



## Clarke County Planning Commission

**MEETING MINUTES – Work Session/Annual Organization Meeting**

**Tuesday, January 4, 2022 – 3:00PM**

**Berryville/Clarke County Government Center – Main Meeting Room**

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

**E** – Denotes electronic participation

**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), Kristina Maddox (Office Manager/Zoning Officer)

**CALL TO ORDER:** By Mr. Stidham at 3:03PM.

### **Approval of Agenda**

Mr. Stidham modified the agenda to include Item 3B in order to provide an update to the short-term residential rentals text amendment discussed at the last Board of Supervisors meeting.

### **Organizational Meeting**

#### **Election of Officers: Chair and Vice Chair**

The Commission voted 9-0-2 to elect George L. Ohrstrom, II as Chair to the Planning Commission for 2022.

<b>Motion to elect George L. Ohrstrom II as Planning Commission Chair for 2022:</b>			
Ohrstrom (Chair)	<b>AYE</b>	Hunt	<b>AYE</b>
Buckley (Vice Chair)	<b>AYE</b>	Kreider	<b>ABSENT</b>
Bass	<b>AYE</b>	Kruhm	<b>ABSENT</b>
Caldwell	<b>AYE (Moved)</b>	Lee	<b>AYE (Seconded)</b>
Dunning	<b>AYE</b>	Malone	<b>AYE</b>
Glover	<b>AYE</b>		

The Commission voted 9-0-2 to elect Randy Buckley as Vice Chair to the Planning Commission for 2022.

<b>Motion to elect Randy Buckley as Planning Commission Vice Chair for 2022:</b>			
Ohrstrom (Chair)	<b>AYE</b>	Hunt	<b>AYE</b>
Buckley (Vice Chair)	<b>AYE</b>	Kreider	<b>ABSENT</b>
Bass	<b>AYE</b>	Kruhm	<b>ABSENT</b>
Caldwell	<b>AYE</b>	Lee	<b>AYE (Moved)</b>
Dunning	<b>AYE</b>	Malone	<b>AYE (Seconded)</b>
Glover	<b>AYE</b>		

**2022 Committees and Member Assignments**

Vice Chair Buckley volunteered to serve on the Comprehensive Plan Committee and Commissioner Dunning volunteered to serve on the Policy and Transportation Committee for 2022.

**Review and Adoption of 2022 Meeting Schedule**

The Commission voted 9-0-2 to adopt the 2022 Meeting Schedule as presented by Staff.

<b>Motion to adopt the 2022 Meeting Schedule as presented by Staff:</b>			
Ohrstrom (Chair)	<b>AYE</b>	Hunt	<b>AYE</b>
Buckley (Vice Chair)	<b>AYE</b>	Kreider	<b>ABSENT</b>
Bass	<b>AYE</b>	Kruhm	<b>ABSENT</b>
Caldwell	<b>AYE</b>	Lee	<b>AYE (Moved)</b>
Dunning	<b>AYE</b>	Malone	<b>AYE (Seconded)</b>
Glover	<b>AYE</b>		

**Review and Adoption of 2022 By-Laws**

Mr. Stidham noted a revised version of the By-Laws starting on page 7. A few changes to note, he said, reference the new Zoning Ordinance, reference sections, as well as some formatting changes. He added a significant revision at the top of page 8 where the current Chair serves as an ex officio member of all standing committees but does not vote. He said this change would allow the Chair to serve as the alternate automatically and be able to vote for that meeting if there is an absentee on one of the committees. The Commission had no changes to the 2022 By-Laws.

The Commission voted 9-0-2 to adopt the 2022 Planning Commission By-Laws as presented by Staff.

