

BERRYVILLE AREA DEVELOPMENT AUTHORITY
MINUTES -- REGULAR MEETING
September 29, 2015 – 4:00 pm
Berryville-Clarke County Government Center – Main Meeting Room
101 Chalmers Court – Berryville, Virginia

A regular meeting of the Berryville Area Development Authority (BADA) was held on Tuesday, September 29, 2015. The meeting was called to order at 4:03PM.

ATTENDANCE

Authority members present: Allen Kitselman, Chair; Wingate Mackay-Smith, Vice Chair; Kathy Smart; Frank Lee; George L. Ohrstrom, II

Authority members absent: none

Staff present: Christy Dunkle, Berryville Assistant Town Manager; Brandon Stidham, County Planning Director

Press present: Val Van Meter, Winchester Star

APPROVAL OF AGENDA

The Authority voted to approve the agenda as presented.

Yes: Kitselman, Lee, Smart (seconded), Ohrstrom (moved), Mackay-Smith

No: No one

Absent/Not Voting: No one

APPROVAL OF MINUTES

The Authority voted to approve the September 2, 2015 meeting minutes.

Yes: Kitselman, Lee, Smart (seconded), Ohrstrom (moved), Mackay-Smith

No: No one

Absent/Not Voting: No one

DISCUSSION, INITIAL DRAFT OF REVISED BERRYVILLE AREA PLAN

Mr. Stidham said the Authority has a complete initial draft plan before them for review. He said there were some final adjustments from the September 2, 2015 meeting which are highlighted in red in the Draft Plan. He said Staff has proposed a public input plan based on the members' previous comments that includes an informal solicitation for public input.

Mr. Stidham reviewed edits from previous comments in Chapter 2. He identified two tables that have been updated including figures from the County GIS which offers more accurate information. He said that additional edits concerning residential development are identified in the Draft Plan. He addressed the 195 units unused from the original Plan and how the figure was incorporated into the Draft Plan. He referenced updated language in Sub-Area 6A which was recommended at the previous meeting concerning flexible housing types and other items as an alternative option. He concluded by asking if the members had additional edits, questions or comments about the Draft. Mr. Ohrstrom thanked Staff for their work on the document. Mr. Stidham asked for additional comments. There were none.

Mr. Stidham directed members to page nine of the meeting packet concerning the public input plan. He said he had used this process with the County's Comprehensive Plan update. He said an informal review process with a wide distribution and availability of the Draft Plan would occur and Staff would set up an informal input meeting leading to development of the Final Draft. He said if the members were satisfied with the Plan before them and public input plan, Staff would complete the document and prepare the final version of the Initial Draft for public release. He continued by saying by the end of the week the document would be posted on the Town and County web sites with a limited number of hard copies available for sale in the Town and County offices. He added that the document would also be placed in the library for review providing wide distribution to the community. He said a flyer would be developed and distributed to key stakeholders, organizations and civic groups to let them know this process is underway and information on availability of the Plan and where they can make comments. Mr. Stidham said electronic copies would be sent to key stakeholders and agencies identified in the document including both governing bodies and Planning Commissions, Conservation Easement Authority, Economic Development Advisory Committee, Industrial Development Authority, and fire and rescue companies requesting comments. He said he was hoping that a public information meeting could be held in conjunction with the regular October 28, 2015 meeting beginning at 5:00pm where Staff and BADA members would be available to discuss the Plan update with the community. He added a PowerPoint presentation at 7:00pm should be considered at the beginning of the regular meeting as some people prefer a formal presentation rather than reading through the documents. He requested comment from BADA members. Staff said a deadline of November 9, 2015 is requested for comments on the Draft Plan which would allow enough time for Staff to develop a summary report for the November 18, 2015 meeting. He requested BADA members submit final changes between the November 18, 2015 meeting and the December 16, 2015 meeting in order to develop the Final Draft for a public hearing in January. Ms. Dunkle asked for BADA members to confirm availability as the meeting dates have moved due to the holidays.

Mr. Lee commented that he felt the timeframe was appropriate and would allow other stakeholders time to comment. He said the PowerPoint would be a good idea as it would provide an overview of the draft Plan and the process by which it was updated to those who would like a synopsis.

