

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

**BERRYVILLE**  
EST. 1798 *Genuine* VIRGINIA

**BERRYVILLE PLANNING COMMISSION**

**Organizational Meeting**

Tuesday, January 23, 2024 – 7:00 p.m.

101 Chalmers Court – Main Meeting Room – Second Floor

**AGENDA**

1. Call to Order – Christy Dunkle, Community Development Director
2. Election of Officers – Chair and Vice Chair
3. Approval of 2024 Meeting Dates
4. Approval of Agenda
5. Approval of Minutes – November 28, 2023
6. Continued 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
7. Discussion of Public Hearing
8. Citizens' Forum
9. New Business - Set Public Hearing – Special Use permit – Short-term rental  
Paul Perez and Gail Gallagher, Owners, are requesting a special use permit in order to operate a short-term rental at the property located at 116A South Church Street, identified as Tax Map Parcel number 14A5-((A))-69, zoned R-2 Residential. SUP 01-24
10. Planning Update
11. Other

**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 – 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

**BERRYVILLE**  
EST. 1798 *Genuine* VIRGINIA

**BERRYVILLE PLANNING COMMISSION**

**2024 Proposed Meeting Dates**

7:00 p.m.

Berryville – Clarke County Government Center Main Meeting Room  
101 Chalmers Court – Berryville, VA

Tuesday, January 23  
Tuesday, February 27  
Tuesday, March 22  
Tuesday, April 26  
Tuesday, May 28  
Tuesday, June 25  
Tuesday, July 23  
Tuesday, August 27  
Tuesday, September 24  
Tuesday, October 22  
November - TBD  
December - TBD

**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**  
**November 28, 2023**

---

A meeting of the Berryville Planning Commission was held on Tuesday, November 28, 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

Press present: Mickey Powell, *Winchester Star*

**1. CALL TO ORDER – William Steinmetz, Chair**

Chair Steinmetz 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. CONTINUED PUBLIC HEARING – Friant Property**

**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**

Ms. Dunkle introduced David Giovannacci, representing D.R. Horton, Inc. Mr. Giovannacci gave a presentation updating their modifications to the application. He said access to Battletown Drive from the proposed subdivision streets will be gated for emergency access only. He said the lots previously located within Sub-Area 14 have been removed. He gave an overview of the updated cash proffers for sidewalk on Battletown Drive, adding that they have not received updated information as it relates to the Cooley Upper campus from Clarke County schools but will update that information

once they are able to do so. Mr. Parker said that the non-use of Cooley Upper was intentional and the school board's decision was an operational decision.

Mr. Giovannacci discussed the updated design guidelines proposed for the subdivision. He discussed screening and buffering adjacent to the Route 7 Bypass. There was a discussion amongst Planning Commissioners on the number of rows of trees proposed and whether they would be on private HOA-maintained property. Mr. Giovannacci discussed development standards including varying setbacks and elevation details. He said the high-visibility corner lots will feature masonry on the facades.

Ty Lawson spoke about the proposed zoning modifications. He described the Business Park zoning currently in place and he said that over 50% of the proposed development area was in open space. He added that 3.5 miles of sidewalks and 1.25 miles of trails are also in the design of the subdivision. He discussed viewshed protection and reviewed previously unused lots.

Lester Adkins, Wells & Associates, discussed updated transportation information. He said turn lanes and tapers have been identified on East Main Street. He discussed subdivision street design and typical sections of roads and trails.

Bryan Lilly, Dewberry, discussed the open space and waterline connection. He addressed the stormwater concept plan presented to the Virginia Department of Environmental Quality. He discussed that area adjacent to Bel Voi Drive pre- and post-development.

Mr. Lawson discussed the request for deferral to the January meeting in order to allow staff and review agencies additional time to complete their respective reviews.

Ms. Marino asked about the school impacts and related proffers. Mr. Lawson said they are in need of additional information from the schools in order to determine proffer payments to address the impacts.

Chair Steinmetz reminded attendees that, due to the large number of attendees, the three-minute timeframe for public comment will be adhered to.

Chair Steinmetz recognized Erin O'Neill, County resident. Ms. O'Neill asked that the Planning Commission vote no for the proposal of 86 to 112 houses due to safety and traffic on Main Street and the Route 7 Bypass. She said that the negative impacts outweigh the benefits.

Chair Steinmetz recognized Sam Card, Town resident. Mr. Card said his family is from Clarke County and there were different ideas for development early on. He said 200 expensive homes would have a social impact on the community. He discussed widening East Main Street to accommodate traffic, environmental concerns, the water level in the Shenandoah River, and increased demands on utilities. He added that the schools would require additional buses and an increase in property taxes, adding that children are our future.

Chair Steinmetz recognized Joe Blatz, County resident (comments submitted). Mr. Blatz said he has lived in Clarke County for 35 years and has served on three county boards and has significant government experience. He said 112 homes seemed tight and the only benefit to this proposal is for the developer. He said Berryville is plenty big enough.

Chair Steinmetz recognized Tim Sinclair, Town resident. Mr. Sinclair discussed the Transportation Impact Analysis and traffic distribution across the Bel Voi property. He said the proposed subdivision is not near the center of town and has limited walkability. He added that the 66-unit proposal is sufficient and that they should stick with the plan.

Chair Steinmetz recognized Mary Veilleux, Town resident. Ms. Veilleux said she appreciates the 52% open space and is grateful for the Berryville Area Plan. She suggested maintaining the vision of the natural and historic resources in the designated growth area. She said traffic will be a problem on Main Street and asked Planning Commissioners to consider whether the request fits in the Area Plan. She requested that the Planning Commission reject the rezoning proposal.

Chair Steinmetz recognized Tom Bauhan, Town resident. Mr. Bauhan said he appreciates the technical comments provided by the speakers. He said the Shenandoah Crossing subdivision imposes visual trauma to the Town and drivers on the Route 7 Bypass, and asked how the proposal will affect the Soldiers Rest property.

Chair Steinmetz recognized Dana Libby, Town resident. Mr. Libby asked what standards exist for changing zoning, and referenced Supreme Court action and the government's role in land use. He added that if the Planning Commission recommended approval of the request that dramatically changes the density, it will interfere with the quiet town. He said there is no net benefit.

Chair Steinmetz recognized Brian Snyder, Town resident. Mr. Snyder said he spoke at the October public hearing and discussed the proffers identified for a sidewalk on Battletown Drive that would meet the Smart Scale programming on East Main Street. He said there is no ability to add a sidewalk to Battletown Drive and it would not be able to be constructed, adding that walkability is a moot point. He said more people, cars, and traffic will push street traffic to the western half of the county.

Chair Steinmetz recognized Barbara Lake, Town resident. Ms. Lake recommended denial of the request. She said the Town's infrastructure is not able to handle the development, and voiced concern over water availability, school capacity, and emergency services improvements. She said that assurance of coverage should be for residents first.

Chair Steinmetz recognized Robert Lauten, Town resident. Mr. Lauten said he was impressed by the eloquence of the citizens. He recommended that 10 nice houses be built on the property, adding that the developer does not care about protecting Berryville and throwing out a thoughtful plan. He recommended against additional density.

Chair Steinmetz recognized Craig Mattice, Town resident. Mr. Mattice said he lives next to the Hermitage V development. He said he would like the Town to make an informed decision. He said Berryville needs revenue increases for the tax base. He said without additional development, the choices are to reduce services or to raise taxes. He said there needs to be more diversity of the Town. He said traffic, water, schools, and safety are the responsibility of the Town to solve. He said it is easy to disapprove the development but it is our job to solve the problems. He said the developer worked with him and that Town residents shouldn't fear but should embrace the proposal and to figure out how to make it work.

Chair Steinmetz recognized Sara Stern, Town resident (comments submitted). Ms. Stern referenced the new design guidelines and said the enhanced architectural features are not guaranteed. She questioned the quality of the interior of the housing. She discussed the proposed proffers for sidewalks and public schools. She said the same problems exist in the updated proposal and urged the Planning Commission not to wait, and recommend denial for the rezoning request.

Chair Steinmetz recognized Alton Echols, Town resident. Mr. Echols discussed his development and said his property was the most developable in the Town. He discussed the zoning on the property and said that the development of the land will be costly. He recommended that the developer implement cluster zoning.

Chair Steinmetz recognized Kate Carey. Ms. Carey said she bought her property on Battletown Drive in 2020 and that her neighborhood is not made up of cookie cutter houses and does not back up to a graveyard. She said the development is making Berryville look bad. She recommended denying the request and not becoming Loudoun County.

Chair Steinmetz recognized Lynn Gray, Town resident. She said that she is an unfortunate resident of Hermitage Boulevard. She said she also owns a property on East Main Street and is rethinking her purchase due to traffic, lack of control, truck traffic, and noise. She said she appreciated those at the meeting showing up and making valid points. She said the Berryville Police Department does not have control of the traffic and is unable to fill vacancies. Ms. Gray added that there are no specialties, K-9 units, or benefits, and that the Town is unable to staff public safety positions. She said she has renovated two homes in Berryville and raised her children here. She said she is concerned about the type of traffic through Town and about blasting, adding that there were problems in Hermitage. She said she questioned the traffic study, and recommended making decisions wisely.

Chair Steinmetz recognized Glen Poe, County resident. Mr. Poe said he has lived here for three decades and that his primary residence is on North Buckmarsh Street. He said he reviewed the proposed development numbers and those in the Berryville Area Plan, adding that the Plan was written prior to the developments. He said that the Town needed more rooftops but that there is a lot of development in a short time. He said there are merits to clustered development and questioned whether the by-right is sufficient when the Plan suggests a higher number. Mr. Poe discussed density, issues at the railroad tracks, and traffic movement between Church and Buckmarsh

streets, and concluded by saying there is no benefit to the density increase and that the Berryville Area Plan goes too far.

Chair Steinmetz recognized Ruth Shatkowski, Town resident. Ms. Shatkowski said that she is concerned about water, adding that she is from California and is worried about water in the Shenandoah River and wells going dry. She also voiced concern about traffic on Main Street and said that it is bumper-to-bumper.

Chair Steinmetz recognized Jon Burge, Town resident. Mr. Burge said he spoke at the October meeting and asked how much longer is the Planning Commission going to do this. He said the schools are crowded and was told that rezoning is designed to be a long process. He said there is a clear public division and said this was wasting our time. He requested that the Planning Commission make a decision on the matter tonight.

Chair Steinmetz recognized Julie Abrera. She said that significant pieces of information are missing. She said the school information has yet to be determined. She said this much energy could have been used to improve downtown Berryville. She concluded by saying that we deserve better for Berryville.

Chair Steinmetz recognized Bob Stieg, County resident (comments submitted). Mr. Stieg said he is the CEO of the Clermont Foundation and is concerned about safety at the intersection of the proposed road through Audley and Clermont. He discussed existing speed limits in the area. He said the Board of Trustees of the Foundation oppose the request due to traffic and safety concerns.

