

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

B E R R Y V I L L E
EST. 1798 *Genuine* VIRGINIA

BERRYVILLE PLANNING COMMISSION

Regular Meeting

Tuesday, October 24, 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. Public Hering – Rezoning
The Berryville Planning Commission will hear public comment for the rezoning of land transferred from the Clarke County Public Schools to the Town of Berryville (4,565 square feet from DR-4 Detached Residential to ITL Institutional) and land transferred from the Town of Berryville to the Clarke County Public Schools (12,572 square feet from ITL Institutional to DR-4 Detached Residential) in order to accommodate boundary line adjustments between the properties identified as Tax Map Parcel numbers 14-A-5, 14-A-6, 14-A-7, and 14-A-7A. RZ 02-23
4. Public Hearing - Rezoning
Friant Enterprises #1, LLC; Friant Enterprises #2, LLC; Friant Enterprises #3, LLC (Owners) (Tony Free, Vice President, DR Horton, Inc., Agent) are requesting a rezoning of the properties identified as 14-A-80 and 14-A-112 consisting of approximately 100 acres. The properties are currently zoned OSR Open Space Residential; DR-1 Detached Residential-1; DR-2 Detached Residential-2; and BP Business Park. The proposed zoning for a portion of the properties identified above is DR-4 Detached Residential-4. RZ 01-23

(continued)

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

5. Discussion of Public Hearing Items
6. Approval of Minutes – September 26, 2023 (work session and meeting)
7. Citizens' Forum
8. Planning Update
9. Other
10. Adjourn

BERRYVILLE PLANNING COMMISSION
Berryville-Clarke County Government Center
Work Session Minutes
September 26, 2023

A work session of the Berryville Planning Commission was held on Tuesday, September 26, 2023 at 6:00 p.m. at the Berryville-Clarke County Government Center in Berryville.

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

Absent: no one

Staff present: Christy Dunkle, Community Development Director, Keith Dalton, Town Manager

Press present: None

Others in attendance: David Giovannacci (D.R. Horton), Priya Tiwari (D.R. Horton), Ty Lawson, Bryan Lilly (Dewberry), Les Adkins (Wells and Associates)

1. CALL TO ORDER – William Steinmetz, chair

Chair Steinmetz called the meeting to order at 6:00 p.m.

2. Presentation and discussion with D. R. Horton representatives concerning the Friant property

Chair Steinmetz recognized Ms. Dunkle who introduced Mr. Giovannacci to Planning Commission members.

Mr. Giovannacci said he wanted to update Commissioners on the project. He said there were approximately 200 attendees at the community meeting and the topic of most of the discussions was about traffic. He said other topics included the berms and buffers along the perimeter of the property, the addition of architectural features, and walkability. He introduced Mr. Lawson who discussed the Berryville Area Plan and specific requirements within the document. He referenced walkability, view shed protection, and utility planning. He said the applicants have been working with Clarke County Public Schools representatives concerning school capacities and other related items. Mr. Lawson discussed unused lots in the annexation area, anticipated water and sewer needs, and improvements on the east side of the Town.

Mr. Adkins discussed transportation matters. He described existing conditions at East Main Street at the Route 7 Bypass and East Main Street and Battletown Drive. He discussed the definition of levels of service and how they are determined. He discussed the increase in commuter traffic from the west on the Bypass and reviewed existing and anticipated peak hour traffic at the affected intersections.

Mr. Lilly discussed visibility of the proposed lots and water and sanitary sewer information including capacities, water pressure, and fire flow.

Mr. Giovannacci said that comments on the architecture of the buildings is likely based on the Shenandoah Crossing project due to its high visibility. He said the Hermitage development is incorporating different architectural features in the homes. He added that architectural proffers may be considered in order to diversify the homes in the proposed development.

Chair Steinmetz asked for questions from the Commissioners. Mr. Dalton clarified utility numbers that were discussed earlier in the meeting. Mr. Parker requested clarification on the traffic study levels of service. Mr. Adkins said that traffic on the bypass is increasing and that VDOT may choose to mitigate the intersection concerns through traffic signal timing. He added that this would affect the entire corridor and impacts would need to be studied by VDOT.

Ms. Reid said she was concerned about truck traffic. Ms. Marino referenced a VDOT discussion about mitigation efforts. Chair Steinmetz asked about architectural proffers. Mr. Giovannacci said that D.R. Horton is developing items that have been expressed to them in emails from neighbors. He asked what Planning Commissioners wanted to see in physical changes to structures. Mr. Bell asked what kind of input Horton had received. Mr. Giovannacci said that input included buffering, a variety of colors, and setback variations. There was a discussion about natural buffers along the Route 7 Bypass and at Shenandoah Crossing.

There was a discussion about houses adjacent to the railroad tracks. There was a discussion about school building capacities versus programming capacities, capital projects that may be triggered to renovate Cooley Upper Campus, and the need for additional busses and drivers.

Ms. Marino asked who determines the cost of the homes. There was a discussion about square footage and market forces. Mr. Parker noted that it appears that the house type in Hermitage V has moved to smaller, one-level designs. He asked where the playground would be located. Mr. Giovannacci said they have not determined its location but the facilities are identified in the proffer statement.

There was a discussion about agreements for road and utility easements on the adjacent property. Mr. Giovannacci indicated that Horton has come to an agreement with the property owner. There was a discussion about traffic control from the Bel Voi property. Mr. Bell asked when development would occur should Town Council approve the request. Mr. Giovannacci said it would be approximately one year for site development and a second year before the first house would be built. He added that the average timeframe for building is one house every three or four months. There was a discussion about accessibility to and from the site.

3. OTHER

There was no further discussion.

4. ADJOURN

There being no further discussion, Mr. Bell made the motion, seconded by Ms. Marino, to adjourn the work session. The motion passed by voice vote at 6:55 p.m.

William Steinmetz, Chair

Christy Dunkle, Secretary

BERRYVILLE PLANNING COMMISSION
Berryville-Clarke County Government Center
Meeting Minutes
September 26, 2023

A meeting of the Berryville Planning Commission was held on Tuesday, September 26, 2023 at 7:00 p.m. at the Berryville-Clarke County Government Center in Berryville.

