



# Clarke County Planning Commission

MEETING MINUTES – Business Meeting

Friday, November 5, 2021 – 9:00AM

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

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), Chris Boies (County Administrator)

**CALL TO ORDER:** By Chair Ohrstrom at 9:05AM.

## 1. Approval of Agenda

Mr. Stidham explained the revised agenda contains action items for the draft Capital Improvement Plan and the two five-year review resolutions for the Waterloo and Double Tollgate Area Plans as requested by the Commission.

The Commission voted 10-0-1 to approve the November 5, 2021 amended meeting agenda as presented by Staff.

Motion to approve the November 5, 2021 Business Meeting amended agenda:			
Ohrstrom (Chair)	AYE	Hunt	AYE
Buckley (Vice Chair)	AYE	Kreider	AYE
Bass	AYE	Kruhm	ABSENT
Caldwell	AYE	Lee	AYE (Moved)
Dunning	AYE	Malone	AYE (Seconded)
Glover	AYE		

## 2. Approval of Minutes

Regarding Work Session meeting minutes for September 28, 2021, Commissioner Caldwell remarked that something got left out of the second paragraph on page 4 of 6 where it reads, “Regarding other changes, Mr. Stidham said language was added to clarify that rental uses are not allowed to be conducted in structures other than a single-family dwelling, minor dwelling or tenant house, such as an RV, yurt, tent, tree house or other similar structures.” Mr. Stidham suggested ending the sentence at “tenant house” and

start the next sentence with, “Structures that would not be allowed for rental use would include RV, yurt, tent, treehouse.” Commissioner Caldwell agreed to the changes. She also asked for the word “bug” to be changed to “but” on page 8 of 6 on the second to last paragraph.

The Commission voted 9-1-1 to approve the September 28, 2021 Work Session meeting minutes as corrected.

<b>Motion to approve the September 28, 2021 Work Session Meeting minutes as corrected:</b>			
Ohrstrom (Chair)	<b>AYE</b>	Hunt	<b>AYE</b>
Buckley (Vice Chair)	<b>AYE</b>	Kreider	<b>ABSTAINED</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>		

Regarding the October 1, 2021 Business Meeting minutes, Commissioner Caldwell asked that on page 13, the second paragraph from the bottom up to change “Tuesday” to “Friday”. She also had a question on the location for the tower where the address is listed at Shepherds Mill Rd but it seemed to be more on Route 7. Mr. Stidham said we will listen to the audio and if that is what was said, we will leave it as is.

The Commission voted 9-1-1 (Commissioner Kreider abstained) to approve the October 1, 2021 Business Meeting minutes as corrected.

<b>Motion to approve the October 1, 2021 Business Meeting meeting minutes as corrected:</b>			
Ohrstrom (Chair)	<b>AYE</b>	Hunt	<b>AYE</b>
Buckley (Vice Chair)	<b>AYE</b>	Kreider	<b>ABSTAINED</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>		

**PUBLIC HEARING**

Chair Ohrstrom announced that in the last two-to-three years that the Planning Commission has been working on this, the philosophy has been focused on protecting the County’s groundwater and certainly not to stop people from using their properties as AirB&Bs as he understands it is a source of income for people. He also said that because he is not present in the room, he was going to elect Vice Chair Buckley to run the Public Hearing.

Mr Stidham reviewed a presentation on the following:

3. **TA-21-03, Short-Term Residential Rental, Home Occupation Bed and Breakfast, and Country Inn.**

Mr. Stidham reviewed the text amendment to amend Section 5.2B (Residential Uses) and Section 5.2C (Business Uses) of the Zoning Ordinance (Code of Clarke County Chapter 200, Article I). He said the purpose is to establish a new short-term residential rental use in the Agricultural-Open Space-Conservation (AOC) and Forestal-Open-Space Conservation (FOC) Districts, and to amend the use regulations for home occupation bed and breakfast uses and country inns for consistency purposes across rental uses.