Chair Steinmetz recognized Christina Bartosiewicz, Town resident. Ms. Bartosiewicz said she has concerns about the \$1,200 per lot proffer for sidewalks and no money being offered for schools to pay for wear and tear and upgrading. She said she is concerned about traffic and that people on First Street do not stop. She referenced a gas leak in her neighborhood and discussed evacuation. She said \$1,200 is nothing.

Chair Steinmetz recognized Abby Hernley, Town resident. Ms. Hernley said she lives in the eyesore, Shenandoah Crossing, and that it is not something everyone wanted. She referenced personal experiences with the developer. She said she relocated to Berryville from Ashburn and that the additional cars on Route 7 scare her. She said schools can't keep up anymore. She said the grocery store can't keep up and that shopping there the day before Thanksgiving was a disaster.

Chair Steinmetz recognized Denise Renirie, Town resident. Ms. Renirie said she is concerned about water and infrastructure. She said they purchased a new home in Hermitage V and that she loves her house but has had problems with the developer. She recommended attending the County's Citizens' Academy.

Chair Steinmetz recognized Christina Ristano, Town resident. Ms. Ristano said she left Loudoun County behind to move to a two-acre lot and new house in Berryville. She said she can't speak to any infrastructure concerns in the Town. She said Berryville deserves better and that she plans to live her

whole life across from Clermont Farm, adding that traffic on East Main Street is bumper-to-bumper. She recommended that Planning Commission deny the request.

Chair Steinmetz called for additional comments. There were none. Chair Steinmetz asked if Commissioners had any questions or comments. Ms. Dunkle said that the process for rezoning is established in the Town ordinance and the Code of Virginia. Mr. Parker said he was ready to make a recommendation, but that he understands the process and acknowledged outstanding reviews.

There being no further discussion, Vice Chair Kemp made the motion to continue the public hearing to the January 23, 2024 meeting for the rezoning of the parcels identified as 14-A-80 and 14-A-112 per the applicant's request. The motion was seconded by Ms. Marino and passed by voice vote.

**5. Approval of Minutes – October 24, 2023**

Vice Chair Kemp made the motion to approve the minutes of the October 24, 2023 meeting as presented, seconded by Mr. Bell. The motion passed by voice vote.

**6. Citizens' Forum**

There were no comments.

**7. Planning Update**

There was no update.

**8. Other**

There was no other business.

**9. Adjourn**

Mr. Bell made the motion to adjourn the meeting, seconded by Ms. Malone. The meeting was adjourned at 8:48 p.m.

---

William Steinmetz, Chair

---

Christy Dunkle, Secretary

## THE CLERMONT FOUNDATION

*A non-profit organization providing support and management for Clermont Farm (1750) in Clarke County, VA  
a property owned by the Virginia Department of Historic Resources, a gift from Elizabeth Rust Williams*

National Register of Historic Places + Virginia Landmarks Register  
151 Clermont Lane, Berryville, VA 222611 Phone: 540-955-0102 Email: [bstieg@clermontfarm.org](mailto:bstieg@clermontfarm.org)

Comments to the Berryville Planning Commission  
Re  
Proposed Friant/Horton Development Rezoning Request  
11-28-23

Mr. Chairman, and Members of the Commission:

My name is Bob Stieg, and I am the CEO of The Clermont Foundation. The Foundation manages, funds, and provides educational programming at Clermont Farm, a 360-acre state historic site and working farm owned by the Virginia Department of Historic Resources. The farm is located on the south side of and at the end of East Main Street. The Farm's entrance is at 151 Clermont Lane, directly opposite the proposed entrance/exit to the planned Friant development. See attached map.

We are deeply concerned about the safety of the new four-way intersection to be created, of which the farm's entrance will become a part, facing the new and only regular-use entrance /exit to a 198-home subdivision if the rezoning is approved.

Clermont's entrance is an institutional entrance to a state historic site (including the oldest house in the County), with school buses, public programs, events such as the recent Native Plant Sale/Community Day, and tours by appointment on any of seven days a week. We have two tenant families using this entrance as well as farm and Foundation staff, plus trailer loads of hay and of animals coming and going. We are particularly concerned about slower-accelerating school buses and animal trailers having to make the left turn across traffic onto E. Main heading back into Berryville, in face not only of the current volume of traffic on E. Main at 45 mph, but now also of the entire volume of traffic from the proposed development.

At its regular meeting today, the local twelve-member Board of Trustees of the Foundation voted to oppose the requested rezoning of the Friant property, because of the impact the proposed rezoning would have on traffic and safety.

Should the Berryville Planning Commission recommend approval of the rezoning or the Town Council consider approval, the Clermont Trustees believe that reducing the speed limit on all of E. Main Street to 25 mph (from 35 and 45), through this new residential intersection and out to Rt 7, should be made a condition of the rezoning. This would provide the same speed limit as is considered safe in other Town residential areas and intersections.

Thank you.

- Interstate
- US Highway
- State Highway
- Surrounding Counties Opaque
- Clarke County Roads
- Private Roads
- Roads
- Rail
- Buildings
- Appalachian Trail
- Streams
- Perennial Streams
- Intermittent Streams
- Ponds
- Rivers

- Berryville Zoning
- Detached Res-1 (DR-1)
- Detached Res-2 (DR-2)
- Detached Res-4 (DR-4)
- Residential-1 (R-1)
- Residential-2 (R-2)
- Residential-3 (R-3)
- Attached Res (AR)
- Older Persons Res (OPR)
- Open Space Res (OSR)
- Business (B)
- Business Park (BP)
- Bus Commercial (BC)
- Light Commercial (C-1)
- Downtown Commercial (C)
- Light Industrial (L-1)
- Institutional (ITL)
- Clarke County Boundary

PROJECT SITE

Owner House 1795

Audley Farm

All white space on this map is part of Clarke County only; colored spaces are in Town of Berryville.

Entrance to Friant subdivision (through easement on Audley "triangle")

Curb/Gutter/Sidewalk To be extended east from railroad tracks to Battletown Drive to provide safe walking access to Town



# FRIANT PROPERTY EXISTING ZONING PLAN

Joseph H. Blatz  
169 Whispering Knolls Ln.  
Berryville, VA 22611  
540-533-5790

Good evening, my name is Joe Blatz. I live off Boom Rd, about a mile and a quarter north of Berryville. Before this, I lived for some 33 years on a small farm in Millwood. During my time here in Clarke, I have served on 3 different county boards – chairman of them all, at one time or another. I have also had a little experience in real estate and development. My partners and I, at one time, owned 125,000 acres in VA.

I guess my question here tonight is about who is profiting and who is losing in this development? The land seller certainly is, and more power to them! The developer is trying to make MILLIONS of extra dollars by doubling the number of houses that this land can reasonably hold. The original allocation of 112 lots, although reasonable, seemed a pretty tight fit on that little bit of land. Doubling that number of lots is OUTRAGEOUS!

There will be roads to be built and sidewalks and schoolrooms and more firemen and policemen and any number of things for the perhaps 500 new people and, probably, 250 more vehicles added to Berryville's population! I guess we all know who, for the next 30 years, will pay for all that! Not DR Horton! It's all these wonderful people behind me who will pay, and pay, and pay with no benefit to themselves!

We've already had one McDonald's go bankrupt in this county, which tells you a lot about our growth. I think that, with these 112 new houses in the first plan, if they're ever built, Berryville will be plenty big enough as will the county!

Some years ago, we had a supervisor in this county, who many here will remember, called Pete Dunning. Pete fought long and hard and deeply for what this county is and should remain. Through his efforts, we have some of the most enlightened and progressive development codes in the country. I think we all agree that Clarke County is a wonderful place to live. And our little county seat of Berryville is charming and livable. I say, let's keep it that way and stick to the original plan!

Thank you!

Good Evening –

I am Sara Stern, and I live in the town of Berryville.

DR Horton's revised proposal of 16 fewer houses and new "Design Guidelines" that have a section within them that require only **certain** areas of the community **that are more visible from public streets or from the neighboring community** to be constructed in a manner to adjust setbacks and façade colors or materials.

These "enhanced" architectural features are **not** guaranteed, but instead are listed as "options". In addition, are we to assume that the subdivision interior housing will not be built to the same standards and with the same options as in those "**certain**" areas?

This, and the fact that in their proposal of \$12 hundred dollars per house in proffers for the sidewalk through the Battletown community is to be paid **only at the issuance of a certificate of occupancy per house.**

That supposes that by the time enough houses get their certificate of occupancy - the town has enough money from these piece-meal proffers to build the sidewalk.

The provision in the proffers to benefit the Clarke County Public Schools is "to be discussed and agreed upon in the future".

Do they think we just fell off the turnip wagon?

This new proposal has all the same problems for the Town of Berryville and County of Clarke that were addressed at the last Public Hearing - Traffic Congestion, Projected Number of Additional Students, Future Water Needs and Resources, Storm Water Run-Off, and Loss of Choice with only one builder.

I urge you not to wait, but to recommend **denial** to the Berryville Town Council for this re-zoning request by DR Horton and Friant LLC.

Thank you.

A. E. EWING

Section 602 Detached Residential-1 (DR-1) District

(4/92) SECTION 602 - DETACHED RESIDENTIAL-1 (DR-1) DISTRICT

28  
63  
-----  
91 unit

602.1 PURPOSE AND INTENT

The Detached Residential-1 (DR-1) District is created to provide for single-family detached residences in a carefully planned pattern, compatible with the Comprehensive Plan's goals for residential development in the Town of Berryville and within the precincts of the Berryville Area Plan. A maximum density of one (1) unit per net developable acre establishes a low-density district for detached residences. This district shall be applied 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.

602.2 PERMITTED USES

- (a) Single-family detached dwellings.
- (b) Accessory uses, to include detached carports and garages, tool sheds, children's playhouses, doghouses, and private swimming pools.
- (c) Municipal utilities.

602.3 SPECIAL PERMIT USES

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

602.4 MAXIMUM DENSITY

- (a) One (1) dwelling unit per net developable acre.
- (b) A maximum floor area ratio of 0:15 shall apply to uses other than residential.

602.5 LOT SIZE, YARD AND BULK REQUIREMENTS FOR CONVENTIONAL LOTS

- (a) Lot area: Minimum--40,000 square feet; maximum--60,000 square feet. (Refer to Section 615.2 regarding the impact of Critical Environmental Areas on lot size requirements.)
- (b) Minimum lot width
  - (1) Interior lot: 125 feet (7/04)
  - (2) Corner lot: 150 feet (7/04)
- (c) Minimum yard requirements
  - (1) Front yard: 40 feet (7/04)
  - (2) Side yard: 15 feet
  - Rear yard: 50 feet*

Cluster  
100  
120  
35  
15  
45

Section 602 Detached Residential-1 (DR-1) District

- (3) Rear yard: 50 feet (residences) (7/04)
- (4) Accessory structure: 5 feet (rear and side setbacks)
- (5) Maximum building height: 35 feet

45

**602.6 MINIMUM DISTRICT SIZE FOR CLUSTER SUBDIVISION**

Minimum district size for cluster subdivision is four acres.