ATTENDANCE: Members of the Planning Commission present: William Steinmetz, Chair, Kim Kemp, Vice Chair, Michael Bell, Gwen Malone, Michelle Marino, Tom Parker, Sheryl Reid

Absent: none

Staff present: Christy Dunkle, Community Development Director, Keith Dalton, Town Manager

Press present: none

1. CALL TO ORDER – William Steinmetz, Chair

Chair Steinmetz called the meeting to order at 7:03 p.m.

2. APPROVAL OF AGENDA

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

3. APPROVAL OF MINUTES

Ms. Marino made the motion to approve the minutes of August 22, 2023 as presented, seconded by Ms. Malone. The motion passed by voice vote.

4. CITIZENS' FORUM

There were no speakers.

5. REZONING – TAX MAP PARCELS 14-A-5, 14-A-6, 14A-7-A

Ms. Dunkle said that Mr. Dalton was at the meeting to discuss a land swap between the Town, Clarke County Public Schools, and Mr. Howell who is a resident on West Main Street.

Mr. Dalton described the locations of the proposed boundary line adjustments and rezonings. He said that properties became separated after the development of the high school and the extension of Mosby Boulevard. He added that the schools will not lose any property in the proposed boundary line adjustments which could affect accreditation if property is lost. He described respective property ownership and current zoning districts. Mr. Dalton discussed an easement that will allow Mr. Howell to access Mosby Boulevard and the configuration of future water storage facilities.

There being no further discussion, Vice Chair Kemp made the motion to set a public hearing for the rezoning of three parcels identified Tax Map Parcel numbers **14-A-5, 14-A-6, 14A-7-A** for the October 24, 2023 meeting, seconded by Mr. Bell. The motion passed by voice vote.

6. DISCUSSION – PLANNING UPDATE

There was no further discussion.

7. OTHER

There was no further discussion.

8. ADJOURN

There being no further discussion, Vice Chair Kemp made the motion to adjourn the meeting, seconded by Ms. Reid, with the motion passing by consensus at 7:20 p.m.

William Steinmetz, Chair

Christy Dunkle, Secretary

Planning Commission Agenda Item Report Summary

October 24, 2023

Item Title

Public Hearing – Rezoning - CCPS, Town of Berryville, Paul Howell

Prepared By

Christy Dunkle

Background/History/General Information

The Berryville Planning Commission will hear public comment for the rezoning of land transferred from the Clarke County Public Schools to the Town of Berryville (4,565 square feet from DR-4 Detached Residential to ITL Institutional) and land transferred from the Town of Berryville to the Clarke County Public Schools (12,572 square feet from ITL Institutional to DR-4 Detached Residential) in order to accommodate boundary line adjustments between the properties identified as Tax Map Parcel numbers 14-A-5, 14-A-6, 14-A-7, and 14-A-7A. RZ 02-23

Mosby Boulevard was completed from its temporary terminus to West Main Street with the development of the Clarke County High School. An easement was granted from the Clarke County Public Schools for the street and associated improvements which resulted in school property being located on the west side of Mosby Boulevard.

The proposed actions to rectify the situation are identified in Keith Dalton's report dated June 13, 2023 (included in this packet) are as follows:

- Several boundary line adjustments which will be reviewed and approved by the Berryville Area Development Authority because of the location within Annexation Area B.
- Rezoning will be reviewed by the Planning Commission and approved by Town Council.
- Utility easements will be modified or established within this area.

Specific details and maps are included in Mr. Dalton's June 13th report.

Findings/Current Activity

Public hearing notices were published in the Winchester Star on Tuesday, 10 and Tuesday, October 17, 2023. Adjacent property owners were notified via first class mail on October 5, 2023. Planning staff received several calls from adjacent property owners for clarification. No callers were opposed to the rezoning request.

Clarke County Public Schools conditionally approved the request at their August 28, 2023 meeting.

Schedule/Deadlines

A recommendation on the rezoning to Town Council would be appropriate at this meeting.

Other Considerations

N/A

Recommendation

Recommend that Town Council approve the rezoning request as presented.

Sample Motion

I move that the Planning Commission of the Town of Berryville approve the rezoning of 4,565 square feet of land that is to be transferred from the Clarke County School Board's property (Tax Map Parcel 14-((A))-7) to the Town of Berryville's property (Tax Map Parcel 14-((A))-6) from Detached Residential-4 (DR-4) to Institutional (ITL), and the rezoning of 12,572 square feet of land that is to be transferred from the Town of Berryville's property (Tax Map Parcel 14-((A))-6) to the Clarke County School Board's property (Tax Map Parcel 14-((A))-7) from Institutional (ITL) to Detached Residential-4 (DR-4), contingent upon the following:

- a. approval of the proposed boundary line adjustments by the Clarke County School Board, Berryville Town Council, and Paul R. Howell, and
- b. the recordation of the boundary line adjustment and associated deeds completing this boundary line adjustments and transfer of property ownership in the land records of the Circuit Court of Clarke County.

Attachments:

- Public hearing notice
- Staff report by Mr. Dalton dated June 13, 2023.

Published 10/10/23 and 10/17/23

The Winchester Star

Legal Notices

Legal Notices

BERRYVILLE PLANNING COMMISSION PUBLIC HEARING NOTICE

The Berryville Planning Commission will hold the following public hearings at 7:00 p.m., or as soon after as these matters may be heard, on Tuesday, October 24, 2023, in the Main Meeting Room, Second Floor, of the Berryville/Clarke County Government Center, 101 Chalmers Court, Berryville, Virginia to consider the following:

The Berryville Planning Commission will hear public comment for the rezoning of land transferred from the Clarke County Public Schools to the Town of Berryville (4,565 square feet from DR-4 Detached Residential to ITL Institutional) and land transferred from the Town of Berryville to the Clarke County Public Schools (12,572 square feet from ITL Institutional to DR-4 Detached Residential) in order to accommodate boundary line adjustments between the properties identified as Tax Map Parcel numbers 14-A-5, 14-A-6, 14-A-7, and 14-A-7A. RZ 02-23

Friant Enterprises #1, LLC; Friant Enterprises #2, LLC; Friant Enterprises #3, LLC (Owners) (Tony Free, Vice President, DR Horton, Inc., Agent) are requesting a rezoning of the properties identified as 14-A-80 and 14-A-112 consisting of approximately 100 acres. The properties are currently zoned OSR Open Space Residential; DR-1 Detached Residential-1; DR-2 Detached Residential-2; and BP Business Park. The proposed zoning for a portion of the properties identified above is DR-4 Detached Residential-4. RZ 01-23

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 these matters 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

June 13, 2023
Discussion

Boundary Line Adjustments Between Clarke County Public Schools, Paul Howell, and the Town of Berryville

History

As a part of the site development and construction of the Clarke County High School at 627 Mosby Blvd., Mosby Blvd. (Mosby) from its temporary terminus near the eastern-most entrance to the CCHS site to its intersection with West Main Street was planned and constructed. Instead of dedicating a right-of-way for this final section of Mosby, Clarke County Public Schools (CCPS) chose to grant an easement for the street and associated improvements. This approach was employed to prevent the property north of Mosby from being subdivided from the rest of the school site.

