

**BERRYVILLE TOWN COUNCIL
MEETING AGENDA
Berryville-Clarke County Government Center
101 Chalmers Court, Second Floor
Main Meeting Room**

**Regular Meeting
December 8, 2015
7:30 p.m.**

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17. Closed Session No Closed Session Scheduled	
18. Adjourn	

↓ Denotes an item on where a motion for action is included in the packet

Attachment 1

MINUTES
BERRYVILLE TOWN COUNCIL
Berryville-Clarke County Government Center
Regular Meeting
November 10, 2015
7:30 p.m.

Town Council: Present-Wilson Kirby, Mayor; Harry Lee Arnold, Jr., Recorder; Allen Kitselman; Doug Shaffer; Mary Daniel; Absent- David Tollett

Staff: Keith Dalton, Town Manager; Christy Dunkle, Assistant Town Manager/Planner; Ann Phillips, Town Clerk

Press: Val Van Meter, Winchester Star

1. Call to Order

Mayor Kirby called the meeting to order at 7:31 p.m.

2. Pledge of Allegiance

3. Public Hearings

Mayor Kirby opened the Public Hearings and asked the Clerk to read the first Public Hearing notice:

Amendment to Berryville Area Plan

Proposed amendment to the Berryville Area Plan, Chapter 5, in order to increase the number of Older Person Residential multifamily units from 120 to 180 and reducing the number of Older Person residential single-family units from 180 to 120 units as identified in Sub-Area 6A of Annexation Area B

The Mayor asked if comments regarding the public hearing topic had been received at the Town Office. Ms. Dunkle said she was visited by Prue Anderson, a Clarke County resident, who came in to comment on the public hearing tonight because she is unable to attend due to illness. Ms. Dunkle said that Ms. Anderson's concern is that this action is against the current comprehensive plan.

The Mayor recognized David Jester of 200 63rd Street, Virginia Beach, Virginia, who said he has been President of Marlyn Development for 30 years. He said that Marlyn is a for-profit builder adding that non-profit builders cannot produce enough housing. Mr. Jester said that the type of financing used to fund the proposed development has one restriction: the retirement income has a cap, and said the age restriction is 62, but that the average age of residents is 70. Regarding the already approved 60 units versus the proposed 120 units, Mr. Jester said that Marlyn could build a 60 unit development, but it would be shelter only. He said that by building 120 units, the development can be a community with a lifestyle, maintenance, and various amenities. Mr. Jester said the proposed rents of \$950 for a one-bedroom and \$1100 for a two-bedroom are 20% below market rate.

Mayor Kirby recognized Brian Staub of 300 Booty Lane, Virginia Beach, Virginia who said he is with Marlyn Development. Mr. Staub showed a PowerPoint presentation and said Marlyn is focused on the growing senior population. He highlighted the amenities in a typical Marlyn complex. The Mayor recognized Dan Garrett of 303 Archer Court, Berryville, who said there is a simple solution to the Marlyn request: either raise the cap or eliminate the cap. He showed a PowerPoint presentation

saying past resistance to additional senior housing was based on emergency services limitations. He added that fee-for-service and the \$150,000 proffer have eliminated the concern about emergency services capacity.

Mayor Kirby recognized Stuart Patz who declined to speak.

The Mayor recognized Francis Nance of 308 35th Street, Virginia Beach, Virginia, who said he was filling in for Andrew Painter who could not attend. He said the Marlyn proposal represents a \$15 million investment in the Town that will result in the highest quality and best amenitized development in the Town, adding that it would be better than market rate townhouses.

Mayor Kirby recognized Jon Erickson of 270 Duke Lane, Bluemont, who said he represented Morris and Ritchie. Mr. Erickson said the Berryville Area Plan was created in 1992 and that much has changed. He said no one can tell him where the cap of 300 units comes from, and the number cap does not make sense. He added the project is a large investment in the community, will provide open space, and will handle its own storm water management as well as assist with storm water features on adjacent properties.

The Mayor recognized Sara Mitchell of 110 Battletown Drive who said she has lived in Berryville for five years and her mother has lived at Greenfield Assisted Living for five years. She said she cherishes the qualities of small towns and has observed Northern Virginia for 17 years. She added that Berryville is at a crossroads, and she asked that the large Marlyn proposal not be approved as it would change Berryville's character and we would lose what a small town is all about. Ms. Mitchell said that new senior housing should complement our uniqueness and size.

Mayor Kirby recognized Frank Lee of 205 Swan Avenue who stated that he is a member of the Berryville Area Development Authority and the Clarke County Planning Commission, but was speaking as an individual. Mr. Lee noted the 60 units of multi-family units currently in the Older Person Residential zone at the Mary Hardesty House and said 60 additional units had been approved but were not built because financing was not available. Regarding Marlyn's proposal for 120 units, he said he questions some of the conclusions in the financial impact report they presented. Mr. Lee said that Emergency Services has said they would need an additional three full-time staff to meet the expected demand. He added the director of Shenandoah Area Agency on Aging spoke to the Berryville Area Development Authority citing a need for access to services and saying transportation for residents of the proposed facility would be a concern.

The Mayor recognized Pat Dickinson of 413 Montgomery Court who said she supports raising the cap. She said she recently had a family member who needed assisted care and she felt fortunate to find a facility. She added that the proposal benefits the Town.

Mayor Kirby recognized Bonnie Echols of 400 Custer Court. Mrs. Echols noted support for the proposed development saying it is the highest and best use of the land in question and would provide a buffer between housing and the commercial development to the east. She then noted there are 27 acres holding four senior housing developments: Mary Hardesty and Greenfield, which are built, and Marlyn and another assisted living facility which are proposed. Mrs. Echols said the total tax revenue to the Town from the four developments is estimated to be \$52,535 while the total for the County would be \$516,129. She added that 45% of those units would come from the proposed Marlyn development.

The Mayor recognized Alton Echols of 400 Custer Court who said the assisted care planned for west of the proposed Marlyn site will be built and will have a higher rate of emergency calls than the proposed Marlyn development. He said that financially, if any type of development other than apartments could have been built, he would have done so by now. He said other developers have been priced out.

Mayor Kirby recognized Wayne Webb of 510 Ewell Court who said he is in favor of the proposed development. He said the area has water and sewer and is where development should go. In reference to emergency services, Mr. Webb said the frequent flier use of emergency services for transport to the hospital has been fixed. He added that the following day was Veterans Day, and said veterans need this type of housing.

The Mayor recognized Carol Brophy of 300 Early Drive who said she supports the amendment to raise the unit cap. She said plans are not written in stone, and she asked that it be modified to support what the majority of residents want and need. She added that we should not be asking how many Berryville residents this will help.

Mayor Kirby recognized Janet Tolin of 311 Archer Court who said she has lived in Berryville for 11 years and likes living here. She said we should be looking to improve quality of life for all members of the community and should help senior citizens. She added that the tax revenue will help all town businesses. Ms. Tolin said the proposal will offer jobs to citizens, and provide funds and grants to emergency services. She said baby boomers are aging and asked that the plan and zoning ordinance be amended to allow for the proposed development.

The Mayor recognized Charles Randy Mullet of 301 Archer Court who said he is not pro-Marlyn, but is pro-lifting of the cap. He said buying the Clarke County High School property saved a lot of housing units from being built, and some of those could be used by the development. He added that the process does not feel right because there is always another hurdle to cross.

Mayor Kirby recognized Robina Rich Bouffault of Boyce who said she is a member of the Clarke County Planning Commission and the Shenandoah Area Agency on Aging (SAAA) Board, and is a former member of the Berryville Area Development Authority (BADA). Ms. Bouffault said the proposed amendment would affect the old, or about to be replaced, Berryville Area Plan theoretically requiring that the entire process be initiated again after the new Plan is approved. She questioned two draft resolutions included in the packet which she said were unilaterally approving the plan amendment, completely by-passing the legally responsible entity, the BADA, and ignoring the County Board of Supervisors, who are requested to hold a public hearing concerning the amendment. She said no other draft options were included in the packet, which might have been either to table the text amendment request until after final approval of the new Berryville Area Plan, as recommended by both the BADA and the Town Planning Commission, or to simply deny it. Ms. Bouffault said a premature one-sided approval would undermine the long-term agreement the town has had with the County Board of Supervisors in the form of the BADA, the legal entity responsible for such plan amendments. She said it would also create a legal precedent that would open the Town Council up to challenges in court every time a developer wanted some text amendment or other change that was not in accordance with the Berryville Area Plan, and which the Town wanted to deny. Ms. Bouffault then referred to a chart showing substantial two-year increases of services provided by the Shenandoah Area Agency on Aging. She said the group is the main provider of senior services to Clarke County, including 30% of the Mary Hardesty House residents, and noted demand has increased significantly. Ms. Bouffault asked that before agreeing to any text amendment concerning seniors, that Council talk to the interested parties providing services to our

seniors such as the SAAA and FISH of Clarke County, who are composed of volunteers serving the elderly of both Mary Hardesty house and the apartments on Josephine Street. She said the SAAA has very tight funding, and FISH is already struggling financially, and neither can handle any major increase in the number of seniors they are expected to service. Ms. Bouffault said presuming that Marlyn will continue with its request once the new Berryville Area Plan has been approved, both the SAAA and FISH should be part of the discussion so that the true financial impact to the community can be evaluated. She added that perhaps Marlyn could help fund the increase in services through mutually agreeable proffers. She concluded by asking Council not to flout its own regulations, and accept the recommendations of the BADA and the Town Planning Commission. She asked the Council to wait and do it the right way.

The Mayor recognized Jean Carrigan of 404 Custer Court who said she supports raising the cap and cited additional revenue to the Town. She said the proposed development is a place that people like herself can go, since some people will not qualify for Mary Hardesty House.

There being no others wishing to speak, the Mayor asked the Clerk to read the second public hearing notice:

Text Amendment to Berryville Zoning Ordinance

Proposed amendment to the Berryville Zoning Ordinance, Section 614.5, in order to increase the number of permitted multifamily units in the OPR Zoning District from 120 to 180 and decreasing the number of single family detached, two-family detached, and single-family attached units from 180 to 120 units

The Mayor asked if comments had been received at the Town Office. The Clerk read a letter from Nada Jill Butler of 123 Swan Avenue as follows: "There being no requirement or need for the Town of Berryville to rush to assist the owner (Alton Echols) of the property for the senior housing in any sale of that property to Marlyn Development Corporation nor to assist the for-profit Marlyn Development Corporation in the pursuit of its business plan and; Changing the Town Plan and zoning ordinances out of order gives the appearance of favoritism to private persons and businesses, places the Town in a position of picking business winners and losers, and sets a precedent for other private entities to expect and demand the same favorable treatment and; Changing Town Plan and zoning ordinances out of order transfers financial risk from the land owner and the developer to the Town in matters of overall planning and taxing of its citizens which may be required to support potential excess development: As has been recommended by the Berryville Area Development Authority and the Berryville Planning Commission, this town resident requests that the Council wait until the proposed Town Plan is adopted to consider any changes to the Town Plan or zoning ordinances."

Mayor Kirby recognized Rick Witta of 412 Custer Court who asked if not this development, then what? He asked how a business owner would feel about 200 new residents who could be customers. He cautioned the Council not to be labeled as obstructionists.

The Mayor recognized Alton Echols of 400 Custer Court. He said the text amendment would allow a development significantly more beneficial than the County proposal of attached town homes. He asked that this area be for seniors. Mr. Echols said the Shenandoah Area Agency on Aging was not serving Mary Hardesty House until they asked to do so. He added that the plan update had been going on for a year, and the five-year review was due in June.

Mayor Kirby recognized Wayne Webb of 510 Ewell Court. Mr. Webb said he had built his home with aging in mind, but hopes to move to the new development at some point.

The Mayor recognized Sharon Strickland of 312 Early Drive. Ms. Strickland identified herself as a veteran having worked for the federal government for many years, and was proud of it. She said of the previous speakers on the proposed development, only three were negative. She said she represents 185 houses in Berryville and a lot of families want this development.

Mayor Kirby recognized Carol Brophy of 300 Early Drive who asked the Council to consider and approve the proposed text amendment. She said seniors make good neighbors, contribute taxes, don't use schools, and do not generally drive at busy times of the day. Ms. Brophy added she does not believe the plan will be updated in two months, and said if enough people are upset, there will be a big turnout on Election Day. She urged the Council not to take the recommendations they had been given, but to do what is right for the whole town and approve the amendment.

The Mayor recognized Wingate MacKay-Smith of White Post, Virginia, who said she is member of the Berryville Area Development Authority and has been involved in the plan update which is a collective process. She said her board has been looking at all the sub-areas, and has meticulously followed the process. She added that emergency services will be maxed out by the development that is on the books currently. Ms. MacKay-Smith questioned the financial impact statement provided by Marlyn saying the stated market area covered three counties with a population of 237,260 when the population of Clarke County is only about 14,000. She added that the type of funding proposed incorporating federal low income standards and tax credits shows that profit is the primary motivation for the project.

Mayor Kirby recognized David Jester of 200 63rd Street, Virginia Beach, Virginia, who said he would like to address some of the concerns that had been raised. He said Marlyn Development wants to build a senior community. He said the increase in the number of seniors in the community is mitigated by full-time staff at the facility. Regarding the concern that Berryville is a small town, Mr. Jester said that a Marlyn project has never had a negative impact on any community, has never caused an increase in EMS staff or vehicles, and will not impact roads and schools.

There being no others wishing to speak, the Mayor asked the Clerk to read the third public hearing notice:

Text Amendment to Berryville Zoning Ordinance

Proposed amendment to the Berryville Zoning Ordinance, Section 703.6(b)viii, in order to require review by the Berryville Architectural Review Board of demolition, building relocation, and structures erected by the rear building line of the main residential building if visible from the public right of way for properties located in the local historic district

No one wished to speak on the topic, and no comments were received by the Town Office.

Upon motion of Council member Shaffer, and seconded by Council member Daniel, the public hearing was closed on the following vote:

Aye – Wilson Kirby
Harry Lee Arnold, Jr.
Mary Daniel
Allen Kitselman

Douglas Shaffer

Nay – None

Absent – David Tollett

4. Approval of Minutes

Upon motion of Recorder Arnold, seconded by council member Kitselman, the minutes of the October 13, 2015 meeting were approved as follows:

Aye – Wilson Kirby
Harry Lee Arnold, Jr.
Mary Daniel
Allen Kitselman
Douglas Shaffer

Nay – None

Absent – David Tollett

5. Citizens' Forum

Mayor Kirby recognized Kenneth Liggins of 206 Josephine Street who said he was in favor of the proposed Marlyn project. He said he is president of the Josephine Improvement Association, and presented an invoice to the Town for infrastructure which he says was built by the Josephine Improvement Association and was taken by the Town when he claims the Town illegally annexed Josephine Street. He submitted copies of an invoice in the amount of \$3,277,497.

The Mayor recognized Alton Echols of 400 Custer Court who thanked the public works committee for help in getting Chamberlain Street into the Town maintenance system. He also said he was appearing on behalf of a property owner who is interested in the raising of the convenience store size in order to be competitive.

6. Report of Wilson Kirby, Mayor

Mayor Kirby said the Veterans Day Program would be held the following day with Representative Barbara Comstock attending as the guest speaker.

7. Report of Christy Dunkle, Asst. Town Manager for Community Development

A. A discussion of the first and second public hearing topics was held. Mayor Kirby said that he does not agree with the recommendations from the BADA and the Planning Commission to hold off action, and asked for comments. Council member Daniel said she had asked Ms. Dunkle for procedural information, and said the question is the number units, with the choice being to move forward now or wait for the plan update process to be completed. Ms. Dunkle is anticipating that a public hearing on the draft area plan update will be held in January.

Mayor Kirby said his concern is that several years ago a plan was approved, but the owner did not get financing. He said this is an advantage for the Town, and an opportunity to benefit from additional water and sewer customers.

Council member Kitselman said that circumventing the process to benefit a private developer is wrong. He said that he has chaired the BADA through the process and can't vote to go against that body's recommendation.

Recorder Arnold said he is comfortable with the BADA having members from the Town and County, and is also comfortable with the Town Planning Commission, and agrees with their recommendation on the Marlyn issue.

Council member Daniel asked how it circumvents the process. Council member Kitselman said a private developer is driving the amendment request. Council member Daniel asked Ms. Dunkle to review the changes on the draft Berryville Area Plan. Ms. Dunkle read Section 6A of the draft Berryville Area Plan.

Council member Daniel asked if there were any other site plan applications pending the outcome of this request, and Ms. Dunkle said there is a special use permit application pending the outcome of this request.

The Mayor asked for the Council's pleasure. Council member Daniel noted that Council member Tollett was absent.

B. The mayor asked for any discussion on the third public hearing item. **Recorder Arnold moved that the Council of the Town of Berryville adopt the attached text amendment to Article VII, Section 703.6(b)viii of the Berryville Zoning ordinance in order to require review of demolition, building relocation, and new structures behind the rear building line if visible from the public right of way of parcel located in the Berryville historic District by the Architectural Review Board. Council member Kitselman seconded the motion which carried as follows:**

Aye – Wilson Kirby
Harry Lee Arnold, Jr.
Mary Daniel
Allen Kitselman
Douglas Shaffer

Nay – None

Absent – David Tollett

AN ORDINANCE AMENDING
ARTICLE VII, SECTION 703.6(b)viii
OF THE TOWN OF BERRYVILLE ZONING ORDINANCE

BE IT ORDAINED, by the Council of the Town of Berryville, that Article VII, Historic District Regulations, Section 703.6(b)viii, of the Town of Berryville Zoning Ordinance shall be amended as follows:

ARTICLE VII

703.4 DUTIES OF THE BERRYVILLE ARCHITECTURAL REVIEW BOARD

703.6(b)viii Demolition, relocation, or erection of structures accessory to residences, where the accessory structure lies entirely behind the rear building line of the main residential building if not visible from a public right of way.

SIGNED: _____
Wilson Kirby, Mayor

ATTEST: _____
Harry Lee Arnold, Jr.

C. Ms. Dunkle said Burwell Court has been completed and is eligible for inclusion in the VDOT Urban Highway System and Maintenance Inventory. The Mayor asked Ms. Dunkle to read the suggested resolution. **Recorder Arnold moved that the Council of the Town of Berryville approve the attached resolution requesting VDOT acceptance of Burwell Court for inclusion in the VDOT Urban Highway System and Maintenance Inventory in order for the Town to receive municipal assistance maintenance funding. Council member Kitselman seconded the motion which carried as follows:**

Aye – Wilson Kirby
Harry Lee Arnold, Jr.
Mary Daniel
Allen Kitselman
Douglas Shaffer

Nay – None

Absent – David Tollett

RESOLUTION OF GOVERNING BODY OF
The Town of Berryville

The governing body of the Town of Berryville, Virginia, consisting of 6 members, in a duly called meeting held on the 10th day of November, 2015 at which a quorum was present, RESOLVED as follows:

A RESOLUTION: REQUESTING ACCEPTANCE OF BURWELL COURT INTO THE VIRGINIA DEPARTMENT OF TRANSPORTATION (VDOT) URBAN HIGHWAY SYSTEM AND MAINTENANCE INVENTORY

WHEREAS, the street referenced above has been completed and is now eligible for VDOT maintenance funding; and

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Berryville, Virginia hereby requests VDOT to accept the street referenced above as identified on the attached U-1 form and accompanying documentation into the Urban Highway System and Maintenance Inventory for maintenance payments in accordance with § 33.1-41.1 of the Code of Virginia, 1950 as amended.

Passed this 10th day of November, 2015.

THE TOWN OF BERRYVILLE

Attest: _____

By: Wilson L. Kirby, Mayor

CERTIFICATION

I hereby certify that the above resolution was duly adopted by the Council of the Town of Berryville, in a duly assembled meeting on the 10th day of November, 2015.

Harry Lee Arnold, Jr., Recorder

D. Ms. Dunkle said the next item regarded a Town request for revenue sharing from VDOT. Mr. Dalton said that concern had been expressed about pedestrian safety on Buckmarsh Street, especially where it intersects Swan Avenue. He said a meeting had been held with VDOT personnel where a blinking signal, activated by a pedestrian, was discussed because of the number of pedestrians mainly from the middle school. Mr. Dalton said that the Town could be eligible for 50-50 revenue sharing from the state for such a project, and the deadline for applying was October 30. He said with the Mayor's approval, staff did make application in order to meet the deadline. Mr. Dalton said he is not in a position to say this is the solution, but he recommends being in the process for funding while the matter is being studied. He added that there has been a preliminary discussion with the schools to address partnering with them, and if all goes well then the intersection of Main Street and Lincoln Avenue could be similarly discussed as an area of concern to the schools.

Ms. Dunkle said the funding proposal is for \$13,500 each to come from the Town and the State. Mr. Dalton said the right-of-way and easements will be reviewed. He added that if the project has to be put out for bid, it will be more costly and that cost is reflected in the engineering budget.

Council member Shaffer asked about the life expectancy of the system and Mr. Dalton said he did not have enough information yet, and would defer to the engineers to answer that question. Mayor Kirby asked about the percentage of the \$13,500 that would come from the Town and the County schools. Mr. Dalton said it was very early in the discussion, and that the percentage may be different for Swan Avenue/Rt. 340 than for Lincoln Avenue/Main Street. He added that he hopes the Town does not have to handle maintenance when the schools already maintain a similar system.

The Mayor asked if Council had any interest in pursuing the revenue sharing request. **Council member Daniel moved that the Council of the Town of Berryville approve the attached resolution requesting VDOT Revenue Sharing funds in order to install a flashing pedestrian signal at the intersection of South Buckmarsh Street and Swan Avenue. Council member Shaffer seconded the motion which carried as follows:**

Aye – Wilson Kirby
Harry Lee Arnold, Jr.
Mary Daniel
Allen Kitselman
Douglas Shaffer

Nay – None

Absent – David Tollett

RESOLUTION OF TOWN OF BERRYVILLE

At a regularly scheduled meeting of the Town of Berryville Town Council on November 10, 2015, on a motion by Mary Daniel, seconded by Doug Shaffer, the following resolution was adopted by a vote of 5 (yay) to 0 (nay) to 1 (absent):

WHEREAS, the Council of the Town of Berryville desires to submit an application for an allocation of funds of up to \$13,500 through the Virginia Department of Transportation Fiscal Year 2016-17, Revenue Sharing Program; and,

WHEREAS, \$13,500 of these funds are requested to fund a pedestrian activated flashing crossing light on South Buckmarsh Street at the intersection of Swan Avenue; and,

NOW, THEREFORE, BE IT RESOLVED THAT: The Council of the Town of Berryville hereby supports this application for an allocation of \$13,500 through the Virginia Department of Transportation Revenue Sharing Program

BE IT FURTHER RESOLVED THAT the Council of the Town of Berryville hereby grants authority for the Town Manager to execute project administration agreements for any approved revenue sharing projects.

ADOPTED this 10th day of November, 2015

A COPY ATTEST

Harry Lee Arnold, Jr., Recorder

Mr. Dalton said that VDOT and the State Police had been planning to be in Town addressing truck traffic concerns on Buckmarsh Street, but he has not heard from them yet. He added that the Town is planning another traffic study on Buckmarsh Street, and was waiting for the new striping to be complete, which has just happened.

