



# Clarke County Planning Commission

Work Session Meeting

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.



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Brandon Stidham (Clerk)