**602.7 LOT SIZE, YARD AND BULK REQUIREMENTS FOR CLUSTER LOTS**

- (a) Minimum lot Area: 20,000 square feet, Maximum Area 45,000 square feet (7/04)  
(Please refer to Section 614 regarding the impact of critical environmental areas on lot size requirements.)
- (b) Minimum lot width:
  - (1) Interior lot: 100 feet
  - (2) Corner lot: 120 feet
- (c) Minimum lot yard requirements:
  - (1) Front yard: 35 feet
  - (2) Side yard: 15 feet
  - (3) Rear yard: 45 feet (7/04)
  - (4) Accessory structure: 5 feet (rear and side setback)
- (d) Maximum building height: 35 feet

**602.8 OPEN SPACE REQUIREMENTS FOR DETACHED RESIDENTIAL (DR-1) SUBDIVISIONS**

- (a) In subdivisions approved for cluster development, a minimum of 15 percent of the net site area which excludes 100-year floodplains, sinkholes, and slopes exceeding 25 percent and 50 percent of land with slopes between 15 and 25 percent shall be open space dedicated to common usage and ownership.

**602.9 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 611 for special regulations relating to cluster subdivisions, open spaces and critical environmental areas.

**602.10 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 615.2 for special regulations relating to cluster subdivisions, open spaces, and critical environmental areas.
- (e) Refer to Section 317 Karst Features for additional requirements. (7/04)

# Planning Commission Agenda Item Report Summary

January 23, 2024

## Item Title

Continued 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

Previous staff reports that contain general information about process, the Berryville Area Plan, and other details are available on the Town's website, [www.berryvilleva.gov](http://www.berryvilleva.gov), under Planning Commission agendas as follows:

- August 22, 2023 – set public hearing for October 24, 2023
- September 26, 2023 – work session
- October 24, 2023 – public hearing
- November 28, 2023 – continued public hearing

## Findings/Current Activity

A continued public hearing was held on Tuesday, November 28, 2023. Modifications to the original submittal made by the applicant, D.R. Horton, at the October meeting include the following:

- The number of proposed lots was reduced from 214 lots to 198.
- Proposed lots have been removed from Sub-Area 16 as identified in the Berryville Area Plan. While this is not a preservation area, the limits of the Sub-Area were defined to create sufficient setbacks and buffers to future development.
- Physical connections have been made from Battletown Drive to the proposed road through the Audley property and from the proposed road north of Bel Voi Drive to Battletown Drive per VDOT public street requirements. The roads will be gated, accessible to Emergency Services and Town personnel only. Town Council may open these connections in the future if they deem such access to be prudent. A vicinity map identifying the access points is included with this staff report.

- Cash proffers have been offered for a sidewalk connection on Battletown Drive to East Main Street and to the Clarke County Public Schools (amount to be determined based on anticipated enrollment).
- East Main Street improvements identified include a 100-foot taper and 100-foot turn lane on westbound Business 7, and sidewalk, curb, and gutter along the property lines as identified in the Master Zoning Plan.
- Design guidelines have been established through proffers which include a variety of materials, façade design, setbacks, colors, and planted buffer along the Route 7 Bypass.

Updated proffer information (forwarded to Town staff on January 10, 2024) shows school contributions of \$1,202.00 per lot and \$1,200 per lot (\$237,600 total) intended to construct a sidewalk on Battletown Drive from East Main Street to the proposed road on the Audley property. The latter is currently under review by the Town's engineer.

### ***Reallocation of Residential Units***

When the Berryville Area Plan (BAP) was first adopted in 1992, land uses were applied to all parcels within Annexation Area B. The intent on many of the Sub-Areas was to allow for rezonings to occur, allowing increased densities which would allow proffers to be offered by the respective developer. The BAP, which was reviewed and updated in 2015 by the BADA and approved by the Clarke County Board of Supervisors and the Berryville Town Council, identified the use of the residual residential units that had been anticipated when the plan was originally adopted.

Applying additional densities is described in the Berryville Area Plan in Chapter II Berryville Area Plan Sub-Areas. The BAP states on page II-7 that the reallocation of the unused residential units may be used in other Sub-Areas in order to encourage development of flexible housing types and cluster development.

Sub-Areas 14 and 15 include specific language that identifies the inclusion of additional densities from the residual lots in these areas. Sub-Area 13 through 17 descriptions, as well as the land use map from the current Berryville Area Plan, are included in this packet.

The full BAP is available at this link:

<https://www.berryvilleva.gov/DocumentCenter/View/351/2015-Berryville-Area-Plan->

A synopsis of the number of residential units:

Approximate number of units under current zoning: (Sub-Area 15): 66

***Please note:*** Sub-Area 14 is currently zoned BP Business Park and could develop under regulations established in Section 612 of the Berryville Zoning Ordinance.

Units identified in the Berryville Area Plan Land Use Table: (Sub-Areas 13, 14, and 15): 112

***Please note:*** The land use designation for Sub-Area 14 was modified in the 2015 update of the Berryville Area Plan from Light Industrial/Research to Medium-Low Density Residential (4 units/acre)

Residual units identified in Annexation Area B: 160

- Sub-areas 3 and 4 – 89 lots
- Sub-area 19 – 45 lots
- Sub-area 25 - 6 lots
- Sub-area 27A - 20 lots

### **General Comment Response**

Following are public claims and concerns voiced at the public hearings, and comments submitted to Town staff:

- *Concerns about safety, speeds, and congestion on East Main Street that will be generated from the proposed development.*

Staff remains concerned about one point of ingress and egress from the proposed subdivision as well as average daily trips which would be generated from 198 homes in this location.

**PLEASE NOTE:** Staff has included several references from the TIA for ease of reference in this staff report. The entire TIA is available in the November 28, 2023 Planning Commission staff report at this link:

<https://www.berryvilleva.gov/ArchiveCenter/ViewFile/Item/1190>.

The TIA assumes full build-out to be in 2026 and those figures are used in the TIA references in this report.

Below is information from the TIA referencing traffic-related impacts generated from the development (198-unit total):

- o Table 4-1 identifies the average daily trips (ADT) generated from the 198 houses as 1,892.
  - o Figures 3-1 and 3-2 identify regional growth (2022-2026) and background future (2026) traffic forecasts without the development's impacts.
  - o Section 7 offers detailed information on the future conditions without access from Battletown Drive (one point of ingress/egress).
  - o Figures 7-1 Site Trip Assignments and 7-2 Total Future (2026) Traffic Forecasts. Staff believes that the eastbound and westbound splits would likely be at least 60-40, respectively, at the a.m. peak hour, not the 50/50 split identified in the TIA.
  - o Turn Lane Warrants are identified on page 38 of the attached documents.
- *Growth in the Town is "out of control."*  
Response: the Annexation Agreement between the Town and County was signed in 1988. At that time, the following items were agreed upon by both parties:

- the Town agreed to supply public water and sewer to properties identified within Annexation Area B;
- a joint administrative body (the Berryville Area Development Authority) would be formed;
- the Berryville Area Plan would be created which included the study of a number of items including transportation, cultural aspects, physical aspects (e.g., slopes, wetlands); and
- The Town and County zoning ordinances would both align with the Sub-Areas identified in the BAP.

It is important to note that in order to maintain the sliding scale zoning in the County, it is critical that a growth area be identified that would take on the development in the community. With a population estimate in 2024 of 4,642 (the 2020 census recorded a population of 4,534), Berryville is currently growing at a rate of 0.59% annually with an increase in population of 2.38% since the 2020 census (SOURCE: World Population Review).

- *The developer constructed “ugly” subdivisions in the Town of Berryville previously.*

Response: The applicant has offered to implement design guidelines to modify setbacks, facades, colors, and buffers that would offer differences in the subdivision design. All subdivisions and housing developments have a period of time in which the property is graded and constructed. Over time, each home is personalized, trees and landscaping are installed, and homes modified as determined by the respective property owner.

- *Internet speeds will be compromised with the addition of more residents.*

Response: A Comcast representative responded with the following statement: *“We are land-line based, and every time we build a new community, we add the additional equipment to meet the needs of the new addresses so no older customers are affected in any way. So, no this will not affect our existing customers or any new customers we build.”*

- *Water and sewer capacities are not available.*

Response: The Town has sufficient water and sanitary sewer treatment capacities to accommodate the residential and commercial density identified in the Annexation Agreement with the County (identified as the Urban Services Area and signed in 1988) and the Berryville Area Plan, which was adopted in 1992.

- *The current rezoning is not in conformance with the Berryville Area Plan.*

Response: The original Berryville Area Plan (BAP), adopted by the County Board of Supervisors and Town Council in 1992, identified a yield of commercial and residential development anticipated for the entirety of the annexation area (known as Annexation Area B). Rezoning did not occur which would have allowed for additional densities that were identified in the land use plan and table. The BAP was updated in 2015 and states that additional density that would allow for a portion of these units to be included in sub-areas 14 and 15 should be considered. Please see additional information above under *Reallocation of Residential Units*.

- *Stormwater runoff will adversely affect Bel Voi Drive.*

Response: The Virginia Department of Environmental Quality conducted a cursory review of the proposed grading and indicated that what they have proposed, which would include cut and fill to direct the water towards the ponds proposed to the north, will work. A full review would not be conducted until the construction plans are submitted for approval.

Staff forwarded the proposed pre- and post-development drainage scenarios to Pennoni Engineering, whose response is below:

*We have reviewed the Technical Memorandum addressing the East Main Street/Battletown Drive Intersection Drainage. Our findings are that the proposed post-development drainage divides will indeed significantly reduce drainage away from the Battletown and Main Street drainage swales. The residential properties along Battletown and adjacent the proposed project will not receive any new runoff from the proposed development. Additionally, the developer proposes to decrease the runoff from the existing drainage south of the project. This will further reduce the runoff from the existing condition. It will be incumbent on the developer to properly design the Stormwater Management facilities receiving this additional drainage at the time of subdivision plan design.*

- *There are other areas of Town where residential developments can be built.*

Response: The Friant property is the last large parcel slated for residential development in Annexation Area B. Three parcels owned by two parties totaling 13.25 acres zoned DR-2 are located on South Church Street. One parcel, on the west side of US 340 south of the Town, is zoned DR-1 and contains 7.1 acres. The property is located within the Annexation Area but has not been annexed by the Town.

### *Updated School Information*

Town staff has received updated information from the Clarke County Schools and an updated proffer statement from the applicant reflecting the post-renovation program capacity for Cooley Upper Campus of 242 students.

### *Updated Proffer Statement*

The applicant has submitted an updated proffer statement which is included in this packet. The amount identified for school contributions is \$1,202.00. Please note that legal counsel will review and comment on the final document prior to Town Council consideration.

