formerly recognized Jeremy Camp as the new Senior Planner/Zoning Administrator. He said that they decided to proceed with the LEOS program (enhanced hazard duty pay) for first responders and they set a public hearing for January 19. He said at the public hearing at 6:30 p.m. for various appropriations they approved funds to provide help to Blue Ridge Volunteer Fire Company. He said they approved end of year bonus payments for full and part time employees. He stated that they allocated \$100,000.00 in CARES funds for non-profit. He said that they adopted the Recreation Component Plan and they denied the Watermelon Pickers Fest Special Event Permit. He said that this was a difficult decision for him personally as he is tied to the music community and loves what Shepherds Ford does for our community. He said that significant safety, logistical and location (next to the Wildlife Sanctuary narrow one way ingress and egress) concerns compelled the denial of the permit as presented. He said that is all he has to report.

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

Chair Ohrstrom had nothing to report.

C. Board of Zoning Appeals (Anne Caldwell)

Commissioner Caldwell had nothing to report.

D. Historic Preservation Commission (Doug Kruhm)

Commissioner Kruhm had nothing to report.

E. Conservation Easement Authority (George Ohrstrom, II)

Chair Ohrstrom said that we received a couple donations that came in too late to be accepted by December 31, 2020 but the Authority issued preliminary approval and are scheduling site visits. Vice-Chair Buckley stated that Smithfield Farm is pending a public hearing for funding at the County level. He said that it is still in the works and still moving forward.

F. Broadband Implementation Committee (Brandon Stidham)

Mr. Stidham said that the next meeting is scheduled for next Wednesday, January 13 at 2:00 p.m. Commissioner Lawrence said that he has some bad news about Rappahannock Electric. He said that Rappahannock Electric (REC) participated in the FCC broadband auction this past fall and then they were under a quiet period where they could not talk about it. He said the first preliminary results were coming out October 29 when they would begin to negotiate that they were asking for money to put in fiber to the home in their entire service area. He stated that if they were able to get this grant it would require them to do it in seven years' time. He said he thought this would be the Cadillac for Clarke County, the area of the County that is served by REC. He said on October 27, 2020 they were sued in Charlottesville Federal court by a land owner in Culpeper County who said that the state had changed the law to allow telecommunications to go over power line rights of way. He stated that this was a taking of property and violated the Constitution of the United States if there is no just compensation. He said what he thinks happened is with REC running fiber in various areas where they already started to do it they had been in negotiation with this landowner to

run fiber over his property that they were not able to come to an agreement. He said that the state changed the law and then this person wants to make it a class action lawsuit but he sued REC. REC thought it was going to go all the way to the Supreme Court and it would take two to three years to figure out what will happen. He said that they withdrew from the auction and we missed out on the broadband that the County could have had. He said that the good news is that the state and Mark Herring have gotten involved with the lawsuit and hopefully will get it resolved earlier than two to three years. He stated that last month we received a call from Shentel about a new technology they have where they run fiber out into the rural areas and then put up transmitters to bounce it out. He said that next Wednesday he is hoping to find something they can do for the County.

Other Business

Commissioner Lee said it is time to get your financial disclosures completed and turned in to the County Administrators office. Everyone should try to get them done before February 1, 2021.

Adjourn

Motion to adjourn the meeting at 9:50 AM was approved by consensus.

George L. Ohrstrom, II (Chair)

Debbie Bean (Recording Secretary)

ZONING ORDINANCE TEXT AMENDMENT (TA-21-01)

Manufactured Homes

February 5, 2021 Planning Commission Meeting – 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:

Conduct the advertised Public Hearing and take formal action on the proposed text amendment.

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 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.

February 5, 2021. Placed on the Commission’s Business Meeting agenda and advertised for 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.



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TO: Planning Commission

FROM: Brandon Stidham, Planning Director

RE: TA-21-02, Short-Term Residential Rental, Home Occupation Bed and Breakfast, and Country Inn

DATE: January 25, 2021

Enclosed is the revised Staff Report for the short-term residential rentals text amendment (TA-21-02).

Per the Commission's direction, the draft text amendment has been revised to increase the maximum occupancy of home occupation bed and breakfast operations from three bedrooms and six guests to **five bedrooms and ten guests**. Wording has also been modified in the draft text amendment to state that the maximum occupancies in short-term residential rentals and home occupation bed and breakfast operations apply to the total occupancy of the single-family dwelling and all approved accessory dwellings (tenant house, dwelling less than 600 square feet) on the lot. All changes made from the January Staff Report are highlighted in yellow.

Staff also forwarded a copy of the revised Staff Report to Jim Davis (Virginia Department of Health) to review the proposed review process for onsite sewage disposal systems. Mr. Davis responded that he has no concerns with the review process or the current draft of the text amendment.

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

ZONING ORDINANCE TEXT AMENDMENT (TA-21-02)
Short-Term Residential Rental, Home Occupation Bed and Breakfast, and Country Inn
February 5, 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-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 **five bedrooms and ten 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:

Initiate consideration of the proposed text amendment and schedule Public Hearing for the Commission’s March 5, 2021 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.

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 five bedrooms and ten 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 –

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

- Rentals of three bedrooms **or more** 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 **five** bedrooms.
- Rentals with more than **ten** 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

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

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 initiate consideration of the text amendment and schedule Public Hearing for the March 5, 2021 Business Meeting.

History:

- | | |
|--------------------------|--|
| January 8, 2021. | Placed on the Commission’s Business Meeting for further discussion |
| February 5, 2021. | Placed on the Commission’s Business Meeting to schedule Public Hearing. |

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 of the single-family dwelling and any accessory dwellings on the lot shall not exceed a total of 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 of the single-family dwelling and any accessory dwellings on the lot shall not exceed a total of five bedrooms and ten 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 five 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).

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

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