<b>Motion to adopt the 2022 Planning Commission By-Laws as presented by Staff:</b>			
Ohrstrom (Chair)	<b>AYE</b>	Hunt	<b>AYE</b>
Buckley (Vice Chair)	<b>AYE (Seconded)</b>	Kreider	<b>ABSENT</b>
Bass	<b>AYE</b>	Kruhm	<b>ABSENT</b>
Caldwell	<b>AYE (Moved)</b>	Lee	<b>AYE</b>
Dunning	<b>AYE</b>	Malone	<b>AYE</b>
Glover	<b>AYE</b>		

**Review and Adoption of 2022 Project Priorities**

Mr. Stidham said the project priorities list is reviewed at the beginning of the year and again in the summertime.

Mr. Stidham said the first priority is the Comprehensive Plan and Component Plans. He said ideally the Committee wants to have a final revised draft for the Commission to review in May with setting public hearing potentially in June for a July public hearing.

The next priority, Mr. Stidham said, is to be the Agricultural Land Plan Five-Year Review Resolution. He said the Comprehensive Plan Committee will be looking at a draft version at their next meeting and hopes to have a revision complete by February’s meeting to take action on.

Mr. Stidham said the third priorities are to review and update the Double Tollgate Area Plan as well as the Waterloo Area Plan. He said that while the Transportation Plan is a priority this year, he prefers to bump it to the latter part of the year for now given a number of various tasks the Commission will be doing.

The other priority, Mr. Stidham said, is the list of the Commission’s potential text amendments to the Zoning and Subdivision Ordinances. He said there are two that are scheduled to go to the Policy and Transportation Committee to review including boundary line adjustment regulations and modifications of lots to exceed maximum lot size requirements. He also noted a review of the accounting process for dwelling unit rights when lots are merged.

Mr. Stidham said the Ordinances Committee will look at modifications to our regulations for waterworks and sewage system and treatment work provisions. He added that one additional item is the demolition review criteria text amendment that the Historic Preservation Commission (HPC) worked on at the end of last year.

The Commission voted 9-0-2 to approve the 2022 Priorities List as presented by Staff.

<b>Motion to approve the 2022 Project Priorities as presented by Staff:</b>			
Ohrstrom (Chair)	<b>AYE</b>	Hunt	<b>AYE</b>
Buckley (Vice Chair)	<b>AYE (Seconded)</b>	Kreider	<b>ABSENT</b>
Bass	<b>AYE</b>	Kruhm	<b>ABSENT</b>
Caldwell	<b>AYE</b>	Lee	<b>AYE (Moved)</b>
Dunning	<b>AYE</b>	Malone	<b>AYE</b>
Glover	<b>AYE</b>		

**Other Business**

**Upcoming Agenda Items – January–June 2022**

Mr. Stidham said there is an upcoming agenda items list located on page 16 of 18. He said the Comprehensive Plan Committee is scheduled to meet and will review the final drafts of Chapters II and III and also the Five-Year Review Resolution for the Agricultural Land Plan. He said he plans to schedule another Comprehensive Plan Committee meeting for late January to start looking at an initial

draft of Chapter I, the forward, and the introduction sections. He said he plans to assemble a summary report of the changes to Chapters II and III for the committee to review.

In February's Work Session, Mr. Stidham said the Commission will look at the Five-Year Review Resolution for the Agricultural Land Plan and if all goes well, they can add it to the Business Meeting agenda for adoption. He added that the Comprehensive Plan Committee will continue working on the final draft of Chapter I.

Mr. Stidham said a Policy and Transportation Committee meeting is to be scheduled to begin work on the text amendments.

In March, Mr. Stidham said there are no agenda items currently, however, the Comprehensive Plan Committee will be finalizing the draft Comprehensive Plan and will start work on Double Tollgate Area Plan.

Mr. Stidham said the Commission will get their first look at the initial Comprehensive Plan draft in April. He said there are Comprehensive Plan Ordinance Committee Meetings expected in April as well.

In the May Work Session, Mr. Stidham said the Commission will continue to review the Comprehensive Plan draft and hopefully be able to consider getting close to finalizing it and June is when the Commission would consider scheduling the Public Hearing for July. He said he will try to update the list if there are any major changes and will plan to present a new one mid-year.