Construction of the final section of Mosby stranded CCPS property along the west side of the street easement. As soon as this condition was discovered, efforts to remedy this matter began. Unfortunately, these efforts stalled and no action has been taken in this regard over the past eleven years.

Proposal

The Town of Berryville (TOB) and Paul Howell (Howell) propose that the CCPS agree to several boundary line adjustments to fine-tune property boundaries, facilitate orderly development, and provide for proper maintenance of properties in the area. The proposed boundary line adjustments have been configured in a manner that ensures that the CCPS is made whole once the adjustments have been approved and recorded.

The attached maps provide a graphical representation of the proposal.

Proposal Specifics

8,007 square feet of CCPS property situated along the west side of Mosby, along with 11,249 square feet of property owned by TOB, would be transferred to Howell.

4,565 square feet of CCPS property situated along the west side of Mosby would be transferred to TOB.

12,572 square feet of TOB property along TOB's common boundary with CCPS property would be transferred to CCPS.

These adjustments would:

- provide Howell with frontage along the west side of Mosby,
- provide TOB with additional frontage along the west side of Mosby north of its entrance (this will facilitate maintenance of sight distance),

- provide TOB with additional property south of its current boundary with Howell, and
- provide CCPS with an even trade for land transferred to Howell and TOB.

Summary of transfers with amounts

In to Howell

In 11,249 square feet from TOB
 In 8,007 square feet from CCPS
 Total in = 19,256 square feet

Out from Howell

Out 18,543 square feet to TOB
 Total out = 18,743 square feet

Howell: + 713 square feet

In to TOB

In 4,565 square feet from CCPS
 In 18,543 square feet from Howell
 Total in = 23,108 square feet

Out from TOB

Out 11,249 square feet to Howell
 Out 12,572 square feet to CCPS
 Total out = 23,821 square feet

TOB: - 713 square feet

In to CCPS

In 12,572 square feet from TOB
 Total in 12,572 square feet

Out from CCPS

Out 8,007 square feet to Howell
 Out 4,565 square feet to TOB
 Total Out = 12,572

CCPS: 0+/-

It is important to note that Howell may dedicate some frontage along West Main Street to ensure that existing street-related improvements are on the street right-of-way and accommodate extension of the sidewalk/path along the north side of West Main Street.

Other Considerations

Zoning/Jurisdictional Boundaries

The attached maps show the current zoning for each area property to be transferred and the new zoning that would need to be applied during this process (if applicable).

The maps also show the jurisdiction in which the area of property to be transferred is located.

Boundary line adjustments will be administered by the Town's Community Development Department and reviewed/approved by the Berryville Area Development Authority (BADA).

The Berryville Planning Commission and Town Council will review/approve the rezoning of land transferred from the CCPS to the TOB (4,565 square feet from DR-4 to ITL) and the land transferred from TOB to the CCPS (12,572 square feet from ITL to DR-4).

Easements

Several utility easements will have to be established during this work.

Clarke County owns a water main that is located in the strip of land that TOB would transfer to Howell. An easement will be established for this main.

At least two service lines from the County main traverse the Howell property. If easements have not been established for these laterals, then they will need to be established during this project.

Cost to Implement Proposal

The cost of implementing the proposed boundary line adjustments and associated rezonings will be borne by Paul Howell and the Town of Berryville.

Howell will provide all necessary boundary line adjustment and easement plats and TOB will cover the cost of deeds, proposal review, and deed recordation.

Process/Tentative Schedule

June 13, 2023

Formally introduce proposal to the Berryville Town Council.

Purpose:

- 1) Provide the Town Council with details of proposal.
- 2) Determine if there are concerns/questions and address same.

Actions:

None

June 19, 2023

Formally introduce proposal to the Clarke County School Board.

Purpose:

- 1) Provide the School Board with details of proposal.
- 2) Determine if there are concerns/questions and address same.

Actions:

Authorize a public hearing on boundary line adjustments for August 28, 2023.
{Note: Plats and deeds will be provided to staff by July 12, 2023}

August 28, 2023

School Board conducts public hearing on proposed boundary line adjustments.

Purpose:

- 1) Receive public comment on proposal.
- 2) Make determinations on the proposal.

Actions:

- 1) Conduct a public hearing and discuss the proposal.
- 2) Approve the proposed boundary line adjustments, contingent upon the following:
 - a. approval of the boundary line adjustments by the Berryville Town Council and Paul Howell, and
 - b. approval of rezonings as represented in the proposal.

September 26, 2023

Formally introduce this matter to the Berryville Planning Commission.

Purpose:

- 1) Provide Planning Commission with details of proposal.
- 2) Determine if there are concerns/questions and address same.

Actions:

Set joint public hearing with the Berryville Area Development Authority for October 24, 2023.

September 27, 2023

Formally introduce this matter to the Berryville Development Authority.

Purpose:

- 1) Provide Authority with details of proposal.
- 2) Determine if there are concerns/questions and address same.

Actions:

Set joint public hearing with the Berryville Planning Commission for October 24, 2023.

October 24, 2023

Berryville Planning Commission and Berryville Area Development Authority conduct a public hearing on the proposed boundary line adjustments and rezonings.

Purpose:

- 1) Receive public comment on proposal.
- 2) Make determinations on the proposal.

Actions:

- 1) Conduct a public hearing and discuss proposal.
- 2) Approve the proposed boundary line adjustments, contingent upon the approval of rezonings as represented in the proposal.
- 3) Recommend approval of the proposed rezonings.

November 14, 2023

Proposed boundary line adjustments and rezonings placed before the Berryville Town Council.

Purpose:

- 1) Provide Council with details of proposal.
- 2) Determine if there are concerns/questions and address same.

Actions:

Set a public hearing for December 12, 2023.