Mr. Stidham said for the benefit of the audience, he would review the rental uses as they are currently addressed in the Zoning Ordinance. He stated a short-term residential rental is the rental of a portion of a dwelling, which could be one or more rooms, or for rental of the entire dwelling to a single paying customer for a period of less than 30 days. He said they considered a single paying customer is one person or more than one person renting together as a group. He said we have not regulated this in the Zoning Ordinance nor do we have regulations for this use in place and as such there is no zoning approval or requirement for this use. He said when there is a situation where a proprietor wants to rent to more than one single paying customer, they would be considered a home occupation bed and breakfast. This is a home occupation, he continued, where lodging and meals are provided for compensation up to five transient guests with a maximum of three guest rooms. He said this would allow rentals to more than one paying customer up to this maximum occupancy limitation and that owner occupancy during rental periods is required since this is a home occupation and it requires approval of the home occupation zoning permit.

Mr. Stidham reviewed the country inn definition which is a business use that offers for compensation to the public, guestrooms for transitory lodging, or sleeping accommodations for a period not to exceed fourteen consecutive days. He stated it is limited to a maximum of fifteen guestrooms and you can have a meal service and public assembly activities as accessory use is subject to use regulations. He said this is a business use that requires approval of a special use permit and the site development plan by the Board of Supervisors following review by the Planning Commission and required public hearings. He said rental uses in the AOC and FOC districts that exceed the scope of both the short-term residential rental and a home occupation bed and breakfast would then have to be reviewed as a country inn.

Mr. Stidham said this was developed in response to concerns about the absence of the regulations for short-term rentals via websites such as Airbnb and VRBO. He said issues that were identified during this process or addressing any potential adverse impacts of unregulated short-term residential rental activities on the onsite sewage disposal systems that they have, and whether this adversely impacts groundwater quality. Additionally, he stated ensuring compliance with building code requirements, creating regulations that establish a level playing field for all commercial lodging establishments and developing new regulations within the existing ordinance framework. He said the text amendment would create a new short-term residential rental use and added that this would be a defined use with its own set of use regulations in the Zoning Ordinance. He continued that this would be a by right use which means that it would be approved administratively by the Zoning Administrator subject to compliance with the technical regulations that would be adopted into the Zoning Ordinance. He added that the use would only be allowed on lots in the AOC and FOC zoning districts.

Mr. Stidham said that if there are rental activities that are proposed in Rural Residential District, it would be permissible as a home occupation bed and breakfast use. He said there will be a limitation of a maximum occupancy of ten persons per lot for short term residential rental use which will include transient guests and residents of the lot. Rental activities, he said, would be able to be conducted in any approved single-family dwelling, minor dwelling or tenant house on the lot subject to maximum occupancy limitation. He said those accessory structures would have to have been approved as a minor dwelling or tenant house that can be used for residential purposes and there would not be a requirement that the property owner be on site during rental periods.

Mr. Stidham noted that a zoning permit issued by the Zoning Administrator would be required for approval of short-term residential rental, and prerequisites to the zoning permit approval would include confirmation from the Virginia Department of Health (VDH) that the existing onsite sewage disposal system will support maximum occupancy that is proposed including both residents and transient guests. He said confirmation from the Building Department that the use will comply with the building code and issuance of a business license by the County's Commissioner of the Revenue is also required.

Mr. Stidham reviewed the overall process as it would be established starting with the applicant coming into the office to file a zoning permit application with the Zoning Administrator. He said the application itself would state the proposed maximum occupancy during rental periods including both residents and guests of the lot and any information that is available on the onsite sewage disposal system. He continued that the Zoning Administrator would review this application for compliance with the short-term residential rental regulations and would forward the application to VDH. He said VDH would then review the proposed maximum occupancy against what they have on file for the onsite sewage disposal system for that property. As we learned through this review process, he said, VDH may have significant amount of records on the systems depending when that onsite sewage disposal system was constructed. For example, he explained, systems that were installed twenty to thirty years ago may have information that may not comply with current regulations and older houses may not have information on file. He said depending on what information is available in VDH's records, VDH staff will confirm whether they are able to determine conformance of the approved maximum capacity. He said if information is not available, or if the information shows that the proposed maximum occupancy will not conform to the approved system capacity, the Zoning Administrator will not be able to approve the zoning permit. He said in this case, the applicant will have to work directly with VDH to identify system capacity, which may mean that the system would have to be upgraded to increase its capacity, or the applicant will have to reduce the proposed maximum occupancy level to a level that can be confirmed by the VDH. He continued that the Zoning Administrator will also send the application to the Building Department for building code compliance review. He confirmed that confirmation from both departments is required in order for the Zoning Administrator to approve the permit in addition to a County business license for the life of the rental use. Once approved, he said, the applicant must maintain the onsite sewage disposal system in accordance with VDH regulations, maintain their business license and be in good standing, and notify the Zoning Administrator if there are any future changes to the rental use, maximum occupancy, or any approved accessory activities.