Mr. Ohrstrom made the motion to authorize the finalization of the Initial Draft and approve the public input plan for action, seconded by Ms. Mackay-Smith, the motion passed by voice vote.

Yes: Kitselman, Lee, Smart, Ohrstrom (moved), Mackay-Smith (seconded)

No: No one

Absent/Not Voting: No one

Site Plan Review – Lot 10 Clarke County Business Park

Ms. Dunkle said that Lot 10 which is the last parcel in Business Park to be developed. She said the configuration of the lot has been a design challenge. She said this is an addition to the parking lot for the existing Timberlake Cabinet building and said they are adding Staff to the business and needed to expand their lot. She said covenants of the Business Park and the Town Zoning Ordinance have been reviewed for conformance and a parking lot on an adjacent parcel was permitted. She described the size of the lot including the area of disturbance and amount of additional impervious surface required. She said blasting would be prohibited due to the adjacent elevated water tank and added the applicant was not anticipating this to occur. She said she recommends administrative approval of the site plan. Mr. Lee asked about storm water run-off and sufficient capacity. Ms. Dunkle said the subdivision process included run off numbers when it was designed. She noted the detail of the shielded light they are proposing. Ms. Mackay-Smith asked about storm water detention facilities. Ms. Dunkle identified detention facilities within the Business Park.

ADMINISTRATIVE SITE PLAN APPROVAL

The Authority voted to allow for administrative approval for a parking lot on lot 10 of the Clarke County Business Park.

Yes: Kitselman, Lee, Smart (moved), Ohrstrom (seconded), Mackay-Smith

No: No one

Absent/Not Voting: No one

OTHER

Ms. Dunkle said she researched the Friant easement which has been recorded and has a copy available should anyone wish to review the document. Mr. Lee requested a copy.

APPROVAL TO RECESS

The Authority voted to recess the meeting until the 5:00pm meeting.

Yes: Kitselman, Lee, Smart (moved), Ohrstrom (seconded), Mackay-Smith

No: No one

Absent/Not Voting: No one

The meeting was recessed at 4:21pm.

PUBLIC HEARING

Chair Kitselman opened the public hearing at 5:00pm.

Ms. Dunkle read the public hearing notice. Mr. Kitselman thanked those at the meeting and said each speaker would have three minutes to speaker with the applicant having five minutes. He recognized Mr. Painter.

Andrew Painter, 1 E Market Street, Leesburg

Mr. Painter, speaking for Marlyn Development, said as this was the last piece of OPR ground in the Town of Berryville, they felt it was the highest and best use for the property to serve as many Clarke County seniors as possible. He said there needed to be an inclusionary zoning ordinance and comprehensive plan policies which allow seniors to age in place in an affordable and dignified way. He said that the zoning ordinance and the Plan should provide for health, safety and welfare in support of the general public and important to have regulations and policies in place that meet the future needs of residents.

Mr. Painter said to look across mountain to Loudoun County where everyone believes their comprehensive plan is out of date and not able to respond to opportunities. He said Berryville should have policies in place that do not prescribe the number or type of units but should welcome senior housing as long as it is in a tax positive manner, with good quality amenities and address issues with fire safety.

Mr. Painter said concerning the affordability of the project, he said 10% of the units would be market rate and 90% of the units would have income limits. He said the goal is to create a market rate community but at affordable rates for seniors with fixed incomes. He said he needed to underscore that this is not subsidized or low income housing and that the residents would need to qualify with good credit like any apartment community. He added that the non-income restricted rents would be \$1,300 to \$1,400 a month and the income restricted units \$950 to \$1,200 per month. He said that he had previously discussed amenities of the Marlyn proposal which are only achievable with additional units.

Mr. Painter referenced Ms. Galvin, the SAAA representative concerning transportation needs. He said the Marlyn development is in close proximity to a grocery store and emergency services and van transportation will be provided for residents. He said they had met with representatives from local fire and rescue companies and with Frank Davis concerning financial considerations, memorializing \$150,000 for emergency equipment due to the higher call volumes for seniors. He added that the fiscal impact would be beneficial as residential development only costs 50 cents in operating costs for every dollar required. He concluded by saying that the Marlyn development represents a \$15 million investment and that the location is appropriate and makes good business sense. He said Marlyn will build and operate the facility for a number of years and will be a good corporate citizen. He requested that the BADA support the amendment.