### **Status of Short-Term Residential Rentals Text Amendment**

Mr. Stidham provided an update on the short-term residential rental text amendment status. He said that the Board of Supervisors had a Public Hearing on December 21, 2021 where their decision was to defer action for one month based on comments received. He said that one of the owners of Llewellyn had expressed concern about the ten-person cap that was placed in the draft text amendment. He said that towards the end of the Commission's review process, a question as to whether we wanted to continue to include a maximum ten-person cap for short-term rentals on top of the limiting factors of the septic system capacity and building code requirements. He clarified that this is a maximum of ten people per lot of record to include transient renters and any permanent residents that are on the lot the time that rental activities take place. He commented the Commission wanted that regulation in place. He said the public hearing speaker brought up the point that they have a large main dwelling but also have tenant houses that have long-term residents. He said theoretically there could be a situation where there are eight to ten long-term residents that are on the property during rental periods which would dwindle the number of short-term rental renters that they can have to almost nothing. He said the Board has some concerns about this. He said one approach is to remove the ten-person cap and replace it with a limitation that one can only have short-term rental activities in two dwellings on a property. A property owner will be required to identify which structures are the tenant houses with a permit application and then Staff will judge the capacity based on the septic system and the building code issues with the two dwellings.

Chair Ohrstrom said he understood the issue to be a conflict between short-term and long-term rental tenants. He said he thinks the Commission could tie long-term and short-term rentals to septic system guidelines for the house. Mr. Stidham provided an example where someone could essentially create an AirBNB village by right with a zoning permit and a second example where someone purchases a large

lot with several DURs and builds several AirBNB homes. Chair Ohrstrom suggested they stick with the actual number of bedrooms as per the septic permits on each house. Mr. Stidham responded that he did not see any concern about us limiting the number of dwellings that can be used for short-term rentals and that technically home occupation bed and breakfasts can only be conducted within the main dwelling and not an accessory building at the moment. He said someone could probably challenge that but he doubts that we are determining the scope of the use and where it can occur on the property. Chair Ohrstrom said that if Mr. Stidham is comfortable and the Board approves, he is fine. Mr. Stidham said the only drawback is if a house with multiple bedrooms can prove that all of their bedrooms can be served by an onsite septic system that meets both the County and building code requirements. Commissioner Caldwell mentioned the ten person limit would apply when they go to the building department for a permit as, at that point, they are in excess of ten people and have to follow the building code for a commercial type of operation. Mr. Stidham added that it would reduce a lot of casual operators that rent out their place if they have to put in exit signs and fire safety measures.

Mr. Stidham mentioned another issue that was discussed during the Board of Supervisor's meeting regarding Calmes Neck. He said an individual on behalf of their Homeowner's Association wanted to be granted the same exception to the short-term rental rules that Shenandoah Retreat has. Mr. Stidham noted that if a property is zoned as Rural Residential, short-term residential rentals are not allowed. He said there are vast differences between the two subdivisions such as lot size. He said dealing with restrictive covenants and homeowner's association (HOA) law is a completely separate body of law compared to Zoning and Subdivision law. He added that the County is not party to those covenants and is something that should be left up to the HOA entirely. Commissioner Lee asked if it would be better to be covered through their HOA covenants and restrictions on the property. Mr. Stidham discussed the various HOAs on the mountain and said there really is no direct fix that would address their particular concern about common areas. He said they mentioned they wanted proof of insurance to which Mr. Stidham said we do not require that for other types of uses and if we require it, we only be able to verify that they had it at the time they got the permit. He said he did not think we should be the insurance police for the life of every zoning permit for short-term rentals. He said he encouraged the Board to reach out to their individual Planning Commissioners if they wanted to discuss in more detail. He added that he is going to present the two dwelling limit as an alternate text amendment including removal of the ten-person cap for their January meeting. He said he does not believe they have to re-advertise the public hearing as it is not making the rules more intensive, just changing the nature of the rules so there is a possibility of taking action in January.

