

Berryville – Clarke County  
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**BERRYVILLE**  
EST. 1798 *Genuine* VIRGINIA

**BERRYVILLE PLANNING COMMISSION**

Regular Meeting

Tuesday, July 25, 2023 – 7:00 p.m.

101 Chalmers Court – Main Meeting Room – Second Floor

**AGENDA**

1. Call to Order – William Steinmetz, Chair
2. Approval of Agenda
3. Approval of Minutes – June 27, 2023
4. Public Hearing – Special Use Permit  
Zion Baptist Church (Alethia Burks, Agent) is requesting a Special Use Permit in order to operate a day care center under Section 604.3(e) of the Berryville Zoning Ordinance at the property located at 13 Josephine Street, identified as Tax Map Parcel number 14A5-B-((8))-15, zoned DR-4 Detached Residential. SUP 02-23
5. Discussion – Public Hearing
6. Citizens' Forum
7. Old Business  
Discussion – Short-term Rentals
8. Planning Update
9. Other
10. Adjourn

**Harry Lee Arnold, Jr.**  
*Mayor*

**Erecka L. Gibson**  
*Vice Mayor*

**Council Members**

**William Steinmetz**  
*Ward 1*

**Diane Harrison**  
*Ward 2*

**Grant Mazzarino**  
*Ward 3*

**Ryan Tibbens**  
*Ward 4*

**Keith R. Dalton**  
*Town Manager*

**BERRYVILLE PLANNING COMMISSION**  
**Berryville-Clarke County Government Center**  
**Meeting Minutes**  
**June 27, 2023**

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A meeting of the Berryville Planning Commission was held on Tuesday, June 27, 2023 at 7:00 p.m. at the Berryville-Clarke County Government Center in Berryville.

**ATTENDANCE:** Members of the Planning Commission present: Kim Kemp, vice chair, Michael Bell, Gwen Malone, Michelle Marino, Sheryl Reid

Absent: William Steinmetz, chair, Tom Parker

Staff present: Christy Dunkle, Community Development Director, Jean Petti, Deputy Town Manager

Press present: Mickey Powell, Winchester Star

Others present: Susan Godfrey, Myron and Gail Altman

**1. CALL TO ORDER – Kim Kemp, vice chair**

Vice chair Kemp called the meeting to order at 7:00 p.m.

**2. APPROVAL OF AGENDA**

Mr. Bell made the motion to approve the agenda as presented, seconded by Ms. Malone. The motion passed by voice vote.

**3. APPROVAL OF MINUTES**

Ms. Malone made the motion to approve the May 23, 2023 minutes as presented, seconded by Mr. Bell. The motion passed by voice vote.

**4. PUBLIC HEARING – TEXT AMENDMENTS FOR SHORT-TERM RENTAL REGULATIONS**

Ms. Dunkle read the public hearing notice information and the proposed amendment to Article I defining short-term rentals which had been modified to address the previous discussion at the May Planning Commission meeting. She said she had included the proposed text amendment for the use by special permit in each zoning district that was discussed previously.

Vice chair Kemp opened the public hearing. She recognized Susan Godfrey who lives on West Main Street next door to 210 West Main Street. She said 15 people, including six children, stayed at the property over the last weekend. She said there is no Certificate of Occupancy, business license, or zoning on the building and said she hoped that language in the new ordinance would address this concern. She said it may be difficult to investigate a complaint because the facility is normally used on

the weekends. She added that she hopes there are real time consequences. Ms. Godfrey said that the elevator had been removed and children are in the building which may result in safety issues. Ms. Dunkle said two Certificates of Occupancy on this building have been revoked by the County. She said the owners have been notified of violation by the County and she is anticipating action after the required 30-day waiting period. Ms. Malone asked for confirmation on responsibility for issuing CO. There was a discussion about enforcement. Ms. Dunkle said enforcement of Town code violations would be addressed by the police, occupancy violations by the County, and zoning by her office.

Ms. Dunkle said there were approximately eight short-term rentals currently operating legally in the Town and operating legally. Ms. Reid asked whether this property owner had a business license and Ms. Dunkle said she did not believe so.

Ms. Malone asked how many rooms were available. Ms. Godfrey said the owner had created new rooms with false walls and added three bathrooms. She said that the property owner is advertising accommodation for a maximum of 30 people. Mr. Myron Altman said they are advertising 16 bedrooms. Ms. Godfrey said they have seen 20 people at the facility, adding that it has been booked for two weeks in July. Mr. Altman said it has been going on for a year. Ms. Dunkle said the owner indicated the building was going to revert back to a licensed nursing facility in May.