Chairman Kitselman recognized Cathie Galvin, Shenandoah Area Agency on Aging, 207 Mosby Lane, Front Royal, VA. Ms. Galvin said additional multifamily units would create a substantial service burden to the current system. She offered two examples of people in need of transportation to medical care including physical assistance and for transportation for rehabilitation four times per week who needed physical assistance from SAAA Staff. She said as the population ages, residents require additional assistance. She said 30% of the agency's services are provided to residents of Mary Hardesty House including not just transportation but Meals on Wheels, insurance counseling, and meals at active living center. She said she believes that older people provide quality to a community but there have to be a variety of services that allows residents to age in place. Ms. Galvin added that it doesn't seem right for people to move to the community and there are no services to support them. She concluded by asking that Development Authority members should consider the availability of access to most frequently used services. She concluded by saying that with a total build out of 180 units residents, services will be impacted in the community and she asked they consider this as they move forward.

Francis Nance, 308 35th Ave., Virginia Beach, VA

Mr. Nance read from Multifamily Executive Report magazine which contains information about the need for senior housing including the number of seniors and multifamily units, adding that in marketing to seniors the number one factor is security. He said walkability including access to a grocery store was important to seniors. He said he agrees with some of the points made by Ms. Galvin including the importance of location and accessibility. He reminded Authority members that their development will have van for resident transport. He said the approved 60 unit complex would never be built, and would not offer van transport. He said the by right zoning in this area would not allow for the amenities that their project would. He concluded by stating that his is a good project and there is a huge need for senior multifamily development.

Stuart Patz, 46175 Westlake Dr., Potomac Falls, VA

Mr. Patz said he did the market study for this project as well as the Mary Hardesty House. He said that a lot of incorrect information was being presented regarding senior housing and he wanted to summarize facts. He said that no one refutes the positive economic benefits to the Town and County. He said rents would be \$950 for a 1 bedroom unit plus utilities and \$1,100 for two bedroom plus utilities. He added that in order to afford these rates, annual resident incomes of \$27,000-40,000 would be required. He said this was a much higher income range than Mary Hardesty House. He said ages of residents are anticipated to be in their low 70's and that the resident base is active seniors with moderate incomes. He said these residents would be a lot younger than Mary Hardesty House residents as that facility has been open for 20 years. He said the market area studied incorporated eastern Frederick County to Ashburn and Loudoun County. He said he used this study area because that is the geographic area that Staff at Mary Hardesty uses and that in the past 15-20 years, it has not changed. He said more recently, there has been evidence that Clarke and Winchester residents would be interested in a facility in Berryville. He said initially the development would include a large resident base from Loudoun County. He said comments from SAAA as to why the Shenandoah Valley was not included in the market area was because there was no evidence that the valley was part of the market area and that the Route 7 corridor is where most of the residents would come from. He stated that Ms. Garvin's comment was incorrect and unjustified. He continued saying that her suggesting that the proposed 120 unit facility will tax their resources was not accurate as the Marlyn development would have a younger active moderate income resident base. He said the Marlyn development would offer more services including transportation and on-site medical care thereby not taxing agencies that market to a much lower income base. Mr. Patz disagreed with comments from the SAAA stating that they did not believe the market would support such a facility as his statistics showed differently with 12% of Clarke residents 65-79 with 5% of Loudoun residents and 10% of Commonwealth residents in that age bracket. He said this puts Clarke with a higher percentage of older adults and lower number of housing units that supports these people. He said his analysis showed 500 age restricted older adult households in affordable housing in the market area with a small percentage of senior housing. He said most of this housing was designed as family housing, showing a pent up demand for senior units thereby forcing people into family housing rather than senior. He concluded by saying the benefits of senior housing include no maintenance, security with a building elevator, companionship, on-site medical, transportation, access to social services, access to prepared meals, and a large range of needs for exercise and health care and that the market area's pent up demand would be partially served with this proposal.