8. Report of Keith Dalton, Town Manager

Mr. Dalton said the Planning Commission is moving forward with blight abatement at 203 Moore Drive which suffered a fire last spring and is now owned by FNMA. He stated that the property owner failed to respond to his notice; therefore he has developed a blight abatement plan that will be submitted to

the Planning Commission and Town Council. He added the Planning Commission will have a hearing at their December meeting. Mr. Dalton said he hopes that FNMA will come forward and address the blighted property. There was discussion of requesting help from elected officials in addressing the issue. **Council member Daniel moved that the Council of the Town of Berryville authorize the Mayor to write to federal elected officials and other parties who might assist with blight abatement at 203 Moore Drive. Recorder Arnold seconded the motion which carries as follows:**

Aye – Wilson Kirby
Harry Lee Arnold, Jr.
Mary Daniel
Allen Kitselman
Douglas Shaffer

Nay – None

Absent – David Tollett

By consensus, the Council set a public hearing on the blight abatement plan for the January Town Council meeting date.

9. Report of H. Allen Kitselman, III – Berryville Area Development Authority Liaison

Council member Kitselman said the BADA will meet on November 18 to review comments on the draft Berryville Area Plan update.

10. Report of Harry Lee Arnold, Jr., - Chair, Budget and Finance Committee

Recorder Arnold had nothing to report.

11. Report of H. Allen Kitselman, III - Chair, Community Improvements Committee

Council member Kitselman noted there have been discussions with staff at Virginia Logos and there may be an option to have local staff install tourist oriented directional signs per VDOT's specifications. A discussion of the budgeted \$10,000 for wayfinding signage and a possible additional \$3000 to the tourist oriented directional signage budget led to a consensus that the additional spending will be recommended once final numbers are available. Council member Kitselman said staff has drafted a letter to state delegates regarding the cost of the signage packages because the process is onerously expensive. He added he will forward the draft to Council members when it is completed.

12. Report of Douglas A. Shaffer – Planning Commission Liaison

Council member Shaffer said the Commission has discussed the text amendment and the convenience store square footage regulations and will vote on the issues at the next meeting.

13. Report of Mary L. C. Daniel – Chair Police and Security Committee

Council member Daniel said the traffic issues discussion will be renewed once the next traffic study is complete.

14. Report of Wilson Kirby – Chair, Streets and Utilities Committee

Mayor Kirby had nothing to report.

15. Report of Harry Lee Arnold, Jr. – Chair, Personnel Committee

Recorder Arnold said with several vacancies, there will be appointments made shortly.

16. Adjourn

There being no other business, upon motion of Council member Shaffer, seconded by Council member Daniel, the meeting was adjourned at 10:00 p.m.

Wilson Kirby, Mayor

Harry Lee Arnold, Jr., Recorder

Attachment 2

Planning and Community Development

Action Items

Text Amendment to the Berryville Area Plan

Text Amendment to the Berryville Zoning Ordinance Section 614.5

Set Public Hearing – Text Amendment to Article VI Section

Set Public Hearing – Text Amendment to Article V Section

December 8, 2015

Planning Commission

The Planning Commission held a meeting on Tuesday, November 17, 2015. They continued discussing the public hearing held at their October meeting concerning a text amendment to the BC zoning district. The applicant has requested an increase in the size of convenience stores as an accessory use from 2,000 square feet to 5,500 square feet. A full report is included in this packet. They set a public hearing for the Spot Blight Abatement Plan for 203 Moore Drive for their next meeting. The December meeting was moved up by one week due to the Christmas holiday and will be held on Tuesday, December 15, 2015 at 7:30pm.

Berryville Area Development Authority

The BADA held a meeting on Wednesday, October 28, 2015. The input session, held from 5:00pm to 7:00pm, was an informal meeting to present the updated plan to the public for comment by BADA members and staff. Their next meeting is scheduled for Wednesday, November 18, 2015 at 7:00pm.

Architectural Review Board

The Architectural Review Board held a meeting on Wednesday, December 2, 2015. They reviewed the following sign:

Jay Hillerson, Agent, is requesting a Certificate of Appropriateness in order to replace a freestanding sign adding an additional panel at the property located at 600 East Main Street identified as Tax Map Parcel number 14A3-((A))-28, zoned C-1 Commercial. ARB members discussed options with the applicant who will resubmit for final approval.

After their meeting they judged the Holiday Parking Meter Contest for Berryville Main Street. Their next meeting is scheduled for Wednesday, January 6, 2016 at 12:30pm

Board of Zoning Appeals

The BZA did not hold a meeting since the last Council meeting.

BERRYVILLE TOWN COUNCIL
Set Public Hearing – Text Amendment to Article VI
December 8, 2015

A.C. Echols, Agent, is requesting a text amendment to Article VI, Section 610.2 in order to increase the square footage of a convenience store as an accessory use to automobile service and repair establishments (including gas stations) from 2,000 square feet to 5,500 square feet in the Business Commercial (BC) zoning district. TA 03-15

A.C. Echols requested a text amendment to Section 610.2 of the Berryville Zoning Ordinance in order to increase the square footage of a convenience store as an accessory use in the BC Business Commercial Zoning District. The Planning Commission initiated the request and recommends that Town Council consider increasing the square footage to 3,000 square feet.

The Berryville Planning Commission held a public hearing on this matter at their October 27, 2015 meeting. The chose to continue the discussion to their November meeting.

Topics of discussion include:

- The consensus was that 5,500 square feet was excessive in this context and due to the convenience store being an accessory use to automobile service and repair establishments including gas stations.
- There was a discussion about whether the convenience store could be a principal use (as opposed to an accessory use) in the BC Business Commercial zoning district. Because land use policies in the Berryville Area identify the C General Commercial zoning district as the center of retail commerce in the Berryville Area, 5,500 square feet of retail seemed superfluous.
- The Planning Commission’s recommendation is to increase the square footage from 2,000 square feet to 3,000 square feet.

General Information

Mr. Echols is requesting an increase in the square footage of convenience stores as an accessory structure to auto service and repair establishments (including gas stations) in the BC zoning district from 2,000 to 5,500 square feet. He has indicated he would like to develop a gas station and convenience store on his property on McNeil Street and that 2,000 square feet is insufficient for his needs.

The Business Commercial (BC) zoning district was established to provide locations for a variety of commercial uses dependent on vehicular access. The district also calls for “innovative design for office, employment and retail-related development” and is currently located within Annexation Area B in the northwestern quadrant of the Town.

A number of uses regulated under Section 610.2 of the Berryville Zoning Ordinance are permitted by right including banks, automobile related businesses (e.g. car washes, auto sales, and auto service and repair), hotels, restaurants (with or without drive through

facilities), medical care facilities, and ancillary retail up to 1,500 square feet. Uses requiring a Special Use Permit include conference centers, pharmaceutical centers and theaters.

Convenience stores are identified as accessory uses in the BC Business Commercial zoning district (Section 610.2) of the Berryville Zoning Ordinance. An accessory use is defined in Article I of the Zoning Ordinance as follows:

A use of a building, lot, or portion thereof, which is customarily incidental and subordinate to the principal use of the main building or the lot.

In this case, the principal use of the main building or the lot is the automobile service and repair establishment including a gas station.

“Use” is also defined in Article I of the Zoning Ordinance and reads as follows:

The purpose of activity for which land or buildings thereon are designed or arranged, or for which land or buildings are occupied or maintained, and shall include any manner of performance of such activity with respect to the performance standards of this Ordinance.

Comparative Sizes

Staff compiled information concerning the sizes of existing convenience stores in the area as follows:

Circle K (Berryville) – 2,500 square feet

Sheetz (Waterloo) – 5,561 square feet

340 Depot (north of Berryville) – 5,500 square feet

7-11 (7 Bypass at Triple J) – 3,000 square feet

7-11 (7 Bypass at Kimble Road) – 1,034 square feet

7-11 (Double Toll Gate) – 2,940 square feet

Parking Requirements

Section 305 of the Berryville Zoning Ordinance regulates off-street parking. Per 305.20, convenience stores require two (2) standing spaces for each gas pump plus one (1) parking space for each 150 square feet of floor area. As convenience stores in the BC district are an accessory use to automobile service and repair establishments, two (2) parking spaces are required for each repair bay plus one (1) for a service vehicle plus one (1) per employee should these activities be a part of the site development.

Staff Comments

The applicant has identified a specific site on his application however this amendment would affect the entirety of the Business Commercial (BC) zoning district.

Staff recommends allowing a maximum of 3,000 square feet in gross floor area in the BC district. This would reflect the size of the building footprint without exceptions for storage. Convenience stores located in more rural locations may require larger buildings and carry additional items. Staff feels that a location within the Town limits would not require more than 3,000 square feet.

As this language is anticipated to be in both the County and Town zoning ordinances, input was requested on this matter from County staff.

Convenience Store Information

The National Association of Convenience Stores (NACS) is the business association representing convenience store and fuel retailing. The source of the following information is the NACS web site (<http://www.nacsonline.com/Pages/default.aspx>).

In the not too distant past, the square footage of convenience stores was consistently about 2,400 square feet. Today, companies are featuring a wider offering of products and services including food service, pharmacies, and other amenities. The fastest growing segments of the convenience store market are considered by many to be “nontraditional” stores which are either larger or smaller than the previous 2,400 square foot model.

These changes in store formats have a number of implications including competitive impact and marketing and the effectiveness in a wider market area; design of facilities by equipment and system vendors whose equipment and designs need to fit within a larger variety of store formats; and of course local governmental agencies who need to understand the various formats and implications including zoning regulations. There are also a number of state and federal agencies whose regulations affect these facilities including tobacco and fuel sales and their respective regulation and taxes; food service; and lottery sales.

NACS has identified six convenience store formats as follows. The narrative comes directly from the association’s web site.

- **Kiosk**

This format is less than 800 square feet and is intended to provide some additional revenue beyond gasoline sales. Gasoline is always the focus of this operation with the owner usually being an oil company or petroleum marketer. The store sells only the fast-moving items found in traditional convenience stores (tobacco, beverages, snacks, and confectioneries). Grocery items are conspicuously absent, as is any sort of foodservice. Store sales may be only about ten percent of revenues in such locations. Parking is usually only at the pumps. Hours vary widely depending on the location and the inclinations of the owner. Typical customers are transients and locals stopping in to buy gasoline.

- **Mini Convenience Store**

This store format, usually 800 to 1,200 square feet in size is extremely popular with the oil companies and the emphasis is on gasoline sales. However, in such locations, the owners view store sales as an important part of the revenue and margin picture. Grocery selection is usually very thin and foodservice beyond prepared sandwiches. There usually is not any parking other than that at the pumps, although some locations do have modest striped parking. Open hours usually range from 18 to 24 hours. Customers are usually people buying gasoline. However, there are stores of this size in urban areas which may or may not sell gasoline.

- **Limited Selection Convenience Store**
 These stores, which range from 1,500 to 2,200 square feet, are becoming more numerous. They are often affiliated with oil companies and are in the size range of a converted two-bay service station. Both gasoline and store sales are generally important parts of profitability. They differ from the “mini convenience store” in a broader product mix and grocery offering (although still somewhat limited by traditional convenience store standards). Also, simple foodservice (hot dogs, nachos, popcorn, etc.) may be offered. Although gasoline buyers are normally still the main part of the customer base, traditional convenience store patrons are important. Striped parking and extended hours are common.

- **Traditional Convenience Store**
 Most of the original convenience stores fall into this category. They are about 2,400 to 2,500 square feet in size and offer a product mix which includes dairy, bakery, snack foods, beverages, tobacco, grocery, health and beauty aids, confectionery, and perhaps prepared foods to go, fresh or frozen meats, gasoline, various services, and limited produce items. Most stores of this size have 6 to 12 striped parking spaces or some form of convenient pedestrian access. Hours are extended compared to average retailers with a large percentage open 24 hours per day. Such operations are normally owned by convenience store chains, but oil companies have also built or acquired stores of this size.

- **Expanded Convenience Store**
 Growth is occurring in the number of stores in the 2,800 to 3,600 square feet range. Such stores can accommodate more shelving for additional grocery products or room for significant fast food operations and seating. Stores using the space for more grocery items are taking advantage of the niche which has developed as supermarkets increasingly move above the 40,000 square foot range. A few large chains are using this “superette” approach. A greater percentage are using the space to take advantage of the high profit margins in fast foods. As the number of smaller operations proliferates (largely as a result of the oil companies), many convenience store chains apparently view the move towards increased fast foods as essential. In terms of other products and services, such stores usually carry the traditional convenience store items. Parking is important with most having about 10 to 20 marked spaces. Hours are extended. Such operations not only attract the typical convenience store customer but also more families, women, and senior citizens.

- **Hyper Convenience Store**
 These very large stores (4,000 to 5,000 square feet) usually offer an array of products and services arranged in departments. For example, such stores may offer variations such as a bakery, a sit-down restaurant area, or a pharmacy. Many of these locations do sell gasoline. The number of employees per shift can be large, particularly if a small restaurant is present. The number of parking spaces is substantial, especially since the amount of time the average customer spends in such an establishment can be significant. Hours are extended. Here again, as in

the case of the Expanded Convenience Store, families and senior citizens as well as traditional convenience store customers are patrons. In some locations, such stores are mini-truck stops which obviously affects product mix and the customer base.

General Information

According to NACS Constitution and Bylaws, the NACS Definition of a Convenience Store is:

“...a retail business with primary emphasis placed on providing the public a convenient location to quickly purchase from a wide array of consumable products (predominantly food or food and gasoline) and services.”

While such operating features are not a required condition of membership, convenience stores have the following characteristics:

- While building size may vary significantly, typically the size will be less than 5,000 square feet;
- Off-street parking and/or convenient pedestrian access;
- Extended hours of operation with many open 24 hours, seven days a week;
- Convenience stores stock at least 500 SKUs; and
- Product mix includes grocery type items, and also includes items from the following groups: beverages, snacks (including confectionery) and tobacco.

Convenience Store Fact Sheet

The NACS web site (<http://www.nacsonline.com/Pages/default.aspx>) offers additional information should you wish to research convenience stores further. The following statistics include data from the web site concerning national trends in convenience store locations and design.

- The U.S. convenience store count increased to a record of 152,794 stores as of December 31, 2014, a nearly 1% increase (1,512 stores) from the year prior, according to the 2015 NACS/Nielsen Convenience Industry Store Count.
- The link between fuels and convenience retailing continues to grow. Overall, 83.5% of convenience stores (127,588 total) sell motor fuels, a .7% increase (930 stores) over 2013. The growth of convenience stores selling motor fuels is double the overall growth in the industry, as fuel retailers add convenience operations and convenience retailers add fueling operations.
- The convenience retailing industry continues to be dominated by single-store operators, which account for 63% of all convenience stores (96,318 stores total).

U.S. Convenience Stores (as of 12/31/14)

- 2015 — 152,794 (+1%)
- 2014 — 151,282 (+1.4%)
- 2013 — 149,220 (+0.7%)
- 2012 — 148,126 (+1.2%)

- 2011 — 146,341 (+1.2%)
- 2010 — 144,541 (-0.2%)
- 2009 — 144,875 (-1.0%)
- 2008 — 146,294 (+0.8%)
- 2007 — 145,119 (+3.2%)
- 2006 — 140,655 (+1.8%)
- 2005 — 138,205 (+5.8%)
- 2004 — 130,659 (-1.3%)
- 2003 — 132,424 (+6.4%)

Additional Highlights

- The U.S. population on December 31, 2014, was an estimated 320.1 million, according to the U.S. Census Bureau. That means there is one convenience store for approximately every 2,095 residents.
- The convenience retailing industry has roughly doubled in size over the last three decades. At year-end 1983, the store count was 80,900 stores, at year-end 1993 the store count was 98,400 stores and at year-end 2003 the store count was 132,659 stores.

Note: Nielsen calculations are based in part on data reported by Nielsen for the period ending December 31, 2014, through its TDLinx service for retail channels. Nielsen determines its convenience store count using the store definition that requires stores to include a broad merchandise mix, extended hours of operation and a minimum of 500 stock-keeping units (SKUs), among other factors.

The following items are included in this packet:

- Land Development Application;
- Applicant's modifications to Section 610.2 of the Berryville Zoning Ordinance;
- The full Section 610 Business Commercial of the Berryville Zoning Ordinance with Planning Commission recommendation identified in red; and
- Town of Berryville Zoning Map identifying the BC zoning district location.

Recommendation

Set a public hearing for the January 12, 2016 meeting.

LAND DEVELOPMENT APPLICATION TOWN OF BERRYVILLE

(Please print or type)

Current Property Owner LAND CONTRACT PURCHASER DING WANG/HOUSE OF LORDS, INC.

Owner's Address 400 CUSTER CT. BERRYVILLE, VIRGINIA 22611

Phone 703-777-4100

Agent (Contact Person) A. C. ECHOLS, JR

Agent's Address 400 CUSTER CT. BERRYVILLE, VA. 22611

Phone 540-955-2618

Check Appropriate Request:

Subdivision - creating more than 2 lots

Minor Subdivision - single lot divided into 2 lots

Boundary Line Adjustment

Site Plan

Rezoning

X Text Amendment: X Zoning or Subdivision Ordinance

ARB Certificate of Appropriateness

Other: SECTION 610.2 - Permitted Uses: BUSINESS COMMERCIAL (BC) DISTRICT:

Section 610.2 Automobile service and repair establishments (including gas stations)

Complete As Applicable: with convenience store (not occupying more than 5500 square feet of gross floor area, including storage) as an accessory use, provided that all vehicle repair takes place in a fully enclosed building.

Tax Map & Parcel Number(s): Tax Map 14A5-251E

Size of Project Site: 7 Acre Total 36,000 ft. site

Proposed # of Lots: Existing Zoning B-C

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SEP 17 2015

Owner or Agent: The information provided is accurate to the best of my knowledge. I understand that the Town may deny, approve, or conditionally approve the request for which I am applying. I certify that all property corners have been clearly staked and flagged.

Signature: A.C. Echols, Jr. Date: 9/9/15

Owner: I have read this completed application, understand its intent, and freely consent to its filing. Furthermore, I grant permission to the Town Planning Department and other government agents to enter the property and make such investigations and tests, as they deem necessary. I acknowledge that in accordance with Article X of the Subdivision Ordinance I am responsible for costs incurred for review of subdivision and/or development plans by the Town's engineer and that any other required tests or studies will be carried out at owner/agent expense

Signature: HOUSE OF LORDS, INC. by A.C. Echols, Jr. President Date: 9/9/15

OFFICE USE ONLY

Public Hearing Required? Dates Advertised

Adjoining Property Owners Notified?

Action Taken:

(3/92) SECTION 610 BC BUSINESS COMMERCIAL

610.1 PURPOSE AND INTENT

The Business Commercial (BC) District is established to provide locations for highway commercial uses (such as retail uses dependent on automobile access, restaurants, motels), offices, and employment-related businesses within the precincts of the Berryville Area Plan. The BC District is further established to encourage innovative design of office, employment and retail-related development; and to these ends, development under this district is permitted only in accordance with a site plan.

The application of this district is intended for newly developing locations in the Berryville Area where office, retail, and similar activities are the principal use. High-quality business park and commercial site design principles are to be incorporated into the BC District uses. Highway-oriented commercial uses shall be located where they are pre-planned and creatively grouped in an efficient manner meeting the comprehensive planning objectives.

The specific uses permitted within the BC District must be in harmony with the cultural and environmental character of the Berryville Area. No use should be permitted which might be harmful to the adjoining land uses and the residential ambience of the community at large. Adequate transportation and site planning of all land uses shall have the goal of minimizing traffic conflicts with all other activities within the Berryville Area.

610.2 PERMITTED USES

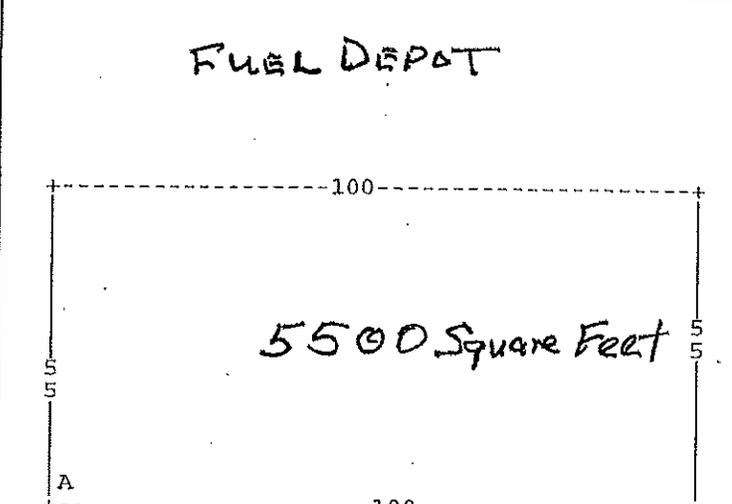
- (a) Antique sales (indoor only)
- (b) Automobile service and repair establishments (including gas stations), with a convenience store (not occupying more than 2,000 square feet of gross floor area, ⁵⁵⁰⁰ excluding storage) as an accessory use, provided that all vehicle repair takes place in a fully enclosed building. *including*
- (c) Automobile sales
- (d) Broadcast stations, studios, and offices for radio and television
- (e) Car washes
- (f) Churches and other places of worship
- (g) Clubs or Lodges (including civic and public benefit organizations)
- (h) Day care centers
- (i) Financial institutions (with or without drive-through windows)
- (j) Funeral homes
- (k) Government and other public buildings (including police, fire, library, museum, and postal facilities; excluding retail and service uses except as provided in Section 610.2(u).
- (l) Grocery store (with at least 25,000 square feet gross floor area)
- (m) Hotels and motels
- (n) Laundromats
- (o) Medical care facilities, licensed
- (p) Offices, business or professional
- (q) Plant nurseries
- (r) Public utilities and related easements
- (s) Recreation facilities (indoor or outdoor), parks, playgrounds, fairgrounds, etc.