### *Utility Information*

Below is a chart identifying different scenarios of development for the Friant property and the associated anticipated availability and users' fees. Please note that these figures only examine income to the utility enterprise funds.

	Number of residential units	Water availability fees	Sewer availability fees	Water user fees per month*	Water user fees per year*	Sewer user fees per month*	Sewer user fees per year*
<b>Units proposed by D.R. Horton</b>	198	\$ 3,212,748.00	\$ 3,449,754.00	\$ 9,682.20	\$ 116,186.40	\$ 20,516.76	\$ 246,201.12
<b>Units "by right" under current zoning</b>	66	\$ 1,070,916.00	\$ 1,149,918.00	\$ 3,227.40	\$ 38,728.80	\$ 6,838.92	\$ 82,067.04
<b>"By right" under current zoning + 28 units from sub-area 14</b>	94	\$ 1,525,244.00	\$ 1,637,762.00	\$ 4,596.60	\$ 55,129.20	\$ 9,740.28	\$ 116,883.36

\*Based on average usage for a family of 4 (6k gal)

### *Master Zoning Plan (MZP)*

The updated MZP identifies sidewalk along the proposed westbound turn lane and taper to the property line west along East Main Street.

### **Schedule/Deadlines**

It would be appropriate for the Planning Commission to make a recommendation at this meeting.

### **Other Considerations**

N/A

### **Recommendation**

Make a recommendation to Town Council at the meeting.

### **Sample Motions**

#### ***Approval***

I move that the Planning Commission of the Town of Berryville recommend that Town Council approve the request as presented to consider additional density as set forth in the Berryville Area Plan.

#### **OR**

#### ***Denial***

I move that the Planning Commission of the Town of Berryville recommend that Town Council deny the request to include additional density units created by a rezoning of the parcels identified as 14-A-80 and 14-A-112 due to \_\_\_\_\_.

### **Attachments:**

- Vicinity map identifying proposed gated emergency access points
- Portions of the Berryville Area Plan describing Sub-Areas 13 – 17
- Land Use Map from the Berryville Area Plan (2015)
- Master Zoning Plan
- Portions of the Traffic Impact Analysis referenced in the staff report
- School Impact Analysis
- Updated proffer statement

VICINITY MAP ACCESS POINTS

# PROPOSED PLAN UPDATES



### **SUB-AREA 13**

**Name:** BUCKMARSH RUN CONSERVATION AREA  
**Acreage:** 32.4 acres  
**Land Use Designation:** Environmental Conservation  
**Annexed:** No

Sub-Area 13, containing approximately 32 acres, is bounded on the northwest by the railroad and on the northeast by Route 7 Bypass. Most of the southern boundary follows the floodplain of Buckmarsh Run, common with Sub-Areas 10, 11, and 12. The entire Sub-Area is located outside of Town limits and is currently undeveloped.

Given the marshy, flood-prone characteristics of the area, it is classified as an environmentally sensitive area and is currently zoned Open Space Residential (OSR). The Open Space Residential

District allows for by-right development of single-family dwellings on lots no smaller than ten (10) acres in size.

Similar to Sub-Area 12A and Sub-Area 12B, this Sub-Area is seasonally wet and has poorly drained bottom land character. The environmental make-up of the sub-area renders it unsuitable for urban land uses, and as such, the land should be viewed as having the lowest comparative development potentials in the Berryville Area. No urban land uses should be permitted for this land unit. Coordination of stormwater management plans with those of other Sub-Areas is critical to preserving the natural integrity of this Sub-Area; every step should be taken so that each Sub-Area detains its run-off on site. Alteration of the Buckmarsh Run stream channel is discouraged.

The southern boundary of this Sub-Area was developed using topographic maps and may include limited areas that are not considered critical environmental areas (e.g., floodplain or flood-prone). In the event that developable land is located along the southern boundary of this Sub-Area through site engineering and analysis, these areas may be considered developable as part of the adjacent Sub-Area.

### **SUB-AREA 14**

**Name:** NORTHEAST RESIDENTIAL TRANSITION AREA  
**Acreage:** 7.2 acres  
**Land Use Designation:** Medium-Low Density Residential  
**Annexed:** No

Sub-Area 14, containing approximately 7.2 acres, is located just to the southeast of the railroad right-of-way that also corresponds to the current boundary of the Town of Berryville. The Sub-Area is bordered on the south and east by existing development that includes an established neighborhood of single-family detached homes. The Sub-Area is bounded on the east by a well-defined natural swale, which drains into the lowlands of Sub-Area 13. The entire Sub-Area is currently located outside of Town limits.

The Sub-Area is undeveloped and the physiography of the site with limited transportation access is not conducive to intensive land uses, particularly industrial uses. Mixed hardwood vegetation is

scattered throughout the planning unit, affording opportunities for visual buffers for the residential area to the south. Future land uses should be clustered so as to preserve the site's natural drainage way.

Transportation planning for Sub-Area 14 shall provide for connections through the existing Battletown Subdivision as well as potential linkages into Sub-Area 15. Transportation planning should also consider the potential for any developer-funded local collector road options that could be identified to provide direct connectivity from this Sub-Area to East Main Street.

The Sub-Area is currently zoned Business Park (BP) and is adjacent to the Norfolk Southern Railroad. Modifying this land use and its zoning should be considered due to its lack of vehicular access. Access is currently from Cattleman's Lane which is owned by Norfolk Southern Railroad. This road is substandard in width and is not publicly maintained making it unsuitable for business access absent substantial investment in a new industrial collector road.

This Sub-Area, previously designated as Sub-Area 14A, was originally recommended for light industrial uses due to its proximity to the Norfolk-Southern Railroad. In conjunction with the 2015 Plan update, this Sub-Area is now recommended for development of medium-low density residential as a transition area between the railroad and the adjoining low-density residential uses recommended for Sub-Area 15. Given the challenges of developing safe and effective ingress/egress for industrial traffic, this Sub-Area would be better served by lower-capacity residential streets constructed as part of a phased development plan that could occur in the future in Sub-Area 15.

Zoning requirements should encourage that residential development be planned in clusters. Cluster design for the residential neighborhood would provide the opportunity to reserve sensitive environmental areas and natural drainage ways, which would in turn, provide for more efficient use of the land. Clustering would also be an important tool by which land disturbance and grading activities could be confined.

It should be noted that the majority of the land contained in the Sub-Areas 13, 14, and 15 are in common ownership as of the 2015 Berryville Area Plan update. This presents the potential opportunity of facilitating a master plan development for these Sub-Areas including, but not limited to, the following elements:

- Transportation connectivity and improvements (see discussion under Sub-Areas 15 and 17).
- Cluster design to reduce infrastructure costs and adverse environmental impacts.
- Walkability elements including sidewalks and walking trails.
- View shed protection.
- Master planning for public water, public sewer, and stormwater infrastructure.
- Cash proffers or other developer-funded improvements to mitigate the impact of new development on Town and County capital needs.

If supported by a master plan of development that effectively addresses these and other elements, Sub-Area 14 supports medium-low density residential development at a density of 4 units per acre. The maximum potential yield for this Sub-Area is 28 units. The original Berryville Area Plan

identified Future Land Uses in Table V-1 and included planned yields for respective commercial and residential development. Of the residential development that has occurred in Annexation Area B through 2015, 195 residential units of the planned yield had not been constructed. Additional density that would allow for a portion of these units to be included in this Sub-Area would come from these unused residential units.

**SUB-AREA 15**

**Name:** NORTHEASTERN RESIDENTIAL GROWTH AREA  
**Acreage:** 63.1 acres  
**Land Use Designation:** Low Density Residential  
**Annexed:** No

Sub-Area 15, containing approximately 63 acres, surrounds the large historic house, Bel Voi, and is bounded on its outer limits by the Route 7 Bypass and the lowlands of Sub-Area 13 to the north, a well-defined drainage way to the west and the Battletown Subdivision to the south. The land is currently zoned Detached Residential-1 (DR-1). The entire Sub-Area is located outside of Town limits. The boundaries of this Sub-Area were revised with the 2015 Plan update to incorporate previous Sub-Area 14B, which was recommended for medium-low density residential uses. The revised Sub-Area 15 is now recommended for low-density residential uses consistent with the DR-1 zoning.

Approximately one-third of the area has slopes greater than fifteen percent, with a portion of the slopes exceeding twenty-five percent. The Sub-Area has minor, scattered tree cover and several defined drainage swales which must be addressed from both a site planning and stormwater management standpoint.

The land is highly visible from the Route 7 Bypass. In this regard, future development must be carefully sited. Further, land use proposals should respect the location and scale of the existing historic residence on adjoining Sub-Area 16.

Transportation planning for the Sub-Area should emphasize sensitively located linkages to and through Battletown Subdivision and the other Sub-Areas that make up this quadrant. However, given the low capacity nature of Battletown's residential streets, additional access options to Sub-Area 15 should be explored. A primary access to serve the entire Sub-Area shall be developed through Sub-Area 17 providing an uninterrupted, direct connection to Route 7 Business. Access to Route 7 Bypass is restricted. The internal street system within Sub-Area 15 should be aligned to provide secondary connections to Sub-Areas 14 and 17 and Battletown Subdivision in the town to the south but only after the aforementioned primary access is accepted for public use.

This Sub-Area, with substantial contiguous frontage to Route 7 Bypass, is designated for Low Density Residential uses. Based on preliminary planning analysis, the Sub-Area has an estimated land holding capacity for approximately 81 residential units. The clustering of housing should be a design objective for this Sub-Area.

As previously noted, the majority of Sub-Areas 13, 14, and 15 are in common ownership as of the 2015 Berryville Area Plan update. This presents the potential opportunity of facilitating a master plan development for these Sub-Areas including, but not limited to, the following elements:

- Transportation connectivity and improvements (see discussion under Sub-Area 15 and 17).
- Cluster design to reduce infrastructure costs and adverse environmental impacts.
- Walkability elements including sidewalks and walking trails.
- Viewshed protection.
- Master planning for public water, public sewer, and stormwater infrastructure.
- Cash proffers or other developer-funded improvements to mitigate the impact of new development on Town and County capital needs.

If supported by a master plan of development that effectively addresses these and other elements, Sub-Area 15 could support medium-low density residential development at a density of 4 units per acre. The original Berryville Area Plan identified Future Land Uses in Table V-1 and included planned yields for respective commercial and residential development. Of the residential development that has occurred in Annexation Area B through 2015, 195 residential units of the planned yield have not been constructed. Additional density that would allow for a portion of these units to be included in this Sub-Area should be considered.

Transportation access to Sub-Area 15 is a challenging element due to the fact that the historic Bel Voi house is located on an 11.47 acre parcel that overlaps Sub-Areas 15 and 16 and extends northward to Buckmarsh Run and the planning boundary with Sub-Area 13. Connectivity between the west and east sides of Sub-Area 15 can only be achieved with future cooperation with the owner of the Bel Voi parcel. Absent this participation, the challenge will be to develop separate access plans that do not adversely impact existing transportation networks.

