



# Clarke County Planning Commission

MINUTES -- Business Meeting

Friday, February 5, 2021 – 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)	✓E	Douglas Kruhm (Buckmarsh)	✓
Anne Caldwell (Millwood)	✓	Frank Lee (Berryville)	✓
Buster Dunning (White Post)	✓	Gwendolyn Malone (Berryville)	X
Robert Glover (Millwood)	✓E	Doug Lawrence (BOS alternate)	✓ <sup>1</sup>

E – Denotes electronic participation

L – Denotes arrived late

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

**Note:** George L. Ohrstrom, II and Matthew Bass participated electronically due to health issues related to the current pandemic. Bob Glover participated electronically due to a personal matter.

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

## OTHERS PRESENT

Chris Boies (County Administrator)

## CALL TO ORDER:

Chair Ohrstrom called the meeting to order at 9:03 a.m.

### 1. Approval of Agenda

The Commission voted 10-0-1 to approve the revised meeting agenda as presented by Staff.

Motion to approve the revised Business Meeting agenda as presented:			
Ohrstrom (Chair)	AYE	Hunt	AYE
Buckley (Vice-Chair)	AYE	Kreider	AYE (seconded)
Bass	AYE	Kruhm	AYE
Caldwell	AYE	Lee	AYE
Dunning	AYE (moved)	Malone	ABSENT
Glover	AYE		

### 2. Approval of January 8, 2021 Business Meeting Minutes

The Commission voted 9-0-2 to approve the January 8, 2021 Business Meeting minutes as presented.

<b>Motion to approve the January 8, 2021 Business Meeting minutes as presented:</b>			
Ohrstrom (Chair)	<b>AYE</b>	Hunt	<b>AYE</b>
Buckley (Vice-Chair)	<b>AYE (seconded)</b>	Kreider	<b>AYE</b>
Bass	<b>ABSTAINED</b>	Kruhm	<b>AYE</b>
Caldwell	<b>AYE (moved)</b>	Lee	<b>AYE</b>
Dunning	<b>AYE</b>	Malone	<b>ABSENT</b>
Glover	<b>AYE</b>		

**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.

Chair Ohrstrom asked Mr. Stidham if he just wants to explain to people that we want to make sure our regulations are in accord with the State Regulations and that is why we are making these changes. Mr. Stidham said that will be in his presentation. Mr. Stidham then presented the Staff Report for the proposed text amendment and stated that the matter has been advertised for public hearing.

Chair Ohrstrom said that he assumes all the setback regulations and everything else would stay the same for a single family home in the AOC and FOC Districts. Mr. Stidham said that is correct and that the only thing we are changing is the definition, the minimum width requirement, and the supplementary regulations.

Chair Ohrstrom asked if the Commission has any questions. There being none, he opened the public hearing. There being no public comments, he closed the public hearing and called for a motion.

The Commission voted 10-0-1 to recommend adoption of proposed text amendment TA-21-01 as presented by Staff.

<b>Motion to recommend adoption of proposed text amendment TA-21-01 as presented by Staff:</b>			
Ohrstrom (Chair)	<b>AYE</b>	Hunt	<b>AYE</b>
Buckley (Vice-Chair)	<b>AYE</b>	Kreider	<b>AYE (seconded)</b>
Bass	<b>AYE</b>	Kruhm	<b>AYE</b>
Caldwell	<b>AYE (moved)</b>	Lee	<b>AYE</b>
Dunning	<b>AYE</b>	Malone	<b>ABSENT</b>
Glover	<b>AYE</b>		

**Schedule Public Hearing Item**

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

Chair Ohrstrom stated that he would like to say a few things before discussing the proposed text amendment. He said that he thinks it is important to note this was originally set up to schedule a public hearing for today, not to do any voting or make any decisions. He said that we have received a lot of input in the last few days about this proposed text amendment. He stated that we are also in the process of finishing up our Zoning and Subdivision Ordinance Update project which is very important and time consuming and a project we have been trying to finish for a long time. He said the legal review of the draft Subdivision Ordinance has finally been completed. He stated that after talking to the Commission we feel we would like to table this until after those things are updated and passed on to the Board of Supervisors. He said then we will go back to this and take into account all of the ideas and thoughts we have received recently and go from there so everyone has a chance to look at this again and then we will set public hearing. He stated that there will actually be two public hearings if we adopt the text amendment including a public hearing at the Board of Supervisors level. He said that will give the Commission plenty of time for public input. He said that he wants to thank everybody for the input recently and it is very well thought out and some important things have come up. He stated that this will give us a chance to look at this again. He said that if we have a consensus with the Commission, we will table this for a couple months until we finish these other items.