STONEWALL TECHNOLOGIES, INC FIELD DATA SHEET CLARKE CO 090915

Map No 8 1 2 D & B MANAGEMENT SERVICES INC Dwl.No. 1
 Acct.No. 836 18340 MID OCEAN PL Occupancy COMMERCIAL
 R# 717 No.Story 1.00
 Acreage 6.00 Class 4 LEESBURG VA20176 Age NEW 2014
 ON RT 340 PRICE 600000- 1DT 1/17/2012 Cond G
 LOTS 2 & 3 DB-D 542 427 WB- Class B
 340 FUEL DEPOT INSTRUMENT- 0000 0000000 0000 Zoning AOC
 BATTLE TOWN AX No.Units APPR
 Date Insp 3/25/2009 CW/LC
 At Home NOT Home
 Neighborhood 1 S/D
 Exterior Interior
 Found CONCRETE No.Rms. 7 Floors TILE
 Wall BRICK CONC Bl.Rms. 0 AC:Y Heat HT. PUMP Basm' NONE %Fin. %
 Roof Typ GABLE No.Baths 0 Fireplace Garag NONE No.Cars Car Port NONE No.Cars
 Roofing METAL No.1/2 Bths 2 Gas FPS Flue Blt.In Garage No.Cars FUEL; ELECTRIC

OTHER IMPROVEMENTS					OTDES-				
Description	Size	End	Rate	ppr%	Total Value	W	PUBLIC	Water WELL	Gas N
CANOPY	98.0X	21.0	20.00		41160	ase PAVED	Sewer	SEPTIC	Elect. Y
PAVEMENT	54	000.0S	G 2.00		108000	erf.ON	UTILITY VALUE-		
10000 GAL TANK	1	000.0S	G 2.00		2000	Char.ROLLING/SLOPING			
20000 GAL TANK	2	000.0S	G 2.00		4000	LAND USE & VALUE			
20000 GAL TANK	2	000.0S	G 2.00		4000	TYPE	No. Acres	Price	Adj Value
						COMMERCIAL	1.000	100000	100000
						OTHER ACR	5.000	10000	50000

MIN UND DEV- MIN NOT UND DEV- Front Depth Area Unit Rate Value



Structural Element	Material
Bldg 5500.0*	.00
Basm't	
Fin.Basm't	
Plumb.	
Heat	
A/C	
F.P.	
Flue	
Blt.In	
Additions	S/W/L
A-C10 5500.0*	85.00 467500
C- FACT 5 DEP	23375

Seq	Type	Str	Description	Area
A	C10	C1	N55.0E100.0S55.0W100.0	5500
Subtotal 467500				
L 300000				
B 269600 Factor 490875				
T 569600 Depr. Enc% 40.45				
NB% Total Dwl. 490875				
Other Imp. 159160				
%COMPL Total Impr 650000				
Land 150000				
Total Values 800000				

3355 LORD FAIRFAX HWY GRANTOR: GILL ENTERPRISES LLC

Prior Ownership:
 GILL ENTERPRISES LLC 11/06/2003 450,000
 LAIL GURCHARAN S & GURDEEP K 1/04/1999 250,000

800,000-Bldg
 400,000-land
 400,000-Total

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(3/92) SECTION 610 BC BUSINESS COMMERCIAL

610.1 PURPOSE AND INTENT

The Business Commercial (BC) District is established to provide locations for highway commercial uses (such as retail uses dependent on automobile access, restaurants, motels), offices, and employment-related businesses within the precincts of the Berryville Area Plan. The BC District is further established to encourage innovative design of office, employment and retail-related development; and to these ends, development under this district is permitted only in accordance with a site plan.

The application of this district is intended for newly developing locations in the Berryville Area where office, retail, and similar activities are the principal use. High-quality business park and commercial site design principles are to be incorporated into the BC District uses. Highway-oriented commercial uses shall be located where they are pre-planned and creatively grouped in an efficient manner meeting the comprehensive planning objectives.

The specific uses permitted within the BC District must be in harmony with the cultural and environmental character of the Berryville Area. No use should be permitted which might be harmful to the adjoining land uses and the residential ambience of the community at large. Adequate transportation and site planning of all land uses shall have the goal of minimizing traffic conflicts with all other activities within the Berryville Area.

610.2 PERMITTED USES

- (a) Antique sales (indoor only)
- (b) Automobile service and repair establishments (including gas stations), with a convenience store (not occupying more than ~~2,000~~ **3,000** square feet of gross floor area, ~~excluding storage~~) as an accessory use, provided that all vehicle repair takes place in a fully enclosed building.
- (c) Automobile sales
- (d) Broadcast stations, studios, and offices for radio and television
- (e) Car washes
- (f) Churches and other places of worship
- (g) Clubs or Lodges (including civic and public benefit organizations)
- (h) Day care centers
- (i) Financial institutions (with or without drive-through windows)
- (j) Funeral homes
- (k) Government and other public buildings (including police, fire, library, museum, and postal facilities; excluding retail and service uses except as provided in Section 610.2(u))
- (l) Grocery store (with at least 25,000 square feet gross floor area)
- (m) Hotels and motels
- (n) Laundromats
- (o) Medical care facilities, licensed
- (p) Offices, business or professional
- (q) Plant nurseries
- (r) Public utilities and related easements
- (s) Recreation facilities (indoor or outdoor), parks, playgrounds, fairgrounds, etc.

Section 610 Business Commercial (BC) District

- (t) Restaurants with or without drive-through
- (u) Retail stores and shops as an accessory use to the primary permitted use on the parcel, provided:
 - (1) the retail store or shop is directly related, ancillary, subordinate, and incidental to the primary permitted use;
 - (2) the gross floor area of the retail store or shop (excluding storage) does not exceed ten (10) percent of the gross floor area of the primary permitted use;
 - (3) the gross floor area of the retail store or shop (excluding storage) does not occupy more than 1,500 square feet; and
 - (4) the gross floor area for storage related to the retail store or shop does not exceed 500 square feet. **(8/01)**
- (v) Schools, public and private
- (w) Veterinary hospitals (small animals), exclusive of outdoor boarding kennels

610.3 SPECIAL PERMIT USES

- (a) Conference centers
- (b) Pharmaceutical centers **(5/06)**
- (c) Scientific research and development establishments
- (d) Theatres, indoor

610.4 MAXIMUM DENSITY

The maximum density shall not exceed a floor area ratio (FAR) of .30, based on the net developable area of the lot.

610.5 MINIMUM DISTRICT SIZE

Minimum District size is four (4) acres.

610.6 LOT REQUIREMENTS

- (a) Minimum lot area: 20,000 square feet
- (b) Minimum lot width: 100 feet

610.7 BUILDING HEIGHT AND SETBACK REGULATIONS

- (a) Maximum building height: 40 feet
- (b) Minimum yard requirements:
 - (1) Front yard: 40 feet
 - (2) Side yard: 25 feet (40 feet on street side corner lot)
 - (3) Rear yard: 25 feet
 - (4) Where a lot is contiguous to property located in any residential district, all buildings shall have a minimum setback of 40 feet from common property lines.

610.8 OPEN SPACE

- (a) A landscape and buffer plan shall be submitted with any application for site plan approval.
- (b) Twenty (20) percent of the gross site area shall be landscaped open space.

610.9 ADDITIONAL REGULATIONS

(a) Parking, Streets and Access

- (1) All parking requirements shall be met by off-street, on-site spaces and shall include designated spaces for the handicapped.
- (2) The location, spacing and number of private driveway entrances shall comply with Virginia Department of Transportation standards and shall be subject to final site plan approval.
- (3) Off-street parking spaces shall be accessed via private driveways and shall not be directly accessed from public rights-of-way.

(b) Buffering and Landscaping

- (1) Where a parcel in the BC District is contiguous to a residential zoning district or public right-of-way with limited access, a landscaped buffer strip fifteen (15) feet in width shall be provided.
- (2) Landscape materials and their placement shall be subject to final site plan approval. With the approval of the administrative body, walls, fences or wider buffer strips may be used in lieu of landscaping.

(c) Storage of Materials and Refuse

- (1) All refuse containers shall be screened by a solid wall or fence.
- (2) Any establishment involved with the storage of any fuel for sale, for on-site use, or for any other purposes, shall be permitted only if the fuel is stored underground, except where otherwise permitted under provisions granted and stipulations required by the administrative body.
- (3) All storage shall be conducted within the principal structure, which is to be completely enclosed.
- (4) There shall be not outdoor storage and/or display of goods with the exception of plant materials associated with nurseries.

(d) Uses, Facilities and Improvements

- (1) All business services (and storage) shall be conducted within the principal structure, which is to be completely enclosed.
- (2) Signing, mailboxes, site lighting and architectural materials shall be provided and installed by the property's owner-developer and shall be consistent and compatible with the scale and character of the development.
- (3) Private streets, street lighting, sidewalks, curbing and gutters, and parking bays shall be constructed to standards specified by the administrative authority or its agents.

(e) Site Plan

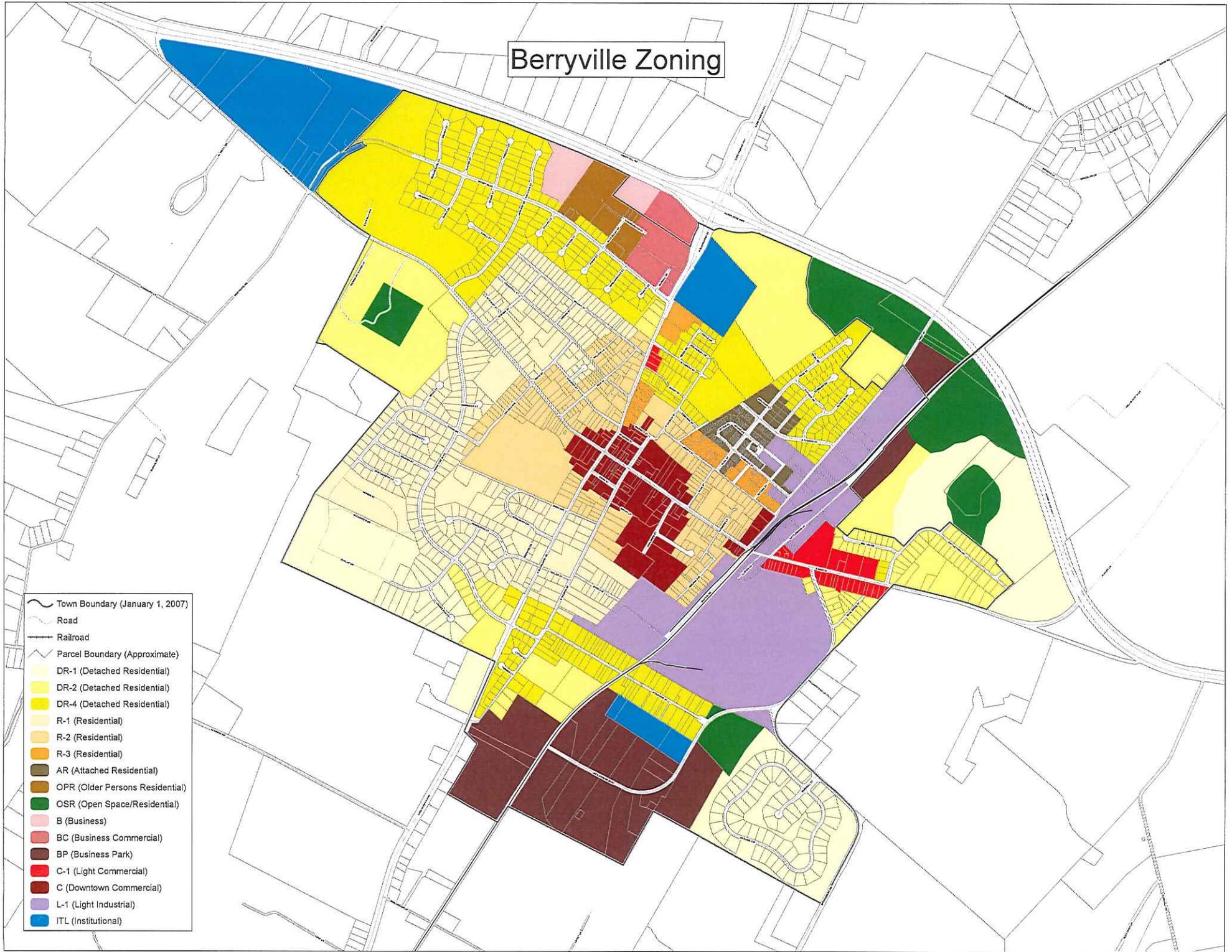
- (1) A site plan, which shall govern all development, shall be submitted for approval.
- (2) Site plans shall include provisions for the following:
 - (A) adequate public facilities;
 - (B) development phasing;
 - (C) stormwater management facilities to address the ultimate development coverage within the district;
 - (D) lighting and signing;
 - (E) building placement and lot configuration; and

Section 610 Business Commercial (BC) District

- (F) Other special site features and land use considerations deemed necessary to serve the district.
 - (G) Any site plan application which is not in strict conformance with the pre-existing approved site plan for the District shall require an amendment to that site plan and preliminary plat prior to site plan approval of the specific use.
- (3) All uses shall be subject to final site plan approval.

Berryville Zoning

- Town Boundary (January 1, 2007)
- Road
- Railroad
- Parcel Boundary (Approximate)
- DR-1 (Detached Residential)
- DR-2 (Detached Residential)
- DR-4 (Detached Residential)
- R-1 (Residential)
- R-2 (Residential)
- R-3 (Residential)
- AR (Attached Residential)
- OPR (Older Persons Residential)
- OSR (Open Space/Residential)
- B (Business)
- BC (Business Commercial)
- BP (Business Park)
- C-1 (Light Commercial)
- C (Downtown Commercial)
- L-1 (Light Industrial)
- ITL (Institutional)



BERRYVILLE TOWN COUNCIL
Set Public Hearing – Text Amendment to Article V
December 8, 2015

The Berryville Planning Commission is initiating text amendments to Article V Section 505 Provisions for Appeal in order to conform to Commonwealth of Virginia General Assembly modifications.

The Planning Commission has set a public hearing for their December 15, 2015 meeting to hear comment on the draft language to Article V Section 505.

The General Assembly has made modifications to Code of Virginia §15.2-2308 and §15.2309 concerning Board of Zoning Appeals matters. Town Attorney Robert Mitchell is recommending amendments to the Berryville Zoning Ordinance to reflect these legislative changes.

The language from the Code of Virginia and proposed changes to the Berryville Zoning Ordinance Article V follow this report. Staff will review the proposed amendments with Board of Zoning Appeals members prior to the January Town Council meeting.

Recommendation

Set a public hearing for the January 12, 2016 meeting.

Code of Virginia
Title 15.2. Counties, Cities and Towns
Chapter 22. Planning, Subdivision of Land and Zoning

§ 15.2-2308. Boards of zoning appeals to be created; membership, organization, etc.

A. Every locality that has enacted or enacts a zoning ordinance pursuant to this chapter or prior enabling laws, shall establish a board of zoning appeals that shall consist of either five or seven residents of the locality, appointed by the circuit court for the locality. Boards of zoning appeals for a locality within the fifteenth or nineteenth judicial circuit may be appointed by the chief judge or his designated judge or judges in their respective circuit, upon concurrence of such locality. Their terms of office shall be for five years each except that original appointments shall be made for such terms that the term of one member shall expire each year. The secretary of the board shall notify the court at least thirty days in advance of the expiration of any term of office, and shall also notify the court promptly if any vacancy occurs. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members may be reappointed to succeed themselves. Members of the board shall hold no other public office in the locality except that one may be a member of the local planning commission. A member whose term expires shall continue to serve until his successor is appointed and qualifies. The circuit court for the City of Chesapeake and the Circuit Court for the City of Hampton shall appoint at least one but not more than three alternates to the board of zoning appeals. At the request of the local governing body, the circuit court for any other locality may appoint not more than three alternates to the board of zoning appeals. The qualifications, terms and compensation of alternate members shall be the same as those of regular members. A regular member when he knows he will be absent from or will have to abstain from any application at a meeting shall notify the chairman twenty-four hours prior to the meeting of such fact. The chairman shall select an alternate to serve in the absent or abstaining member's place and the records of the board shall so note. Such alternate member may vote on any application in which a regular member abstains.

B. Localities may, by ordinances enacted in each jurisdiction, create a joint board of zoning appeals that shall consist of two members appointed from among the residents of each participating jurisdiction by the circuit court for each county or city, plus one member from the area at large to be appointed by the circuit court or jointly by such courts if more than one, having jurisdiction in the area. The term of office of each member shall be five years except that of the two members first appointed from each jurisdiction, the term of one shall be for two years and of the other, four years. Vacancies shall be filled for the unexpired terms. In other respects, joint boards of zoning appeals shall be governed by all other provisions of this article.

C. With the exception of its secretary and the alternates, the board shall elect from its own membership its officers who shall serve annual terms as such and may succeed themselves. The board may elect as its secretary either one of its members or a qualified individual who is not a member of the board, excluding the alternate members. A secretary who is not a member of the board shall not be entitled to vote on matters before the board. Notwithstanding any other provision of law, general or special, for the conduct of any hearing, a quorum shall be not less than a majority of all the members of the board and the board shall offer an equal amount of time in a hearing on the case to the applicant, appellant or other person aggrieved under § 15.2-2314, and the staff of the local governing body. Except for matters governed by § 15.2-2312, no action of the board shall be valid unless authorized by a majority vote of those present and voting. The board may make, alter and rescind rules and forms for its procedures, consistent with ordinances of the locality and general laws of the Commonwealth. The board shall keep a full public record of its proceedings and shall submit a report of its activities to the governing body or bodies at least once each year.

D. Within the limits of funds appropriated by the governing body, the board may employ or contract for

secretaries, clerks, legal counsel, consultants, and other technical and clerical services. Members of the board may receive such compensation as may be authorized by the respective governing bodies. Any board member or alternate may be removed for malfeasance, misfeasance or nonfeasance in office, or for other just cause, by the court that appointed him, after a hearing held after at least fifteen days' notice.

E. Notwithstanding any contrary provisions of this section, in the Cities of Portsmouth and Virginia Beach, members of the board shall be appointed by the governing body. The governing body shall also appoint at least one but not more than three alternates to the board.

Code 1950, §§ 15-825, 15-850, 15-968.8; 1950, pp. 176, 489; 1952, c. 688; 1962, c. 407, § 15.1-494; 1975, c. 641; 1976, c. 642; 1977, c. 172; 1982, c. 3; 1989, c. 27; 1992, c. 47; 1997, cc. 570, 587; 1998, cc. 346, 520, 528; 1999, c. 838; 2002, cc. 205, 545; 2007, c. 813; 2009, c. 734; 2010, c. 705; 2015, cc. 406, 407, 597.

Code of Virginia
Title 15.2. Counties, Cities and Towns
Chapter 22. Planning, Subdivision of Land and Zoning

§ 15.2-2308.1. Boards of zoning appeals, ex parte communications, proceedings.

A. The non-legal staff of the governing body may have ex parte communications with a member of the board prior to the hearing but may not discuss the facts or law relative to a particular case. The applicant, landowner or his agent or attorney may have ex parte communications with a member of the board prior to the hearing but may not discuss the facts or law relative to a particular case. If any ex parte discussion of facts or law in fact occurs, the party engaging in such communication shall inform the other party as soon as practicable and advise the other party of the substance of such communication. For purposes of this section, regardless of whether all parties participate, ex parte communications shall not include (i) discussions as part of a public meeting or (ii) discussions prior to a public meeting to which staff of the governing body, the applicant, landowner or his agent or attorney are all invited.

B. Any materials relating to a particular case, including a staff recommendation or report furnished to a member of the board, shall be made available without cost to such applicant, appellant or other person aggrieved under § 15.2-2314, as soon as practicable thereafter, but in no event more than three business days of providing such materials to a member of the board. If the applicant, appellant or other person aggrieved under § 15.2-2314 requests additional documents or materials be provided by the locality other than those materials provided to the board, such request shall be made pursuant to § 2.2-3704. Any such materials furnished to a member of the board shall also be made available for public inspection pursuant to subsection F of § 2.2-3707.

C. For the purposes of this section, "non-legal staff of the governing body" means any staff who is not in the office of the attorney for the locality, or for the board, or who is appointed by special law or pursuant to § 15.2-1542. Nothing in this section shall preclude the board from having ex parte communications with any attorney or staff of any attorney where such communication is protected by the attorney-client privilege or other similar privilege or protection of confidentiality.

D. This section shall not apply to cases where an application for a special exception has been filed pursuant to subdivision 6 of § 15.2-2309.

2015, c. 597.

Code of Virginia
Title 15.2. Counties, Cities and Towns
Chapter 22. Planning, Subdivision of Land and Zoning

§ 15.2-2309. Powers and duties of boards of zoning appeals.

Boards of zoning appeals shall have the following powers and duties:

1. To hear and decide appeals from any order, requirement, decision, or determination made by an administrative officer in the administration or enforcement of this article or of any ordinance adopted pursuant thereto. The decision on such appeal shall be based on the board's judgment of whether the administrative officer was correct. The determination of the administrative officer shall be presumed to be correct. At a hearing on an appeal, the administrative officer shall explain the basis for his determination after which the appellant has the burden of proof to rebut such presumption of correctness by a preponderance of the evidence. The board shall consider any applicable ordinances, laws, and regulations in making its decision. For purposes of this section, determination means any order, requirement, decision or determination made by an administrative officer. Any appeal of a determination to the board shall be in compliance with this section, notwithstanding any other provision of law, general or special.
2. Notwithstanding any other provision of law, general or special, to grant upon appeal or original application in specific cases a variance as defined in § 15.2-2201, provided that the burden of proof shall be on the applicant for a variance to prove by a preponderance of the evidence that his application meets the standard for a variance as defined in § 15.2-2201 and the criteria set out in this section.

Notwithstanding any other provision of law, general or special, a variance shall be granted if the evidence shows that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance, and (i) the property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance; (ii) the granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area; (iii) the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance; (iv) the granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and (v) the relief or remedy sought by the variance application is not available through a special exception process that is authorized in the ordinance pursuant to subdivision 6 of § 15.2-2309 or the process for modification of a zoning ordinance pursuant to subdivision A 4 of § 15.2-2286 at the time of the filing of the variance application.

No variance shall be considered except after notice and hearing as required by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.

In granting a variance, the board may impose such conditions regarding the location, character, and other features of the proposed structure or use as it may deem necessary in the public interest and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with. Notwithstanding any other provision of law, general or special, the property upon which a property owner has been granted a variance shall be treated as conforming for all purposes under state law and local ordinance; however, the structure permitted by the variance may not be expanded unless the expansion is within an area of

the site or part of the structure for which no variance is required under the ordinance. Where the expansion is proposed within an area of the site or part of the structure for which a variance is required, the approval of an additional variance shall be required.

3. To hear and decide appeals from the decision of the zoning administrator after notice and hearing as provided by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.

4. To hear and decide applications for interpretation of the district map where there is any uncertainty as to the location of a district boundary. After notice to the owners of the property affected by the question, and after public hearing with notice as required by § 15.2-2204, the board may interpret the map in such way as to carry out the intent and purpose of the ordinance for the particular section or district in question. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail. The board shall not have the power to change substantially the locations of district boundaries as established by ordinance.

5. No provision of this section shall be construed as granting any board the power to rezone property or to base board decisions on the merits of the purpose and intent of local ordinances duly adopted by the governing body.

6. To hear and decide applications for special exceptions as may be authorized in the ordinance. The board may impose such conditions relating to the use for which a permit is granted as it may deem necessary in the public interest, including limiting the duration of a permit, and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with.

No special exception may be granted except after notice and hearing as provided by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.

7. To revoke a special exception previously granted by the board of zoning appeals if the board determines that there has not been compliance with the terms or conditions of the permit. No special exception may be revoked except after notice and hearing as provided by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail. If a governing body reserves unto itself the right to issue special exceptions pursuant to § 15.2-2286, and, if the governing body determines that there has not been compliance with the terms and conditions of the permit, then it may also revoke special exceptions in the manner provided by this subdivision.