There being no further discussion, vice chair Kemp closed the public hearing at 7:10 p.m.

Ms. Dunkle described the timing of Council action as they do not meet in August.

Ms. Reid made the motion to postpone further discussion on the matter to the July meeting, seconded by Ms. Marino. The motion passed by voice vote.

Ms. Dunkle said she will request that Town Council set a public hearing for their September meeting at their next meeting on July 11, 2023.

## **5. DISCUSSION – PUBLIC HEARING**

There was no further discussion.

## **6. CITIZENS' FORUM**

No one spoke.

## **7. NEW BUSINESS – SET PUBLIC HEARING – SPECIAL USE PERMIT**

Ms. Dunkle introduced the request for a Special Use Permit by Zion Church in order to operate a day care center at the parish hall across from the church on Josephine Street. She said they have been offering meals to seniors and overflow activities from the church in this building. She said the applicants are working with the Clarke County Building Department on requirements for the facility to be used as a day care center. Ms. Dunkle said they would like to operate from 6 a.m. to 6 p.m. with a maximum number 24 students at one time. She added that parking requirements established in the zoning ordinance have been met.

Ms. Dunkle said the applicants will be adding recreational areas in the back and will add approximately 10 jobs with this use. She requested that the Planning Commission set a public hearing for their July 25, 2023 meeting on the matter. She reviewed the notification process with commissioners.

There being no further discussion, Ms. Malone made the motion, seconded by Ms. Reid, to set the public hearing for the July meeting. Ms. Dunkle said she will request that Town Council set their public hearing for their September meeting.

**8. DISCUSSION – PLANNING UPDATE**

There was no further discussion.

**9. OTHER**

There was no further discussion.

**10. ADJOURN**

There being no further discussion, Mr. Bell moved for adjournment, seconded by Ms. Malone, with the motion passing by consensus at 7:17 p.m.

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Kim Kemp, Vice Chair

Christy Dunkle, Secretary

## Planning Commission Agenda Item Report Summary

July 25, 2023

### Item Title

Public Hearing – Special Use Permit

### Prepared By

Christy Dunkle

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Zion Baptist Church (Alethia Burks, Agent) is requesting a Special Use Permit in order to operate a day care center under Section 604.3(e) of the Berryville Zoning Ordinance at the property located at 13 Josephine Street, identified as Tax Map Parcel number 14A5-B-((8))-15, zoned DR-4 Detached Residential. SUP 02-23

### Background/History/General Information

Zion Baptist Church is located at 10 Josephine Street. The church owns the building located across the street at 13 Josephine Street which is used for a number of activities including vacation bible school and overflow from events at the church.

Church leaders would like to open a day care center which would also offer a before- and after-school program.

### Findings/Current Activity

A public hearing notice was published in the Winchester Star on Tuesday, July 11 and Tuesday, July 18, 2023. Adjacent property owners were notified of the public hearing via first class on July 11, 2023. One property owner from the 200 block of Josephine Street emailed Planning staff the following comment:

*I hope this email finds you well. Unfortunately, I am currently out of town and won't be able to make the Town Hall meeting but I want to reach out with my concerns about the Zion Baptist Church. Please DO NOT Approve the special permit License to operate a daycare at the church. The new owners of the Church have caused more hassle and disturbance on my street and it's really getting old. Sunday service is enough of a hassle to get in and out of my home, They have currently changed my perspective of the reason why I purchased my home on Josephine Street.*

The special use permit process, established in Section 503 of the Berryville Zoning Ordinance, allows Council to authorize uses identified in the ordinance that require this permit. In addition to applicable requirements, Council may impose conditions on special use permits deemed appropriate in the public interest. Such conditions imposed in previous requests include, but are not limited to, hours of operations and fencing if there is any outdoor activity proposed.

The applicant has two years to establish the use and the use may not be expanded without approval of Council. Section 503 is included in this agenda packet.

Specific information about the request is referenced in the June staff report below. No modifications to the request have been submitted since the June meeting.

### ***June 27, 2023 Staff Report***

*Church leaders are proposing hours of operation from 6:00 a.m. until 6:00 p.m. With a maximum number of 18 children in the daycare program, they will offer the service for ages six months to five years old and after school programs for a maximum of 15 students ages five through 12 years old. The Certificate of Occupancy set by the Clarke County Building Department for this structure is 250. Representatives of the church have met with the County Building Official to determine any necessary upgrades required for this use.*

*There will be approximately 10 jobs created including a director, three to four certified teachers, full time maintenance staff, and certified kitchen personnel.*

*They will be adding a multi-purpose court and playground area at the rear of the property. These areas will be fenced.*

*Section 305 of the Zoning Ordinance regulates parking requirements. Section 305.11 requires one space for each eight students for this use. The applicant has indicated that no more than 24 students will be on-site at one time which would require three spaces. The site plan identifies six (6) spaces, all located on an existing concrete pad. A drop-off is being considered in front of the building.*

### **Schedule/Deadlines**

Town Council has set a public hearing on the matter for their September 12, 2023 meeting. A recommendation would be appropriate to make at this meeting.