Chair Kitselman requested that speakers stay within allotted time.

Dan Garrett, 303 Archer Court, Berryville

Mr. Garrett referenced the March 30, 2015 work session stating that one of members asked how 300 units were determined. He said neither of the planners knew nor provided justification for this number. He added that a long time member said they did not know specifics of 300 cap, but etched in stone and we will follow that language. He said an even larger question is why would a comprehensive plan contain such discriminatory provisions against any group of citizens in a community. He said common practice allows age restricted zoning to meet the test of affordable housing but to say only a certain amount of residential units for seniors be allowed seems manifestly discriminatory. He asked if we limit number of young families or are required to meet prior residency tests in order to build a house in Berryville. He said we would be outraged at ethnic, gender or religious exclusions but have enacted exclusionary provisions based on the number of seniors allowed to live in the Town of Berryville.

Mr. Garrett said changes to the comprehensive plan make it look more like a zoning document than a comprehensive guide to development. He said that now proposing to do away with the older person

residential area that originally you found to be desirable and demanding that the land owner build a variety of other housing types thus further restricting senior housing. He said that tough individual cases make bad law, and that members are trying to block specific development in a 10 acre location by writing those objections into a comprehensive plan. He concluded by stating that the law of unintended consequences will probably come back to haunt you and that a comprehensive guide to development should allow flexibility to respond to changing needs and responsibilities.

Mary Daniel, 108 Tyson Drive, Berryville

Ms. Daniel said she both agrees and disagrees with everything previously said. She wanted to thank Authority members on their service. She congratulated the Authority on completing the document. She said to remember to keep their eyes on the ball and that it is comprehensive and it is a plan and that the purpose was not to keep people or businesses out, but to allow us to grow and change as our citizens, population and time allows us to do. She said in her opinion, everyone has done a good job in Berryville and Clarke County by having one of the first comprehensive plans and sticking to the plan and the planning process. She said to keep in mind what has happened in the past but to also look at what has coming in the future.

Ms. Daniel said this doesn't mean we are without fault because we are having trouble keeping up with what we have planned for and our obligations to public education, fire and rescue, and some of the other things planned for but having trouble keeping up ourselves. She said not to hold our own failures against ourselves and our future and to continue to think forward. She thanked members for what you have done and continue to do and said that time will march on and thanked the Authority members for keeping it comprehensive and maintaining the planning process.

Harold Rohde, 114 Smith Street, Berryville

Mr. Rohde said he is chief of John H. Enders Fire Company. He said the question concerning this topic appears to be 60 units versus 120 units. He said that any development would increase number of emergency calls. He indicated that his previous concerns include the number of people in one building and techniques and tactics to evacuate the structure should the need arise. He said he and other members of the fire and rescue community have met with the developer and through good design practices and operational ways to horizontally evacuate residents, he feels it could be manageable. He reiterated that anything we build as the town grows will generate additional calls and as a county we need to determine how best to meet the needs of the community. He said that he was previously on the Berryville Planning Commission and referenced Ms. Daniel's comments. He said when developing and updating the plan, they used the best information they had at that time and that the plan is a dynamic document. He concluded by encouraging the Authority to keep developing the plans and processes and applauded them for their efforts.

Jon Erickson, Morris Ritchie and Associates, 270 Duke Lane, Bluemont

Mr. Erickson said he wanted to discuss the design of the property. He said there is misinformation that the developer had switched plans during the process. He said the mixed housing type plan was never on the table and that it was created to illustrate the density of the property. He said they are requesting the same density but the Marlyn proposal offers more dedicated open space, trails and other amenities for the community to use. He said he has shown the mixed housing type drawing to three residential developers in the region and all have said that it is not feasible for such a small parcel and that there is currently no market for quadplex units. He said the Marlyn proposal is the highest and best use of the property and offers a larger tax base than single-story towns. He said he feels that it is a good plan for the future.