Mr. Stidham reviewed a list of prohibited activities with the text amendment to include provision of meals to transient renters. He said if an operator wants to offer meal service they need to be a home occupation bed and breakfast. He said commercial public assembly activities such as special events, live music, weddings, meetings, conferences and reunions are prohibited but they might be approved or approvable with a special use permit and a site plan for a minor commercial public assembly use. He said in the case

of an agritourism activity, a zoning permit could be issued for that or a special event permit through County Administration and the Board of Supervisors. He reiterated that in order to do these activities, the zoning permit for short-term rental would not permit these uses automatically and that an operator would need to apply for zoning approval.

Mr. Stidham said other gatherings on a lot of persons that are not transient renters, or residents of the single-family dwelling, minor dwelling, or tenant house on the lot. He explained this rule is necessary so we can ensure there is compliance with the maximum occupancy limits during rental periods.

Mr. Stidham reviewed changes to the home occupation bed and breakfast use to standardize regulations across all uses. He said for home occupation bed and breakfasts, the maximum occupancy would increase from three guest rooms and five transient guests to five bedrooms and ten occupants including transient guests and residents on the lot are prohibited. He stated that we would also add the requirement of the review of the onsite sewage disposal system and review by the Building Department and issuance of business license all as prerequisites to approval in the home occupation bed and breakfast zoning permit that would standardize it with the proposed short-term rental regulations. He said maximum occupancy may be further limited by the sewage disposal system capacity or building code requirements. He reiterated that language will be added that says rentals can be permitted in a single-family dwelling or one of the two accessory dwelling options.

Regarding changes to the country inn use, Mr. Stidham said, we would increase the maximum occupancy period from fourteen consecutive days to less than thirty consecutive days that would standardize it across all three uses. He added there would be no change to the maximum of fifteen rooms but we would have language that could further limit this based on the approval of the onsite sewage disposal permit and the maximum occupancy that is allowed by the building.

As for application and enforcement of these rules, he said, if the rules are adopted by the Board of Supervisors, proposed short-term residential regulations could be applied to existing operators who do not have written zoning approval from the County or who have an approved business license application that notes language such as no zoning approval required, or similar language that was written by the Planning Department Staff at the time of the review. He said the proposed regulations, if adopted, would be applied to existing operators subject to the department's complaint-basis enforcement process which means we would not implement proactive enforcement against existing operators. He said we would like to encourage voluntary compliance with the new rules and as such we are recommending to the Commission that they consider including in their recommendation to the Board of Supervisors that regulations be adopted with a delayed effective date of six months. He continued that this delay would also allow Staff time to work with existing operators without having to consider them to be in a state of non-compliance at the initial onset of the regulations being adopted. He said Staff does not have any outstanding concerns with the adoption of the text amendment.

Vice Chair Buckley opened the Public Hearing and asked speakers to state their name and address at the podium.

Jean Hess (393 Evergreen Lane): Ms. Hess said she has lived in the Shenandoah Retreat for 49 years. Her concerns, she commented, are regarding the rural residential use of vacation rentals by owners. She said there are one or two that are currently in operation. She stated the Retreat does not have a homeowners association as they cannot establish one without 80% of the property owner's approval which she said

would be impossible. Instead, she noted, they are operating under a Board of Directors of the Shenandoah Retreat Land Corporation. She continued that there are twenty-two units that were former motel units which have been redesigned and one in particular is now a two-bedroom cabin. She said it is operating well and they have had no issues, however, as people change hands she believes it will create a problem. She said she lives in the middle of twelve of the units and is worried about who plans to monitor their compliance. She said she does not want the Planning Commission to depend on the residents to complain as it may create issues within the community. She said she would like the Commission to consider the retreat and the rural residential residents. She said Shenandoah Retreat is the largest subdivision in Clarke County with over 250 homes and 17 miles of roads and it is her hope that they are paid attention to.