### **Other Considerations**

The applicants are required to adhere to regulations as set forth by the Clarke County Building Department, State Fire Marshal's Office, and the Commonwealth of Virginia. Child care no longer falls under local departments of social services who are responsible for determining eligibility for the childcare subsidy program for assistance for childcare costs.

The following link outlines the process by which day care centers are established in the Commonwealth: <https://www.childcare.virginia.gov/providers/become-a-licensed-provider>.

## **Recommendation**

Discuss at the meeting.

## **Sample Motion**

I move that the Planning Commission of the Town of Berryville recommend that Town Council **approve** **OR deny** a Special Use Permit in order to operate a day care center at the Zion Baptist Church property located at 13 Josephine Street.

## **Attachments:**

- Public hearing notice
- Special Use Permit application
- Vicinity map
- Aerial map of the site
- Section 604 DR-4 Detached Residential zoning district
- Section 503 Special Use Permit Berryville Zoning Ordinance

**BERRYVILLE PLANNING  
COMMISSION  
PUBLIC HEARING NOTICE**

The Berryville Planning Commission will hold the following public hearing at 7:00 p.m., or as soon thereafter as this matter may be heard, on **Tuesday, July 25, 2023**, in the Main Meeting Room, Second Floor, of the Berryville/Clarke County Government Center, 101 Chalmers Court, Berryville, Virginia to consider the following:

**Zion Baptist Church (Alethia Burks, Agent) is requesting a Special Use Permit in order to operate a day care center under Section 604.3(e) of the Berryville Zoning Ordinance at the property located at 13 Josephine Street, identified as Tax Map Parcel number 14A5-B-((8))-15, zoned DR-4 Detached Residential. SUP 02-23**

Copies of the applications, amendments, and maps may be examined at the Town Business Office, Berryville/Clarke County Government Center (101 Chalmers Court), First Floor, Berryville, Virginia during regular business hours. Additional information may be obtained by calling Community Development Director Christy Dunkle at 540 955-4081. Any person desiring to be heard on this matter should appear at the appointed time and place.

The Town of Berryville does not discriminate against disabled persons in admission or access to its programs and activities. Accommodations will be made for disabled persons upon prior request.

By order of the Berryville Planning Commission  
Christy N. Dunkle, Community Development Director

**Town of Berryville**  
101 Chalmers Court – Suite A  
Berryville, Virginia 22611  
Phone: (540) 955-4081 Fax: (540) 955-4524 E-mail: [planner@berryvilleva.gov](mailto:planner@berryvilleva.gov)

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## SPECIAL USE PERMIT APPLICATION

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Please Note: This is an application only. The permit will be issued only if approved by the Berryville Town Council after review and recommendation from the Planning Commission.

To be completed by Applicant: \_\_\_\_\_ Date: 6/13, 20 23  
Applicant's Name: Steve Washington and Otho Harper  
Applicant's Address: 102 P.O. Box Berryville VA  
Use Applied For: Day care center  
At the following address: 13 Josephine St Berryville VA 22611  
Special Conditions: \_\_\_\_\_

Property Owner's Name: Zion Baptist Church  
Property Owner's Address: P.O. Box 102 Berryville VA 22611

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: Steve T. Washington Otho Harper Date: 6/13/23

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: Steve T. Washington Otho Harper Date: 6/13/23

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### TO BE COMPLETED BY ZONING ADMINISTRATOR

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Special Use: Day care center (604.3(e)) Zone: DR-4  
Street Address: 13 Josephine St Tax Map #: 14A5 (A) 15  
Special Use Permit Fee: \$2000 Paid: 6.13.23  
Site Plan Fee: \$125 Paid: 6.13.23  
Signature of Zoning Administrator: [Signature] Date: 6.14.23



## Zion Baptist Church

*Deacons Ministry*  
Otis O Harper, Sr. Chairman  
(540)665-1998

P.O. Box 102  
10 Josephine Street  
Berryville, VA 22611  
(540) 955-1353  
Rev. Karlyle Hill, Pastor

*Trustees Ministry*  
Steve Washington,  
Chairman  
(540)327-1368

*Church Clerk*  
Sharlene Harris  
(540)662-7781

*Finance*  
Dottie Firestone  
(540)514-7557

June 13, 2023

Town of Berryville,

Zion Baptist Church on 10 Josephine Street, owns a historical building on 13 Josephine Street that we used over the years for children's church, vacation bible school, lock in for teens and a host of other activities for children in our community.