8. The board by resolution may fix a schedule of regular meetings, and may also fix the day or days to which any meeting shall be continued if the chairman, or vice-chairman if the chairman is unable to act, finds and declares that weather or other conditions are such that it is hazardous for members to attend the meeting. Such finding shall be communicated to the members and the press as promptly as possible. All hearings and other matters previously advertised for such meeting in accordance with § 15.2-2312 shall be conducted at the continued meeting and no further advertisement is required.

Code 1950, §§ 15-831, 15-850, 15-968.9; 1950, p. 176; 1962, c. 407, § 15.1-495; 1964, c. 535; 1972, c. 695; 1975, cc. 521, 641; 1987, c. 8; 1991, c. 513; 1996, c. 555; 1997, c. 587; 2000, c. 1050; 2002, c. 546; 2003, c. 403; 2006, c. 264; 2008, c. 318; 2009, c. 206; 2015, c. 597.

ARTICLE V – ADMINISTRATION AND ENFORCEMENT

SECTION 505 - PROVISIONS FOR APPEAL ADMINISTRATION, ENFORCEMENT, APPEALS, VARIANCES, INTERPRETATIONS, AND MODIFICATIONS AND AMENDMENTS

There shall be established a Board of Zoning Appeals (Board) that shall consider appeals, variances, and zoning map interpretations.

505.1 BOARD OF ZONING APPEALS BOARD OF ZONING APPEALS – ORGANIZATION AND PROCEDURES

(a) ~~The Board of Zoning Appeals was established pursuant to the provisions of Article 8, Chapter 11, Title 15.1 of the Code of Virginia. The Board, consisting of five (5) Town residents, shall be appointed by the Circuit Court of the County and shall serve without pay other than for traveling expenses. Members shall be removable for malfeasance, misfeasance, or non-feasance upon written charges and after public hearing. Appointments for vacancies occurring otherwise than by expiration of term shall in all cases be for the unexpired term.~~

(b) ~~The term of office shall be for five (5) years, except that of the first members appointed, one shall serve for five (5) years, one for four (4) years, one for three (3) years, one for two (2) years, and one (1) for one year. One of the five appointed members may be an active member of the Planning Commission.~~

(c) ~~Members may be removed for cause by the appointing authority upon written charges and after a public hearing.~~

(d) ~~Any member of the Board shall be disqualified to act upon a matter before the Board with respect to property in which the member has an interest.~~

(e) ~~The Board shall choose annually from its own membership, its own chairman, vice chairman (who shall act in the absence of the chairman) and secretary.~~

(a) Membership

The Board shall consist of five residents of the Town of Berryville, appointed by the Circuit Court of Clarke County. Members of the Board shall hold no other public office in the locality except that one may be a member of the Berryville Planning Commission.

(b) Alternate Members

The Town Council may request the Circuit Court of Clarke County to appoint not more than three alternates to the Board of Zoning Appeals, pursuant to the provisions of Virginia Code § 15.2-2308(A).

(c) Terms of Office

The terms of office for members of the Board shall be for five years each except that original appointments shall be made for such terms that the term of one member shall expire each year. The Secretary of the Board shall notify the court at least thirty (30) days in advance of the expiration of any term of office, and shall also notify the Court promptly if any vacancy occurs. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members may be reappointed to succeed themselves. A member whose term expires shall continue to serve until his/her successor is appointed and qualifies.

- (d) **Officers**
With the exception of its Secretary and the alternatives, the Board shall elect from its own membership its officers who shall serve annual terms as such and may succeed themselves. The Board may elect as its Secretary either one of its members or qualified individual who is not a member of the Board, excluding the alternate members. A Secretary who is not a member of the Board shall not be entitled to vote on matters before the Board.
- (e) **Quorum**
For the conduct of any hearing, a quorum shall be not less than a majority of all the members of the Board.
- (f) **Procedures**
The Board may make, alter and rescind rules and forms for its procedures, consistent with County ordinances and general laws of the Commonwealth.
- (g) **Records**
The Board shall keep minutes and a full record of its proceedings and other official actions, which shall be filed in the office of the Board and shall be public records.
- (h) **Report**
The Board shall submit a report of its activities to the governing body at least once each year.
- (i) **Witnesses**
The Chairman of the Board, or the acting Chairman in the Chairman's absence, may compel attendance of witnesses and administer oaths of witnesses.
- (j) **Employees**
Within the limits of funds appropriate by the Town Council, the Board may employ or contract for secretaries, clerks, legal counsel, consultants, and other technical and clerical services.
- (k) **Compensation**
Members of the Board may receive such compensation as may be authorized by the Town Council.
- (l) **Removal**
Any Board member or alternate may be removed for malfeasance, misfeasance, or nonfeasance in office, or for other just cause, by the Court that appointed the member or alternate, after a hearing held after at least fifteen (15) days notice.
- (m) **Meetings**
The Board by resolution may fix a schedule of regular meetings, and may also fix the day or days to which any meeting shall be continued if the Chairman, or Vice Chairman if the Chairman is unable to act, finds and declares that weather or other conditions are such that it is hazardous for members to attend the meeting. Such findings shall be communicated to the members and the press as promptly as possible. All hearings and other matters previously advertised for such meeting in accordance with Virginia Code § 15.2-2312 shall be conducted at the continued meeting and no further advertisement shall be required.

(n) **Hearings – Procedures**

1. The non-legal staff of the Town Council may have ex parte communications with a member of the Board prior to the hearing but may not discuss the facts or law relative to the case before the Board. The applicant, landowner, or their agent or attorney may have ex parte communications with a member of the Board prior to the hearing but may not discuss the facts or law relative to the case before the Board. If any ex parte discussion of facts or law in fact occurs, the party engaging in such communication shall inform the other party as soon as practicable and advise the other party of the substance of such communication. For purposes of this section, regardless of whether all parties participate, ex parte communications shall not include (i) discussions as part of a public meeting or (ii) discussion prior to a public meeting to which staff of the governing body, the applicant, landowner, or their agent or attorney are all invited. For purposes of this section, “non-legal staff of the Town Council” shall mean any staff who is not in the office of the attorney for the Town, or for the Town Council, or who is appointed by special law or pursuant to § 15.2-1542. Nothing in this section shall preclude the Board from having ex parte communications with any attorney or staff of any attorney where such communication is protected by the attorney-client privilege or protection of confidentiality.
2. Any materials relating to the case before the Board, including a staff recommendation or report furnished to a member of the Board, shall be made available without cost to an applicant, appellant, or other person aggrieved under § 15.2-2314 requests additional documents or materials to be provided by the locality other than those materials provided to the Board, such request shall be made pursuant to § 2.2-3704. Any such materials furnished to a member of the Board shall also be made available for public inspection pursuant to Subsection F of § 2.2-3707.
3. At a hearing the Board shall offer an equal amount of time to the applicant, appellant, any other person aggrieved under § 15.2-2314, and the Town staff.

(o) **Appeal of Decision of Board**

Any person or persons jointly or severally aggrieved by any decision of the Board, or any aggrieved taxpayer, or any officer, department, board, or bureau of the locality, may file with the Clerk of the Clarke County Circuit Court a petition specifying the grounds on which aggrieved within 30 days after the final decision of the Board.

505.2 ~~POWERS OF THE BOARD OF ZONING APPEALS~~ **APPEAL OF DECISION OF BOARD**

~~To hear and decide appeals from any order, requirement, decision, or determination made by an administrative officer in the administration or enforcement of this Article or any ordinance adopted pursuant thereto.~~

- (a) ~~To authorize upon appeal in specific cases such variance from terms of the Ordinance as will not be contrary to the public interest when owing to special~~

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conditions, a literal enforcement of the provisions will result in unnecessary hardship; provided that the spirit of the Ordinance shall be observed and substantial justice done, pursuant to the provision of “Sec. 15.1-495b of the Code of Virginia, 1950, as amended,” as follows:

1. — When a property owner can show that his property was acquired in good faith and where by reason of the exceptional narrowness, shallowness, size, or shape of a specific piece of property at the time of the effective date of the Ordinance, or where by reason of exceptional topographic condition of such piece of property, or of the use or development of property immediately adjacent thereto, effectively prohibit or unreasonably restrict the use of the property, or where the Board is satisfied, upon the evidence heard by it, that the granting of such variance will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant, provided that all variances shall be in harmony with the intended spirit and purpose of the Ordinance.
 2. — No such variance shall be authorized by the Board unless it finds: (a) that the strict application of the Ordinance would produce undue hardship; (b) that such hardship is not shared generally by other properties in the same zoning district and the same vicinity; and (c) that the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.
 3. — No such variance shall be authorized except after notice and hearing as required by Section 15.1-431 of the Code of Virginia, as amended.
 4. — No variance shall be authorized unless the Board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make practicable the formulation of a general regulation to be adopted as an amendment to the Ordinance.
 5. — In authorizing a variance the Board may impose such conditions regarding the location, character, and other features of the proposed structure or use as it may deem necessary in the public interest, and may require a guarantee or bond to insure that the conditions imposed are being and will continue to be complied with.
- (c) — To hear and decide appeals from the decision of the Zoning Administrator.
- (d) — To hear and decide applications for interpretation of the district map where there is any uncertainty as to the location of a district boundary. Public hearings after appropriate notice must be held prior to such adjustments. The Board shall not have the power to change substantially the locations of district boundaries as established by this Ordinance. The Board shall not have the power to rezone property.

Any person or persons jointly or severally aggrieved by any decision of the Board, or any aggrieved taxpayer, or any officer, department, board, or bureau of the locality, may file with the Clerk of the Clarke County Circuit Court a petition specifying the grounds on which aggrieved within 30 days after the final decision of the Board.

**505.3 RULES AND REGULATIONS OF THE BOARD OF ZONING APPEALS ~~APPEALS~~
OF ADMINISTRATIVE DETERMINATIONS**

- ~~(a) — The Board of Zoning Appeals shall adopt such rules and regulations as it may consider necessary.~~
- ~~(b) — The meeting of the Board shall be held at the call of its chairman or at such time as a quorum of the Board may determine.~~
- ~~(c) — The chairman or, in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses.~~
- ~~(d) — The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact. It shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record.~~
- ~~(e) — All meetings of the Board shall be open to the public.~~
- ~~(f) — A quorum shall be at least three (3) members.~~
- ~~(g) — A favorable vote of three (3) members of the Board shall be necessary to reverse any order, requirement, decision, or determination of any administrative official or to decide in favor of the applicant on any matter upon which the Board is required to pass.~~
- (a) The Board shall hear and decide appeals from any order, requirement, decision, or determination made by an administrative officer in the administration or enforcement of the Zoning Ordinance. The decision on such appeal shall be based on the Board’s judgment of whether the administrative officer was correct. The determination of the administrative officer shall be presumed to be correct. At a hearing on an appeal, the administrative officer shall explain the basis for their determination after which the appellant has the burden of proof to rebut such presumption of correctness by a preponderance of the evidence. The Board shall consider any applicable ordinances, laws, and regulations in making its decision. For purposes of this section, “determination” means any order, requirement, decision, or determination made by an administrative officer. Any appeal of a determination to the Board shall be in compliance with this section, notwithstanding any other provision of law, general or special.**
- (b) An appeal to the Board may be taken by any person aggrieved or by any officer, department, board, or bureau of the Town affected by any decision of the Zoning Administrator, or from any order, requirement, decision or determination made by any other administrative officer in the administration or enforcement of the Zoning Ordinance, or any modification of zoning requirements pursuant to Virginia Code § 15.2-2286.**
- (c) Any written notice of a zoning violation of any written order or administrative determination of the Zoning Administrator shall include a statement informing the recipient of the of the recipient’s right to appeal the notice of zoning violation or the written order or administrative determination within 30 days, and that the decision shall be final and unappealable if not appealed within 30 days. The appeal period shall not commence until the statement is given. The appeal shall be taken within 30 days after the decision appealed from by filing with the Zoning Administrator, and with the Board, a notice of**

appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.

- (d) An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board that by reason of facts stated in the certificate a stay would in his/her opinion cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order granted by the Board or by a court of record, on application and on notice to the Zoning Administrator and for good cause shown.
- (e) The Board shall fix a reasonable time for hearing an appeal, and shall give public notice and hold a public hearing as provided by Virginia Code § 15.2-2204. However, when giving any required notice to the owners, their agents, or the occupants of abutting property and property immediately across the street or road from the property affected, the Board may give such notice by first-class mail rather than by registered or certified mail.
- (f) The Board shall make its decision within 90 days of the filing of the appeal, unless the appellant and the Board mutually agree upon an extended period.
- (g) In exercising its powers, the Board may reverse or affirm, wholly or partly, or may modify, an order, requirement, decision, or determination appealed from.
- (h) The concurring vote of a majority of the membership of the Board shall be necessary to reverse any order, requirement, decision, or determination of an administrative officer.

505.4 ~~APPEAL TO THE BOARD OF ZONING APPEALS~~ **VARIANCES**

~~An appeal to the Board may be taken by any person aggrieved or by an officer, department, board, or bureau of the county or municipality affected by any decision of the Zoning Administrator. Such appeal shall be taken within thirty (30) days after the decision appealed from by filing with the Zoning Administrator and with the Board a notice of appeal specifying the grounds thereof. The Administrator shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board that by reason of facts stated in the certificate a stay would in his opinion cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order granted by the Board or by a court of record, on application and on notice to the Zoning Administrator and for good cause shown.~~

- (a) **The Board shall hear upon appeal or original application in specific cases requests for variances, as defined in Virginia Code § 15.2-2201, from the terms of this ordinance. A variance shall not include a change in use.**
- (b) **Any property owner, tenant (with the written consent of the property owner), government official, department, board or bureau may make application for a variance. Applications shall be made to the Zoning Administrator in accordance with rules adopted by the Board. The application and accompanying maps, plans, or other information shall be transmitted**

promptly to the Secretary of the Board, who shall place the matter on the docket to be acted upon by the Board.

- (c) The Zoning Administrator shall also transmit a copy of the application to the Planning Commission, which may send a recommendation to the Board or appear as a party at the hearing.
- (d) No variance shall be considered except after public notice and hearing as required by Virginia Code § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the Board may give such notice by first class mail rather than by registered or certified mail.
- (e) **Action on Variance Application**
 1. The burden of proof shall be on the applicant for a variance to prove by a preponderance of the evidence that the application meets the standards for a variance as defined in Virginia Code § 15.2-2201 and the criteria set out in this section.
 2. Notwithstanding any other provision of law, general or special, a variance shall be granted if the evidence shows that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance, and;
 - (a) the property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance;
 - (b) the granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;
 - (c) the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance;
 - (d) the granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and
 - (e) the relief or remedy sought by the variance application is not available through a special exception process that is authorized in the ordinance pursuant to subdivision 6 of § 15.2-2309 or the process of modification of a zoning ordinance pursuant to subdivision A4 of § 15.2-2286 at the time of the filing of the variance application.
 - (f) The concurring vote of a majority of the membership of the Board shall be necessary to approve a variance.
 - (g) In granting a variance the Board shall tailor the variance to provide the minimum variance necessary to alleviate the hardship, and the Board may impose such conditions regarding the location, character, and other features of the proposed structure or use, as it may deem

necessary in the public interest. The Board may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with.

(h) The Board will not consider substantially the same application within one (1) year of previous Board action.

505.5 APPEAL PROCEDURE ZONING MAP INTERPRETATIONS

~~Appeals shall be mailed to the Board of Zoning Appeals c/o the Zoning Administrator, and a copy of the appeal mailed to the secretary of the Planning Commission. A third copy shall be mailed to the individual, official, department, or agency concerned, if any.~~

The Board shall hear and decide applications for interpretations of the zoning district map where there is any uncertainty as to the location of a district boundary. After notice to the owners of the property affected by the question, and after public hearing with notice as required by Virginia Code § 15.2-2204, the Board may interpret the map in such way as to carry out the intent and purpose of the ordinance for the particular section or district in question. However, when giving any required notice to the owners, their agents, or the occupants of abutting property and property immediately across the street or road from the property affected, the Board may give such notice by first-class mail rather than by registered or certified mail. The Board shall not have the power to change substantially the locations of district boundaries as established by ordinance. The concerning vote of a majority of the membership of the Board shall be necessary to decide in favor of the applicant.

505.6 PUBLIC HEARING LIMITATIONS ON POWERS OF BOARD

~~The Board shall fix a reasonable time for the hearing of an application or appeal, give public notice thereof as well as due notice to the parties in interest, and decide the same within sixty (60) days. In exercising its powers, the Board may reverse or affirm, wholly or partly, or may modify any order, requirement, decision, or determination of an administrative officer or decide in favor of the applicant on any matter upon which it is required to pass under the Ordinance or to effect any variance from the Ordinance. The Board shall keep minutes of its proceedings and other official actions, which shall be filed in the office of the Board and shall be public records. The chairman of the Board or, in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses.~~

The Board shall not have the power to rezone property or to base Board decisions on the merits of the purpose and intent of Town ordinances duly adopted by the Town Council.

505.7 APPEAL OF DECISION OF BOARD OF ZONING APPEALS MODIFICATIONS

~~(a) — Any person or persons jointly or severally aggrieved by any decision of the Board of Zoning Appeals, or any taxpayer or any officer, department, board, or bureau of the municipality, may present to the Circuit Court of the county a petition specifying the grounds on which aggrieved within thirty (30) days after the filing of the decision in the office of the Board.~~

~~(b) — Upon the presentation of such petition, the Court shall allow a writ of certiorari to review the decision of the Board of Zoning Appeals and shall prescribe therein the~~

Section 505 – Provisions for Appeal

~~time within which a return thereto must be made and served upon the relator's attorney, which shall not be less than ten (10) days and may be extended by the Court. The allowance of the writ shall not stay proceedings upon the decision appealed from; but the Court may, on application and on notice to the Board and for due cause shown, grant a restraining order.~~

- ~~(e) — The Board of Zoning Appeals shall not be required to return the original papers acted upon by it but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.~~
- ~~(d) — If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a commissioner to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.~~
- ~~(e) — Costs shall not be allowed against the Board, unless it shall appear to the court that it acted in bad faith or with malice in making the decision appealed from.~~
- (a) The Zoning Administrator may grant a modification from any provision contained in the Zoning Ordinance with respect to physical requirements on a lot or parcel of land, including but not limited to size, height, location or features of or related to any building, structure, or improvements if the Administrator finds in writing that:**
 - 1. the strict application of the ordinance would produce undue hardship;**
 - 2. such hardship is not shared generally by other properties in the same zoning district and the same vicinity; and**
 - 3. the authorization of the modification will not be of substantial detriment to adjacent property and the character of the zoning district will not be changed by the granting of the modification.**
- (b) The Zoning Administrator may not grant a modification that is more than 10% of a regulation standards.**
- (c) Before the granting of a modification, the Zoning Administrator shall give, or require the applicant to give, all adjoining property owners written notice of the request for modification, and an opportunity to respond to the request within 21 days of the date of the notice. Before the granting of a modification, the Zoning Administrator shall consult with the Chair and Vice Chair of the Board of Zoning Appeals.**
- (d) The Zoning Administrator shall make a decision on the application for modification and issue a written decision with a copy provided to the applicant and any adjoining landowner who responded in writing to the notice sent pursuant to this paragraph. The Zoning Administrator shall provide a copy of a written decision to the Board of Zoning Appeals within five working days from making the decision.**
- (e) The decision of the Zoning Administrator may be appealed to the Board of Zoning Appeals as provided in Section 505.3 of this Ordinance.**

BERRYVILLE TOWN COUNCIL

**Spot Blight Abatement (Public Hearing Set for January 12, 2016 meeting)
December 8, 2015**

A public hearing on a spot blight abatement plan and to make findings and recommendations that shall be reported to Town Council concerning the repair or other disposition of a blighted property pursuant to Section 5-5. Spot blight abatement. of the Code of the Town of Berryville for the structure(s) and property located at 203 Moore Drive (Tax Map Parcel #14A2-((10))-B-30).

At the November 10, 2015 meeting, Town Council set a public hearing on this matter for the January 12, 2016 meeting. Planning Commission will be holding a public hearing at their December 15, 2015 meeting.

General Information

The process for blight abatement for the structure located at 203 Moore Drive has commenced per Code of the Town of Berryville § 5-5 Spot blight abatement. While the first floor has been secured, a fire left the second floor and roof open to the elements. A blighted property is defined as “any individual commercial, industrial, or residential structure or improvement that endangers the public’s health, safety or welfare because the structure or improvement upon the property is dilapidated, deteriorated, or violates minimum health and safety standards”.

§ 5-5(c) allows for the Town Manager to make a preliminary determination that the property is indeed blighted in accordance with this section. Notice is sent to the owner or owners of record who have 30 days to respond with a spot blight abatement plan to address the blight within a reasonable time.

§ 5-5(d) identifies the Planning Commission’s initial roll in the process while §5-5 regulates specific actions concluding in the reporting of its findings and recommendations concerning to the property to Town Council.

Staff will report the findings from the Planning Commission’s public hearing in the January agenda packet.

These items follow the staff report:

- Staff report from Mr. Dalton from the October 27, 2015 Planning Commission meeting;
- Photos taken in October of 203 Moore Drive
- Section 5-5 from the Code of the Town of Berryville concerning Spot Blight Abatement;
- Letter dated August 26, 2015 from Zack Salisbury, Virginia Department of Health;
- Letter dated September 18, 2015 from Town Manager Keith Dalton; and
- Spot Blight Abatement Plan drafted by Mr. Dalton dated October 23, 2015.

Recommendation

Set a public hearing for the January 12, 2016 meeting.

Blight Abatement Plan for 203 Moore Drive

On April 27, 2015, the townhouse at 203 Moore Drive sustained significant damage. At the time of the fire, the property was in the final stages of foreclosure.

The property is owned by the Federal National Mortgage Association.

After the fire, work was completed to secure first floor of the structure. No additional work has been completed.

On September 18, 2015, Keith Dalton, Town Manager sent a letter to the property owner advising them that he had determined that the property in question is blighted and that they must submit a spot blight abatement plan with 30 days. This action was taken in accordance with §5-5 of the Berryville Code. No plan has been received by the Town. Representatives of the Federal National Mortgage Association have spoken with the Town but only to inquire as to when Town action to abate the blight will occur.

In accordance with §5-5 of the Berryville Code, the Town Manager must submit a spot blight abatement plan to the Planning Commission for review. The Planning Commission reviews the plan and forwards a recommendation on the plan to the Town Council. The Planning Commission may hold a public hearing if it so chooses. The Town Council will hold a public hearing prior to a decision on the plan.