#### **SUB-AREA 16**

**Name:** BEL VOI PRESERVATION AREA  
**Acreage:** 8.9 acres  
**Land Use Designation:** Historical/Cultural Preservation  
**Annexed:** No

Sub-Area 16, containing approximately 9 acres, partially encompasses the property immediately surrounding the existing historic residence, Bel Voi, contiguous to Battletown Subdivision. The land is zoned Open Space Residential (OSR). The planning unit is surrounded on the west, north and east by Sub-Area 15 and on the south by the existing residential subdivision. The Sub-Area has not been annexed by the Town.

The Sub-Area is designated for planning purposes as historical and cultural preservation, recognizing the existing home and grounds, known as Bel Voi, for both its cultural and historical significance within the Berryville community (survey #21-142). The County's historic resources survey states that the north wing of the house was built circa 1825, with additions made in 1953 and 1971. In addition to the brick vernacular residence, a brick smoke house, and a 4-bay brick slave's quarters (renovated as a guest house) are also on the property. The geographical limits of the Sub-Area are so defined as to create sufficient setbacks and buffer opportunities from any

future development on the contiguous undeveloped property. Given its high visibility and unique architectural features, Bel Voi should be preserved and considered as a focal point around which any future land uses should be carefully sited.

It should be noted that the historic Bel Voi home lies on an 11.47 acre parcel that is mostly within Sub-Area 16 but also partially extends into Sub-Area 15 to Buckmarsh Run adjacent to the environmentally-sensitive Sub-Area 13. The boundaries of Sub-Area 15 were originally drawn not to capture the physical boundaries of this parcel, but to account for existing topography and viewsheds surrounding the historic home. As noted in the description for Sub-Area 15, the boundaries of the Bel Voi parcel present some challenges to the future master planning of development on adjacent Sub-Areas. Regardless of the participation of the owner of Bel Voi in a future development project, it is recommended that the boundaries and recommended development density of Sub Area 16 be retained and any adjoining development project shall provide appropriate mitigation measures (e.g., buffers, architectural features) to further protect the historic home.

#### **SUB-AREA 17**

**Name:** EASTERN GATEWAY  
**Acreage:** 15.1 acres  
**Land Use Designation:** Low Density Residential  
**Annexed:** No

A residual portion of Audley Farm when the Route 7 Bypass was constructed, Sub-Area 17, containing approximately 16.0 acres, is located immediately west of the Route 7 Bypass/Route 7 Business intersection, at the easterly entrance into the Berryville Area. This land has its northern border defined by the Route 7 Bypass, southern and eastern borders defined by Route 7 Business, and Sub-Area 15 and Battletown Subdivision in the Town establishing its western limits. This Sub-Area is zoned Detached Residential-1 (DR-1) and has not been annexed by the Town.

The land is highly visible from the Route 7 Bypass/Business intersection and is considered the eastern entrance to the Town of Berryville. Future development should be designed with frontage roads, significant landscape buffers, or other devices to present the most attractive face of a development toward this important entry corridor.

Transportation planning for Sub-Area 17 should be analyzed for appropriate access. The priority in planning for the transportation element in this area (including Sub-Areas 13, 14, 15, 16, and 17) should be to explore an access point to Route 7 Business for a future local collector road system, in addition to the public rights-of-way through Battletown subdivision. This local collector road would serve as the primary means of ingress/egress for future development in the aforementioned Sub-Areas. The priority should be to develop a new access to Route 7 Business before accessing existing stub streets in the Battletown subdivision.

As previously noted, the majority of Sub-Areas 13, 14, and 15, are in common ownership as of the 2015 Berryville Area Plan update. This presents the potential opportunity of facilitating a master plan development for these Sub-Areas with the owner of Sub-Area 17 including, but not limited to, the following elements:

- Transportation connectivity and improvements (see discussion under Sub-Areas 15 and 17).
- Cluster design to reduce infrastructure costs and adverse environmental impacts.
- Walkability elements including sidewalks and walking trails.
- Viewshed protection.
- Master planning for public water, public sewer, and stormwater infrastructure.
- Cash proffers or other developer-funded improvements to mitigate the impact of new development on Town and County capital needs.

If supported by a master plan of development that effectively addresses these and other elements, Sub-Area 17 could support medium-low density residential development at a density of 4 units per acre.

### **SUB-AREA 18**

**Name:** BERRYVILLE GLEN  
**Acreage:** 75.1 acres  
**Land Use Designation:** Low Density Residential  
**Annexed:** Yes

Sub-Area 18, containing approximately 75 acres, is situated on the southern side of Town and comprises the southeast limits of Annexation Area B. This Sub-Area is bounded on the northeast and southeast by Springsbury Road and on the southwest by the boundary of Annexation Area B. The remaining border generally follows the ridge of a drainage divide that embraces the entire northwest edge of the Sub-Area. The Sub-Area is adjacent to a historic property zoned Open Space Residential and a 12.57-acre parcel zoned Business Park BP. The zoning is Detached Residential-1 (DR-1). At the time of this Plan update, the Sub-Area, known as Berryville Glen, had been subdivided into 71 single-family lots and new homes are currently under construction. This Sub-Area has been annexed by the Town.

The land is generally well drained overland and does not pose significant runoff problems. This Sub-Area is designated for Low Density Residential uses. This is most easily supported by the property's proximity to agricultural zoning and land uses on three sides. Development of this Sub-Area for comparatively denser residential uses is justified by its proximity to existing development in the town and to public services, especially water. Land use proposals should incorporate the development of appropriate neighborhood open spaces and a landscaped, passive park internal to the development. Landscaping, setbacks, and home siting should be sensitive to the historical/cultural preservation uses programmed for Sub-Area 19B.

This Sub-Area was originally programmed for 116 single-family residential units. The overall development plan for Berryville Glen utilizes the entire Sub-Area for the development of the approved 71 lots, leaving 45 unused residential units from the original planned yield. Absent a future redevelopment plan of Berryville Glen, it would be appropriate to consider moving these unused residential units to another Sub-Area in order to maximize development potential.



# FRIANT

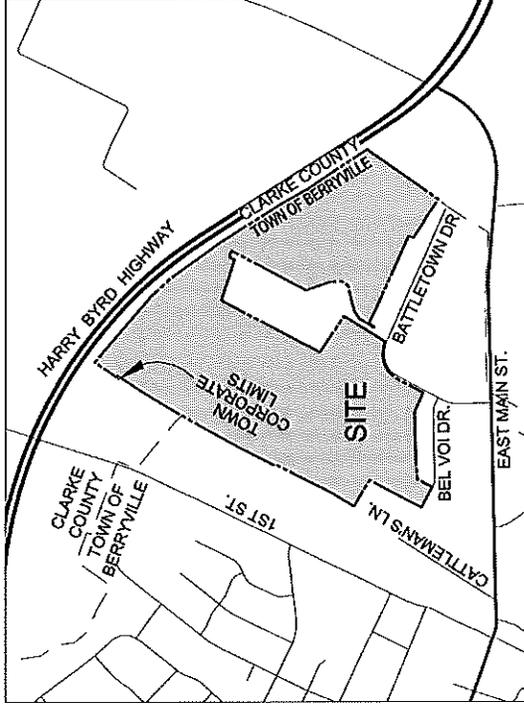
## MASTER ZONING PLAN

TOWN OF BERRYVILLE  
CLARKE COUNTY COUNTY, VIRGINIA

SUBJECT PARCELS: TAX MAP #14 A 80& 14 A 112

**OWNER**  
FRIANT ENTERPRISES LP, LLP  
1504 EARL RD  
CHARLES TOWN, WV 25414

**DEVELOPER**  
D.R. HORTON  
7925 JONES BRANCH DRIVE, SUITE 6200  
TYSONS, VA 22012  
CONTACT: PRIYA TIWARI  
(443) 222-3152  
pdtiwari@drhorton.com



VICINITY MAP  
SCALE: 1" = 500'

**SHEET INDEX**

1.....	COVER SHEET
2.....	EXISTING CONDITIONS
3.....	ZONING PLAN
4.....	LAND USE PLAN
5.....	OPEN SPACE PLAN
6.....	UTILITY PLAN
7.....	TRANSPORTATION PLAN

# FRIANT

## MASTER ZONING PLAN

DATE: 07/31/2023  
REV. DATE: 11/20/2023  
SHEET: 1 OF 7

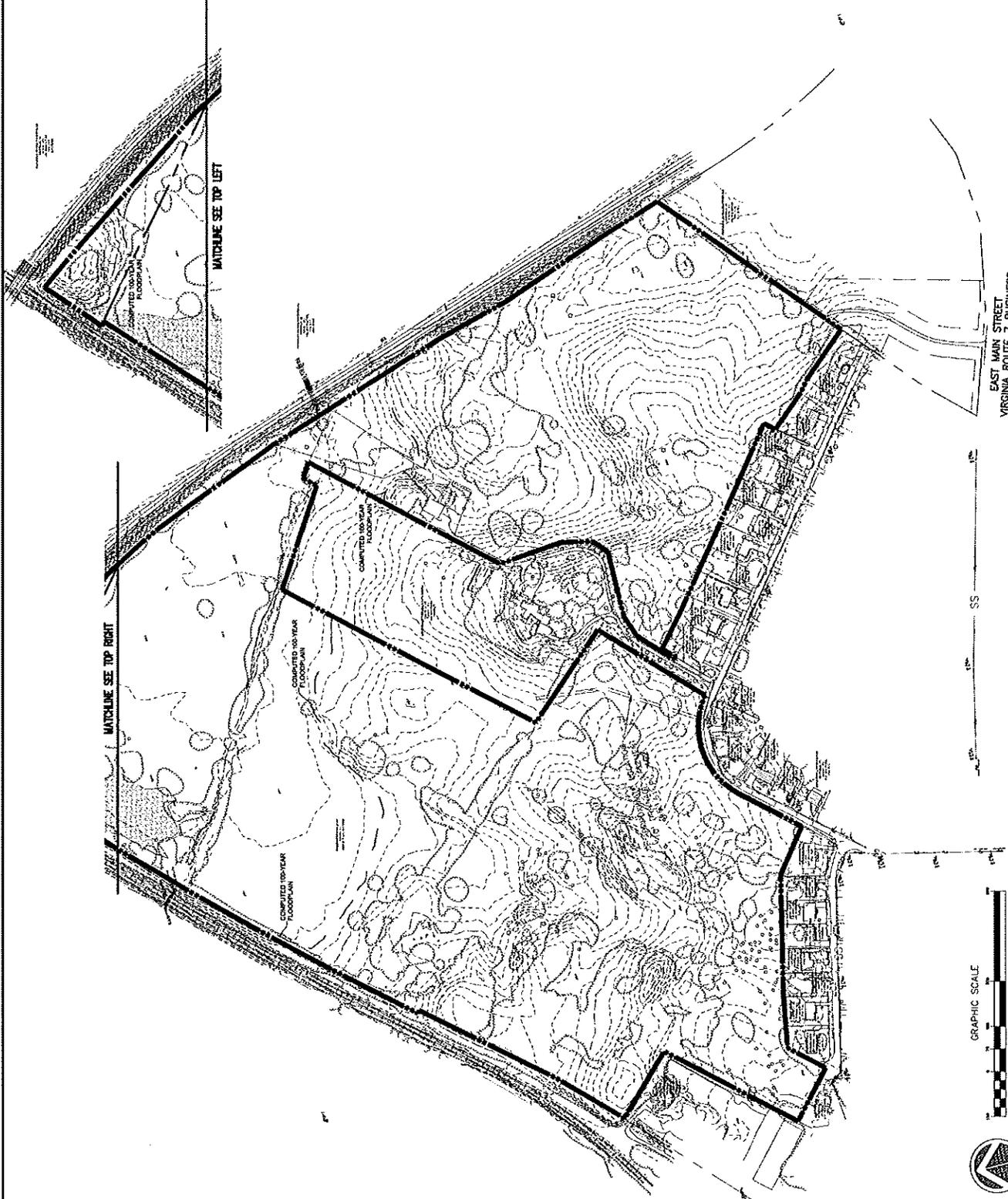


TOWN OF BERRYVILLE, VIRGINIA  
CLARKE COUNTY, STATE

Dewberry  
Engineers, Inc.  
11000 Westpark Drive  
Suite 100  
Houston, TX 77037  
Tel: 281.416.2000