As of 2021 Zion Baptist Church is under new leadership. Rev Karlyle Hill's vision for the church is to serve the community in different capacities. We started by adopting D.G. Cooley Elementary School, providing school supplies and coats for cold winters. Today in 2023 we are ready to embark on serving the community in a larger capacity by opening a daycare and before/after school program.

***Name of Daycare/Before/Afterschool:*** Zion Christian Academy (Early Learning Development Center)

***Hours of Operation:*** 6:00am to 6:00pm

***Daycare Ages:*** 6 months to 5 years old (number of children 18)

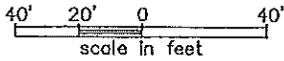
***Before and After school Ages:*** 5 years old to 12 years old (number of students 10-15)

***Employees:*** Director, 3 to 4 certified teachers, 1 to 2 teacher assistants, 1 teacher and 1 assistant for before and after school, 1 full-time maintenance, 1 certified Kitchen personnel, and volunteers.

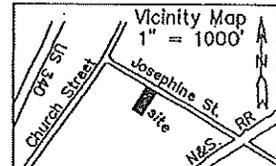
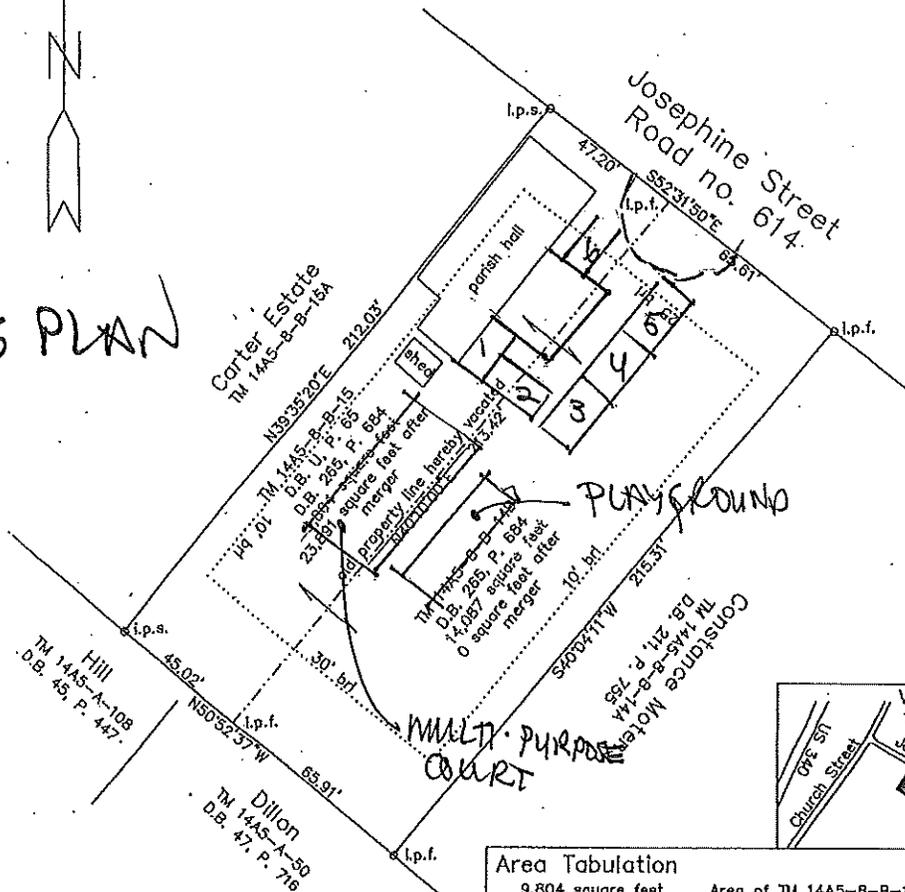
Parking: Zion Christian Academy will offer drop off and pick up, 4 parking spaces and transportation will be available. A picture of parking is attached to the letter.