Terry Dunphy (18777 Blue Ridge Mountain Road): Ms. Dunphy said she owns a 50-acre historic B&B property on Rt. 601. She said she moved there 12 years ago and raised her children there. She said she loves renovating historic structures to rent them out and owns and renovates historic buildings in Berryville and rents them out on a long-term basis. She said Airbnbs are good for Clarke County because they do not leave a footprint, they use existing homes, and it brings tourism to Clarke County to enjoy the beauty, visit restaurants, visit Berryville, and walk the Appalachian Trail. She added that Airbnbs have been great during the COVID pandemic and have allowed continued tourism in Clarke County as people can gather with their families, children, and pets yet not interact with others staying on the same property.

Ms. Dunphy said the revenue that she can make doing short-term rentals allows her to maintain her property on the mountain and that she would not otherwise be able to do that. She said she spends approximately \$30,000 a year in mowing, paying taxes, fixing stone walls, hiring people to help her, and maintaining equipment. She said it costs a lot to maintain a historic property. She stated that she would have to sell it if she could not generate revenue and she does not wish to do that. She said she has three DURs and a lot of open space and she does not want to sell or develop them. She said she wants to preserve the open space and continue to maintain the historic structure by bringing in this revenue.

Ms. Dunphy said she sees the enforcement mechanism against unruly visitors or renters to be the same as they would be for any long-term rental. She said if neighbors call in a complaint, she assumes that she would get a citation as the owner and then have to pay the citation. She said she tells her tenants they cannot make noise outside after 10:00PM, they are not allowed to have parties, or have events.

Ms. Dunphy said she thinks the new regulations are great. She wanted to know what she would consider her rental property and asked VDH to come look at the property who told her that her septic was over capacity. She said she has room for twelve people but only rents to eight. She said she welcomes a new regulation that is more transparent with a roadmap that tells her exactly what she needs to do. She said she thinks short-term rentals are consistent with Clarke County's goals in that they are allowed to maintain open-space, they are allowed to preserve historic structures, and they bring tourism dollars without making an impact. She said she thinks that is what Clarke County is all about and she hopes the new regulation is approved.

Bill Waite (88 Forest Ridge Lane): Mr. Waite said regarding short-term rentals, there are economic advantages to the community as well as to the individual sustaining historic properties and that is an important feature for Clarke County. He said he supports the amendments. He said he thinks each Airbnb owner that he is aware of is dedicated to making sure they are in compliance to septic as they want to maintain their building. He said they have contracts with Airbnb that are against parties. He said it allows people to sustain historic houses that would be torn down or fall apart and then turned into subdivision by

using the available DURs but it is all tied into how they manage the property and pay for it. He said he does not want the houses damaged so septic is important as are building codes. He said they have cameras so they know how many people are outside coming in to make sure that he does have the right number of tenants. He said he hopes the Planning Commission and Board of Supervisors will endorse the regulations.

Carla Giacomangeli (105 Bishop Meade Road): Ms. Giacomangeli said she has a property in Millwood and that she wishes to reiterate what the other B&B owners have already said. She said the income is important as it takes a lot to maintain a 100-year-old historic home on top of thirty-six acres. She said she wants to keep the open space and keep the septic maintained and healthy. She said she supports what the Planning Commission doing as it benefits the County.

Tressa Reuling (494 Llewellyn Lane): Ms. Reuling runs an Airbnb out of the main house on her 350 acres. She said her concerns are not about running the Airbnb but more so what the Planning Commission is doing as there may be some unintended consequences. She said they have nine DURs and could build nine homes but they do not wish to do so. She said she believes there are downsides, however, to overregulating as it would be interfering with people's ability to maintain older properties and bigger farms. She said anyone who buys their farm in the near future is probably going to have to build more homes or to sustain the farm standards as they have done. She said her big concern is that we do not want to damage one of the few income producing opportunities that the residents of the county have as they have plenty of space, a lot of acreage, and they can have ten people without impacting the septic or water supply. She said she thinks it should be treaded on very carefully. She said not everyone can afford to maintain a normal kind of house let alone some of the bigger homes that we have and that again, people need to tread carefully.