December 12, 2023

Town Council makes determinations on proposed rezonings.

Purpose:

- 1) Receive public comment on proposal.
- 2) Make determinations on the proposal.

Actions:

Approve proposed boundary line adjustments and rezonings.

December 13-22, 2023

All documents are signed by CCPS, TOB, CC, and Howell.

Purpose:

Finalize boundary line adjustment plats and deeds.

Actions:

Secure all required signatures on boundary line adjustments and deeds.

December 28, 2023

All documents recorded in the land records of Clarke County.

Purpose:

Complete the transfer of property through boundary line adjustments.

Actions:

Finalize process by recording executed boundary line adjustment plats and deeds in the land records of the Clerk of the Circuit Court of Clarke County.

{Note: Between September 1, 2023 and December 1, 2023 Clarke County will review/approve utility easements across Howell and TOB.}

Attachment

- Three-part map on which proposed boundary line adjustments are represented
 - o TOB to Howell – BLUE
 - o CCPS to Howell – PINK
 - o Howell to TOB – GREEN
 - o CCPS to TOB – ORANGE
 - o TOB to CCPS – YELLOW

Sheet 1

Howell to TOB
18.543
IN County Zone
ITL

TOB to Howell
11.249
IN County Zone
ITL

CCPS to Howell
8.007
IN County Zone
ITL

REVISED 3/23



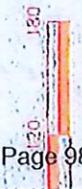
SHEET 2

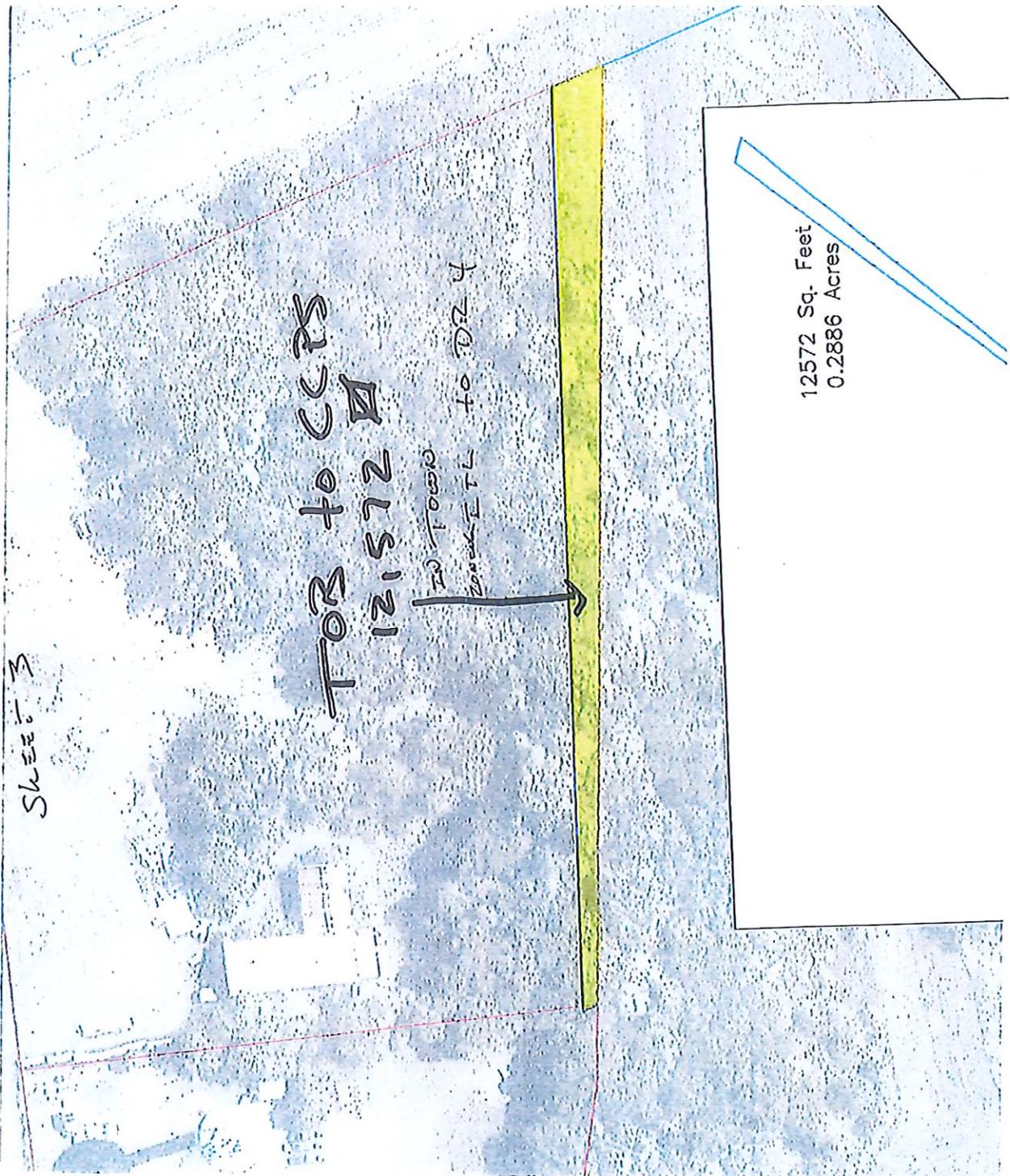
CCPS to TOS
4.565 A

IN TOWNS
Zoning Overlay to ITC

MATCH LINE SHEET 2
MATCH LINE SHEET 3

12572
0.288





SHEET 3

TOB to CCPS
121572 A

TO TOWN
ZONING ETL TO DR 4

12572 Sq. Feet
0.2886 Acres

Planning Commission Agenda Item Report Summary

October 24, 2023

Item Title

Public Hearing – Rezoning - Friant Property

Prepared By

Christy Dunkle

Friant Enterprises #1, LLC; Friant Enterprises #2, LLC; Friant Enterprises #3, LLC (Owners) (Tony Free, Vice President, DR Horton, Inc., Agent) are requesting a rezoning of the properties identified as 14-A-80 and 14-A-112 consisting of approximately 100 acres. The properties are currently zoned OSR Open Space Residential; DR-1 Detached Residential-1; DR-2 Detached Residential-2; and BP Business Park. The proposed zoning for a portion of the properties identified above is DR-4 Detached Residential-4. RZ 01-23

Background/History/General Information

Public hearing notices were published in the Winchester Star on Tuesday, October 10 and Tuesday, October 17, 2023. Adjacent property owners were notified via first class mail on October 5, 2023. No additional comments were received in the Planning Office.