Rev. Karlyle Hill, Pastor

Sharlene Harris, Church Clerk



SITE PLAN



Area Tabulation	
9,804 square feet	Area of TM 14A5-B-B-15
+ 14,087 square feet	from TM 14A5-B-B-14B
23,891 square feet	Area of TM 14A5-B-B-15 after merger
14,087 square feet	Area of TM 14A5-B-B-14B
-14,087 square feet	to TM 14A5-B-B-15
0 square feet	Area of TM 14A5-B-B-14B after merger



Lot Merger of the Lands of  
**the Trustees of the Zion Baptist Church**  
 Tax Map Reference 14A5-8-B-14B Deed Book 265, Page 684  
 and Tax Map Reference 14A5-8-B-15 Deed Book U, Page 65 Deed Book 265, Page 684  
 Town of Berryville Clarke County Virginia

SURVEY NO. 717  
SHEET NO. 1 OF 3

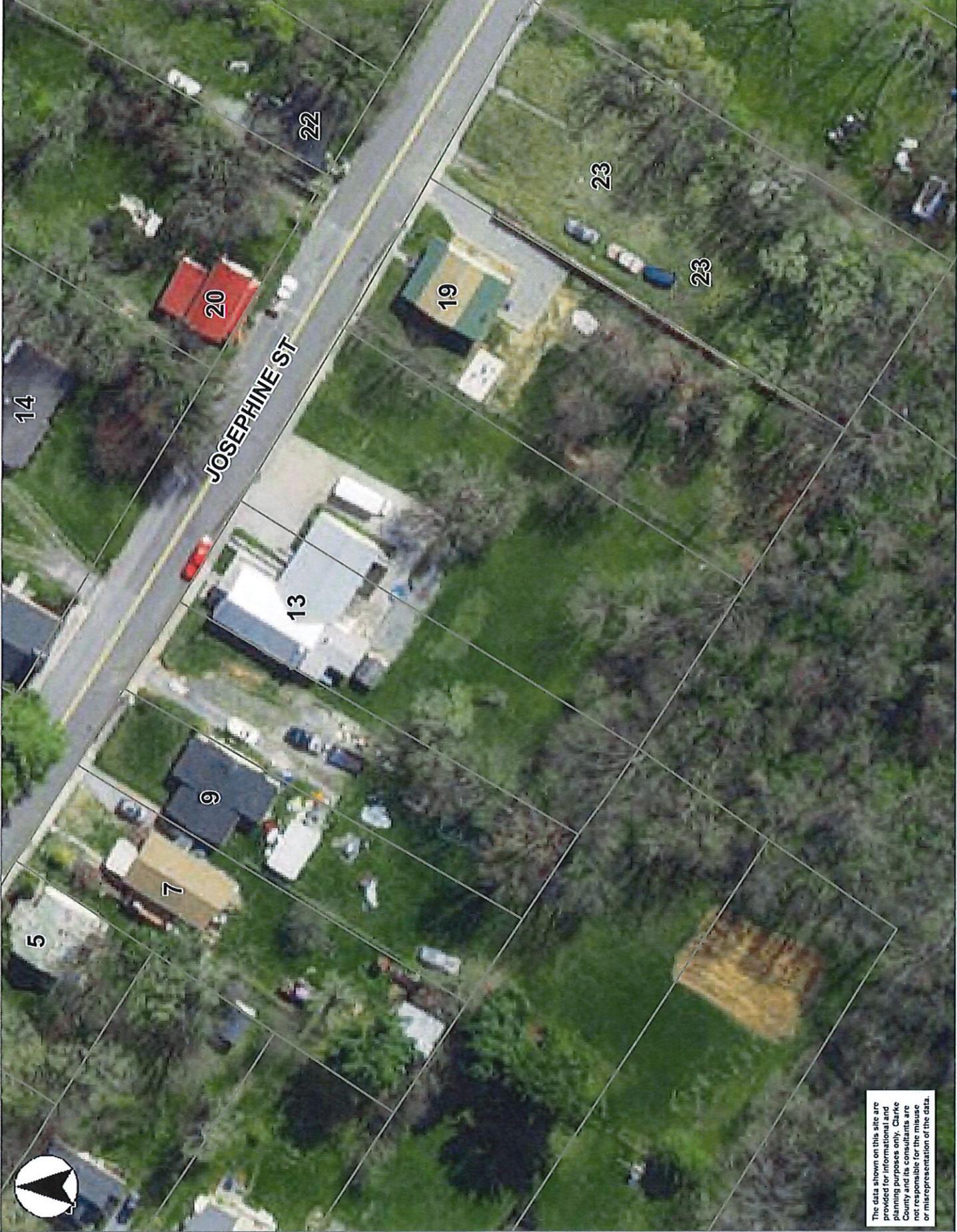
Clarke Co., SDT.  
 This instrument of writing was produced to me on  
 the 21 day of May, 2001.  
 at 10:00 A.M. and with certificate of  
 acknowledgment thereto attached was  
 admitted to record.  
 Test: Helen Butler Clerk