Commissioner Caldwell asked if we need to do a motion on this. Chair Ohrstrom said that we do need a motion to table this item until a later date. He apologized to the people that came in this morning thinking that we were going to make a big decision. He added that he did not want anyone in the County to think we were going to make a decision without having the proper input. He said he thinks it will probably work out better this way. He asked if there are any questions. There being none, he called for a motion

The Commission voted 10-0-1 to table this item until the Zoning and Subdivision Ordinance Update project is completed.

<b>Motion to table consideration of proposed text amendment TA-21-02 until completion of the Zoning and Subdivision Ordinance Update project:</b>			
Ohrstrom (Chair)	<b>AYE</b>	Hunt	<b>AYE</b>
Buckley (Vice-Chair)	<b>AYE</b>	Kreider	<b>AYE</b>
Bass	<b>AYE</b>	Kruhm	<b>AYE (seconded)</b>
Caldwell	<b>AYE (moved)</b>	Lee	<b>AYE</b>
Dunning	<b>AYE</b>	Malone	<b>ABSENT</b>
Glover	<b>AYE</b>		

## Discussion Items

### **5. Update, Double Tollgate Business Intersection Area (Chris Boies, County Administrator)**

Mr. Boies said that the Commission understands better than anyone that our plan is to preserve most of the County but to develop designated areas including Waterloo, Double Tollgate, and in and around the Town of Berryville. He said that we have received a request from 7-11 in Double Tollgate to have public water and sewer at their facility. He stated that 7-11 currently has a private septic system and does not know if they need public water and sewer. He did not know whether the private system is too costly to maintain or if they are having issues with it. He said that the Horton property across the road is under contract and we had a discussion with the potential buyer to find out what their intentions are. He stated that they would certainly have to have a private system under the current scenario and they are properly zoned.

Commissioner Caldwell asked if the Horton property used to be part of the Camp 7 property. Mr. Boies said yes and that it is located right on the corner. She asked if it is the area diagonally opposite from 7-11. Mr. Boies said that yes it is. He stated that the property is zoned properly and they could propose a by-right use and if they met our septic requirements that could put a private septic system in there for a commercial use which is not ideal. He stated that the big factor is Camp 7. He said that there has been a lot of discussion about Camp 7 and that the State gave a big portion of the property to the Department of Military Affairs which is the Virginia National Guard and another portion of the property to the Virginia Port Authority. He said that the Virginia Port Authority was told to work with the County on an economic development project for that property. He stated that if property is owned by the Commonwealth our Zoning Ordinance does not apply. He stated that the instructions when he got here was to get ahead of that because the Port Authority would look for uses that complement their operations at the inland port. He said that would be big warehouse space and cargo storage and things we probably do not want on that property. He stated that we could not stop that because our zoning would not apply. He said that we have reached out to the Port Authority and have had a good rapport with them and they are interested in doing something that complements our wishes on the property but for them to market it for something other than warehouse use or cargo storage. He said that water and sewer is probably going to be needed on that property. He said that we have looked at our options and of course this has been looked at for many years and the idea of running water and sewer down Route 340 from our existing system has a lot of negative consequences for our Comprehensive Plan because if there is water and sewer there it would be hard to stop development along that way. He stated there is a private system that the prison was using that also has challenges and issues. He said that we have recently had discussions with Frederick County and in the past it did not have the capacity to serve this intersection or the Camp 7 property. He stated that they do believe that they could with some expansion and it would be at our cost. He said that Mr. Stidham and I have talked about the area that would be served by water and sewer if Frederick County were to say yes. He stated that we have looked at the zoning map and certainly properties that are currently zoned business on the map should be eligible for the water and sewer if we were to get it. He said that we have also looked at the Camp 7 property. He said that we had an engineering firm do an analysis that if everything thing that was on the map was built-out completely to the max that the possible water and sewer usage would be 438,000 gallons per day. He said that is a big number that concerned us but that we