Please find attached the following:

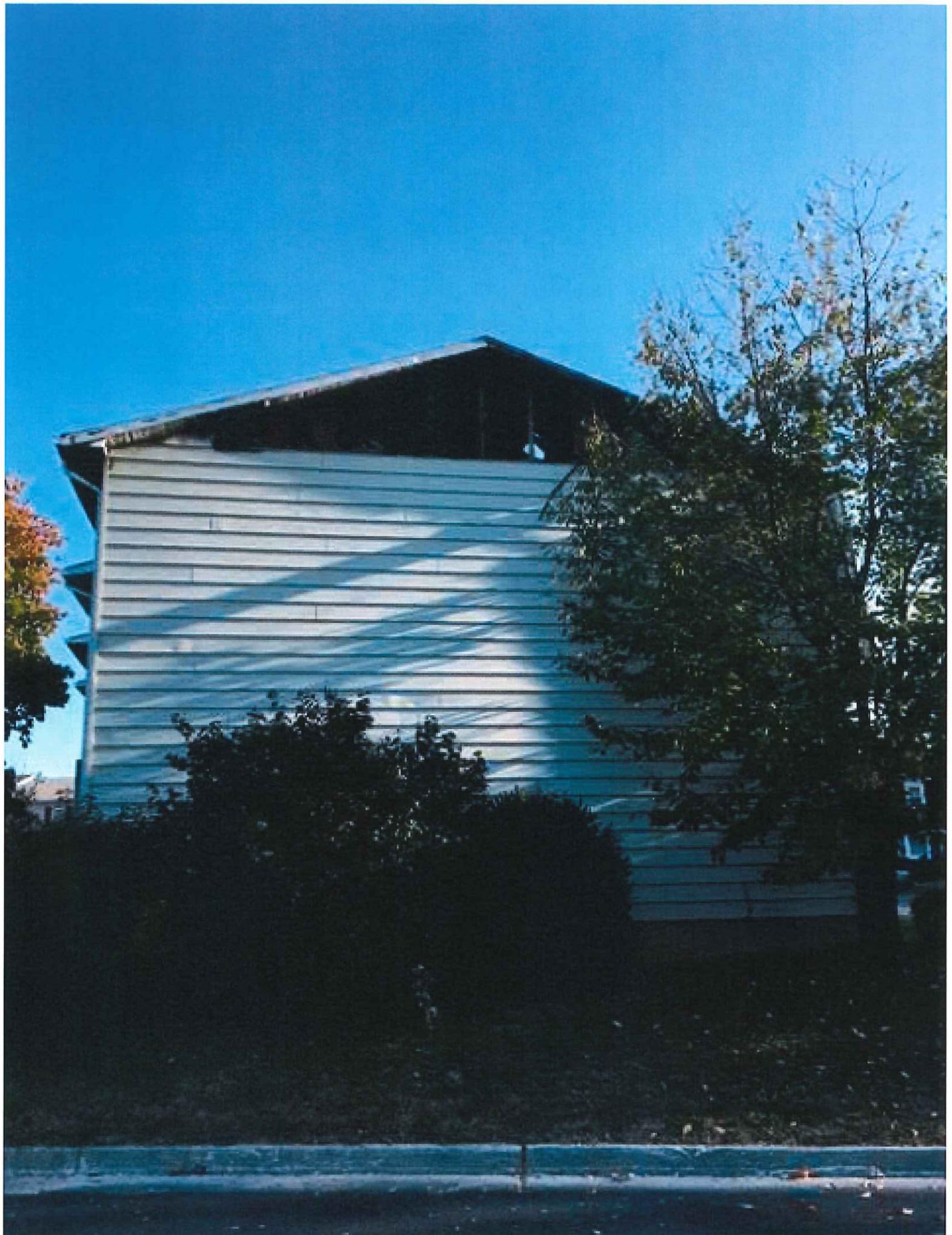
- Photos of 203 Moore Drive taken on October 23, 2015
- §5-5 of the Berryville Code
- Letter from Zack Salisbury, Clarke County Health Department to Keith Dalton (dated August 26, 2015)
- Letter from Keith Dalton to Federal National Mortgage Association (dated September 18, 2015)
- Blight Abatement Plan for 203 Moore Drive prepared by Keith Dalton
- Motion to recommend to the Town Council the approval of the Blight Abatement Plan

Recommendation

Recommend to the Town Council the approval of the blight abatement plan prepared by the Town Manager.







Sec. 5-5. - Spot blight abatement.

- (a) The Town of Berryville, in accordance with Code of Virginia § 36-49.1:1, may acquire or repair any blighted property, as defined in (b), below, by purchase or the exercise of the power of eminent domain provided in Chapter 2 of Title 25.1 of the Code of Virginia, and, further, shall have the power to hold, clear, repair, manage, or dispose of such property for purposes consistent with this section. In addition, the town may recover the cost of any repair or disposal of such property from the owner or owners of record, determined in accordance with Virginia Code § 36-27(B).
- (b) "Blighted property" means any individual commercial, industrial, or residential structure or improvement that endangers the public's health, safety or welfare because the structure or improvement upon the property is dilapidated, deteriorated, or violates minimum health and safety standards.
- (c) The town manager, or his/her designee, shall make a preliminary determination that a property is blighted in accordance with this section. The town manager or his/her designee shall send notice to the owner or owners of record, determined in accordance with Virginia Code § 36-27(B), specifying the reasons why the property is blighted. The owner or owners of record shall have thirty (30) days from the date the notice is sent in which to respond in writing with a spot blight abatement plan to address the blight within a reasonable time.
- (d) If the owner or owners of record fail to respond within the thirty (30) day period with a written spot blight abatement plan that is acceptable to the town manager or his/her designee, the town (i) may request the planning commission to conduct a public hearing and make findings and recommendations that shall be reported to town council concerning the repair or other disposition of the property in question; and (ii) in the event a public hearing is scheduled, shall prepare a written spot blight abatement plan for the repair or other disposition of the property.
- (e) Not less than three (3) weeks prior to the date of the public hearing before the planning commission, the commission shall provide, by regular and certified mail, notice of such hearing to (i) the owner of the blighted property or the agent designated by him for receipt of service or notices concerning the payment of real estate taxes within the town; (ii) the abutting property owners in each direction, including those property owners immediately across the street or road from the property; and (iii) the representative neighborhood association, if any, for the immediate area. The notice shall include the plan for the intended repair or other disposition of the property. The notice of the public hearing shall be published at least twice, with not less than six (6) days elapsing between the first and second publication in a newspaper published or having general circulation in the town. The notice shall be posted on the property. The notice shall specify the time and place of the public hearing at which persons affected may appear and present their views, not less than six (6) days nor more than twenty-one (21) days after the second publication.
- (f) The planning commission, following the public hearing, shall determine whether:
 - (1) The property is blighted;
 - (2) The owner has failed to cure the blight or present a reasonable plan to do so;
 - (3) The plan for the repair or other disposition of the property is in accordance with the town's comprehensive plan, zoning ordinance, and any other applicable land use regulation;
 - (4)

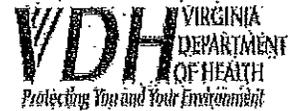
The property is located within an area listed on the National Register of Historic Places. In such instances, the planning commission shall consult with the architectural review board regarding the proposed repair or other disposition of the property by the town council.

- (g) The planning commission shall report its findings and recommendations concerning the property to the town council. The town council, upon receipt of such findings and recommendations, may, after an advertised public hearing, affirm, modify, or reject the planning commission's findings and recommendations. If the repair or other disposition of the property is approved, the town may carry out the approved plan to repair or acquire and dispose of the property in accordance with the approved plan, the provisions of this section, and applicable law.
- (h) The town shall have a lien on all property so repaired or acquired, under an approved plan to recover the cost of (i) improvements made by the town to bring the blighted property into compliance with applicable building codes and (ii) disposal, if any. The lien authorized by this section shall be filed in the circuit court of Clarke County and shall be subordinate to any prior liens of record. The town council may recover its costs of repair from the owner or owners of record of the property when the repairs were made at such time as the property is sold or disposed of by such owner or owners. If the property is acquired by the town through eminent domain, the cost of repair may be recovered when town council sells or disposes of the property. In either case, the costs of repair shall be recovered from the proceeds of any such sale.
- (i) If the blighted property is occupied for personal residential purposes, town council, in approving the spot blight abatement plan, shall not acquire by eminent domain such property if it would result in a displacement of the person or persons living in the premises. The provisions of this subsection shall not apply to acquisition, under an approved spot blight abatement plan, by the Town of property which has been condemned for human habitation for more than one year. In addition, upon the town exercising the powers of eminent domain in accordance with Title 25.1 of the Code of Virginia, it may provide for temporary relocation of any person living in the blighted property provided the relocation is within the financial means of such persons.
- (j) In lieu of the acquisition of blighted property by the exercise of eminent domain, and in lieu of the exercise of other powers granted in subsections (a) through (i), town council by ordinance, may declare any blighted property to constitute a nuisance, and thereupon abate the nuisance pursuant to Virginia Code § 15.2-900 or 15.2-1115. Such ordinance shall be adopted only after the written notice by certified mail to the owner or owners of the property at the last known address of such owner as shown on the current real estate tax assessment books or current real estate tax assessment records.
- (k) The provisions of this section shall be cumulative and shall be in addition to any remedies for spot blight abatement that may be authorized by law.

(Ord. of 12-12-06)



Lord Fairfax Health District
Clarke County Health Department
100 North Buckmarsh Street
Berryville, Virginia 22611
Tel. (540) 955-1033 ~ Fax (540) 955-4094
www.vdh.virginia.gov



August 26, 2015

RE: Complaint
Site Address: 203 Moore Drive Berryville, Va 22611
Tax Parcel: 12A210B30

Dear Mr. Dalton,

Upon receipt of complaint on 20 August 2015, the Clarke County Health Department began an investigation of the existing structure on the property located at 203 Moore Drive, Berryville, Va (Tax Map # 12A210B30). Examination of the structure revealed that the following are potentially in violation:

- Code of Clarke County § 124-2 "Nuisances Prohibited"
 - "It shall be unlawful for any person to cause, harbor, commit or maintain or to suffer to be caused, harbored, committed or maintained any nuisance as defined by the statute or common law of this state or as defined by this Code or other ordinance of the Board of Supervisors at any place within the county."
- Code of Clarke County § 123-3 "Nuisances Enumerated"
 - A. "The following acts when committed or conditions when existing within the county are hereby defined and declared to be nuisances:
 - (1) An act done or committed or aided or assisted to be done or committed by any person or any substance, being or thing kept, maintained, placed or found in or upon any public or private place which is injurious or dangerous to the public health or safety.
 - (2) All buildings, bridges or other structures of whatever character kept or maintained or which are permitted by any person owning or having control thereof to be kept or maintained in a condition unsafe, dangerous, unhealthy, injurious or annoying to the public.

The above referenced structure has undergone significant fire damage, which has resulted in multiple large openings in the roof and second story framing. Given its current condition and exposure to the environment, the structure is likely harboring vermin, or has the potential to harbor vermin, thereby designating the structure as a potential public health concern.

Sincerely,

A handwritten signature in black ink, appearing to read "Zack Salisbury", is written over a horizontal line.

Zack Salisbury
Environmental Health Specialist
Clarke County Health Department

Town of Berryville
Berryville-Clarke County
Government Center
101 Chalmers Court Suite A
Berryville, VA 22611



[T] 540/955-1099
[F] 540/955-4524
[E] info@berryvilleva.gov

www.berryvilleva.gov

CERTIFIED MAIL

18 September 2015

Federal National Mortgage Association
Post Office Box 650043
Dallas, TX 75265

This letter is written regarding the condition of the property at 203 Moore Drive, Berryville, VA (also identified as Tax Map Parcel 14A2-((10))-B-30). Specifically, the townhouse on the property in question sustained significant damage from a fire on 27 April 2015 and has not been repaired. As such, the property has been in a state of disrepair in excess of 20 weeks.

In accordance with § 5-5-(c) of the Berryville Code and §36-27(B) of the Code of Virginia, I have determined that the property at 203 Moore Drive is blighted. This determination is made because the second story of the house and the roof have been open to the elements since 27 April 2015.

In accordance with § 5-5-(c) of the Berryville Code and §36-27(B) of the Code of Virginia, this notice is sent to the property owner of record. The property owner has 30 days from the date of this notice in which to respond in writing to the Town of Berryville with a spot blight abatement plan to address the blight within a reasonable time.

If the owner of record fails to provide a written blight abatement plan, gain approval of the plan from the Town of Berryville, and complete required work before the established deadline, then the Town will begin a process through which a plan is written, approved, and implemented. Further, if the Town causes said plan to be

Wilson Kirby
Mayor

Harry Lee Arnold, Jr.
Recorder

Council Members

Douglas A. Shaffer
Ward 1

H. Allen Kitselman, III
Ward 2

Mary L.C. Daniel
Ward 3

David L. Tollett
Ward 4

Keifi R. Dalton
Town Manager

Federal National Mortgage Association
18 August 2015
Page 2 of 2

implemented, then the cost thereof will constitute a lien on the property (filed in the Office of the Clerk of the Circuit Court of Clarke County, Virginia).

The written blight abatement plan must be received by 18 October 2015.

Thank you for your assistance in this matter. Please feel free to contact me at 540.955.1099 if you have any questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to be 'Keith R. Dalton', with a long, sweeping flourish extending to the right.

Keith R. Dalton
Town Manager

Cc: Town Council
Planning Commission
Christy Dunkle, Assistant Town Manager
Neal White, Chief of Police
Clarke County Building Official
Clarke County Health Department
Jessica Bowman, Agent ERA Oak Crest Realty

Town of Berryville
Berryville-Clarke County
Government Center
101 Chalmers Court Suite A
Berryville, VA 22611



[T] 540/955-1099
[F] 540/955-4524
[E] info@berryvilleva.gov

www.berryvilleva.gov

Town of Berryville
Blight Abatement Plan
203 Moore Drive, Berryville, VA
Tax Map Parcel 14A2-((10))-B-30

Overview

This Blight Abatement Plan, prepared in accordance with § 5-5 of the Berryville Code, provides for the demolition of the principal structure on the subject property, the removal of all trash and refuse, and securing the remaining foundation.

Engineering

Structure will be evaluated by a structural engineer to develop a demolition plan that protects the dwelling separation firewall shared with the adjoining dwelling (205 Moore Drive).

Permitting

Obtain all necessary permits including demolition, erosion and sedimentation control etc:

Utilities

Request disconnection of all non-town utilities and verify the work has been completed.

Disconnect sewer service by cutting and capping lateral.

Provide protection for existing water meter cock.

Erosion and Sedimentation Control

All required erosion and sedimentation controls will be installed.

Site Security

Site will be secured with construction/temporary fencing as needed during demolition, cleaning, and capping of remaining foundation.

Demolition of Structures/Removal of Debris

The principal structure on the subject property will be demolished in accordance with the demolition plan developed by a structural engineer and the Tow's bid request. It is expected that the foundation and first floor joists will remain in place.

Site will be cleared of trash and refuse.

Wilson Kirby
Mayor

Harry Lee Arnold, Jr.
Recorder

Council Members

Douglas A. Shaffer
Ward 1

H. Allen Kitzelman, III
Ward 2

Mary L.C. Daniel
Ward 3

David L. Tollett
Ward 4

Keith R. Dalton
Town Manager

All material from the demolition of the structure, as well as other trash and refuse collected from the site, will be removed from the site and land filled in accordance with all applicable regulations and laws.

Top of remaining foundation will be capped with marine plywood. Joints will be sealed.

Dwelling separation firewall will be sealed to be made suitable for exposure to weather.

Barrier erected at top of front and rear stairs to prevent access to top of capped foundation.

Crawlspace access will be secured.

Stabilization

After demolition and removal of materials all disturbed areas will be leveled and stabilized in accordance with the Virginia Erosion and Sediment Control Handbook.

Unforeseen Hazards

Should other health hazards be discovered during abatement work, action will be taken to address those hazards.

Schedule

Work to be completed within 60 days of contract award

Process Timeline

Notice sent to owner of record: September 18, 2015

Deadline for owner of record to file an abatement plan: October 18, 2015

Blight Abatement Plan forwarded to Planning Commission: October 27, 2015

Planning Commission Action:

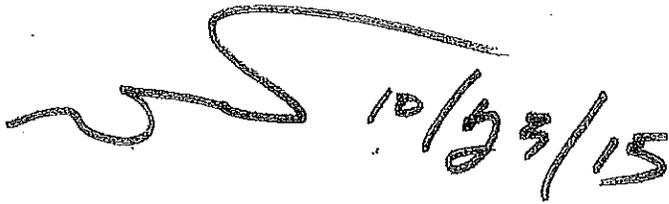
Town Council Public Hearing Date:

Town Council Action:

Plan Prepared by

Keith Dalton, Town Manager on 10/23/15

Revisions:



Handwritten signature and date: 10/23/15

Attachment 3

BERRYVILLE TOWN COUNCIL
Discussion – Berryville Area Plan Amendment
December 8, 2015

Marlyn Development Corporation (Francis Nance, Vice President – Development, Agent) is requesting an amendment to the Berryville Area Plan, Chapter 5, Page 14, increasing the number of Older Person Residential multifamily units from 120 to 180 units and reducing the number of Older Person Residential single-family detached and a variety of unit types from 180 to 120 units as identified in Sub-Area 6A of Annexation Area B.

Action needs to be taken from the November 10, 2015 concerning modifications to the Berryville Area Plan. Please note the Board of Supervisors will also need to take action on any modifications to the Berryville Area Plan per the Annexation Agreement. A motion follows this report.

November 10, 2015 Staff Report

Public hearing notices were published in the Winchester Star on Tuesday, October 27 and Tuesday, November 3, 2015. No comments were received in the Planning Department.

Both the Planning Commission and the BADA recommended that Council delay a decision on the Berryville Area Plan amendment until the Plan update is completed. Per the Annexation Agreement, all modifications to the Berryville Area Plan shall be approved by both Town and County elected officials with the Berryville Zoning Ordinance reflecting these changes. The County has not spoken to the recommendation by the BADA. It is anticipated that the updated document will be adopted by spring of 2016. Comments at the BADA public hearing on September 29, 2015 are included below in the October staff report.

The following items follow this report:

- *Public hearing notice published in the Winchester Star on Tuesday, October 27 and Tuesday, November 3, 2015;*
- *Application for Berryville Area Plan amendment;*
- *A letter dated November 3, 2015 and photograph submitted by Mr. Nance; and*
- *Motion*

October 13, 2015 Staff Report

The Berryville Area Development Authority held a public hearing on the above matter at a meeting held on September 29, 2015. They received public comment and continued the discussion to a special meeting held on Monday, October 5 at 2:00pm. At that time, the Authority voted to recommend that Council not amend the current Berryville Area Plan as the draft of the Plan released for public comment includes a different approach to addressing housing needs in Sub-Area 6A.

Topics addressed at the September 29, 2015 public hearing include the following:

- *Benefits of the proposed 120-unit facility including tax revenues, transportation available for residents;*
- *John H. Enders Fire and Rescue Company Chief Rohde indicated that previous fire and rescue concerns have been addressed;*
- *Cathie Galvin (representing the Shenandoah Area Agency on Aging) spoke to service concerns to their system;*
- *Mr. Garrett discussed exclusionary zoning practices;*
- *Mr. Patz discussed the market study area from eastern Loudoun County to eastern Frederick County;*
- *Alton and Bonnie Echols (owners of the property) voice support for the project;*
- *Ms. Rich Bouffault referenced the process by which a Plan Amendment to the Area Plan is delegated;*
- *Sharon Strickland (representing Battlefield Estates Civic Association) referenced a meeting at the Mary Hardesty House in June where attendees voiced unanimous support for the facility.*

Recommendation

Take action on this item.

AN ORDINANCE AMENDING
CHAPTER V OF BERRYVILLE AREA PLAN

BE IT ORDAINED, by the Council of the Town of Berryville, that Chapter V, Planning Area Analysis, Sub-Area 6A, of the Berryville Area Plan shall be amended as follows:

The proposed Older Persons Residential Zoning district for this sub-area allows a variety of unity types ranging from small lot single family detached to multi-family. The density for this sub-area should be established by the site plan and/or subdivision of the property within the 300 unit limit (with not more than ~~120~~ **180** multi-family units) set for Older Person Residential uses.

SIGNED: _____
Wilson Kirby, Mayor

ATTEST: _____
Harry Lee Arnold, Jr., Recorder

BERRYVILLE TOWN COUNCIL

**MOTION FOR APPROVAL OF AN ORDINANCE AMENDING THE
BERRYVILLE AREA PLAN IN ORDER TO INCREASE THE NUMBER OF
MULTIFAMILY UNITS PERMITTED IN SUB-AREA 6A
OF ANNEXATION AREA B**

Date: December 8, 2015

Motion By:

Second By:

I move that the Council of the Town of Berryville approve the attached ordinance amending the Berryville Area Plan in order to allow 60 additional multi-family units for a total of 180 units in the Older Person Residential (OPR) Zoning District in Annexation Area B. This matter is forwarded to the County Board of Supervisors.

VOTE:

Aye:

Nay:

Absent:

ATTEST:

Harry Lee Arnold, Jr., Recorder

Attachment 4

BERRYVILLE TOWN COUNCIL

Discussion – Text Amendment to Article VI, Section 614.5 of the Berryville Zoning Ordinance December 8, 2015

Marlyn Development Corporation (Francis Nance, Vice President – Development, Agent) is requesting a text amendment to Section 614.5 of the Berryville Zoning Ordinance in order to increase the number of permitted multifamily units in the Older Person Residential (OPR) Zoning District from 120 to 180 multifamily units, thereby decreasing the number of single family detached, two-family detached, and single-family attached units to 120. TA-01-15

At the November meeting, Council held a public hearing on this matter. The BADA and Berryville Planning Commission recommended delaying any decision in order to allow for the Berryville Area Plan review and update to be completed. Berryville Area Plan language should dictate any changes to the Zoning Ordinance.

Proffers in place do not allow for a 120 unit facility on this parcel however the applicant has discussed modified proffers to staff. Included in this packet are the minutes of the May 14, 2013 Town Council meeting that include Special Use Permit proffers and proposed amended proffers from Andrew Painter for the current application (originally approved in May 2009).

November 10, 2015 Staff Report

Public hearing notices were published in the Winchester Star on Tuesday, October 27 and Tuesday, November 3, 2015. No comments were received in the Planning Department.

The previous recommendation by both administrative bodies has been to wait until the Berryville Area Plan Update has been completed to make any determination in the Plan. Berryville Area Plan language should dictate any changes to the Zoning Ordinance.

Items included concerning this matter include:

- Application for text amendment to Section 614.5 of the Berryville Zoning Ordinance;*
- Modification as requested by the applicant identified within Section 614;*
- Ordinance; and*
- Motion.*

October 13, 2015 Staff Report

The Berryville Planning Commission held a public hearing at their regular meeting on Tuesday, September 29, 2015. After receiving public comment the Planning Commission voted to recommend that Council be put on hold until the Berryville Area Plan update

has been completed prior to making any modifications to the Berryville Zoning Ordinance.

Many of those who spoke at the BADA addressed the Planning Commission. Items discussed include:

- Mr. Painter and Mr. Nance identified benefits of the proposed 120-unit facility including tax revenues, transportation available for residents;*
- John H. Enders Fire and Rescue Company Chief Rohde indicated that previous fire and rescue concerns, including have been addressed;*
- Mr. Garrett discussed social principles of his church;*
- Mr. Patz discussed the market study area from eastern Loudoun County to eastern Frederick County and identified this area as the market area for the Mary Hardesty House project;*
- Sharon Strickland (representing Battlefield Estates Civic Association) referenced a meeting at the Mary Hardesty House in June where attendees voiced unanimous support for the facility.*

Recommendation

Await action until a determination has been made by both the Berryville Town Council and the Clarke County Board of Supervisors on the proposed amendment to the Berryville Area Plan.