Mark Taylor (Calmes Neck Estates): Mr. Taylor said there is a difference between a freestanding home without covenants and without shared property such a common areas and associations like Calmes Neck where you have a road that is owned by the association. He said there is a recreation area at the back of the property for a swimming pool. He said Calmes Neck Estates have a property owners association that prohibits short-term transient visitors from its pool and recreation area due to past problems. He said the problems are parties and more people renting than the home will accommodate. He said he is across the river from Spout Run Falls in Millwood where there are homeowners on the other side that do not want trespassing but inevitably there are people coming across from Calmes Neck Property Association side to the other. He said he wants to support the regulation because he thinks the regulation will help define and limit the uses in a subdivision because many of the homes ordinarily would not fit this criteria. He asked the Commission to take into consideration two types of Airbnb. He stated it becomes problematic when you put an Airbnb into a subdivision with covenants and mature property. Additionally, he stated that outside the state purview is Americans with Disability Act (ADA). He asked if it triggers ADA if you have paying clients of a resident coming to an association pool. He said, if so, do 59 owners have to share the cost of bringing that pool up to the ADA standards when they would not otherwise be covered. He added there are tax implications as the association will file an 1120-H tax return which provides that assessment income is not revenue for purposes of the Internal Revenue Code. He said that only applies there are no more than 15% of the units in that association serve as an Airbnb. He said once those points are triggered, you lose the tax status and it change the entire taxation situation for an association. He said there are multiple layers to consider.

Chair Ohstrom thanked the speakers for bringing their thoughts to the Commission and remarked that they were all interesting points to consider. When asked by Chair Ohstrom, there were no questions from the

Commissioners. Commissioner Lee confirmed that he was comfortable with passing this along to the Board of Supervisors when asked by Chair Ohrstrom. Chair Ohrstrom reiterated the purpose and focus is to protect the groundwater and safety of people that are coming to enjoy Clarke County. He then asked the Commission to make a motion.

The Commissioners voted 10-0-1 to recommend adoption for text amendment TA-21-03 Short-Term Residential Rental, Home Occupation Bed and Breakfast, and Country Inn to the Board of Supervisors. Commissioner Kreider added that this motion includes the recommendation to the Board to consider delaying the effective date of this text amendment to six months in order to grant a grace period for existing operators to come into compliance with the proposed regulations.

<b>Move to recommend adoption for TA-21-03 Short-Term Residential Rental, Home Occupation Bed and Breakfast, and Country Inn to the Board of Supervisors and to also include the recommendation to the Board to consider delaying the effective date to six months to grant a grace period for existing operators to be able to come into compliance with the proposed regulations:</b>			
Ohrstrom (Chair)	<b>AYE</b>	Hunt	<b>AYE</b>
Buckley (Vice Chair)	<b>AYE</b>	Kreider	<b>AYE (Moved)</b>
Bass	<b>AYE</b>	Kruhm	<b>ABSENT</b>
Caldwell	<b>AYE</b>	Lee	<b>AYE (Seconded)</b>
Dunning	<b>AYE</b>	Malone	<b>AYE</b>
Glover	<b>AYE</b>		

**MINOR SUBDIVISION REVIEW**

**4. MS-21-03, Jay D. & Linda Lee Cecca.**

Mr. Camp presented the request of approval for a two-lot minor subdivision for the property identified as Tax Map #30-A-30B, located on the south side of Millwood Road (Rt. 723) between Bishop Meade Road (Rt. 255) and Thornton Road (Rt. 625), White Post Election District, zoned Agricultural-Open Space-Conservation (AOC). He noted there was a discrepancy between the surveyor and Virginia Department of Transportation (VDOT) as to the nature of the existing of the state road and whether it is prescriptive or fee simple. He said that as it would not impact the zoning requirements, Staff recommends approval of the application.

The Commission voted 10-0-1 to approve MS-21-03 (Tax Map 30-A-30B).