Bonnie Echols, 400 Custer Court, Berryville

Mrs. Echols said local taxes increased 36% in one year and that had exceeded anything previously seen. She asked why the town and the planners walk away from substantial revenues that the Marlyn proposal would generate. She added that the proposal provides positive fiscal benefits both jurisdictions and that capping the number of senior units in the Plan is a form of discrimination and exclusionary zoning. She said all Town Council members claim to be in favor of the development yet she has seen resistance from two members. She said as a town resident and voter, the ballot box is the best way to test commitment for senior housing. She said she was glad that state code requires a timely answer. She asked Authority members to join with friends in paying close attention to how council members vote. She said the 10-acre property zoned for older person residential and that their property is the best location in Leesburg, Winchester or Berryville and is within walking distance to a grocery, bank, and medical services. She said other areas of Area B offer options for single family houses and attempts by the BADA to block the Marlyn proposal is contrary to the highest and best use of the property already zoned OPR.

Alton Echols, 400 Custer Court, Berryville

Mr. Echols said Mr. Patz had done the study for Mary Hardesty House and assisted living facility. He said high of 79 on waiting list. From Shenandoah, Frederick, Warren, Jefferson, Loudoun and Clarke counties and Winchester. Said SAAA concur with thoughts about livable community and BV village meet livable community standards. Questioned SAAA figures. He said he would welcome working with SAAA and has a lot of experience with senior housing. He said he loved Berryville and would like to remain here in the Town in an apartment.

Robina Rich Bouffault, Boyce, VA

Ms. Bouffault said having been on the BADA, she is familiar with the Town and County agreement concerning the process for updating Berryville Area Plan and read the resolution. She felt it was a premature recommendation to modify the plan update and the zoning language as the Plan update has been completed. She highlighted discrepancies in the County and Town zoning ordinances and, in order to avoid potential conflicts, suggested planning Staff coordinate efforts to review the respective zoning ordinances for conformance with the updated Berryville Area Plan.

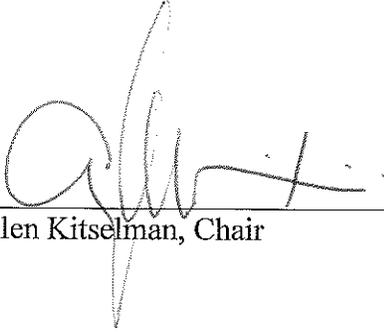
Sharon Strickland, 312 Early Drive

She said Marlyn's request is simple, to approve an additional 60 multifamily units. She referenced the tax credit project and indicated only 12 of Mary Hardesty House units are accessible. She said the Marlyn units feature universal design and are all handicapped accessible. She said the need for three additional fire and rescue personnel and new equipment has been heard. She referenced county benefits and the newly implemented fee for service. She said a proffer with the 10 acre rezoning in 2009 will offer \$150,000 for an 80/20 grant match for fire and rescue equipment. She identified Town benefits and said she believes it is the highest and best use for their neighborhood. She said a unanimous vote at the June BECA meeting occurred and that she has a number of petitions to give to Town Council members at their next meeting.

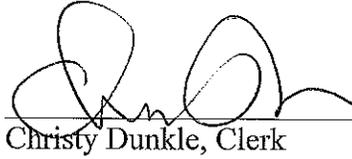
Chairman Kitselman asked for additional speakers, there were none. Mr. Ohrstrom moved to close the public hearing, seconded by Mr. Lee, the public hearing was closed.

Chairman Kitselman said they had been asked to rule on this in a short timeframe. Mr. Ohrstrom and Ms. Smart said they would like time to consider the comments from the public hearing and requested a second meeting be set prior to the October 10, 2015 deadline. A meeting was set for Monday, October 5, 2015 at 2:00pm to continue the discussion and make a recommendation on the matter to Town Council.

Mr. Lee thanked those in attendance. There being no further discussion, Ms. Smart moved to adjourn the meeting seconded by Mr. Ohrstrom. The meeting was adjourned at 5:56pm.

A handwritten signature in black ink, appearing to read 'Allen Kitzelman', written over a horizontal line.

Allen Kitzelman, Chair

A handwritten signature in black ink, appearing to read 'Christy Dunkle', written over a horizontal line.

Christy Dunkle, Clerk