A PROPOSED PROFFER STATEMENT FOR BOTH A REZONING AND A "SPECIAL USE PERMIT" PERMITTING 1260 MULTI-FAMILY UNITS IN THE OLDER PERSON RESIDENTIAL (OPR) ZONE

REZONING: Proffer Amendment For R.Z. #XXXXX
~~R.Z. # [B (11.37793A) and DR-4 (0.93967A) to OPR]~~

PROPERTY: 12.31760 acres~~10.9767 acres~~
Tax Map Parcel 14--5-251B ("the Property")

SPECIAL USE PERMIT: 4.34~~10.97~~-acres Preliminary Site-~~Development~~ Plan

RECORD OWNER: A. C. Echols, Jr., Trustee of the Virginia Land Trust~~Battlefield Center Trust~~ ("Owner")

APPLICANT: Virginia United Methodist Housing Development Corp~~Marlyn Development Corporation~~

PROJECT NAME: "Marlyn Development Robert Regan House"

ORIGINAL DATE OF PROFFERS: July 28~~May 4~~, 2009

REVISION DATE(S): ~~July 9th, 2009 July 16th, 2009, August 4th, 2009~~

The Recorded Owner hereby proffers that the use and development of the subject Property ("Property"), as identified above, shall be in strict conformance with the following conditions, which shall supersede all other proffers that may have been made prior hereto. In the event that the above referenced "Rezoning" and "Special Use Permit" ~~are is~~ not granted as applied for by the applicant ("Applicant") these proffers shall be deemed withdrawn and shall be null and void. Further, these proffers are contingent upon a final "Rezoning" and with "Special Use Permit" approving 1260 Multi-family units on the Property ~~ty~~ ly ~~with a final~~ "Rezoning" with "Special Use Permit" defined as ~~that Rezoning with "Special Use Permit"~~ which ~~is~~ in effect ~~on~~ the day following the last day upon which the Town of Berryville ("Town 's") decision granting the "Rezoning" with "Special Use Permit" ~~shall include the day~~ following entry of a final court ~~order~~ affirming the decision of the Town which has not been appealed, or, if appealed, ~~the day following which the decision~~ has been affirmed on appeal.

The headings of the proffers set forth below have been prepared for convenience or reference only and shall not control or affect the meaning or be taken as an interpretation of any provision of the proffers. ~~The improvements proffered herein shall be provided at the time of~~ development of that portion of the Property adjacent to or including the improvement or other proffered requirement unless otherwise specified herein. The term "Applicant" and "Recorded Owner" as referenced herein shall include within its meaning all future owners and successors ~~in interest.~~

The Record Owner hereby proffers as follows:

Proffers

1. Master Development Plan

1.1 The development of the Property shall be in substantial conformity with the portion of the Master Development Plan ~~entitled "Marlyn Development Special Use Permit/Preliminary Site Plan Robert Regan House" Master Development Plan~~ dated ~~July 31, 2015~~ ~~June 26, 2009~~, showing development on the Property, a copy of said Master Development plan being attached hereto as Exhibit A, subject to revisions which may be approved by the Town in final site plan review and approval.

2. Land Use Restrictions

2.1 Multi-family residential uses on the Property, pursuant to an approved Special Use Permit, shall not exceed ~~120~~ ~~sixty (60)~~ units ~~and shall be limited to an area containing 4.34 +/- acres subject to revisions~~ which may be approved by the Town in final Site Plan review, as delineated on a Preliminary Site Plan submitted in conjunction with the Special Use Permit attached hereto as Exhibit B.

3. Real Estate Tax

3.1 The Owner, and the Owner's successors and assigns, shall pay the usual and customary real estate tax to the Town and the County based upon the full real estate tax assessment of the localities and the prevailing tax rate in each locality.

3.2 Neither the Owner nor the Applicant, nor their successors or assigns, shall seek any exemption for the Property from real estate taxation by classification or designation pursuant to Chapter 36 of Title 58.1 (Sec. 58.1-3600, et seq.) of the Code of Virginia, or otherwise, and further, the Owner, and the Owner's successors and assigns, shall pay the annual real estate tax as set forth in 3.1, above, notwithstanding any such exemption which may have been granted or obtained.

4. Cash Proffers

~~4.1 Prior to the issuance of a building permit for multi-family residential units on the property, the Recorded Owner shall pay to the Town, for fire and rescue purposes, a sum equal to One Thousand Two Hundred Fifty Dollars (\$1,250.00) per unit for the total number of multi-family units shown on the applicable approved final site plan.~~

to the issuance of the occupancy permit for the first unit at the facility, the Owner make a one-time emergency service contribution in the amount of \$150,000.00 to the Town for distribution to either the John H. Enders Fire Company or, in the alternative, to the fire and rescue company with primary responsibility for servicing the facility.

5. Reversion of Zoning

5.1 Unless extended by mutual consent of the Owner/Applicant and the Town of Berryville, if a building permit is not obtained by the Applicant within 180 days of the approval of the Rezoning and Special Permit ~~before August 30th, 2011,~~ for the construction of an older person residential structure on the Property, the OPR zoning on the Property shall revert to the prior B existing B (11.37793 acres) and DR-4 (0.93967 acres) zoning by motion adopted by Town Council, or, if Council shall elect to initiate a formal rezoning of the property after ~~August 30, 2011~~ within 180 days of the approval of the Rezoning and Special Permit for the construction of an older person residential structure on the Property, the ~~Owner and Applicant hereby irrevocably consent and waive any objection to the rezoning of the property to the prior existing B and DR-4 zoning.~~

6. Deed

6.1 Any deed conveying the Property, or any portion hereof, from the owner of the Property at the time of final rezoning, shall affix as an attachment and incorporation into said deed, a full copy of these proffers in order to fully advise any subsequent purchase: of the proffered terms and conditions

Alton C. Echols, Jr., Trustee of the
Virginia Land Trust

STATE OF _____)

) to-wit:

COUNTY/CITY OF _____

The foregoing Proffer Statement was acknowledged before me this _____ day of
_____, 2015, by _____, as
of _____.

Notary Public

My Commission Expires: _____
Notary Registration # _____

[SIGNATURES CONTINUE NEXT PAGE]

_____ MARLYN DEVELOPMENT CORPORATION

_____ By: _____

STATE OF _____)

_____) to-wit:

COUNTY/CITY OF _____

The foregoing Proffer Statement was acknowledged before me this _____ day of _____, 2015, by _____, as _____ of _____.

Notary Public

My Commission Expires: _____
Notary Registration # _____

[SIGNATURES END]

May 14, 2013 to minutes

11. Action Item Special Use Permit – Virginia United Methodist Housing
Jon Erickson, PE, Applicant, is requesting a Special Use Permit under Section 614.3.c. of the Town of Berryville Zoning Ordinance in order to construct a 60-unit multi-family housing development for older persons at the property located on a portion of the parcel at 451 Chamberlain Street, identified as Tax Map Parcel number 14-5-251B zoned Older Person Residential (OPR).

Jon Erickson was present. Ms. Dunkle said that there was no public comment in the town office on this matter.

Ms. Dunkle said that the applicant submitted a new site plan on May 8 with the reservation for future Chamberlain Street removed. She said that neither the Planning Commission nor the BADA recommended approval of the applicant's request for waiver of the required urban street sections. She said that the applicant has withdrawn the request for the waiver and has removed the reservation for future Chamberlain Street and the portion of the street section from Mosby Boulevard. She noted that neither the BADA nor the Planning Commission has seen the site plan submitted on May 8.

Ms. Dunkle then reviewed proposed staff recommendations for Special Use Permit conditions.

The Mayor called for discussion and noted that the preliminary site plan on the table is not the same plan that was submitted to the BADA and the Planning Commission. He asked whether the Town Council should still move forward on the matter or ask those boards to reconsider.

Council member Kitselman said that the BADA and the applicant did discuss the option to change the preliminary plan to what was submitted on May 8.

The Mayor recognized the applicant. Mr. Erickson said that during the process with the BADA and Planning Commission, it became apparent that the waiver of urban curb and gutter section was not going to be approved and that he discussed removing the reservation for Chamberlain Street since they would not be building rural street sections.

Council member Shaffer said that the Planning Commission also discussed the changes on the May 8 plan as an option if the waiver of urban street sections was not granted.

There was a general discussion of the recommended conditions. Two minor changes were made to the draft conditions.

Mayor Kirby said that while he was concerned that the plan before the Town Council is different from the plan submitted to the BADA and Planning Commission he is now hearing that this plan was discussed by both boards as an alternative if urban street requirements were not waived. He noted that a right-of-way for Chamberlain would have to be dedicated before a building permit for the property to the north is submitted.

Council member Kitselman said it would be a reservation, not a dedication, which is not carved in stone. He said he understands the concern about the plan being different but feels the scenario was addressed by the BADA. Council member Shaffer said he couldn't speak for the entire Planning Commission, but that he recalls the scenario was discussed as an option if the waiver was denied.

Mr. Dalton asked Mr. Erickson about street lights on Chamberlain extended. Mr. Erickson said that the placement of street lights is a final site plan issue but that the preliminary plan does not show a street light at the intersection with Mosby. Mr. Dalton said that he thinks that the poor lighting at that intersection will be an issue and should be addressed on the final site plan.

Mayor Kirby said that he is comfortable moving along with this plan. Council members Kitselman and Shaffer both expressed that they are comfortable that this plan revision was discussed by both boards. Council member Kitselman said that the BADA expressed strong interest in seeing that Chamberlain is eventually built out.

Upon motion by Recorder Arnold, seconded by Council member Kitselman the Council of the Town of Berryville unanimously approved the following:

WHEREAS, this property (Tax Map Parcel no. 14-5-251B) was zoned Older Person Residential (OPR) in 2009; and

WHEREAS, this Special Use Permit is to permit the construction of up to 60 multi-family older person residential units on a 3.45 acre portion of the property; and

WHEREAS, it is appropriate and advisable to consider future potential development on the residual of the 10.98+/- acre parcel to assure that public street access will be sufficient upon development of that portion of the property in the future; and
WHEREAS, the completion of existing Chamberlain Street and existing McClellan Street was required by the approved site plan for Mary Hardesty House, but the construction of those streets in a condition to be acceptable by the Town of Berryville into the public system has not been completed.

NOW, THEREFORE, I hereby move that Special Use Permit 01-13 be approved with the Conditions set forth on the written statement of Conditions attached to this motion, and that the Conditions to be made a part of the minutes of this meeting.

VOTE:

Recorded Vote:

Ayes:	Wilson Kirby, Mayor Harry Lee Arnold, Jr., Recorder Allen Kitselman Douglas Shaffer David Tollett Mary Daniel
Nays:	None
Absent:	None
Abstain:	None

CONDITIONS TO SPECIAL USE PERMIT

SUP 01-13

TAX MAP PACEL NO. 14-5-251B

The following conditions shall apply to the Special Use Permit on Tax Map Parcel No. 14-5-251B, containing 10.97673 acres ("the Property") for Housing for Older Persons, Medium Density: Multi-family (including personal services uses of less than 500 square feet):

1. Approval and recordation of a subdivision plat creating a +/-3.4 acre parcel, in substantial conformance to the Preliminary Site Plan prepared by Morris & Ritchie Associates, Inc. and dated May 1, 2013, prior to obtaining a building permit for the Housing For Older Persons, Medium Density pursuant to this Special Use Permit.
2. The Housing for Older Persons, Medium Density use of the Property pursuant to this Special Use Permit shall be limited to the aforesaid +/- 3.4 acre parcel.
3. The Housing for Older Persons, Medium Density constructed pursuant to this Special Use Permit shall not exceed sixty (60) units.
4. Approval of a final site plan which is in accordance with these conditions of the Special Use Permit.
5. Dedication/Construction of Chamberlain Street as follows:
 - A. Complete construction of Chamberlain Street (labeled as McNeil Road on the plat by Ken W. Erickson, LS and recorded at DB 274 Page 299 with the Clarke County Circuit Court) to bring it into conformity with Town requirements and Virginia Department of Transportation (VDOT) Secondary Street Acceptance Requirements (SSAR) and in a condition to be acceptable by the Town of Berryville into its street system.
 - B. Dedicate and construct an extension of previously dedicated Chamberlain Street, as a public street, in conformity with Town requirements and VDOT Secondary Street Acceptance Requirements (SSAR) and in a condition to be accepted by the Town of Berryville into its street system, to +/- 400 feet west of its intersection with McClellan Street, as shown on the Site Plan prepared by Morris & Ritchie Associates, Inc. and dated May 1, 2013.
6. Completion of the construction of previously dedicated McClellan Street to bring it into conformity with Town requirements and VDOT Secondary Street Acceptance Requirements (SSAR) and in a condition to be acceptable by the Town of Berryville into its street system.
7. Sufficient performance surety for the street construction required in Condition Nos. 5 and 6 shall be posted with the Town before recordation of the subdivision plat referenced in Condition No. 1, in the same manner as provided in Article VII of the Subdivision Ordinance, to the extent not already posted.
8. Until Chamberlain Street is dedicated and constructed as a public street to connect with Mosby Boulevard, as set forth in Condition No. 10, below, a right of way shall be provided to the +/- 3.4 acre parcel to provide additional emergency services direct vehicular access to the +/- 3.4 acre parcels from Mosby Boulevard. The construction of the right of way shall be approved by the Town as sufficient for emergency services vehicular access. If the +/- 3.4 acre parcel is conveyed prior to the construction of Chamberlain Street as set forth in Condition No. 10, the +/- 3.4 acre parcel shall be conveyed together with said right of way. A fully executed access easement for the

aforesaid right of way, including a maintenance agreement to be recorded in the land records upon approval of the final Site Plan, shall be submitted to the Town of Berryville for the area identified as "25' Emergency Access Easement" located on the parcel adjacent to the proposed 3.45+/- acre parcel identified as Tax Map Parcel number 14A7-14-1 prior to approval of the final site plan in a form approved by the Town of Berryville.

9. No Certificate of Occupancy shall be issued under this Special Use Permit until there has been compliance with Conditions 1 – 8, above.

10. No Certificate of Occupancy shall be issued for any structure on the 5.66 acre +/- residue of the Property, as shown on the Preliminary Site Plan and Preliminary Record Plat by Morris and Ritchie Associates, Inc. both dated May 1, 2013 until Chamberlain Street is dedicated and constructed as a public street, in conformity with Town requirements and VDOT Secondary Street Acceptance Requirements (SSAR) and in a condition to be accepted by the Town of Berryville into its system, from its point of completion pursuant to Condition 5.B., above, to Mosby Boulevard, in the approximate location of the "25' Emergency Access" shown on the Preliminary Site Plan by Morris and Ritchie Associates, Inc. dated May 1, 2013 or in such other location as may be approved by the Town.

11. Special Use Permit 03-09 approved on August 11, 2009 is revoked with the approval of this Special Use Permit.

Report of the Planner

Street Banners

Ms. Dunkle said that Berryville Main Street and the Farmers Market at the behest of VDOT are asking the Town of Berryville to sign off as the applicant for the street banner project the groups have initiated. Mr. Dalton asked for guidance on the matter from the Town Council because signing off on this project would encumber the town with responsibility for any erosion and sediment control, work zone management during installation and removal, as well as insurance liability. He said that he is not concerned about the erosion and sediment control, because the project doesn't involve that type of work. He said that he believes that the town's insurance should cover liability. He said his biggest concern is the cost of work zone management.

Ms. Dunkle said that the original application has Berryville Main Street (BMS) signing off on the permits. Recorder Arnold said that the original intention of this project was to dress up the town but providing traffic control makes it cost prohibitive. He noted it would cost Berryville Main Street over \$1500 to provide traffic control. Mr. Arnold then asked how the town puts up the wreaths. Mr. Dalton said that this has never before been an issue when installing the wreaths. Ms. Dunkle said that VDOT stated that a permit for the banners would be good for any project throughout the year, so it would cover that installation as well. She acknowledged that VDOT permitting has not been an issue in the past when installing the wreaths.

Recorder Arnold asked if staff could go back to VDOT and find out what is behind this requirement. Mr. Dalton said that with Town Council permission, he would follow up with VDOT on the matter. The Mayor asked Mr. Dalton to see if he could resolve this issue.

AN ORDINANCE AMENDING
ARTICLE VI, SECTION 614.5 CONCERNING THE NUMBER OF
OF THE TOWN OF BERRYVILLE ZONING ORDINANCE

BE IT ORDAINED, by the Council of the Town of Berryville, that Article VI, Older Person Residential, Section 614.5 Maximum Density, of the Town of Berryville Zoning Ordinance shall be amended as follows:

ARTICLE VI

614.5 MAXIMUM DENSITY

A Master Plan shall be submitted with a request for OPR zoning showing a general arrangement of uses and density for the subject property and all adjacent areas intended for OPR uses. The Master Plan shall show that the public service needs are no greater for the OPR uses than the public service needs for the uses planned for that sub-area. The number of average daily vehicle trips generated, the amount of sewage generated, the amount of water used, and demand on emergency services will be no greater with the proposed number of older person residential units and service uses than that generated by the maximum density of uses allowed by a property's land use designation. However, not more than three hundred (300) Older Person Residential units (including not more than **one hundred eighty (180)** multifamily units) shall be allowed in Annexation Area B as shown on approved subdivision plats or site plans.

SIGNED: _____
Wilson Kirby, Mayor

ATTEST: _____
Harry Lee Arnold, Jr., Recorder

BERRYVILLE TOWN COUNCIL

MOTION FOR APPROVAL OF TEXT AMENDMENT TO ARTICLE VI OF THE
BERRYVILLE ZONING ORDINANCE MODIFYING THE NUMBER OF
MULTIFAMILY SENIOR APARTMENTS

Date: December 8, 2015

Motion By:

Second By:

I move that the Council of the Town of Berryville approve the attached ordinance amending Article VI of the Berryville Zoning Ordinance increasing the number of multifamily units from 120 to 180 in the Older Person Residential Zoning District.

VOTE:

Aye:

Nay:

Absent:

ATTEST:

Harry Lee Arnold, Jr., Recorder

Attachment 5

Mr. Bryant Condrey contacted Mrs. Daniel and the Town Clerk regarding a concern he has about the approved minutes of the June 10, 2014 Town Council meeting. Mr. Condrey feels that the summary of the statement he made during the Citizen's Forum portion of the June 2014 meeting does not accurately reflect what he said in his presentation.

A copy of the approved minutes (first two pages) are attached to this report.

In an email Mr. Condrey explains that he read the approved minutes on-line and had the following reaction:

"It says that I urged the town to consider a cigarette tax. That is patently false. I urged the town to consider the negative effects of the cigarette tax on revenue, given that it would be easy for people to buy cigarettes just outside of town. I never urged the town to consider a cigarette tax."

Mr. Condrey has asked that something be done to address this matter. Mrs. Daniel will address this matter with Council.

MINUTES
BERRYVILLE TOWN COUNCIL
Tuesday, June 10, 2014
Berryville Primary School Multipurpose Room
6:30 p.m.

Town Council:

Present: Wilson Kirby, Mayor; Harry Lee Arnold, Jr., Recorder; Mary Daniel; David Tollett; Douglas Shaffer

Absent: Allen Kitselman

Staff: Keith Dalton, Town Manager; Barbara Bosserman, Registrar of Clarke County

The Town Council toured the site of the proposed polling place at the Berryville Primary School.

Berryville-Clarke County Government Center
Regular Meeting
7:30 p.m.

Town Council:

Present: Wilson Kirby, Mayor; Harry Lee Arnold, Jr., Recorder; Allen Kitselman; Mary Daniel; David Tollett; Douglas Shaffer

Staff: Keith Dalton, Town Manager; Desiree Moreland; Assistant Town Manager/Treasurer; Christy Dunkle, Assistant Town Manager/Planner; Neal White, Chief of Police; Celeste Heath, Town Clerk

Press: None

1. Call to Order: Wilson Kirby, Mayor

Mayor Kirby called the regular meeting to order at 7:30 p.m.

2. Pledge of Allegiance

3. Approval of Minutes

May 13, 2014

Upon motion by Recorder Arnold, seconded by Council member Tollett the minutes of the May 13, 2014 meeting were unanimously approved with a correction to the spelling of Mr. Bryant Condrey's name.

4. Citizens Forum

Brian McClemens, 333 East Fairfax Street, spoke about the Meals Tax increase. He said that he is concerned that the numbers in the budget for revenue from meals tax are incorrect. He said that the closing of several restaurants in town will impact the amount collected. He then spoke about the costs that local restaurant owners face.

Bryant Condrey, 203 West Main Street, spoke about the budget. He urged the Town Council to consider a cigarette tax but that they keep in mind that there are a number of

places just out of town where cigarettes can be purchased so the tax may not have the anticipated effect. He encouraged the Town Council to use the savings from the lower trash collection costs to encourage businesses to come to Berryville in order to create a revenue stream.

5. Report of the Mayor

Establishment of Town Polling Place

The Mayor said that he was impressed with Berryville Primary School site with respect to access and function and he believes that it is a better polling place than the current location.

Recorder Arnold said that he has been interested in moving the polling place for nine years because of the parking and access issues at the North Church Street location. He said that he encourages moving the polling place to the Berryville Primary School Multipurpose room. Council member Tollett concurred citing plentiful parking and ease of access for everyone.

Council member Daniel said that it is a very flexible space and the Board of Elections will be able to lay it out like they need to. She said that the new location will be conducive to getting people to the polls.

The Town Council set a Public Hearing on the matter for their July 8, 2014 meeting.

6. Report of the Town Manager

Request for Reimbursement - 401 Montgomery Court

Mr. Dalton said that he received a request from Roger Ponders for reimbursement of repair costs for a deteriorated section of concrete at 401 Montgomery Court and that after an investigation he sent a letter denying the request for reimbursement. He said that Mr. Ponders now wishes to appeal the decision to the Town Council.

The Mayor recognized Mr. Roger Ponders who requested reimbursement of \$850 in repair costs for damage to the concrete garage floor at his home. He said that he believes that damage was caused by excessive application of road salt by the town. He said that he made this request to the Town Manager but it was denied. He presented photographs and a narrative to the Town Council.

Mayor Kirby assigned investigation of this issue to the Streets and Utilities Committee.

A Streets and Utilities Committee was set for June 16, 2014 at 9 a.m. Mr. Dalton asked if the Committee might also discuss Street Priorities and Construction Standards. The Committee agreed to discuss those matters.

Downtown Meeting

Mr. Dalton said that the Town Council had talked about holding a meeting about the downtown district in July but he asked if that might be put off until August or September

Attachment 6



Berryville Police Department

101 Chalmers Ct., Suite A, Berryville, Virginia 22611

policeadmin@berryvilleva.gov

(540) 955-3863 (540) 955-0207 (Fax)

W. Neal White – Chief of Police

MEMO

DATE: 12/03/2015

TO: Town Council

FROM: Chief W. Neal White

CC:

RE: Police Department Monthly Report – 12/08/2015

Monthly Activity Report

The activity report for the month of November 2015 is attached to this memo.