had told them to use a maximum build-out. He stated that the National Guard has told us that their long term plan is to have a regional training facility on their property and they would not use nearly as much as we had projected for that. He stated that we backed down that number of 438,000 to 150,000 gallons per day which we thought was much more reasonable and would limit the ability for that area to be expanded beyond the current boundaries. He said that the way the process would work is that the Clarke County Board of Supervisors need to request from the Frederick County Supervisors permission for Frederick Water to serve the Double Tollgate area. He stated that there are a lot of hurdles because the Clarke County Board of Supervisors could say no we do not want to request this although we have been having discussions about it. He said that the Frederick County Board of Supervisors could then say yes or no and if they decided to say yes we could still reach a point to where we could negotiate with Frederick Water and the cost would be too expensive. He stated that this is not a final approval type of request but in order for us to investigate this we would have to see if both boards are okay with it and then we can work out a reasonable plan for bringing water and sewer to that area.

Mr. Boies said that he would take any questions the Commission may have. He said that this is potentially going to be on the Board agenda for the February 16, 2021 Board of Supervisors meeting. He stated that we wanted to make sure that the Planning Commission was informed of this request before they went to the Board and if you have any feedback or input you want to provide to the Board he will be glad to do this. He said that he thinks one driver is that we really do not want a lot of private systems at that intersection and we have identified it as the place we want to have some commercial growth. He said another main driver is trying to get ahead of what the Virginia Port Authority may or may not do with the property. Chair Ohrstrom asked Mr. Boies if the Board of Supervisors need something from the Commission before this this goes to them that says we believe this is in conformance with the Comprehensive Plan or is this an informational item only. Mr. Boies stated that it is information only but what could come out of this in the long term is an amendment to the Comprehensive Plan and specifically the Double Tollgate Area Plan. He said that there may be a step for the Commission down the road if this all comes to fruition. Chair Ohrstrom said that is great because he was concerned if we could get that information to the Board that quickly because he thinks we are about to do an update on that Plan. Chair Ohrstrom asked Mr. Stidham if he is correct about that. Mr. Stidham stated that it is going to be one of several plan reviews, adding that we could accelerate the Double Tollgate Plan review on this particular issue. He said that when we amended it the last time we referred to it as a deferred growth area dependent upon potential changes that may occur to the area and the change in ownership of the Camp 7 property certainly would constitute a change in the situation.

Commissioner Kreider asked if we have any idea of the estimated cost of having the sewer system built-out. He also asked what the cost of the water per gallon would be and who will be paying for this. Mr. Boies stated that we had those same questions for Frederick Water and it was said that the Clarke County Board really needs for the Frederick County Board to say this is okay then we will engage in these conversations. He said that the infrastructure costs will hopefully be recouped through hook-up fees and there are some options in the State Code that even do a special taxing district for that area so it basically pays for itself so that other County residents are not paying to get their water and sewer here. He said that their monthly fees would need to be negotiated and the users would pay those fees directly based on the usage at the meter.

Commissioner Caldwell asked if Mr. Boies will give us an idea of how many acres the inland port people are going to get and where that would be and how many acres the National Guard is going to get and where would that be. Mr. Boies said it does not seem to be finalized yet but there are approximately 265 acres in play right now. He said that the Virginia Department of Transportation (VDOT) got a little bit of property behind their existing property. He said that VDOT was hoping to do a boundary line adjustment so that the Port Authority would get 100 acres and that would be the property that fronts on Route 340 and would have some frontage on Route 522 so it would be that corner basically behind the Horton property. He said that the Horton property is that little sliver of along the highway and this would have frontage on Route 340 and Route 522. Commissioner Caldwell asked if it would wrap around the Horton property and Mr. Boies said yes it would and go all the way back to the property line. He said that the National Guard was hoping to get the rest of the property which would include the old prison building and further in that direction. He said that is what they talked about 100 acres and 165 acres or some division like that. Commissioner Caldwell said that the existing septic treatment plant which is on the Camp 7 property is very inadequate. She asked Mr. Boies which one of the two parcels would that be on. Mr. Boies said that it will be on the National Guard property. He said that it still has an active permit but it does have challenges associated with that.