**LEGEND:**

- PROJECT BOUNDARY
- COMPUTED 100-YEAR FLOODPLAIN
- EXISTING MAJOR TOPS
- EXISTING MAJOR TOPS
- EXISTING 10% SLOPE
- EXISTING 2% SLOPE
- WETLANDS
- EXISTING TREE CANOPY



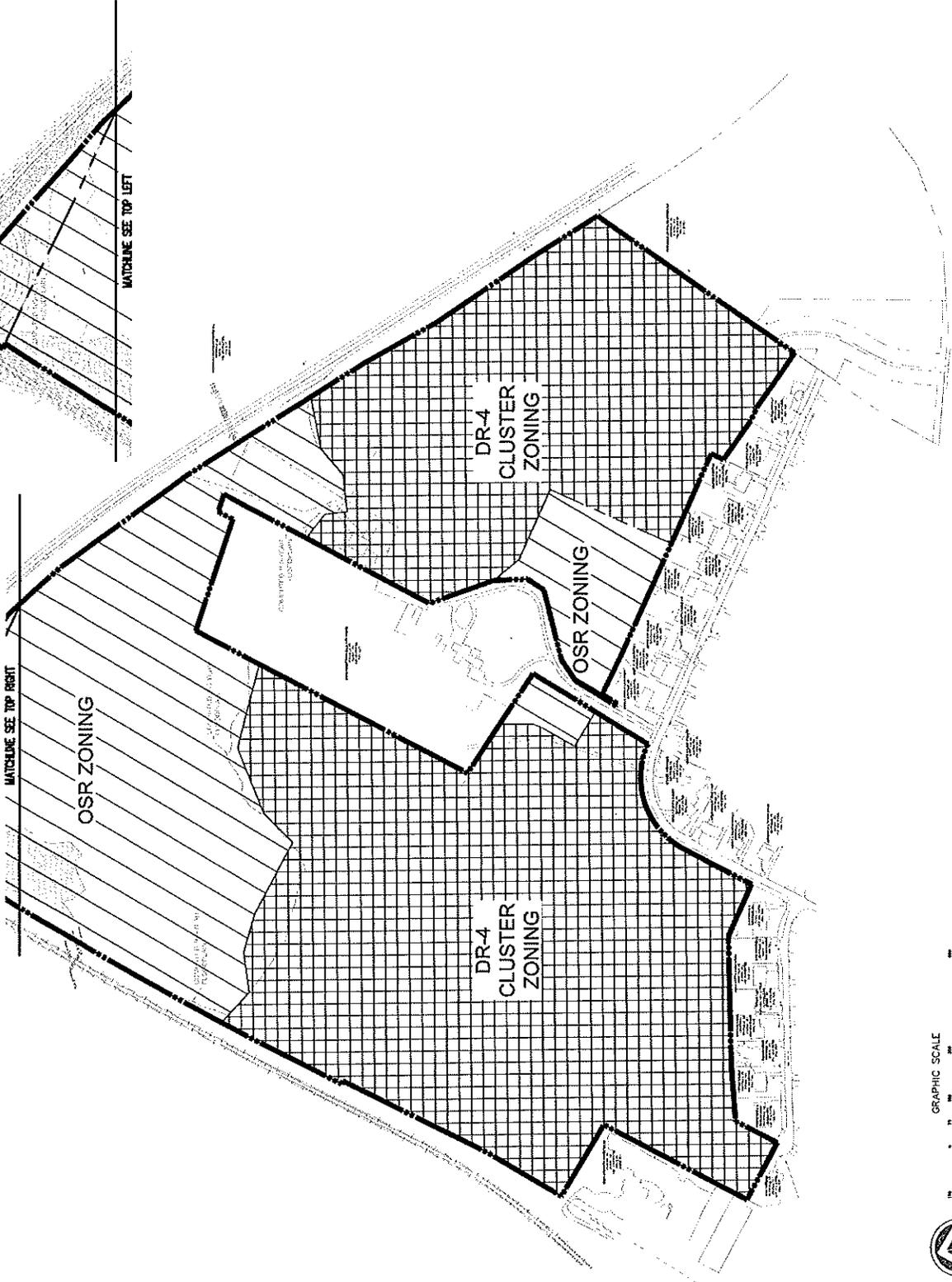
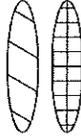
**FRIANT  
EXISTING CONDITIONS**

DATE: 07/01/2023  
 REV. DATE: 11/20/2023  
 SHEET: 2 OF 7  
 TOWN OF BERRVILLE, VIRGINIA  
 CLARKE COUNTY, STATE



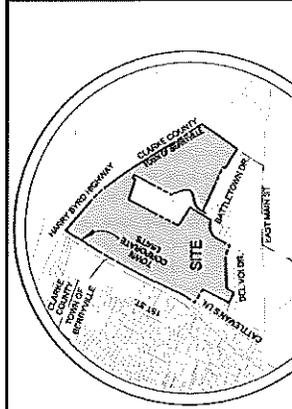
**LEGEND:**

- PROJECT BOUNDARY -
- PROPOSED OSR ZONING -
- PROPOSED DR-4 CLUSTER ZONING -



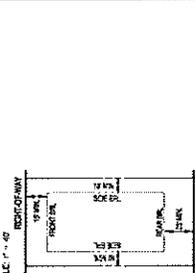
**FRIANT**  
**PROPOSED ZONING PLAN**  
DATE: 07/21/2023  
DRAWN BY: JZ/20/2023  
SHEET: 3 OF 7  
TOWN OF BERRVILLE, VIRGINIA  
CLARKE COUNTY, STATE





**VICINITY MAP**  
SCALE 1" = 1000'

- NOTES:**
1. SITE OWNER: FRIANT ENTERPRISES, L.P.
  2. GROSS SITE AREA: 11,100 AC
  3. NET DEVELOPABLE SITE AREA: 7,000 AC
  4. CUTOFF ZONING: DR-4 (OPEN SPACE RESIDENTIAL) OR BUSINESS PARK DR-4 (DETACHED RESIDENTIAL) DR-1 (DETACHED RESIDENTIAL)
  5. PROPOSED ZONING: DR-4 CLUSTER (DETACHED RESIDENTIAL) OR OPEN SPACE RESIDENTIAL
  6. THE SITES FOR REZONING AS SHOWN HEREON WERE PREPARED BY REVISORY AND ARE BASED UPON SET-BACK DATA.
  7. DRAWINGS IS CONCEPTUAL AND SUBJECT TO CHANGE WITH FINAL ENGINEERING.
  8. THERE IS NO TOWN MAPS AND TOWN FLOODPLAIN LOCATED WITHIN THE AREA PROPOSED TO BE DEVELOPED.
  9. TOPOGRAPHIC INFORMATION FROM HEREON FOR DETERMINING SURVEY PLANNING TO BE REVISED IN AREA INDICATED ON PLAN DURING THE FINAL PLANNING STAGE.
- TABULATIONS**
- TOTAL LOTS PROPOSED: 161 UNITS
- PROPOSED DENSITY: 1.58 UNITS PER AC @ 2.5 FT DRIVE
- ALL DWELLING UNITS ARE TO BE SINGLE FAMILY DETACHED
- DR-4 CLUSTER DEVELOPMENT STANDARDS**
- MAX. DENSITY: RESIDENTIAL USE: 4.0 UIC
- SINGLE FAMILY DETACHED MINIMUM LOT SIZE: 7,000 SF
  - SINGLE FAMILY DETACHED MINIMUM LOT SIZE: 30,000 SF
  - SINGLE FAMILY DETACHED MINIMUM LOT WIDTH: 70 FT
  - SINGLE FAMILY DETACHED MINIMUM DRIVE YARD: 10 FT
  - SINGLE FAMILY DETACHED MINIMUM DRIVE YARD FOR PRIMARY STRUCTURE: 15 FT
  - SINGLE FAMILY DETACHED MINIMUM DRIVE YARD FOR PRIMARY STRUCTURE: 3 FT
  - SINGLE FAMILY DETACHED MINIMUM DRIVE YARD FOR PRIMARY STRUCTURE: 15 FT
  - SINGLE FAMILY DETACHED MINIMUM DRIVE YARD FOR GARAGES: STRUCTURED FOR VEHICLES: 15 FT
  - SINGLE FAMILY DETACHED MAXIMUM BUILDING HEIGHT: 20 FT