September 26, 2023 Staff Report

The properties referenced above were annexed into the Town of Berryville on January 1, 2022. Currently zoned OSR Open Space Residential, DR-1 Detached Residential – 1, DR-2 Detached Residential - 2, BP Business Park, the applicants would like to have a portion of the property rezoned to DR-4 Detached Residential-4. This density increase would allow for the construction of additional single-family homes.

A rezoning requires three items to be approved by Town Council after recommendation of the Planning Commission:

- comprehensive plan amendment (in this case, the Berryville Area Plan is the component plan to the Town’s comprehensive plan)
- zoning map amendment
- rezoning

General Information

This property is located within Annexation Area B. The Berryville Area Development Authority is the administrative body that reviews and approves land use actions such as subdivision and site plan review. The property is identified in the Berryville Area Plan (BAP) which is a component plan of the Town and County’s comprehensive plans.

In 1992, the Berryville Area Plan was adopted by the Town and County. Sub-areas were identified on all parcels within Annexation Area B. Detailed studies were performed on each of these sub-areas that included, but were not limited to, transportation, historic resources, and environmental suitability. Land use and zoning were applied to each parcel and a Future Land Use table was created which included lot yields for residentially-zoned parcels. The plan was updated in 2015 and adopted by Town and County officials in 2016.

Of the residential development that occurred in Annexation Area B as of the update of BAP in 2015, 195 residential units were identified as unbuilt. That number has been reduced to 160 unbuilt units as Hermitage V was not under development at the time of the BAP update. The sub-areas (identified on Map 4 – Berryville Area Plan Land Uses (2015)) that did not reach the anticipated densities, include:

- Sub-areas 3 and 4 (total of 89 lots due to high school construction)
- Sub-area 18 (total of 45 lots, Berryville Glen developer chose not to rezone)
- Sub-area 25 (total of six lots, Southgate developer chose not to rezone)
- Sub-area 27A (total of 20 lots, original yield of 91, 71 houses constructed in Hermitage V development from 2021 – current)

Property Information

The parcels included in this request are within sub-areas 13, 14, and 15 identified on the attached Map 4 – Berryville Area Plan Land Uses (2015). Please note: sub-areas 16 and 17 are not part of this rezoning request and are under separate ownership. Full descriptions of sub-areas 13, 14, and 15 follow this staff report. Below is a synopsis of these sub-areas:

- **Sub-area 13 – Buckmarsh Run Conservation Area (32.4 acres)**
Land use: environmental conservation
Current zoning applied: OSR Open Space Residential
Lot yield: 3
Sub-area 13 is adjacent to the Norfolk-Southern railroad tracks and is an environmentally-sensitive area due to Buckmarsh Run and flood-prone characteristics.
- **Sub-area 14 – Northeast Residential Transition Area (7.2 acres)**
Land use: Medium - low density residential
Current zoning applied: BP Business Park
Lot yield: 28
The land use originally applied to this sub-area was light industrial based on its location to the railroad tracks and existing businesses on Cattleman's Lane. The 2015 update modified the land use from industrial to medium-low residential due to concerns about the lack of access as an industrial site and the nature of the adjacent residential land uses.
- **Sub-area 15 – Northeastern Residential Growth Area (63.1 acres)**
Land use: low density residential

Current zoning applied: DR-1 Detached Residential - 1, DR-2 Detached Residential - 2, OSR Open Space Residential

Lot yield: 81

This sub-area surrounds the Bel Voi manor house (sub-area 16) which is under separate ownership. The BAP references sensitivity to land use proposals due to the nature historic residence. The primary access to the proposed development area is identified through the Audley property (sub-area 17).

Descriptions in the BAP note the potential for a master planned-development on sub-areas 13, 14, and 15 that would contain the following elements:

- Transportation connectivity to adjacent sub-areas;
- Cluster design that would reduce infrastructure costs (e.g., roads, utilities) and adverse environmental impacts;
- Walkability elements;
- View shed protection;
- Master planning for public utilities and stormwater infrastructure; and
- Cash proffers to mitigate the impact of new development on Town and County capital needs.

The lot yield identified on the Future Land Use Table in the BAP for these sub-areas totals 112 lots. The developer has proposed using the 102 of the 160 undeveloped lots to increase the density for a total of 214 single-family homes. The sub-area descriptions state that additional density should be considered for a portion of these residual units to be included in these locations.

Proffers

A proffer is a condition offered by the owners of property subject to a rezoning which may be accepted by the locality's governing body in conjunction with its approval of the rezoning. Rezonings with proffers are considered conditional zoning per the Code of Virginia as follows:

It is the purpose of §§ [15.2-2296](#) through [15.2-2300](#) to provide a more flexible and adaptable zoning method to cope with situations found in such zones through conditional zoning, whereby a zoning reclassification may be allowed subject to certain conditions proffered by the zoning applicant for the protection of the community that are not generally applicable to land similarly zoned.

The code sections referenced above are included in this staff report.

According to the Albemarle County Land Use Law Handbook (March, 2022), eight essential features of Proffers are as follows:

- Proffers may impose additional requirements and restrictions to address the impacts of a rezoning or may allow modifications from the requirements of the zoning ordinance.
- Proffers must be voluntary, which means that after the locality identifies the impacts arising from the rezoning, it is up to the owner to decide whether they want to address

the impacts through proffers or risk having the rezoning denied by the governing body because impacts were not addressed; it is improper for a locality to deny a rezoning simply because the owner did not proffer something requested by the locality.

- Proffers must be reasonable.
- Once accepted by the governing body, proffers become part of the zoning regulations applicable to the land and they run with the land until it is rezoned (there are exceptions).
- Proffers must be in writing.
- Proffers must be submitted before the public hearing by the governing body and may not be materially amended once the public hearing begins without holding another public hearing, provided that the governing body may waive the requirement for a public hearing if the amendment does not affect conditions of use or density.
- Proffers must be signed by the owner(s) of the land being rezoned.
- Proffers to dedicate substantial land, make substantial cash payments, to construct substantial improvements, or which specify the permitted use or density, may create vested rights in the zoning of the land.