Commissioner Lee said that he is familiar with that area and soils and the karst environment out there. He said that there are a great number of sinkholes and very poor soils. He said as far as onsite systems it is probably the worst decision you could make in that area. He said that he does not think you will be able to find anything that is going to be within the County regulations even if you go with the discharge type system that campers use. He said that in his opinion it is not favorable. He said that this seems to be the only reasonable way for that area to be developed.

Chair Ohrstrom stated that he is on the Board of Septic and Well appeals and that 7-11 got approval at the March meeting last year and they were going to re-engineer their whole system anyway. He asked if they went ahead and did that or did they decide to wait until we go through all of this. Mr. Boies stated that he is not sure of the status on what they have done and we are being careful not to make any promises that they would be able to hook up with the Frederick system and he thinks they are in limbo right now. He said that they are probably waiting to see how we proceed in this way. He said that getting them off of that private system would be the best case scenario.

Commissioner Lee stated that the private system has had problems since it went in. He said that it discharges to a road ditch, it does not even discharge into a drainfield or anything else. He stated that the system that is there for the 7-11 is totally inadequate. Mr. Stidham stated that the ditch drains right back into Clarke County.

Mr. Boies asked if there are any more questions. He said he wanted to make sure the Planning Commission was informed before this goes to the Board of Supervisors because it would potentially be the week after next and he is sure we will get some press coverage when that does happen and we wanted you to be informed before it happens.

Chair Ohrstrom asked if there will be a public hearing at the Board level. Mr. Boies said that we are not required to have a public hearing if we proceed with negotiations and there is some type of

money that the County has to borrow or grants we have to apply for. He said that there could be a public hearing down the road but right now it would just be negotiations and see what the terms are.

Mr. Boies thanked the Planning Commission.

Chair Ohrstrom as if there are any questions about this. He said that now we will go to the Committee Reports.

## **6. Board/Committee Reports**

### **A. Board of Supervisors (Matthew Bass)**

Commissioner Bass said at our last meeting on January 19, 2021 we heard a very detailed update from Dr. Colin Green on the COVID situation and as you can probably expect that it is now stale since it is a couple weeks later. He said that the long and short of it is there are multiple ways to get the vaccine for those wondering. He stated in case someone would ask you tell them to pay attention to the Virginia Department of Health to see when they are giving shots or go through Valley Health and set up an appointment. He said that all of this information can be found on the Clarke County website. He said that we had our annual organizational updates and committees and they all stayed the same. He said that he is glad to be here for another year. He stated that we did take action in respect to Waterloo and the septic system hook-ups and there was a brief article in the paper about this. He said that the idea is to make it easier for businesses that are interested in the Waterloo area. He said that in his mind Waterloo and Double Tollgate are sort of similar in some respect and what he means is that both are areas that could still see some growth. He stated that obviously we want it to fit with our Comprehensive Plan. He said that we had a public hearing that evening with respect to funding and grants. He added that interesting actions included a study for the Battle of Berryville and Deed Book restoration for our Circuit Court. He said that the other items are too numerous to list right now. He said if you further questions he will answer them.

Chair Ohrstrom asked what a Deed Book restoration is. Commissioner Bass stated that this is regarding some of the old Deed Books in the Circuit Court. He said he does not know how old they are. Chair Ohrstrom said probably back to 1836 when we became a County. He said that some of these actual older books are going to be restored and he thinks it is a great idea.

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

Nothing to report.