<b>Motion to approve MS-21-03 (Tax Map 30-A-30B):</b>			
Ohrstrom (Chair)	<b>AYE</b>	Hunt	<b>AYE</b>
Buckley (Vice Chair)	<b>AYE (Seconded)</b>	Kreider	<b>AYE (Moved)</b>
Bass	<b>AYE</b>	Kruhm	<b>ABSENT</b>
Caldwell	<b>AYE</b>	Lee	<b>AYE</b>
Dunning	<b>AYE</b>	Malone	<b>AYE</b>
Glover	<b>AYE</b>		



**5. MS-21-04, John U. Miller, Jr. and John U. Miller, III.**

Mr. Camp presented the request for approval of a two-lot minor subdivision with a residual lot of 100 acres or more for the property identified as Tax Map #24-A-24, located on the north side of Lockes Mill Road (Rt. 621) between Chilly Hollow Road (Rt. 621) and Parshall Road (Rt. 608), Buckmarsh Election District, zoned Agricultural-Open Space-Conservation (AOC). He said we received correspondence from the applicant and surveyor that they wanted to defer the application. He said the surveyor believes the 100% reserve area requirement for the two residential lots is met but he does not have the documentation verification nor has it noted on the plat. He said Staff is recommending deferral of the application. Commissioner Lee said it seems the only item lacking on this is the delineation of the 100% reserve and asked if we could give this conditional approval at this point. Mr. Camp replied that as long as a surveyor could give us the guarantee that it is verified that there is 100% reserve that it would be consistent with our number one policy on conditional approval. Commissioner Lee said in speaking with a surveyor there is a 100% reserve area on both lots that it was not delineated and in checking with VDH there is 100% reserve. He said he would move to give a conditional approval with regard to having the surveyor submit a plat and the delineation of the final percent reserve showing. Chair Ohrstrom confirmed with Staff that it did meet the requirements with conditional approval that was put into place last year. Staff confirmed.

The Commission voted 10-0-1 to approve the request conditioned on the surveyor submitting a plat showing the delineation of the 100% percent reserve areas.

<b>Move to approve the request conditioned on the surveyor submitting a plat showing the delineation of the 100% percent reserve areas:</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>ABSENT</b>
Caldwell	<b>AYE</b>	Lee	<b>AYE (Moved)</b>
Dunning	<b>AYE</b>	Malone	<b>AYE</b>
Glover	<b>AYE</b>		

**APPEARANCE**

**6. Presentation of Historic Preservation Commission (HPC) Report, Betsy Arnett (Chair)**

Betsy Arnett (HPC Chair) gave a presentation on the HPC’s recent activities and said she hopes to continue doing so on an annual basis going forward. She said the mission of the HPC is to act and serve as the architectural review board for properties in the two local historic districts. She said they are also charged with developing design guidelines for those districts as well as issuing certificates of appropriateness. She said when property owners want to make proposed changes, they advise the Planning Commission on proposed developments within local historic districts at the Commission’s request. She said the bulk of the work done by the HPC is public information and educational activities and making sure the residents are aware of the historic resources in the County and hopefully to encourage the preservation of the properties. She said there are nine state and national historic districts and twenty individually listed properties on the National Register of Historic Places. She said to clarify what this is, it is an honorary designation and has no regulatory restrictions on property owners for what they can and cannot do with their property. She said, however, it does provide a few important benefits including protection to property

owners from adverse actions that would adversely impact their historic properties. She said another benefit is they are eligible for federal and state historic rehabilitation tax credits.

Additionally, she said Clarke County has two national historic landmarks includes Greenway Court, which is the home of Thomas Lord Fairfax the sixth Earl of Cameron. The second, she stated, is Saratoga which is Daniel Morgan's home outside of Boyce and Millwood. She said Clarke County also has three local historic districts, two of which are overseen by the HPC – the White Post Historic District and the Millwood Commercial District. She said the HPC reviews applications by property owners who want to make alterations to properties located in the two County Historic Districts to include renovations, alterations, as well as new construction and demolitions. She said they have established design criteria for each district and approval is based on those criteria. She said their goal is to get them to approval and to work with them to figure out how they can reach a resolution where everyone is content. She said in order to be considered a certified local government (CLG) we have to have key elements of a sound historic preservation program in place such as having an HPC or Architectural Review Board. She said once designated, they are eligible for matching grant monies. She said since 1992 when the HPC was formed, we have received twenty-one grants totaling over \$200,000 that require matching funds. The grant funded projects have included preparing nominations for seven of our nine National Register historic districts, archaeological assessments, and historic property surveys. She said the grant project that they are working on now is an architectural survey book of the County that we are hoping to get published next year. Other grants include money from the General Assembly for emergency repairs on Greenway Court, Hurricane Sandy recovery grant from the DOI, African American civil rights grants for the restoration of the Josephine school, and the American Battlefields protection program. She said they have also received over \$100,000 in non CLG grants. She stated the HPC has held an annual Preservation Award luncheon since 2000 and has handed out over 100 certificates and lifetime achievement awards to citizens who have made efforts to preserve historic homes or buildings.