Findings/Current Activity

David Giovannacci, Director of Land Development for D.R. Horton, has requested that any action on the rezoning to Town Council be deferred until the November 28, 2023 meeting.

No modifications to the application have been submitted by the applicant. Per Mr. Giovannacci's letter dated October 17, 2023, the applicant will be updating the development plan to submit to the Planning Commission for consideration.

Additional documents received since the last meeting include:

- Comment response letter concerning VDOT's comments from Lester Adkins and Robert Browning of Wells + Associates dated October 11, 2023
- Correspondence between the applicant and Clarke County Public Schools Superintendent Rick Catlett
- A map identifying the sub-areas with an overlay of the proposed subdivision layout was distributed to Planning Commissioners at the site visits conducted on October 12, 2023

The documents referenced above are included in this packet.

Please reference the August 22, 2023 Planning Commission packet for the full application at this link: <https://www.berryvilleva.gov/ArchiveCenter/ViewFile/Item/1161> . A full copy of the application is also available to view at the Town Business Office during regular business hours.

Schedule/Deadlines

The applicant has requested a deferral for action until the November 28, 2023 meeting.

Per Section 508.8 of the Berryville Zoning Ordinance, the Planning Commission shall act upon any proposed amendment within 100 days of the first Planning Commission meeting after the receipt of a complete rezoning application (by November 30, 2023). Town Council shall, under Section 508.9 of the Berryville Zoning Ordinance, act upon any proposed amendment within one year after receipt of a complete application (by August 11, 2024).

Other Considerations

N/A

Recommendation

Take public comment at the public hearing and defer action until the November 28, 2023 meeting.

Sample Motion

I move that the Planning Commission of the Town of Berryville continue the public hearing to the November 28, 2023 meeting for the rezoning of the parcels identified as 14-A-80 and 14-A-112.

OR

I move that the Planning Commission of the Town of Berryville close the public hearing and defer any action until the November 28, 2023 meeting for the rezoning of the parcels identified as 14-A-80 and 14-A-112.

Attachments:

- Public hearing notice
- Letter from David Giovannacci requesting a deferral of action on the application until the November meeting
- Comment response letter concerning VDOT's comments from Lester Adkins and Robert Browning of Wells + Associates dated October 11, 2023
- Correspondence between the applicant and Clarke County Public Schools Superintendent Rick Catlett
- A map identifying the sub-areas with an overlay of the proposed subdivision layout was distributed to Planning Commissioners at the site visits conducted on October 12, 2023

Published 10/10/23 and 10/17/23

The Winchester Star

Legal Notices

Legal Notices

BERRYVILLE PLANNING COMMISSION PUBLIC HEARING NOTICE

The Berryville Planning Commission will hold the following public hearings at 7:00 p.m., or as soon after as these matters may be heard, on Tuesday, October 24, 2023, in the Main Meeting Room, Second Floor, of the Berryville/Clarke County Government Center, 101 Chalmers Court, Berryville, Virginia to consider the following:

The Berryville Planning Commission will hear public comment for the rezoning of land transferred from the Clarke County Public Schools to the Town of Berryville (4,565 square feet from DR-4 Detached Residential to ITL Institutional) and land transferred from the Town of Berryville to the Clarke County Public Schools (12,572 square feet from ITL Institutional to DR-4 Detached Residential) in order to accommodate boundary line adjustments between the properties identified as Tax Map Parcel numbers 14-A-5, 14-A-6, 14-A-7, and 14-A-7A. RZ 02-23

Friant Enterprises #1, LLC; Friant Enterprises #2, LLC; Friant Enterprises #3, LLC (Owners) (Tony Free, Vice President, DR Horton, Inc., Agent) are requesting a rezoning of the properties identified as 14-A-80 and 14-A-112 consisting of approximately 100 acres. The properties are currently zoned OSR Open Space Residential; DR-1 Detached Residential-1; DR-2 Detached Residential-2; and BP Business Park. The proposed zoning for a portion of the properties identified above is DR-4 Detached Residential-4. RZ 01-23

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 these matters 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



October 17th, 2023

Christy Dunkle
Town of Berryville, VA
101 Chalmers Court, Suite A
Berryville, VA 22611

SUBJECT: Friant Rezoning Planning Commission Recommendation Deferral

Christy,

D.R. Horton, Inc. would like to request a deferral for a recommendation on the rezoning of the Friant property from the planning commission until November of this year. We request this because we are still working with Clarke County Schools and because we are working on a plan update based on community feedback. If you have any questions, please do not hesitate to reach out to David Giovannacci at DGiovannacci@drhorton.com or 301-789-6517. Thank you!

Sincerely,

David M. Giovannacci

Director of Land Development

A handwritten signature in black ink, appearing to read "David M. Giovannacci".

WELLS + ASSOCIATES

MEMORANDUM



11220 Assett Loop
Suite 202,
Manassas, VA 20109
703-365-9262
WellsandAssociates.com

TO: Christy Dunkle, Community Development Director
Town of Berryville

FROM: Lester E. Adkins, III, P.E., PTOE, PTP
Robert M. Browning, PTP

RE: Friant Property; VDOT Review

DATE: October 11, 2023

This memorandum serves as a response to the referral comments received via email from the Virginia Department of Transportation (VDOT) dated October 3, 2023, following the review of the Friant Property Traffic Impact Analysis prepared by Wells + Associates, dated August 3, 2023. The comments are provided as Attachment 1 and reproduced below along with a response:

Traffic Impact Analysis (TIA) Comments

Comment 1: The existing daily traffic counts on page 6 of the TIA for Battletown Drive and Main Street do not appear to be correct. The counts for Main Street appear to be Route 723 in the Town of Boyce. The latest VDOT daily counts for Battletown Drive were April 25, 2012 and in the reverse order for the segments described.

Applicant's Response: The existing daily traffic count in the TIA for Battletown Drive and Main Street have been revised to match the latest VDOT daily counts. This change has no impact on the analysis and was provided for informational purposes only to document the existing roadway conditions.

Comment 2: Page 3 of the turn lane warrants for E. Main Street/Clermont Lane should have 51 right turns in the PM peak hour not 26. Based on the projected trips, right turn taper warrants are met on Route 7 business westbound at the future public street A intersection. The threshold for the addition of a 100-foot right turn lane is just 19 more right turns in the PM peak hour. We suggest that a 100-foot right turn lane and 200-foot taper be installed. This will accommodate any underestimates in trip distribution/splits and allow some future development trips to the Profundus property.