Personnel Matters

Officer Preston Funk graduated from the Rappahannock Regional Criminal Justice Academy on December 1, 2015. He is now on duty with the department and going through his field training. We are very excited to have Preston on board and looking forward to getting him acquainted with our community.

Master Patrol Officer Joey Adams will be retiring from the department effective December 31, 2015. Joey began working for the Berryville Police Department on March 10, 1990 giving over twenty five years of service to the community. To the best of my knowledge, he has been one of the longest tenured police officers in Berryville Police Department history. The department will be losing a lot of experience, expertise, and knowledge with his retirement. I wish him the best with his future endeavors and I am certain he will be missed by many in the community.



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W. Neal White – Chief of Police

POLICE AND SECURITY REPORT

Month: November	Year To Date	November	October
Year: 2015	2015	2015	2015
Total Miles Traveled:	40,085	2,400	3,423
Total Man Hours:	12,772	1,232	1,160
<u>Complaints Answered</u>			
911 Hang Up:	22	2	0
Alarms:	93	4	8
Animal Complaint:	130	8	13
Assault And Battery:	24	6	2
Assist County:	35	2	0
Auto Larceny:	1	0	0
Burglary:	11	1	0
Civil Complaints:	92	10	12
Disturbance (Non Violent):	61	6	6
Domestic Disturbance:	9	1	0
Drunk In Public:	18	0	4
Forgery & Uttering:	1	0	0
Fraud:	12	0	1
Grand Larceny:	10	1	1
Harassment/Intimidation:	18	0	4
Homicide:	0	0	0
Juvenile Related:	61	7	6
Noise:	23	0	3
Petty Larceny:	21	1	1
Public Service:	35	3	4
Rape:	0	0	0
Robbery:	0	0	0
Runaway:	5	1	0
Shoplifting:	5	0	2
Suspicious Activity:	177	21	21
Trespassing:	13	2	1
Vandalism:	40	2	3
Welfare Check:	96	8	7
Miscellaneous Complaints:	251	29	16
Total Complaints Answered:	1,264	115	115



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W. Neal White – Chief of Police

Traffic

Accidents Investigated:	37	3	3
Assist Motorist:	19	1	1
Child Safety Seat Install:	35	1	0
Funeral Escort:	39	3	4
Hit & Run:	14	1	2
Parking Tickets:	178	23	35
Traffic Warnings:	277	16	23

Traffic Summons Issued

Defective Equipment:	6	0	1
Driving Suspended:	12	2	1
Expired Inspection:	16	0	0
Expired Registration:	12	0	0
Fail To Obey Highway Sign:	58	3	7
Fail To Obey Traffic Signals:	5	0	0
Fail To Stop/Lights & Siren:	0	0	0
Fail To Yield Right Of Way:	4	2	0
Hit And Run:	0	0	0
No Liability Insurance:	0	0	0
No Operator's License:	13	0	0
No Seat Belt:	1	0	0
Reckless Driving:	14	3	3
Speeding:	142	4	2
Miscellaneous Summons:	10	1	1
Total Traffic Summons Issued:	293	15	15



Berryville Police Department

101 Chalmers Ct., Suite A, Berryville, Virginia 22611

policeadmin@berryvilleva.gov

(540) 955-3863 (540) 955-0207 (Fax)

W. Neal White – Chief of Police

Criminal Arrests Made

Abduction:	0	0	0
Arson:	0	0	0
Assault And Battery:	10	2	1
A & B On Police Officer:	1	0	0
Auto Larceny:	0	0	0
Breaking And Entering:	2	0	0
Capias:	7	1	1
Disorderly Conduct:	3	0	0
Driving While Intoxicated:	5	0	0
Drunk In Public:	15	0	3
Fail To Obey Police Officer:	0	0	0
Fail To Pay Parking Ticket:	6	0	0
Forgery:	0	0	0
Fraud:	0	0	0
Grand Larceny:	2	0	0
Homicide:	0	0	0
Illegal Drugs/Paraphernalia	17	3	1
Petty Larceny:	3	0	0
Possess Alcohol Underage:	0	0	0
Protective Order:	18	3	1
Rape:	0	0	0
Resisting Arrest:	0	0	1
Robbery:	0	0	0
Shoplifting:	5	3	1
Trespassing:	3	1	0
Vandalism:	2	0	0
Weapons Violation	0	0	0
	50	6	4
Miscellaneous Criminal Arrests:			
Juvenile Arrest Total:	10	0	1
Total Criminal Arrests:	149	19	13

Found Open At Business In Town

Doors:	19	0	0
Windows:	2	1	0
Garage Doors Found Open:	1	0	0

Attachment 7

MINUTES
BERRYVILLE TOWN COUNCIL STREETS AND UTILITIES COMMITTEE
Berryville-Clarke County Government Center
Called Meeting
November 19, 2015
9:00 a.m.

Present:

Town Council Streets & Utilities Committee: Wilson Kirby, Douglas Shaffer

Staff: Keith Dalton, Town Manager

Press: None

1. Call to Order

Committee Chairman Kirby called the meeting to order at 9:00 a.m.

2. Discussion

Mr. Dalton reviewed the Street Work Priorities for FY 2016 and the committee discussed what had been accomplished and what needed to be done in the spring. The committee discussed water system work on Battletown Drive, Academy Street, and Academy Court.

Mr. Dalton introduced a draft of the Street Work Priorities for FY 2017. The committee discussed the draft and agreed to examine streets throughout town before their next meeting.

3. Other

Mr. Dalton discussed the matter of Clarke County completing Jack Enders Blvd. so that it can be accepted into the Secondary System. He provided a copy of a letter that had been received this week from Clarke County offering funds for the Town to complete the street. Mr. Dalton agreed to draft a response to the County and provide it to the Town Council for review.

Mr. Dalton provided the committee with a draft of a page for the Town website that would inform the public about snow removal operations and snow related ordinances. The committee members agreed to review the page and provide any input they have to the Town Manager.

Mr. Dalton provided the committee with a revised Snow Removal Plan. The committee members agreed to review the plan and provide any input they have to the Town Manager.

Mr. Dalton provided the committee with a draft policy that addresses how the Town will settle claims for mailboxes damaged during snow removal operations. The committee members agreed to review the policy and provide any input they have to the Town Manager.

By consensus, the next Committee meeting was set for December 7, 2015, at 9:00 a.m.

4. Adjourn

There being no further business, the meeting was adjourned at 10:31 am.

Attachment 8

Memo

To: Town Council
From: David Tyrrell
Date: December 2, 2015
Re: November 2015 Operations Report

The water treatment plant is in compliance for November with its monthly parameters. We sent a total of 8.673 MG water to the system with a daily average production of 0.383 MGD and a daily max of 0.526 MG.

There were no major issues with the facility. We completed some roofing repairs which seem to be holding. We also added some safety gates to the upper storage areas. The river vault is scheduled for cleaning on December 8th.

Drought Conditions: Water levels in the Shenandoah River have run above historical averages for the month of November. There is no concern for drought in our area at this time.

The wastewater plant is in compliance with its discharge permit for November per data received to date with our nutrient removal continuing to do very well. We treated a total of 7.63 MG with a daily average of 0.25 MGD and a daily max of 0.35 MG. Influent flow rates have seen little effect from the rains. We continue to adjust the system for winter operations with solids inventory continuing to increase.

Recovery cleans of the membranes have been completed on all four membrane trains with some mechanical problems needing to be resolved to clean train #4. Air Scour blowers #4 and #5 are both down for repairs. Parts to repair #4 are ordered and arrived on December 1. Sherwood Logan is scheduled to be on site for maintenance December 2, 3, and 4 and we will have them look at blower #5. The SSRV does not see the power being supplied to the motor and may need to be replaced.

Influent wet well #1 is scheduled to be cleaned on December 8.

Attached for review are the data report for the wastewater plant, latest InSight report for the membrane performance from GE, and the water plant November page 1 operations report for VDH.

Berryville STP Monthly DMR Data

November 2015

Date	Effluent Flow MGD	Eff pH SU	Eff Temp Deg C	Eff CBOD mg/l	Eff CBOD KG/D	Eff TSS mg/l	Eff TSS KG/D	Effluent DO River mg/l	Effluent DO WWTP mg/l	Eff NO2 / NO3 mg/l	Eff TKN mg/l	Eff TKN KG/D	Eff Total N mg/l
11/1/2015	0.24	7.7	21.3					8.7	8.3				
11/2/2015	0.33	7.7	21.5					7.8	7.5				
11/3/2015	0.22	7.9	23.4	4.00	3.39	0.00	0.00	9.3	8.6	0.53	0.45	0.38	0.98
11/4/2015	0.19	7.7	19.5	3.00	2.10			8.5	8.1				
11/5/2015	0.20	7.5	20.5	1.00	0.74			8.6	8.3				
11/6/2015	0.21	7.5	20.3					8.2	7.8				
11/7/2015	0.21	7.6	20.5					8.5	8.2				
11/8/2015	0.22	7.6	19.6					9.0	8.3				
11/9/2015	0.29	7.6	18.8					8.9	8.7				
11/10/2015	0.31	7.5	19.0	0.00	0.00			9.3	10.2				
11/11/2015	0.35	7.6	19.1	0.00	0.00			8.2	7.9				
11/12/2015	0.33	7.5	18.3	0.00	0.00			9.1	8.2				
11/13/2015	0.28	7.6	18.4					8.7	10.1				
11/14/2015	0.25	7.6	18.3					10.9	9.1				
11/15/2015	0.29	7.6	18.1					10.2	8.2				
11/16/2015	0.28	7.3	17.1					9.2	9.4				
11/17/2015	0.25	7.1	17.2	0.00	0.00			9.5	10.1	1.13	0.52	0.49	1.65
11/18/2015	0.27	7.3	18.4					10.3	9.4				
11/19/2015	0.27	7.2	17.8					9.7	8.9				
11/20/2015	0.28	7.3	18.6					8.9	8.2				
11/21/2015	0.29	7.4	18.2					7.9	8.0				
11/22/2015	0.28	7.6	16.6					9.6	9.2				
11/23/2015	0.25	7.5	16.3					9.2	9.3				
11/24/2015	0.24	7.4	16.3					10.3	9.8				
11/25/2015	0.23	7.4	15.7					10.1	9.1				
11/26/2015	0.24	7.5	17.4					9.2	8.9				
11/27/2015	0.23	7.6	16.9					8.0	7.8				
11/28/2015	0.24	7.6	16.4					9.5	9.1				
11/29/2015	0.24	7.7	17.2					9.7	8.6				
11/30/2015	0.22	7.6	16.8					9.8	9.5				
Minimum	0.19	7.1	15.7	0.00	0.00	0.00	0.00	7.8	7.5	0.53	0.45	0.38	0.98
Maximum	0.35	7.9	23.4	4.00	3.39	0.00	0.00	10.9	10.2	1.13	0.52	0.49	1.65
Total	7.63	225.7	553.5	8.00	6.23	0.00	0.00	274.8	262.8	1.66	0.97	0.87	2.63
Average	0.25	7.5	18.5	1.14	0.89	0.00	0.00	9.2	8.8	0.83	0.49	0.44	1.32
Geo Mean	0.25	7.5	18.4	1.43	1.27	1.00	1.00	9.1	8.7	0.77	0.5	0.43	1.27

Berryville STP Monthly DMR Data

November 2015

Date	Eff Total N KG/D	Eff Total P mg/l	Eff Total P KG/D	E-Coli No/100ml
11/1/2015				
11/2/2015				
11/3/2015	0.83	0.07	0.06	1
11/4/2015				
11/5/2015				
11/6/2015				
11/7/2015				
11/8/2015				
11/9/2015				
11/10/2015				1
11/11/2015				
11/12/2015				
11/13/2015				
11/14/2015				
11/15/2015				
11/16/2015				
11/17/2015	1.56	0.30	0.28	1
11/18/2015				
11/19/2015				
11/20/2015				
11/21/2015				
11/22/2015				
11/23/2015				
11/24/2015				
11/25/2015				
11/26/2015				
11/27/2015				
11/28/2015				
11/29/2015				
11/30/2015				
Minimum	0.83	0.07	0.06	1
Maximum	1.56	0.30	0.28	1
Total	2.39	0.37	0.34	3
Average	1.19	0.19	0.17	1
Geo Mean	1.14	0.14	0.13	1

FLOWS AND CHEMICAL DOSAGES

April 2015

No. Connections Served: 1610
Population Served: 4185

DATE	Raw Water Treated MGD	Finished Water Produced MGD	Finished Water Delivered MGD	Hours in Service	Raw Water Chemicals										Finished Water Chemicals							
					Alum		Carbon		Chlorine		Fluoride		Polymer		KMnO4		Soda Ash		Chlorine		Corr Inhibitor	
					Lbs per Day	mg/L	Lbs per Day	mg/L	Lbs per Day	mg/L	Lbs per Day	mg/L	Lbs per Day	mg/L	Lbs per Day	mg/L	Lbs per Day	mg/L	Lbs per Day	mg/L	Lbs per Day	mg/L
1																						
2	0.392		0.356	11.8	41	12.4	3	0.9			7.0	2.14	0.090	0.028	6.0	1.8			15.7	4.8		
3	0.396		0.363	11.8	30	9.2	3	0.8			3.2	0.98	0.095	0.029	0.0	0.0			15.7	4.7		
4	0.284		0.264	8.5	20	8.6	2	0.8			3.4	1.45	0.057	0.024	0.0	0.0			11.3	4.8		
5	0.249		0.230	7.5	15	7.3	2	0.8			3.4	1.62	0.035	0.017	8.0	3.9			10.0	4.8		
6	0.329		0.296	10.0	25	9.2	2	0.8			3.5	1.28	0.040	0.014	0.0	0.0			13.3	4.9		
7	0.23		0.213	7.0	25	13.2	2	1.0			3.4	1.77	0.044	0.023	0.0	0.0			9.3	4.9		
8																						
9	0.434		0.398	13.0	30	8.4	4	1.1			6.6	1.83	0.092	0.025	8.0	2.2			17.3	4.8		
10	0.453		0.411	13.5	35	9.4	3	0.8			3.6	0.96	0.097	0.026	6.0	1.6			13.5	3.6		
11	0.258		0.246	8.0	20	9.4	3	1.3			3.4	1.58	0.053	0.025	0.0	0.0			8.0	3.7		
12	0.432		0.366	13.3	30	8.4	3	0.8			6.7	1.86	0.093	0.026	6.0	1.7			13.3	3.7		
13	0.444		0.382	13.3	15	4.1	3	0.9			7.0	1.89	0.084	0.023	8.0	2.2			11.0	3.0		
14	0.246		0.225	7.3	25	12.4	3	1.2			3.4	1.66	0.050	0.024	0.0	0.0			6.0	2.9		
15	0.225		0.205	6.8	20	10.8	2	0.9			0.0	0.02	0.047	0.025	0.0	0.0			5.6	3.0		
16	0.509		0.469	15.5	35	8.4	4	0.8			6.7	1.58	0.097	0.023	8.0	1.9			12.9	3.0		
17	0.508		0.472	15.5	71	16.8	4	1.0			6.8	1.60	0.123	0.029	6.0	1.4			12.9	3.0		
18	0.51		0.464	15.8	41	9.5	4	0.8			6.7	1.58	0.123	0.029	6.0	1.4			13.1	3.1		
19	0.517		0.479	15.5	41	9.4	4	0.8			6.8	1.57	0.097	0.023	0.0	0.0			12.9	3.0		
20	0.452		0.419	13.5	35	9.4	3	0.8			3.4	0.91	0.088	0.023	8.0	2.1			11.3	3.0		
21	0.239		0.223	7.0	20	10.2	2	0.8			3.6	1.79	0.053	0.027	0.0	0.0			5.8	2.9		
22																						
23	0.526		0.473	16.0	35	8.1	4	0.9			6.8	1.54	0.112	0.026	8.0	1.8			13.3	3.0		
24	0.525		0.487	15.8	46	10.4	4	0.9			6.8	1.55	0.130	0.030	0.0	0.0			11.8	2.7		
25	0.5		0.455	14.8	35	8.5	4	0.9			6.7	1.62	0.132	0.032	8.0	1.9			11.1	2.7		
26																						
27																						
28	0.239		0.221	7.3	20	10.2	2	1.0			3.4	1.69	0.057	0.029	0.0	0.0			5.4	2.7		
29	0.241		0.157	5.0	20	10.1	0	0.2			0.2	0.10	0.027	0.013	8.0	4.0			3.8	1.9		
30	0.441		0.399	13.0	35	9.6	4	1.1			6.6	1.81	0.083	0.023	0.0	0.0			9.8	2.7		
31																						
Total	9.579	0.000	8.673	286.0	771	243.5	72	22.4	0.0	0.00	119.2	36.4	2.00	0.614	94	27.9	0.0	0.00	274.2	87.25	0.0	0.00
Maximum	0.526	0.000	0.487	16.0	71	16.8	4	1.3	0.0	0.00	7.0	2.1	0.13	0.032	8	4.0	0.0	0.00	17.3	4.86	0.0	0.00
Minimum	0.225	0.000	0.157	5.0	15	4.1	0	0.2	0.0	0.00	0.0	0.0	0.03	0.013	0	0.0	0.0	0.00	3.8	1.87	0.0	0.00
Average	0.383	0.000	0.347	11.4	31	9.7	3	0.9	#####	####	4.8	1.5	0.08	0.025	4	1.1	#####	#DIV/0!	11.0	3.49	####	#####

SIGNED: (OPERATOR IN RESPONSIBLE CHARGE) _____
 PRINTED NAME David A Tyrrell
 TITLE: OPERATOR CLASSIFICATION Class 1
 DPOR CERTIFICATION NO. 1955002813

RAW WATER SOURCE(S) USED DURING MONTH: (SOURCE/DATES)
Shenandoah River - Entire Month



Berryville Biweekly InSight Report

Date: 11/25/2015

From: Jeny Chacko - GE Water & Process Technologies
To: David Tyrrell, Jeff Cappel - Town of Berryville
cc: Phil Lander, Al Farrell, Matthew Stapleford - GE Water & Process Technologies

System Equipment

4 × ZW trains, each 3 cassettes, 2x48/1x42 500D (surface area 46920 sq. ft. per train)

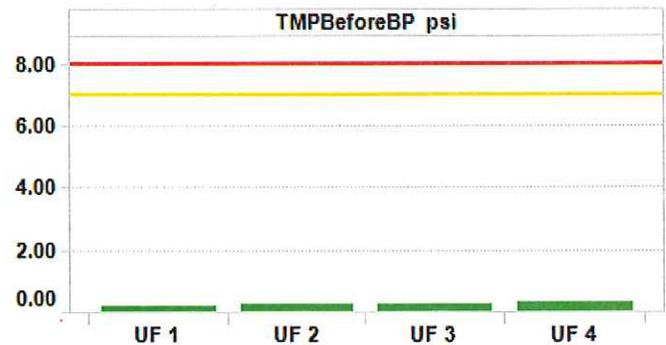
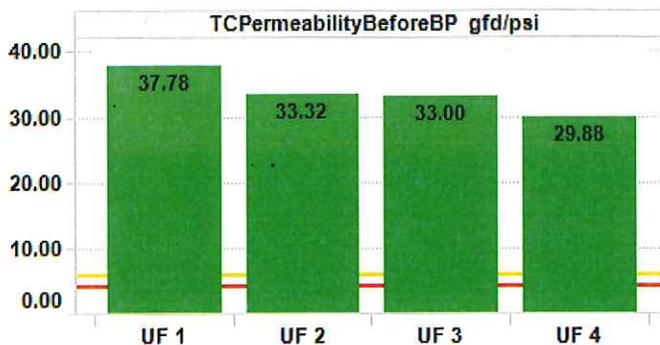
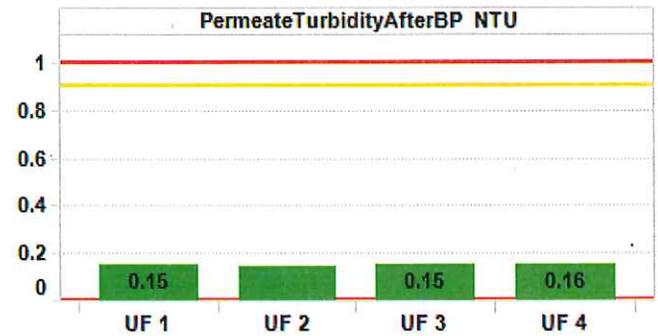
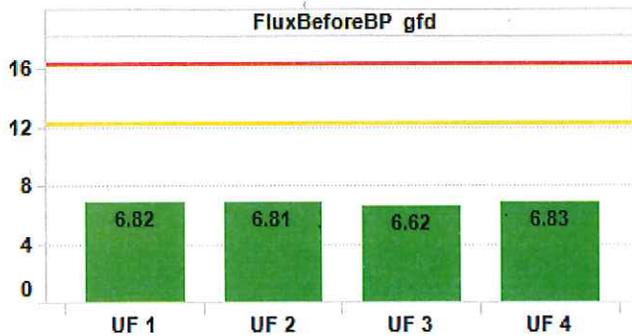
Cleaning Strategy

Maintenance clean dose concentrations - 2 NaOCl/ Hypo @ 200 ppm per week, 1 Citric acid @ 2000 ppm per week

Recovery clean soak concentrations - 2 NaOCl/ Hypo @ 1000 ppm per year, 2 Citric acid @ 2000 ppm per year