DUNN LAND SURVBYS, INC.  
 30 East Main Street  
 Berryville, Virginia 22611  
 Tel.: 540-955-3388  
 April 24, 2001





- Public
- Parcels
- Parcels With Orthos
- Clarke County Boundary
- Major Roads
- Interstate
- US Highway
- State Highway
- Surrounding Counties Ops
- Surrounding Counties Non



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Printed on 06/22/2023 at 01:00 PM

(4/92) **SECTION 604 - DETACHED RESIDENTIAL-4 (DR-4) DISTRICT**

**604.1 PURPOSE AND INTENT**

The Detached Residential-4 District is created to provide for single-family detached residences at higher densities than other single-family detached districts. A maximum of four (4.0) units per net developable acre establishes a medium- to low-density district for detached residences. The application of this district shall be to undeveloped tracts lying within the Town of Berryville and within the precincts of the Berryville Plan, as well as to “infill” lots within the existing stable neighborhoods, with the intent of preserving existing natural features and vegetation, promoting excellence in site planning and landscape design, and encouraging housing of compatible scale and architectural character. Cluster residential development shall be encouraged and permitted, by right, so that specific environmental preservation and land-use goals may be promoted.

**604.2 PERMITTED USES**

- (a) Single-family detached dwellings, either a conventional “dispersed” layout or a clustered layout subdivision--a clustered subdivision requiring site plan approval.
- (b) Accessory uses, to include detached carports and garages, tool sheds, children’s playhouses, doghouses, private swimming pools and Temporary Family Health Care Structures as established in Section 323. **(11/10)**
- (c) Municipal utilities.

**604.3 SPECIAL PERMIT USES**

- (a) Bed and breakfast lodging occupying more than 300 square feet of residence.
- (b) Cemeteries.
- (c) Churches and shrines.
- (d) Community buildings, public and private.
- (e) Day care centers and nursery schools. **(10/94)**
- (f) Fire stations.
- (g) Home occupations as defined in Section 315. **(12/93)**
- (h) Libraries, museums, and historic markers.
- (i) Plant nurseries with no sale of nursery products permitted on premises.
- (j) Public utility uses (sub-stations, pump stations, storage tanks, etc.) and related easements, except for municipal utilities.
- (k) Recreational uses such as public swimming pools, tennis courts, and golf courses.
- (l) Public schools, parks, playgrounds and related uses. **(3/09)**

**604.4 MAXIMUM DENSITY**

- (a) Four (4.0) dwelling units per net developable acre.
- (b) A maximum floor area ratio of 0:15 shall apply to uses other than residential.

**604.5 LOT SIZE, YARD, AND BULK REQUIREMENTS FOR CONVENTIONAL LOTS**

- (1/93) (a) Lot area: Minimum--10,000 square feet; maximum - 30,000 square feet **(7/04)**.  
(Refer to Section 614 regarding the impact of critical environmental areas on lot Size requirements.

**Section 604 Detached Residential-4 (DR-4)**

- (b) Minimum lot width
  - (1) Interior lot: 75 feet
  - (2) Corner lot: 90 feet
- (c) Minimum yard requirements
  - (1) Front yard: 20 feet for primary structures;  
25 feet for garages, carports or other structures used to house vehicles (7/04)
  - (2) Side yard: 10 feet
  - (5/94) (3) Rear yard: 30 feet (residences)
  - (4) Accessory structure: 5 feet (rear and side setbacks)
- (d) Maximum building height: 35 feet

**604.6 MINIMUM DISTRICT SIZE FOR CLUSTER SUBDIVISIONS**

Minimum district size for cluster subdivision: two (2) acres.

**604.7 LOT SIZE, YARD, AND BULK REQUIREMENTS FOR CLUSTERED LOTS**

- (a) Minimum lot area: 7,500 square feet.  
Maximum lot area: 20,000 square feet (7/04)  
(Refer to Section 614 regarding the impact of critical environmental areas on lot size requirements.)
- (b) Minimum lot width
  - (1) Interior lot: 60 feet
  - (2) Corner lot: 75 feet
- (c) Minimum yard requirements
  - (1) Front yard: 15 feet for primary structures;  
25 feet for garages, carports, or other structures used to house vehicles (7/04)
  - (2) Side yard: 10 feet
  - (5/94) (3) Rear yard: 25 feet (residences)
  - (4) Accessory structure: 5 feet (rear and side setback)
- (d) Maximum building height: 35 feet

**604.8 OPEN SPACE REQUIREMENTS FOR DETACHED RESIDENTIAL SUBDIVISIONS**

- (a) In subdivisions approved for cluster development, twenty (20) percent of the net site area which excludes 100-year floodplain, sinkholes, and slopes exceeding twenty-five (25) percent and fifty (50) percent of land with slopes between fifteen (15) and twenty-five (25) percent shall be open space, dedicated to common usage and ownership.
- (b) In cluster subdivisions, at least one-fourth (1/4) of the required open space (five {5} percent of the net site area) shall be developed and designed for recreational and active community open space.