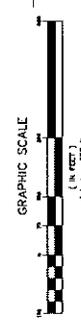
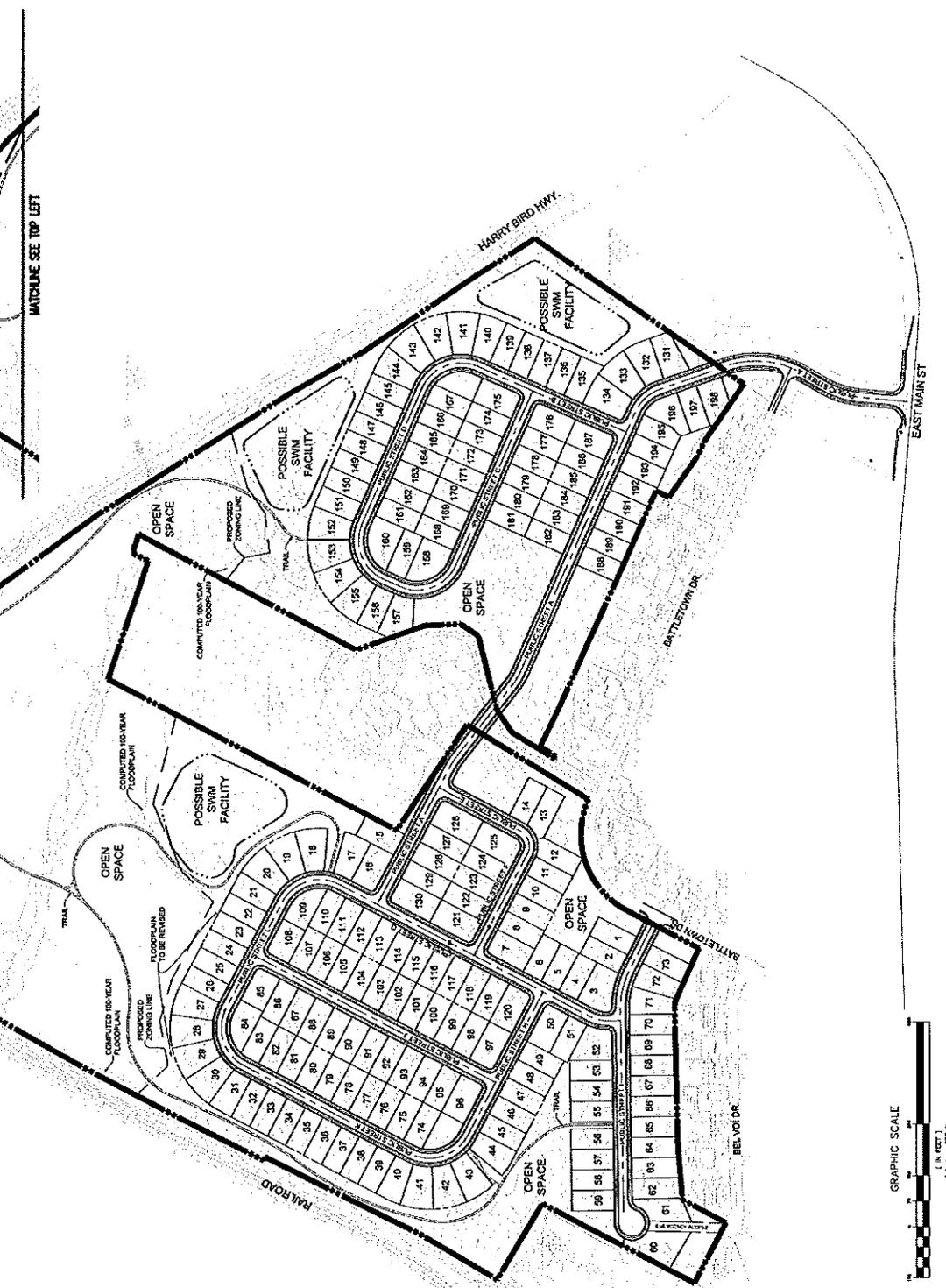


**FRIANT LAND USE PLAN**

DATE: 07/21/2023  
 REVISED: 12/02/2023  
 SHEET: 1 OF 7

TOWN OF BERRYVILLE, VIRGINIA  
 CLARKE COUNTY, STATE

**Dewberry**  
 ENGINEERS  
 1000 EAST MAIN STREET  
 BERRYVILLE, VA 22809



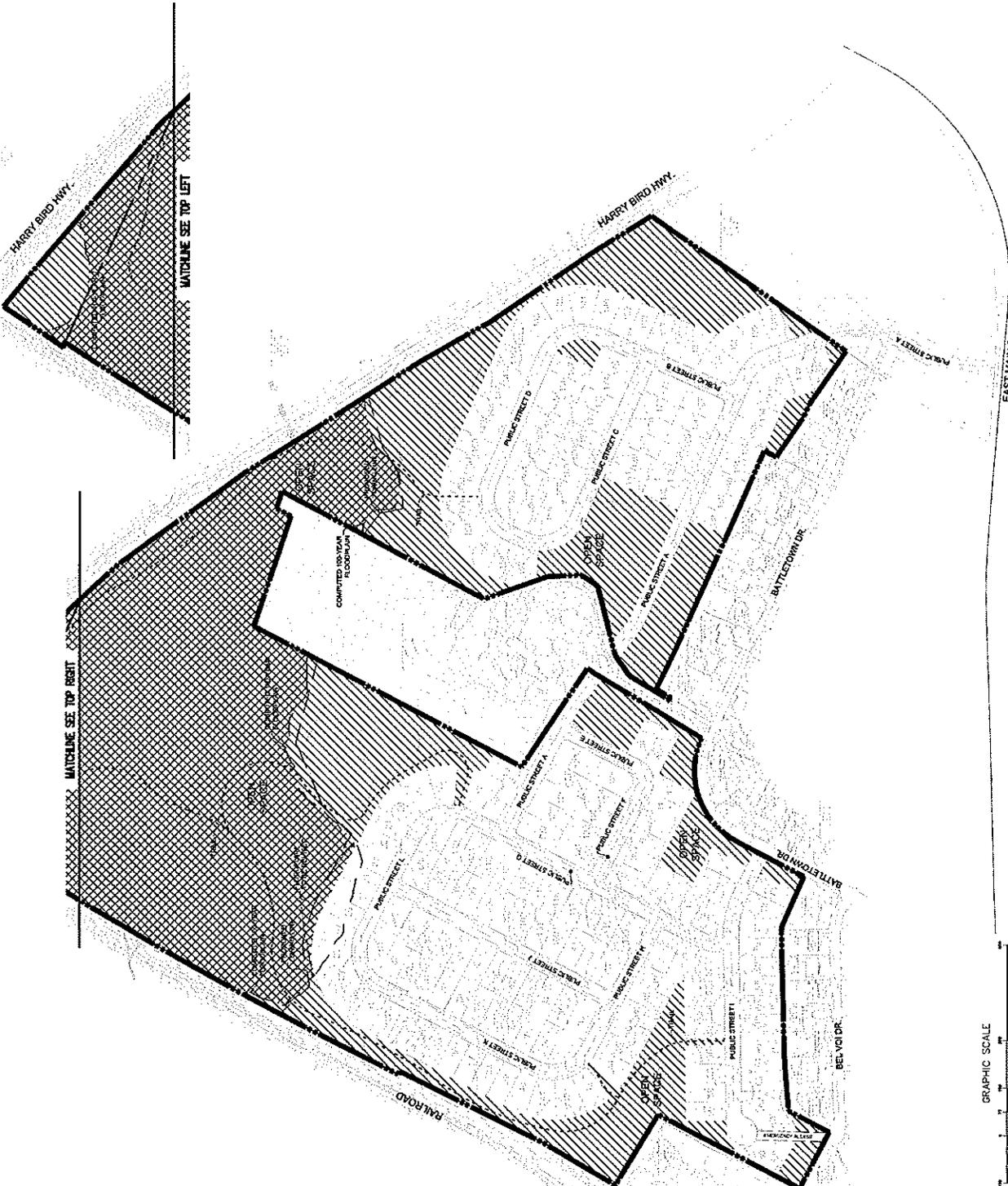
**OPEN SPACE TABULATION:**

Category	Area (AC)	% of Net Site Area
Required Open Space Net Site Area: 200.0 AC. Computed Floodplain: 20.0 AC. Total Open Space Required: 20.0 AC.	20.0 AC	10.0%
Provided Open Space Total Open Space Provided	20.0 AC	10.0%
Required Active Open Space Net Site Area: 200.0 AC. Total Active Open Space Required	2.0 AC	1.0%
Proposed Active Open Space Net Site Area: 200.0 AC. Total Active Open Space Provided	2.0 AC	1.0%

**NOTE:** THE OPEN SPACE TREATMENT ABOVE DEMONSTRATED COMPLIANCE WITH 284-2-10. THE OPEN SPACE TREATMENT ABOVE DEMONSTRATED COMPLIANCE WITH 284-2-10. THE OPEN SPACE TREATMENT ABOVE DEMONSTRATED COMPLIANCE WITH 284-2-10. THE OPEN SPACE TREATMENT ABOVE DEMONSTRATED COMPLIANCE WITH 284-2-10.

**LEGEND:**

- 0.04 OPEN SPACE AREAS
- REVISED COMPUTED FLOODPLAIN OPEN SPACE
- PROJECT BOUNDARY
- COMPUTED FLOODPLAIN
- PROPOSED TRAIL



**FRIANT  
OPEN SPACE PLAN**

DATE: 07/21/2023  
 DRAWN BY: JZ/2023  
 SHEET: 5 OF 7  
 TOWN OF BERRYVILLE, VIRGINIA  
 CLARKE COUNTY, STATE



- NOTES:**
1. PROPOSED WATER AND SANITARY CONVEYER LINES SHOWN ARE CONNECTION LINES TO EXISTING UTILITY LINES. THE LOCATION OF THESE LINES IS BASED ON THE INFORMATION RECEIVED TO PROVIDE SERVICE THROUGHOUT THE PROJECT AREA AND IS TO BE DETERMINED WITH FINAL ENGINEERING.
  2. SIZE OF PROPOSED CONNECTION LINES SHOWN HEREON WILL BE DETERMINED WITH FINAL ENGINEERING AND WILL BE BASED UPON CAPACITY NEEDED TO SERVE THE PROJECT.
  3. ALL DEVELOPMENT WITHIN THE PROJECT LIMITS REGARDING PUBLIC WATER OR SANITARY SERVICE SHALL BE SERVED WITH PUBLIC WATER AND SANITARY SERVICE. PROPOSED UTILITY ALIGNMENTS AND CONNECTION POINTS ARE PRELIMINARY, SUBJECT TO CHANGE WITH FINAL ENGINEERING, AND ARE SUBJECT TO APPROVAL BY THE TOWN OF BERRYVILLE.
  4. ALL UTILITY LINES AND CONNECTIONS SHALL BE LOCATED WITHIN THE PROJECT BOUNDARY TO INCLUDE THE CONNECTIONS TO EXISTING UTILITY LINES.