She said as a result of their demolition by neglect study, they are reaching out to property owners who the HPC has identified as historic resources and are informing them of how they can preserve their properties and how the HPC can be used as a resource. She said they have also been working on some proposed Zoning Ordinance amendments criteria for approving demolitions and historic buildings.

Lastly, she said, they worked on historic highway markers for all of the rural historic districts except for Bears Den and the Chapel District which they hope to explore the possibility of installing in the future.

Commissioner Bass asked if their demolition by neglect project includes any of the properties on Josephine Street that the town is considering exercising their blight nuisance. Ms. Arnett confirmed that yes, there are approximately seventy properties at risk total and that six are located on Josephine Street. She said they recognize that by the time these buildings make it to the list, they are usually past saving but they are hopeful that by identifying them that some can be restored. Commissioner Bass said he would like to involve Ms. Arnett in a meeting with stakeholders and residents to talk about ideas to try and preserve the homes. When asked by Commissioner Malone, Ms. Arnett said the HPC meets every other month. Commissioner Glover asked Ms. Arnett how long she had been on the HPC to which she replied ten years, six or seven of which she has been Chair.

**7. Clarke County Agricultural & Forestal District Six-Year Review**

Mr. Camp said the Agricultural and Forestal District (AFD) is a voluntary program authorized by state local codes and is intended to benefit agricultural activities. He said it was last updated in March of 2016 and every six years our ordinance requires it to be updated. He said it can be terminated, modified, or renewed for another six year term. He continued that since 1980, this has been done several times. He said that there is about 37,000 acres in the Agricultural and Forestal District (AFD). Chair Ohrstrom confirmed that a lot of the acreage within that 37,000 is also in Conservation Easement. Mr. Camp stated there are benefits and also restrictions associated with the program. He said if one joins the program, they are in the program for six years unless there is a financial hardship or death. He said the benefit is primarily that you gain automatic qualifications in the land use program. He said if someone is trying to quickly establish an agricultural use in the County, it can lower their taxes. He said there are also protections against eminent domain and as well as any local regulations that restrict agricultural uses. He said restrictions include that someone can only subdivide one lot within that six year period. He said there are also some limitations on boundary line adjustments. He said while they can be done, they are limited if someone is trying to reduce the area within the AFD. He added that one cannot turn the property into something that is not consistent with agriculture nor establish commercial type of special use permits or to other restrictions. He said applications are received on an annual basis but that no new applications have been received for this renewal process. He stated that while many citizens are interested in the program, they are not ready to apply. He also said there are some general qualification requirements to be in the AFD including a certain minimum acreage as well as you have to score a certain number of points on the scoring system they have in place. He added there have been a few requests from citizens to be removed from the program. He reiterated the purpose is to recommend to set the public hearing for December and then offer any recommendations to the Board of Supervisors. Commissioner Bass asked why people would want out of the program. Mr. Camp replied that they possibly have intent to subdivide the property.

The Commission voted 10-0-1 to approve adoption of the Agricultural & Forestal District Six-Year Review as presented to the Board of Supervisors.

<b>Motion to approve adoption of the Agricultural &amp; Forestal District Six-Year Review 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>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>		

**8. Clarke County Agricultural & Forestal District Six-Year Review**

**Board of Supervisors (Matthew Bass)**

Commissioner Bass said the Board took action to repeal dance halls. He said they set public hearing on the cell tower. He added they approved the study of the possible pedestrian crossing at the mountain and said the Board recognizes that it is a problem affecting our County but we are not interested in investing our tax dollars into solving that problem as we feel that it is more appropriately solved by a combination of federal and state funds.

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

Nothing to report

**Board of Zoning Appeals (Anne Caldwell)**

Nothing to report

**Historic Preservation Commission (Jeremy Camp)**

Chair Ohrstrom thanked Ms. Arnett for her HPC presentation.