**604.9** ADDITIONAL REGULATIONS

- (a) Refer to Article III for general regulations and other provisions which may supplement those cited herein.
- (b) Refer to Section 305 for off-street parking requirements.
- (c) Refer to specific Overlay Zoning Districts, where applicable.
- (d) Refer to Section 615 for special regulations relating to cluster subdivisions, critical environmental areas, and open space.
- (e) Refer to Section 317 Karst Features for additional requirements. **(7/04)**
- (f) The lot size, yard, and bulk requirements in effect at the time of subdivision plat approval prior to January 1, 2011 shall remain applicable to such subdivisions until July 1, 2017. The foregoing shall not be effective unless any unreleased performance bonds and agreements or other financial guarantees of completion of public improvements in or associated with the subdivision are continued in force. **(12/14)**

Section 502 – Certificate of Occupancy

- 502.2 Prior to the issuance of a Certificate of Occupancy for a new structure, the Zoning Administrator will verify that all property corners have been set with permanent markers by a land surveyor licensed under the laws of the Commonwealth of Virginia. (11/00)
- 502.3 In addition to any other requirements for the issuance of a Certificate of Occupancy, a Certificate of Occupancy for a structure will not be issued unless (1) the structure is served by public water and sewer, (2) required curb and gutter and sidewalks are in place on the lot on which the structure is located and in place between said lot and an existing publicly maintained street, (3) a functional fire hydrant is located within three hundred (300) feet of the lot on which the structure is located, and (4) the lot on which the structure is located fronts on an existing publicly maintained street or street meeting Town requirements for a publicly maintained street. (8/01)
- 502.4 In addition to any other requirements for the issuance of a Certificate of Occupancy, after issuance of certificates of occupancy for structures on eighty percent (80%) of the lots in a section of a subdivision, a Certificate of Occupancy for a structure in the section will not be issued unless all public improvements in the section have been completed to Town requirements and all streets have been accepted for maintenance by the Virginia Department of Transportation (VDOT), or a complete application for acceptance thereof has been filed with VDOT. (8/01)
- 502.5 Upon written application, delayed installation of public improvements described in 502.3 and 502.4 may be considered by the Zoning Administrator. Approval of the application shall only be granted by the Zoning Administrator after consultation with the respective departments or agencies charged with the inspection, acceptance, and maintenance of the improvements, and only upon a further finding that the delayed installation will not be detrimental to the safety and welfare of the residents in the subdivision and the public. A written request for such delayed installation shall set forth the specific improvements sought to be delayed, the justification for the delay, and a committed date for completion of the improvements. A fifty-dollar (\$50.00) fee shall be paid with the request. If the Zoning Administrator approves the application for delayed installation of public improvements, the approval shall be subject to the applicant executing an agreement to hold harmless the town for any loss or liability occasioned by the lack of the improvements delayed. (8/01)

**SECTION 503 - SPECIAL USE PERMIT**

**503.1 PROVISIONS FOR SPECIAL USE PERMITS**

- (a) In consideration of an application filed with the Zoning Administrator, the Council may, after a public hearing, authorize the establishment of those uses that are expressly listed as Special Permit uses in a particular zoning district.
- (b) In addition to all applicable conditions and requirements of this Ordinance, the Council may impose any conditions deemed appropriate in the public interest to secure compliance with the provisions of this Ordinance.
- (c) Once a Special Use Permit is granted, the use shall not be enlarged, extended, increased in intensity or relocated unless authorized by the Council.

- (d) Whenever a Special Use Permit is granted by the Council, the authorized activities shall be established within two (2) years of the date of approval with an extension of one (1) additional year with Council approval, or such Special Use Permit shall expire without notice. (4/08)
- (e) Should the owner or operator of the use covered by the Special Permit fail to observe all requirements of law with respect to the maintenance and conduct of the use and all permit conditions, the Council may, after due notice to permit holder and a public hearing, revoke the Special Use Permit.

**503.2 APPLICATIONS**

An application for a Special Use Permit may be submitted by the property owner of record, tenant, or contractor owner.