WELLS + ASSOCIATES

MEMORANDUM

Applicant's Response: Turn lane warrants have been revised to analyze the forecasted trips shown in Figure 4-4. For the proposed 214 homes, only a taper is warranted at E. Main Street & New Access Road (Study Int. #2). However, the applicant acknowledges VDOT's comment for an additional 100' of taper (ultimate 200'). However, based on the VDOT warrants and TIA distributions, a right turn lane with taper would not be warranted without an additional ± 82 single family homes (for a total of 296 single family homes). The applicant is proposing to provide a full-width 100' turn lane with 100' taper. The dimensions of the provided turn lane are shown in the GDP and must accommodate the available right-of-way and existing utility pole(s) on the Profundus property.

Comment 3: There is a coding error for the split-phase signal at Highway 7 that is leading to some false results. The split phasing is correct, but Phase 3 needs to be coded as a protected phase, not a permissive phase, for the EB left-turn movement. Revising $\phi 3$ to be a protected phase for the left turn movement, in the way the split phase is supposed to be programmed, causes the total delay and the queue length to reduce.

Applicant's Response: This was unclear with the timing/phasing files previously provided by VDOT. Phasing in the Synchro files at Highway 7 and E Main Street has been revised to correctly code Phase 3 as a protected phase. The Levels of Service and Queue tables in the report have been updated with the new results which show improved operations from what was previously presented.

Generalized Development Plan (GDP) and Proffer Statement Comments

Comment 4: Page 1, paragraph 2 of the Proffer Statement refers to a "GDP" entitled "Friant Property – 214 Lots" dated April 11, 2023, however a copy of this GDP was not included with the VDOT submittal. Please provide a GDP that matches the recommendations from the Traffic Impact Analysis (TIA), Proffer Statement and comments below.

Applicant's Response: A revised GDP, TIA, and Proffer Statement will be provided.

Comment 5: The Proffer Statement should include the Route 7 business westbound 100-foot right turn lane and 200-foot taper since this is an offsite mitigation caused by the development.

WELLS + ASSOCIATES

MEMORANDUM

Applicant's Response: See response to Comment 3 regarding turn lane dimensions. The Applicant will add to the proffers the 100' right turn land and 100' tapers to be completed by the 144 occupancy per VDOT warrants system (the density at which the taper treatment is warranted).

Comment 6: Some of the documents in the rezoning submittal label "Future Public Street A" across the Profundus property as "access easement". To be eligible for VDOT acceptance all roadways need to be constructed on unencumber "right-of-way" in lieu of easements.

Applicant's Response: The applicant intends to dedicate the right-of-way for Future Public Street A to be eligible for Town of Berryville acceptance. The application notes will be revised so that it is clear

Comment 7: To meet VDOT Access Management requirements for joint-use entrances, we suggest that Future Public Street A also provide access to the Profundus property. If Future Public Street A does not become a public roadway, then rights to future access should be granted at this time. Construction of an entrance to Profundus should wait until a use is determined and trip generation can be calculated. Additional improvements/mitigations may be warranted for this property including a heavier pavement design to accommodate their trips, consideration should be given to coordinating and cost sharing for any increases and to minimize future traffic disturbances.

Applicant's Response: The applicant requests Town staff and Planning provide feedback if they want a connection on this road for Pofundus to tie into. This potential future connection has not been discussed to date.

Comment 8: It appears that additional right-of-way will be required along Route 7 business to accommodate the required sight distance, right turn lane, and drainage features at the intersection of Future Public Street A. Please show the required clear sight distance triangles on the GDP along with the right turn lane and taper. Show the right-of-way dedication needed to accommodate the maintenance of the sight distance and reference the dedication in the Proffer Statement.

WELLS + ASSOCIATES

MEMORANDUM

Applicant's Response: The applicant will work with the Town to consider available right-of-way along the Profundus property. Additional sight distance information will be provided for the new connection to East Main Street to meet VDOT and Town Standards.

Comment 9: Sidewalk, curb, and gutter should be considered on Route 7 along the Profundus property frontage and back to the Town Limits.

Applicant's Response: The applicant requests Town staff and Planning provide feedback as to what sidewalk, curb and gutter should be provided along Route 7.

From: Boyce, Arthur (VDOT) <Bobby.Boyce@VDOT.Virginia.gov>
Sent: Tuesday, October 3, 2023 1:19 PM
To: Christy Dunkle <planner@berryvilleva.gov>
Cc: Funkhouser, Rhonda (VDOT) <Rhonda.Funkhouser@VDOT.Virginia.gov>; Johnson, Joseph (VDOT) <JosephW.Johnson@vdot.virginia.gov>; Brandon Stidham (bstidham@clarkecounty.gov) <bstidham@clarkecounty.gov>
Subject: Town of Berryville- Route 7 Business- Friant Subdivision

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

COMMONWEALTH of VIRGINIA

DEPARTMENT OF TRANSPORTATION
 Staunton/Edinburg Land Development
 14031 Old Valley Pike
 Edinburg, VA 22824

Dear Ms. Dunkle:

We have reviewed the above subject rezoning application dated August 3, 2023, for impacts to the local roadway system. This application is for the construction of 214 dwellings on 97.84 acres. We have no overall objections to this rezoning once the following comments are addressed:

Traffic Impact Analysis (TIA)

1. The existing daily traffic counts on page 6 of the TIA for Battletown Drive and Main Street do not appear to be correct. The counts for Main Street appear to be Route 723 in the Town of Boyce. The latest VDOT daily counts for Battletown Drive were April 25, 2012 and in the reverse order for the segments described.
2. Page 3 of the turn lane warrants for E. Main Street/Clermont Lane should have 51 right turns in the PM peak hour not 26. Based on the projected trips, right turn taper warrants are met on Route 7 business westbound at the future public street A intersection. The threshold for the addition of a 100-foot right turn lane is just 19 more right turns in the PM peak hour. We suggest that a 100-foot right turn lane and 200-foot taper be installed. This will accommodate any underestimates in trip distribution/splits and allow some future development trips to the Profundus property.
3. There is a coding error for the split-phase signal at Highway 7 that is leading to some false results. The split phasing is correct, but Phase 3 needs to be coded as a protected phase, not a permissive phase, for the EB left-turn movement. Revising $\phi 3$ to be a protected phase for the left turn movement, in the way the split phase is supposed to be programmed, causes the total delay and the queue length to reduce.