**Conservation Easement Authority (George L. Ohrstrom, II)**

Chair Ohrstrom said he did not think Smithfield conservation easement would close this year unfortunately but they continue to work on it.

**Broadband Implementation Committee (Brandon Stidham)**

Mr. Stidham said there are no meetings scheduled until after the end of the year on Wednesday, January 12<sup>th</sup>.

**Other Business**

**9. Draft Capital Improvement Plan for Clarke County (2022-2027)**

Mr. Stidham said there were draft motions in the packets to be considered. He said the Capital Improvement Plan (CIP) was reviewed at the Work Session and that the Commissioners indicated that they were interested in taking action today. He said there was a motion to recommend adoption which also includes Staff’s recommendation regarding the pedestrian bridge project over Route 7. He said he also has a motion to defer if the Commissioners have any other issues.

The Commission voted 10-0-1 to recommend adoption of the draft Capital Improvement Plan for Clarke County 2022-2027 to the Board of Supervisors subject to Staff’s recommendation regarding the proposed project to construct a pedestrian bridge over Route 7 as noted in the October 27, 2021 staff memo.

<b>Motion to recommend adoption of the draft Capital Improvement Plan for Clarke County 2022-2027 to the Board of Supervisors subject to Staff’s recommendation regarding the proposed project to construct a pedestrian bridge over Route 7, as noted in the October 27, 2021 staff memo.</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>ABSENT</b>
Caldwell	<b>AYE (Moved)</b>	Lee	<b>AYE</b>
Dunning	<b>AYE</b>	Malone	<b>AYE</b>
Glover	<b>AYE</b>		

**10. Five-Year Review Resolution, Waterloo Area Plan**

Mr. Stidham said there is a revised copy of the resolution in yellow. He said the only change made to this particular one is the changed adoption date from December to today’s agenda for consideration. When asked by Commissioner Caldwell if the entire motion needed to be read aloud, Mr Stidham replied no.

The Commission voted 10-0-1 to initiate the review of the 2016 Waterloo Area Plan.

<b>Motion to resolve to initiate the review of the 2016 Waterloo Area Plan</b>			
Ohrstrom (Chair)	<b>AYE</b>	Hunt	<b>AYE</b>
Buckley (Vice Chair)	<b>AYE (Moved)</b>	Kreider	<b>AYE</b>
Bass	<b>AYE</b>	Kruhm	<b>ABSENT</b>
Caldwell	<b>AYE (Seconded)</b>	Lee	<b>AYE</b>
Dunning	<b>AYE</b>	Malone	<b>AYE</b>
Glover	<b>AYE</b>		

**11. Five-Year Review Resolution, Double Tollgate Area Plan**

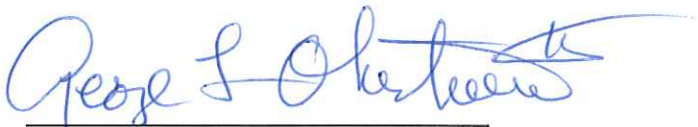
The Commission voted 10-0-1 to initiate the review of the 2016 Double Tollgate Area Plan.


<b>Motion to resolve to initiate the review of the 2016 Double Tollgate Area Plan:</b>			
Ohrstrom (Chair)	<b>AYE</b>	Hunt	<b>AYE</b>
Buckley (Vice Chair)	<b>AYE (Moved)</b>	Kreider	<b>AYE</b>
Bass	<b>AYE</b>	Kruhm	<b>ABSENT</b>
Caldwell	<b>AYE</b>	Lee	<b>AYE</b>
Dunning	<b>AYE</b>	Malone	<b>AYE (Seconded)</b>
Glover	<b>AYE</b>		

**Adjourn**

The Commission voted 10-0-1 to adjourn the November 5, 2021 Planning Commission Business Meeting at 10:33AM.

<b>Motion to adjourn the November 5, 2021 Planning Commission Business Meeting at 10:33AM:</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>ABSENT</b>
Caldwell	<b>AYE</b>	Lee	<b>AYE (Moved)</b>
Dunning	<b>AYE</b>	Malone	<b>AYE</b>
Glover	<b>AYE</b>		

  
 George L. Ohrstrom, II (Chair)

  
 Kristina Maddox (Clerk)