### **C. Board of Zoning Appeals (Anne Caldwell)**

Commissioner Caldwell stated that we had an appeal of the decision of the prior Zoning Administrator's determination that the property at 140 White Post Road where the owner appealed his decision that his new garage had actually invaded the setback space by about 13 feet when it was built. She said this was not consistent at all with the approved plans by the Zoning Department or the Historic Preservation Commission where this garage was set appropriately within the setback from Route 340. She said that the Board upheld the Zoning Administrator's decision that this was

inside the allowable setback building line. She stated that the owner as we understand is likely to file a variance application to allow him to keep the garage in its present state outside this setback line. She said that it will be interesting to see how this works out. She stated that his lawyer's defense was that the owner had no idea how this happened.

#### D. Historic Preservation Commission (Doug Kruhm)

Commissioner Kruhm said that March is traditionally the month when the Historic Preservation Commission gives out awards to people who have contributed to the historic nature of Clarke County. He stated if anybody has any suggestions about this please contact him or Alison Teetor. He said he thinks we are still taking nominations.

#### E. Conservation Easement Authority (George Ohrstrom, II)

Chair Ohrstrom stated he thinks that the Smithfield Easement is about to be recorded. He stated that Smithfield is the poster child for everything at the Federal level, County level, Virginia level, County tourism level, and ecosystem management level. He said that it is a wonderful easement and it will be great for everyone. He stated that it has about 214 some acres. He said that we have our own award that we usually do in February but with COVID we are behind on that and he said he will talk to Ms. Teetor and we will let you know when we decide what to do.

#### F. Broadband Implementation Committee (Brandon Stidham)

Mr. Stidham stated that the Broadband committee met on January 13, 2021 and had their organizational meeting with Mr. Lawrence being appointed Chair for another year. He said that we mainly heard some updates on possibility for broadband options. He said that he has some bad news from Rappahannock Electric Cooperative (REC) and there was actually an article in the Northern Virginia Daily that talks about this. He stated that REC was looking at setting up a similar fiber to the home approach that other electric co-ops in the state had done but they got tied up in litigation from a land owner in Culpeper County that sort of derailed their whole efforts to do fiber to the home using their network. He said that we are still waiting to hear back from Shentel on some of the new things that they are working on. He said that we had previously heard that they got some kind of new wireless internet option they are working on but they did not have any more additional information. Mr. Lawrence said that the bidding process is over and that is why we could not get much information from Shentel and other companies because they are waiting to see what REC is going to do.

Mr. Stidham stated that the Broadband Committee is going to start having their meetings quarterly so the next meeting date is April 14, 2021 at 2:00 p.m.

### **Other Business**

#### **7. Finalized Organizational Meeting documents (Information Only)**

Mr. Stidham said that he wants to review the organizational documents that he enclosed in the packet. He stated that he has provided an updated contact list for everybody so make sure he has the correct information for you and if not let him know. He said he has included copies of the



adopted By-Laws and the Project Priorities for this year. He stated that he has the revised work plan for the Ordinance Update project. He said that one of the things the Commission asked about was doing a special meeting to re-orient the projects specifically for new members and to discuss the drafts moving forward. He said he is looking at scheduling the special meeting Tuesday, April 6 and it will probably be a two part meeting. He stated that maybe in the morning he will do an hour orientation to the project and then we have a second session where we go over our next steps in the drafts. He said to start looking at April 6 for that potential special meeting. He said that he is very happy to report that we have completed the legal review of the Subdivision Ordinance. He stated that we are moving forward with the next milestone.

The Commission voted 10-0-1 to adjourn the meeting at 10:40 a.m.

<b>Motion to adjourn the meeting:</b>			
Ohrstrom (Chair)	<b>AYE</b>	Hunt	<b>AYE</b>
Buckley (Vice-Chair)	<b>AYE</b>	Kreider	<b>AYE (seconded)</b>
Bass	<b>AYE</b>	Kruhm	<b>AYE</b>
Caldwell	<b>AYE</b>	Lee	<b>AYE (moved)</b>
Dunning	<b>AYE</b>	Malone	<b>ABSENT</b>
Glover	<b>AYE</b>		

  
 Randy Buckley (Vice Chair)

  
 Debbie Bean (Recording Secretary)