KPI Dashboard – Avg values through reporting period

■ Action Required
■ Caution
■ No Limits
■ Normal





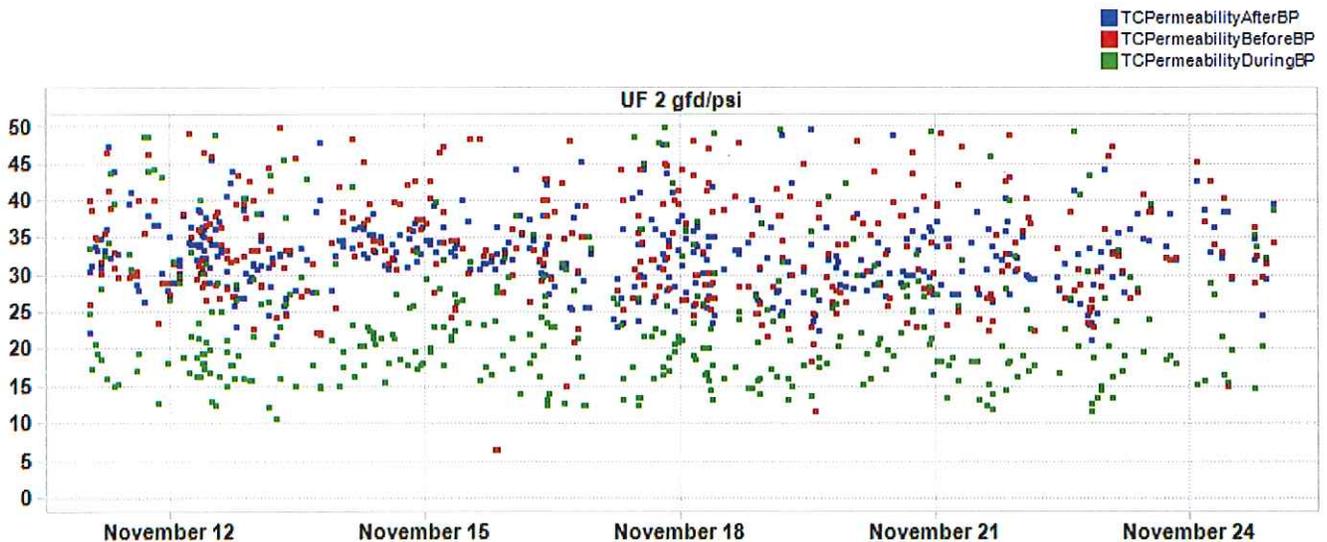
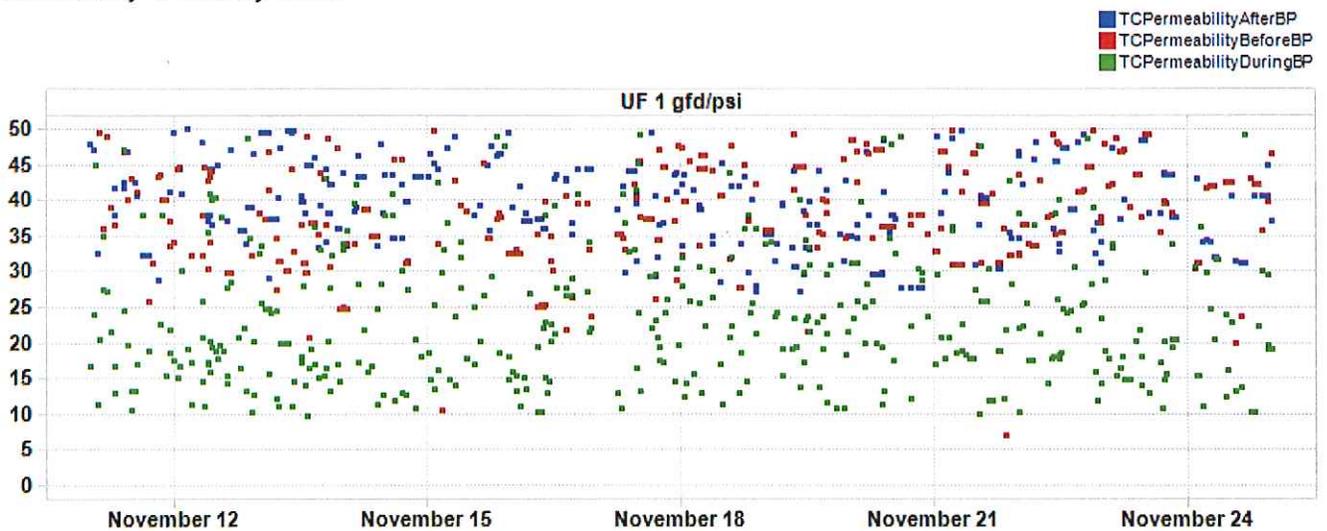
Plant Summary

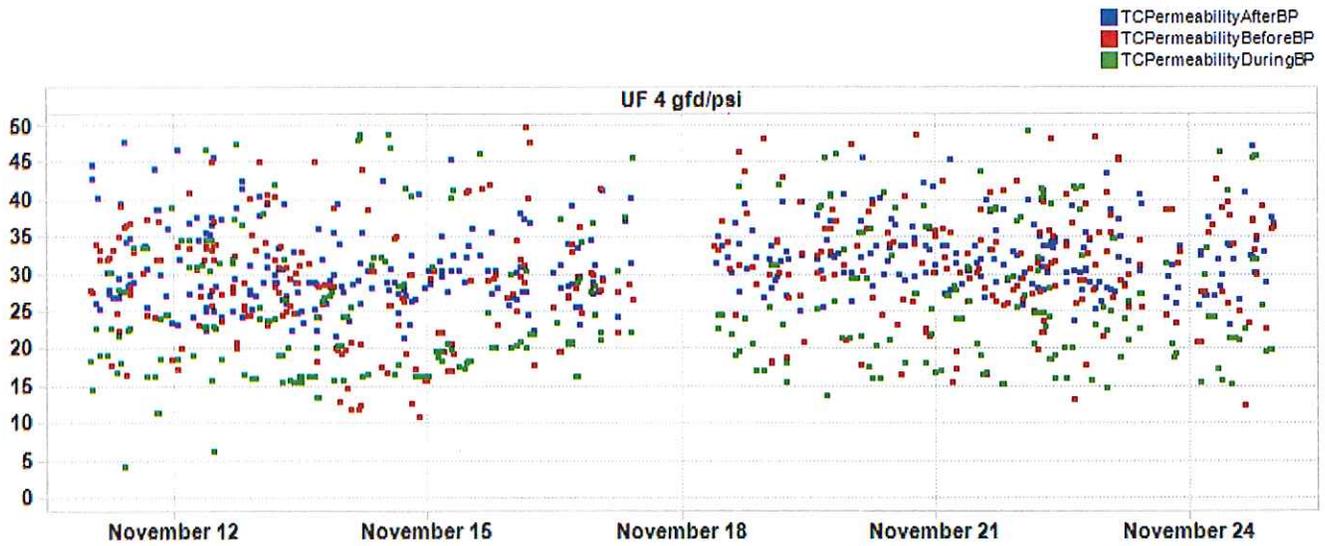
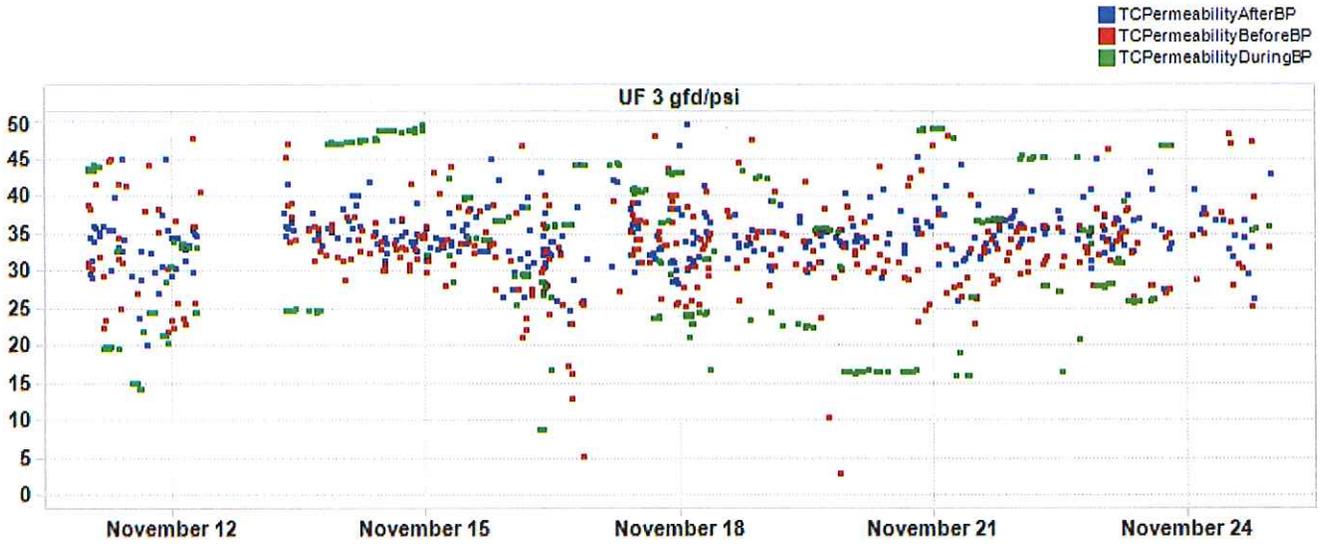
Membrane performance improved by 3-4 gfd/psi after the recent Hypo recovery clean. Membrane performance was excellent with production TMPs at <1 psi at an average production flux of 6-7 gfd. The average production permeability is >20 gfd/psi across all the trains,

Even though trains operated in relax mode, backpulse flows logged in at >55-60 gpm due to the hydraulic design causing water to siphon. Flows increased from 30 to 65 gpm – 70 gpm on Trains 1 and 2 and slightly higher on train 3 during relax. Did anything change with respect to pump settings or pipe configuration?

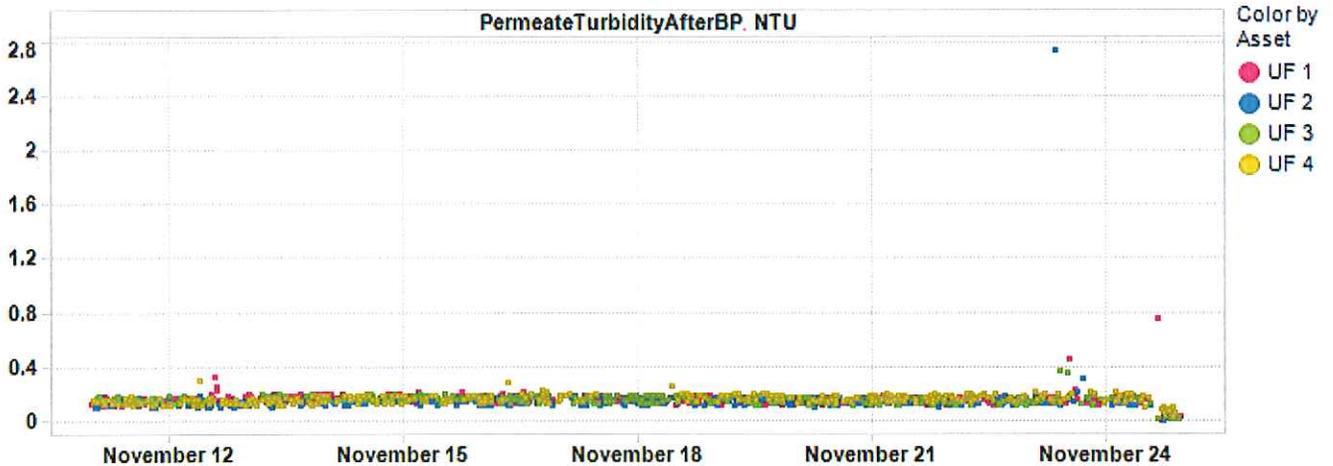
Permeate turbidity went up from 0.07 NTU to >0.13 NTU in the last month. Please have the turbidimeters cleaned and calibrated regularly for accurate readings.

TC Permeability Trends By Train



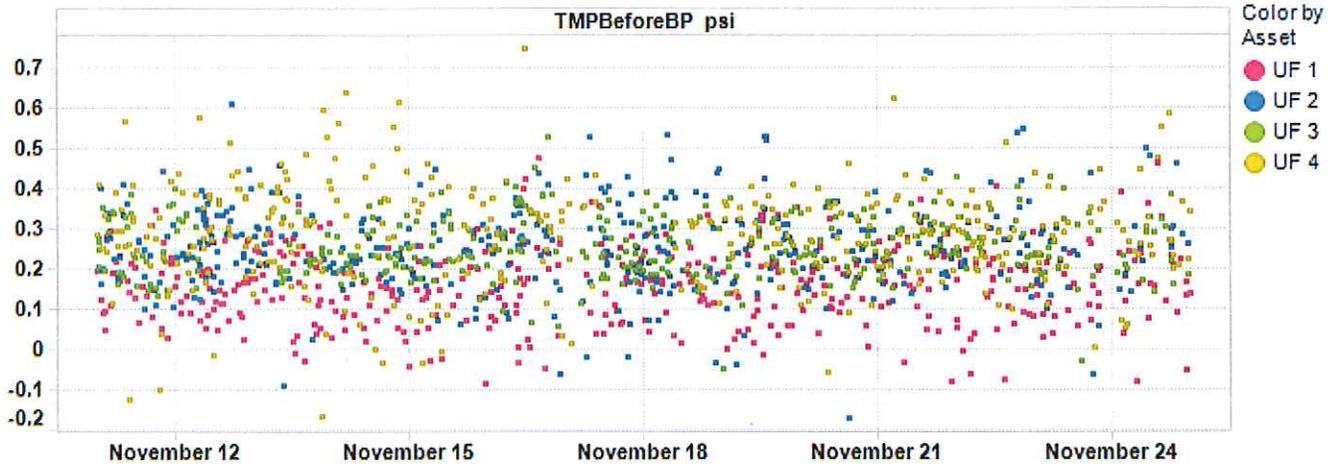


Permeate Turbidity Trend

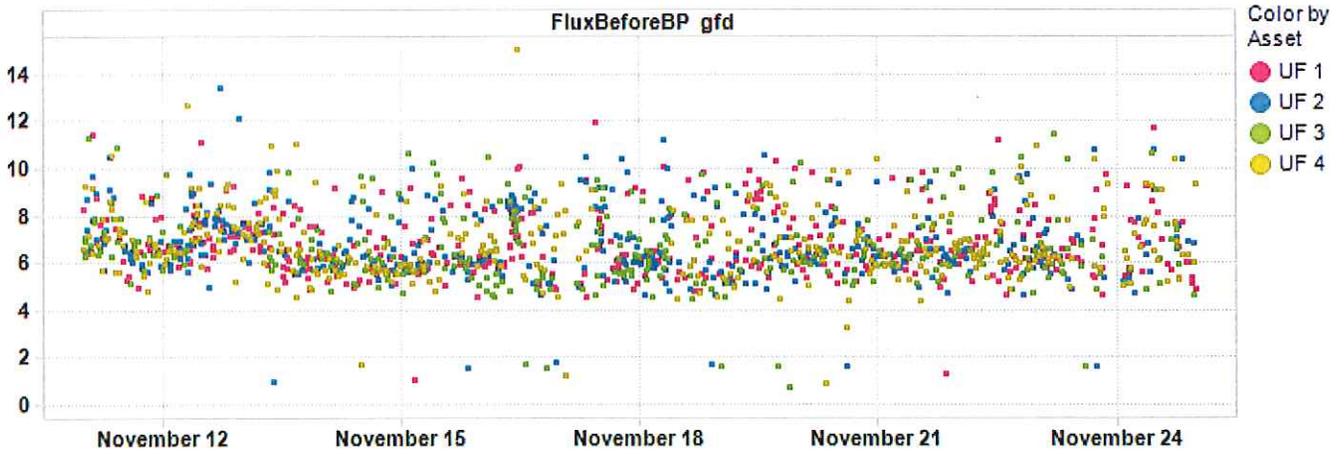




Before BPTMP Trend

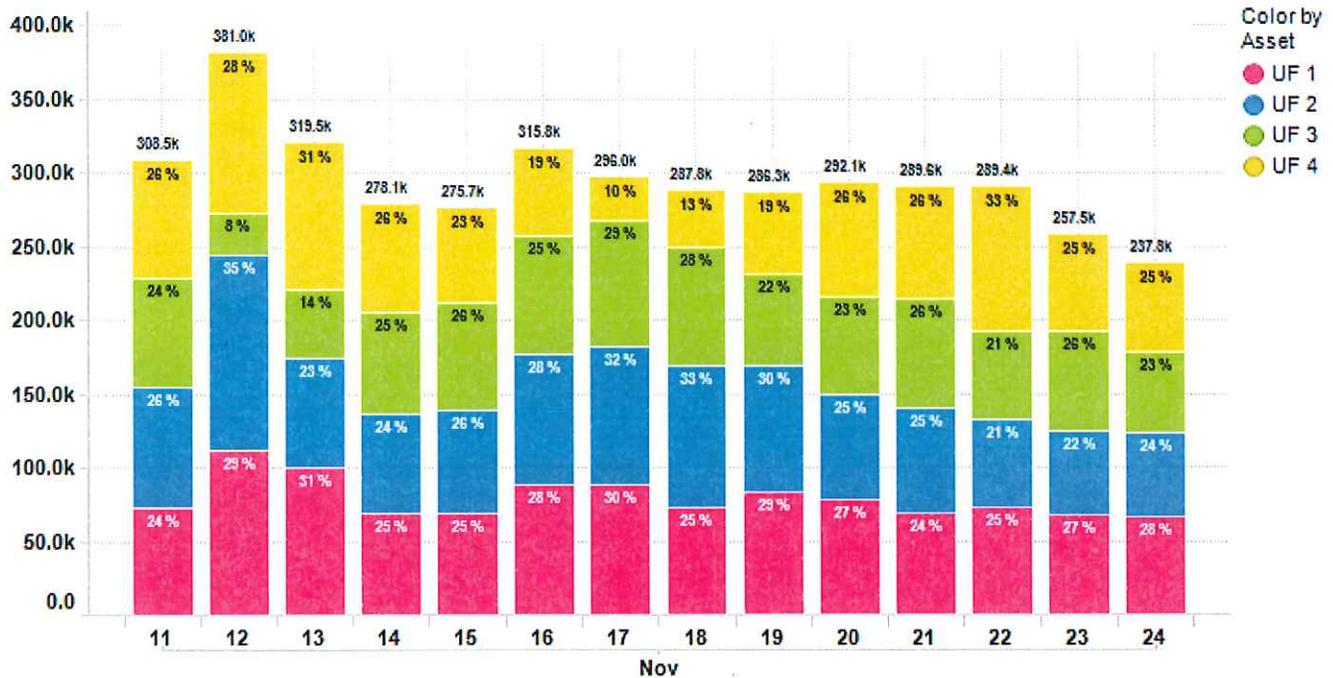


Before BP Flux Trend





Daily Permeate Flow



Average Daily permeate flow from 11/11/2015 to 11/24/2015 is 293.9k gal with a maximum daily flow of 381.0k gal.

Asset Summary

KPI Parameters	Value/Change	UF 1	UF 2	UF 3	UF 4
FluxBeforeBP gfd	Value	6.82	6.81	6.62	6.83
	Change	-5.19 %	-6.47 %	-7.11 %	-7.08 %
PermeateTurbidityAfterBP NTU	Value	0.15	0.15	0.15	0.16
	Change	-10.30 %	-0.79 %	-6.71 %	15.34 %
TCPermeabilityBeforeBP gfd/psi	Value	37.78	33.32	33.00	29.88
	Change	6.93 %	4.44 %	12.03 %	9.39 %
TMPBeforeBP psi	Value	0.16	0.25	0.26	0.28
	Change	11.15 %	-4.90 %	-11.08 %	-5.14 %
TotalPermeateFlowDaily gal	Value	79.38k	79.12k	65.85k	69.59k
	Change	25.71 %	26.03 %	-4.20 %	7.50 %

Plant Summary

KPI Parameters	Value/Change	UF Plant
PermeateTemperature °F	Value	51.88
	Change	-12.12 %
TotalPermeateFlowDaily gal	Value	293.93k
	Change	14.78 %



Contract Expiry Date : 10/26/2016

For InSight technical assistance please email insightsupport@ge.com or please call technical support at 1 866 271 5425 or 905 469 7723 and follow the prompts, if you require after hours assistance please contact the 24/7 Emergency number provided in your plant documentation. This email is a summary of issues identified during a manual review of InSight data from the time period above. This review is an analysis of data that is logged by InSight and identifies key plant performance issues determined from this data. This data review was not focused on minor data issues but on identifying possible existing and/or upcoming critical operational issues.

This review was prepared by GE Water & Process Technologies solely to assist water treatment plant owners and/or operators in analyzing and optimizing plant performance and is not intended to be used or relied upon for regulatory compliance or any other purpose. The content of this review is based in whole or in part on operation data obtained from the plant using InSight software. GE Water & Process Technologies makes no representations or warranties as to the accuracy of the plant data utilized in the preparation of this review. GE Water & Process Technologies accepts no liability for consequences or actions taken in whole or in part by any person on the basis of this review or its contents

Attachment 9

Report of the Department of Public Works December 2, 2015

A Public Works crew responded to a scada call out (power outage for several pump stations) and found that an auto accident on Josephine Street had damaged a power pole and transformer. REC was already on the scene and full power to all the stations was restored within hours.

We had no water breaks or water issues this past month. We have several water improvements projects scheduled to be completed this winter if weather permits. The Battletown Drive water upgrade project is now slated to begin in the spring of 2016.

The Thanksgiving Holiday and recent wet weather has delayed the progress of Phase 5 of Berryville Glen Subdivision. There is a lot of work needed to be completed before the base asphalt can be applied.

Attachment 10

**BERRYVILLE TOWN COUNCIL
PERSONNEL COMMITTEE
Wednesday, November 18, 2015
Berryville-Clarke County Government Center
9:00 a.m.**

MINUTES

Roll:

Town Council:

Present: Harry Lee Arnold, Jr., Chairman; Wilson Kirby

Staff: Keith Dalton, Town Manager; Christy Dunkle, Assistant Town Manager/Planner

Press: None

1. Call to Order

Chairman Arnold called the meeting to order at 9:01 a.m.

2. Discussion – Recommendation for appointment to Town Boards

Mr. Dalton explained that there are several appointments to be made including those for the Berryville Area Development Authority, the Board of Zoning Appeals, and the Town Council. Mr. Kirby noted that the Committee needs to plan for the Town Council appointee to start serving a term on January 1, 2016. Chairman Arnold said the Committee needs to put extra focus on the Town Council position.

There was a general discussion of boards and commissions. By consensus, the following interview schedule was set in order for the Committee to meet with applicants to the various boards:

December 2	8:30-10:30 a.m.
December 4	8:30-10:30 a.m.
December 7	1:00-4:30 p.m.

The Committee directed Staff to schedule interviews.

3. Adjourn

There being no further business, the meeting was adjourned at 9:57 a.m.

Attachment 11

**BERRYVILLE TOWN COUNCIL
MOTION TO RE-APPOINT RONALD HUFF
TO THE CLARKE COUNTY PARKS AND
RECREATION ADVISORY BOARD**

Date: December 8, 2015

Motion By:

Second By:

I move that the Council of the Town of Berryville re-appoint Ronald Huff to the Clarke County Parks and Recreation Advisory Board for a four-year term to begin January 1, 2016 and end on December 31, 2019.

VOTE:

Aye:

Nay:

Absent/Abstain:

ATTEST: _____
Harry Lee Arnold, Jr., Recorder

Attachment 12

**BERRYVILLE TOWN COUNCIL
MOTION TO APPOINT CHRISTINA DUNKLE TO THE
CLARKE COUNTY ECONOMIC DEVELOPMENT ADVISORY COMMITTEE**

Date: December 8, 2015

Motion By:

Second By:

I move that the Council of the Town of Berryville appoint Christina Dunkle to the Clarke County Economic Development Advisory Committee for a four-year term commencing on January 1, 2016 and ending on December 31, 2019.

VOTE:

Ayes:

Nays:

Absent During Vote:

Absent During Meeting:

Abstain:

ATTEST: _____
Harry Lee Arnold, Jr., Recorder

Attachment 13

**BERRYVILLE TOWN COUNCIL
MOTION TO APPOINT WARREN DILANDRO
TO THE BERRYVILLE AREA DEVELOPMENT AUTHORITY**

Date: December 8, 2015

Motion By:

Second By:

I move that the Council of the Town of Berryville appoint Warren Dilandro to the Berryville Area Development Authority to fill an un-expired term ending on June 30, 2018.

VOTE:

Aye:

Nay:

Absent/Abstain:

ATTEST: _____
Harry Lee Arnold, Jr., Recorder