Commissioner Bass said they were prepared to support the legislation as proposed but he did not think that everyone would be in agreement. He asked if someone could have a Country Inn and a couple of large short-term residential rentals on the same lot. Mr. Stidham said we would require it to be a Country Inn otherwise it would be a loophole to some of those requirements.

Commissioner Bass asked Mr. Stidham to provide top end scenarios as far as properties much like Llewellyn or otherwise. Mr. Stidham said he believes the septic system limitations will really help with any situation where we might run into problems. Mr. Stidham asked Commissioner Lee what type of drain field would support fifty people. Commissioner Lee said a mass drainfield is 1,200 gallons house which is very large but the new regulations do not allow for mass drainfields as proposed and approved by the Board. Vice Chair Buckley asked Commissioner Lee to confirm that a large drain field is five or six bedrooms. Commissioner Lee confirmed and noted he has never done a drain field larger than five bedrooms. Vice Chair Buckley noted that a five or six-bedroom approved drainfield would be 10-12

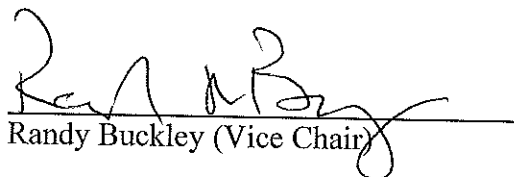
people and 24 as the high number. Commissioner Lee said a 1,200 gallon septic system fulfills an eight-bedroom house before a mass drain field is done and noted that an eight-bedroom house is an acre and a half drain field. He continued that if one goes over that number of gallons per day, it is considered to be a mass drain field regardless of how it is done.

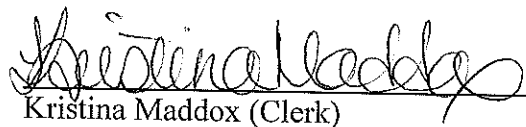
Commissioner Caldwell mentioned a large property on the mountain with a sizeable house. Commissioner Lee said he thought it was a six-bedroom house and noted that it is easier to get a larger drainfield on the mountain than in the valley due to the nature of the soils. When asked by Mr. Stidham if it was possible for a house to be served with two different systems, Commissioner Lee replied that it was. He said there are situations where a homeowner wishes to enlarge their home with an existing drain field and instead of increasing the existing range, there is a separate drain field added. He said they alternated between the two which is called a bull run valve.

Vice Chair Buckley commented that the standard AirBNB is going to be a two-to-three-bedroom house but there are houses larger than that in the County. Mr. Stidham said the biggest challenge will be enforcement. Vice Chair Buckley said it will be a huge deterrent when they have to add exit signs and work with fire marshals regarding fire codes, alarms, and sprinkler systems. Commissioner Lee noted that they will also have to add disability requirements as well.

Mr. Stidham said the permit application will have a box to check off that the property owner agrees to a certain number of people and that it would be a permit violation if they advertise for additional renters. Commissioner Bass clarified that if someone has a large main house with multiple residents and three tenant houses, that only two of those tenant houses could be used for short-term residential uses and there would be no limitation on renting a third for long-term rental. Mr. Stidham confirmed and said that there could be potentially two dwellings that share a septic system where one of them will be for short-term rentals and the other has a long-term renter and it will still be worked out through the Health Department to confirm not only the occupancy of that building but also their long-term renters too. Vice Chair Buckley said he is good with moving forward. Mr. Stidham suggested that the Commissioners call their Board members and answer any questions they may have.

**ADJOURN:** The January 4<sup>th</sup> Planning Commission Work Session and Organizational Meeting adjourned by consensus at 3:42PM. The next Planning Commission Business Meeting is February 1, 2022 and the next Comprehensive Plan Committee meeting is scheduled for Friday, January 7, 2022 at 10:00AM.

  
Randy Buckley (Vice Chair)

  
Kristina Maddox (Clerk)