Generalized Development Plan (GDP) and Proffer Statement

4. Page 1, paragraph 2 of the Proffer Statement refers to a "GDP" entitled "Friant Property – 214 Lots" dated April 11, 2023, however a copy of this GDP was not included with the VDOT submittal. Please provide a GDP that matches the recommendations from the Traffic Impact Analysis (TIA), Proffer Statement and comments below.
5. The Proffer Statement should include the Route 7 business westbound 100-foot right turn lane and 200-foot taper since this is an offsite mitigation caused by the development.

6. Some of the documents in the rezoning submittal label “Future Public Street A” across the Profundus property as “access easement”. To be eligible for VDOT acceptance all roadways need to be constructed on unencumber “right-of-way” in lieu of easements.
7. To meet VDOT Access Management requirements for joint-use entrances, we suggest that Future Public Street A also provide access to the Profundus property. If Future Public Street A does not become a public roadway, then rights to future access should be granted at this time. Construction of an entrance to Profundus should wait until a use is determined and trip generation can be calculated. Additional improvements/mitigations may be warranted for this property including a heavier pavement design to accommodate their trips, consideration should be given to coordinating and cost sharing for any increases and to minimize future traffic disturbances.
8. It appears that additional right-of-way will be required along Route 7 business to accommodate the required sight distance, right turn lane, and drainage features at the intersection of Future Public Street A. Please show the required clear sight distance triangles on the GDP along with the right turn lane and taper. Show the right-of-way dedication needed to accommodate the maintenance of the sight distance and reference the dedication in the Proffer Statement.
9. Sidewalk, curb, and gutter should be considered on Route 7 along the Profundus property frontage and back to the Town Limits.

We appreciate the Towns efforts to include VDOT in the early planning stages for development and the opportunity to provide comments on this rezoning. We ask that you include a copy of this transmittal for official public record. If you have any questions or need further information, please do not hesitate to give me a call.

Sincerely,



Bobby Boyce
Land Development Engineer /
Edinburg Residency
Virginia Department of
Transportation
540-534-3211
bobby.boyce@VDOT.Virginia.gov

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September 28, 2023

Rick Catlett
Clarke County Public Schools
317 West Main Street, Suite A
Berryville, VA 22611

RE: Friant Rezoning Project: Clarke County Schools

Rick,

Thank you for providing us with the Clarke County School Data. As you are aware, we met with the Planning Commission at a work session on Tuesday, September 26, 2023. The Planning Commission raised some good questions and points, and as a result of that, we are in the process of updating our school data and our presentation pertaining to schools. We appreciate all of your assistance throughout this process. We firmly believe that it is important for the Planning Commission and Council to have consistent, up to date school enrollment, capacity, and costing information. To that end, can you all respond to the questions below?

1. I understand you are working on the building capacity for Cooley. Can you please provide building capacity for all three schools? To the extent you all use a functional capacity, please provide it and the criteria used to create it.
2. There has been some discussion about school buses. Please provide the capacity for each school bus.
3. How many routes are there for the school buses and what are the times for pick up for elementary school, middle school, and high school? Also, we believe it would be helpful if the Planning Commission and Council understood how those routes are adjusted from semester to semester or year to year as School Administrators react to varying class/school sizes and other factors such as children who walk to school and/or are driven to school.
4. Are the same bus drivers/buses used to transport students for several schools (i.e., high school students then middle school students and then elementary school students each morning and afternoon)?
5. How many students currently ride the bus that picks up students from the Battletown neighborhood? If you have the data, how has that ridership count and route changed to accommodate enrollment changes over the last five years?



6. Thank you for sharing the student information for Shenandoah and Hermitage. Can you share how many of those students attended elementary, middle, and high school?

As always, we appreciate your time and assistance on providing us with the school data. We look forward to working with you through this process.

Sincerely,

Priya Tuwari
D.R. Horton, Inc.

D.R. Horton Additional Questions regarding Friant Property (*CCPS responses in bold italics*):
October 13, 2023

1. I understand you are working on the building capacity for Cooley. Can you please provide building capacity for all three schools? To the extent you all use a functional capacity, please provide it and the criteria used to create it.

We have been using the VDOE Guidelines for School Facilities (see Appendix F, G, H) document to work through our program capacity. This has been completed for elementary, and we are still working on middle and high. Once it's finished, we'll be sure to share the results. The Cooley Lower capacity calculation was 496.

2. There has been some discussion about school buses. Please provide the capacity for each school bus.

We currently have two different-sized buses for regular transportation.

64 passenger (11 rows of seats) and 77 passenger (13 rows of seats)

These capacity numbers are based on elementary students (13" bottoms) sitting 3 to a seat.

Middle and high school students are sitting 2 to a seat.

3. How many routes are there for the school buses, and what are the times for pick up for elementary school, middle school, and high school? Also, we believe it would be helpful if the Planning Commission and Council understood how those routes are adjusted from semester to semester or year to year as School Administrators react to varying class/school sizes and other factors such as children who walk to school and/or are driven to school.

We currently have 24 bus routes. We are 1 Tier Transportation (K-12 students ride on the same bus). Pick-up times in the AM range from 6:30 a.m. - 8:00 a.m. depending on the location within the Town/County.

4. Are the same bus drivers/buses used to transport students for several schools (i.e., high school students, then middle school students, and then elementary school students each morning and afternoon)?

Yes

5. How many students currently ride the bus that picks up students from the Battletown neighborhood? If you have the data, how has that ridership count and route changed to accommodate enrollment changes over the last five years?

Battletown Subdivision - Battletown Drive and Bel Voi Drive.

of students K-12 in 2023-2024 was 20. # of students K-12 in 2022-2023 is currently 25

6. Thank you for sharing the student information for Shenandoah and Hermitage. Can you share how many of those students attended elementary, middle, and high school?

54 to Elementary, 18 to Middle, 20 to High School, for a total of 92. Additional students have enrolled since the last update previously reported.



HARRY BYRD HIGHWAY - ROUTE 7

ACCESS EASEMENT

EAST MAIN ST.

BATTLETOWN DR.

13

16

15

14

OPEN SPACE

FLOODPLAIN

SWAMP POND

OPEN SPACE

SWAMP POND

SWAMP POND

SWAMP POND

OPEN SPACE

OPEN SPACE