**503.3 APPLICATION REQUIREMENTS**

Applications for Special Use Permits shall be accompanied by seven (7) copies of the following items:

- (a) Letter of request, signed by property owner and applicant, outlining complete details of special use desired.
- (b) Site development plan.
- (c) Floor plan, front, side, and rear elevations of proposed new buildings.
- (d) Certified house location plat.
- (e) Information deemed necessary by the Zoning Administrator.
- (f) Applicable filing fee.

**503.4 APPLICATION PROCEDURE**

- (a) Application submitted to Zoning Administrator, which shall be referred to the Planning Commission for recommendation, and a public hearing shall be scheduled by the Town Council.
- (b) Review by the Planning Commission (public hearing if desired) and recommendation to Town Council.
- (c) Public hearing by Town Council.
- (d) Town Council action (In acting upon the application, the Town Council shall consider the following, among other relevant factors):
  - 1. The health, safety, and welfare of the general public.
  - 2. Physical and visual impact on adjoining and abutting properties.
  - 3. Adequate utilities, drainage, parking, and other necessary facilities to serve the proposed use.
  - 4. Compliance with the adopted master plan.
  - 5. Environmental compatibility.
  - 6. Community sentiment.
- (e) Applicant to be notified by Zoning Administrator of Town Council action.

# Planning Commission Agenda Item Report Summary

July 25, 2023

## Item Title

Discussion - Text amendments for short-term rentals

## Prepared By

Christy Dunkle

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## Background/History/General Information

A public hearing was held on this matter at the June 27, 2023 Planning Commission meeting. It was determined that the public hearing be closed and the matter be discussed at the July meeting.

Because Town Code amendments are also being considered, Town Council did not set a public hearing on the proposed zoning amendments for their September meeting. Town Code modifications are currently under review by legal counsel. It is anticipated that Council will set a public hearing for their October meeting.

## Findings/Current Activity

### *June 27, 2023 Staff Report*

*After suggestions were made at the May 23, 2023 Planning Commission meeting, Deputy Town Manager Jean Petti modified the definition of short-term rental as follows:*

***Short-term rental-** The provision of a room or space that is suitable or intended for occupancy for dwelling, sleeping, or lodging purposes, for a period of fewer than 30 consecutive days, in exchange for a charge for the occupancy. Advertisement or operation of a short-term rental unit requires registration, a business license, remittance of transient occupancy tax, and is limited to dwellings which hold a Clarke County Certificate of Occupancy. Events are prohibited. No food preparation or service may be provided to primary renter or guests of short-term rental.*

*Each **advertised** short-term rental unit shall advertise and implement a maximum occupancy of no more than as permitted by the Virginia Uniform Statewide Building Code, ~~(4)~~ **or two (2)** persons per bedroom, ~~or (2) adults per off-street parking space,~~ whichever is **least less**, and at no time exceed 13 individuals.*

*Ms. Petti also modified the zoning districts recommended to allow this use by special permit to include the L-1 Industrial district:*

Short-term Rentals permitted as a Special Use Permit

R-1 Residential

R-2 Residential

R-3 Residential

OSR Open Space Residential

DR-1 Detached Residential

DR-2 Detached Residential

DR-4 Detached Residential

AR Attached Residential

MR Multifamily Residential

BC Business Commercial

C General Commercial

C-1 Commercial

**L-1 Industrial**

Short-term Rentals will not be permitted in the following:

LI Light Industrial

C-2 Commercial

**L-1 Industrial**

B Business

BP Business Park

ITL Institutional

OPR Older Person Residential

Additional information concerning the proposed amendment:

- A short-term rental would not be considered a home occupation, therefore a property owner renting rooms in their home would not be required to obtain a second special use permit for this use.
- Existing legally-operated short-term rentals may continue operation as long as there is no extension, change of use, or removal or destruction of the building in which a non-conforming use is located (Berryville Zoning Ordinance Section 408 Non-Conforming Uses of Structures or Buildings).
- The Town Business Office would be responsible for maintaining the registry.

Continued discussion at the meeting should include a definition of "event" and enforcement concerns.

Proposed modifications to the Town Code are included in this packet for informational purposes.

**Schedule/Deadlines**

As previously referenced, the Town Code amendments have been forwarded to legal counsel for review. Council will likely discuss the amendment at their September meeting and set a public hearing for their October meeting.

**Other Considerations**

N/A

**Recommendation**

Make recommendations to Town Council.

**Sample Motion**

I move that the Planning Commission of the Town of Berryville recommend that Town Council approve the text amendment establishing a definition for "short-term rentals" to Article I of the Berryville Zoning Ordinance and the addition of this use by special permit in the zoning districts identified in this report.

**Attachments:**

N/A