**LEGEND:**

- POSSIBLE WATER LINE LOCATION
- POSSIBLE FORCE MAIN LOCATION
- POSSIBLE SANITARY SERVICE LINE LOCATION
- LIMITS OF CLEARING & GRADING
- PROJECT BOUNDARY

# FRIANT UTILITY PLAN

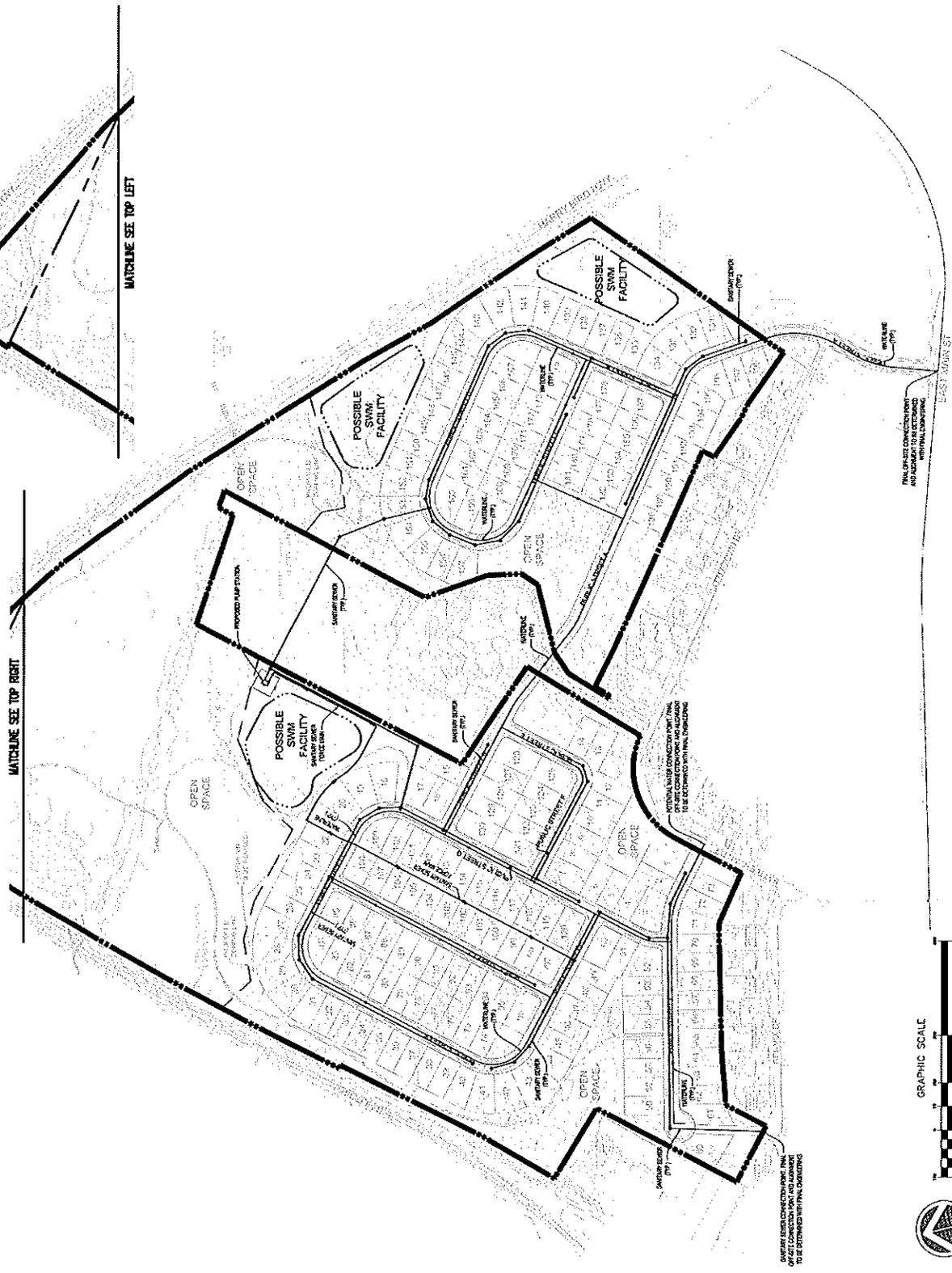
DATE: 07/03/2023  
 REV. DATE: 11/29/2023  
 SHEET: 6 OF 7

TOWN OF BERRYVILLE, VIRGINIA  
 CLARKE COUNTY, STATE



MATCHLINE SEE TOP RIGHT

MATCHLINE SEE TOP LEFT



GRAPHIC SCALE

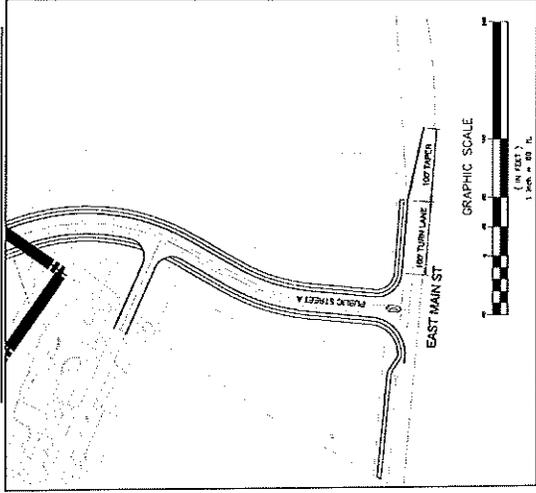


EXISTING UTILITY LINES AND CONNECTIONS TO EXISTING UTILITY LINES ARE TO BE DETERMINED WITH FINAL ENGINEERING.

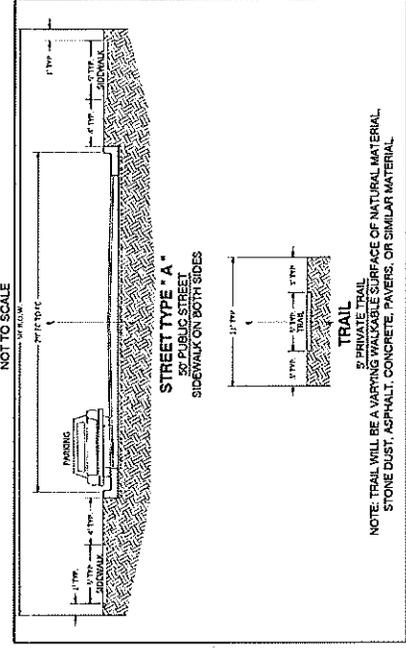
EXISTING UTILITY LINES AND CONNECTIONS TO EXISTING UTILITY LINES ARE TO BE DETERMINED WITH FINAL ENGINEERING.

**LEGEND:**  
 ESTIMATED AVERAGE DAILY TRIP ENDORSEMENT  
 ESTIMATED TRIP ENDORSEMENT  
 PROJECT BOUNDARY  
 PROPOSED TRAIL

**PROFUNDUS PROPERTY CONNECTION**



**TYPICAL TRANSPORTATION FACILITY SECTIONS**

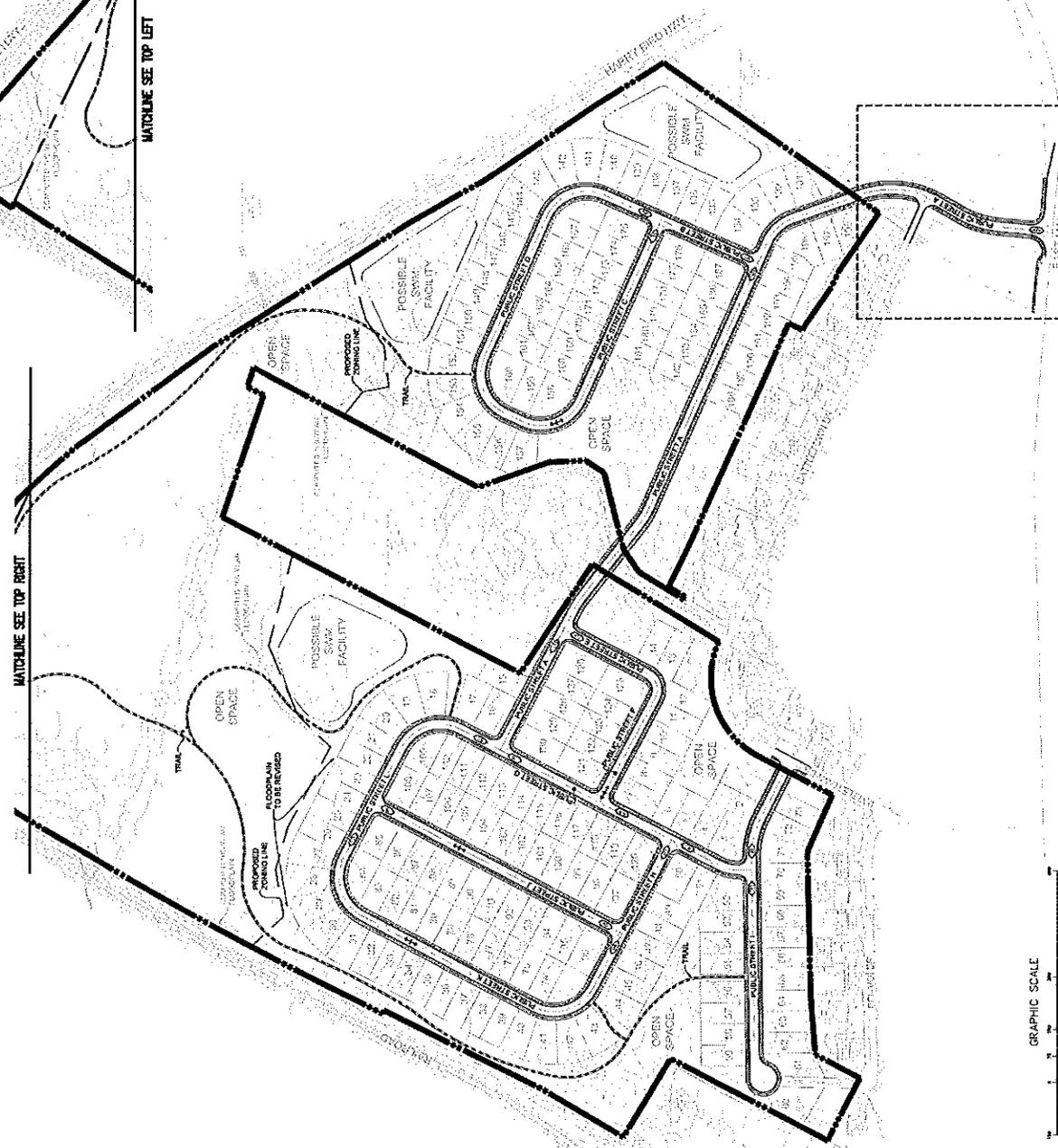
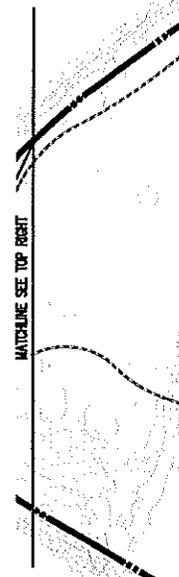


**FRIANT TRANSPORTATION PLAN**

DATE: 07/31/2023  
 DATE: 11/15/2023  
 SHEET: 7 OF 7  
 TOWN OF BERRYVILLE, VIRGINIA  
 CLARKE COUNTY, STATE



NOTE: STREETS TO FOLLOW FOOT STANDARD



**PROFUNDUS PROPERTY CONNECTION**

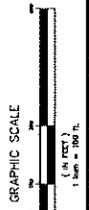


Table 4-1

Friant Property

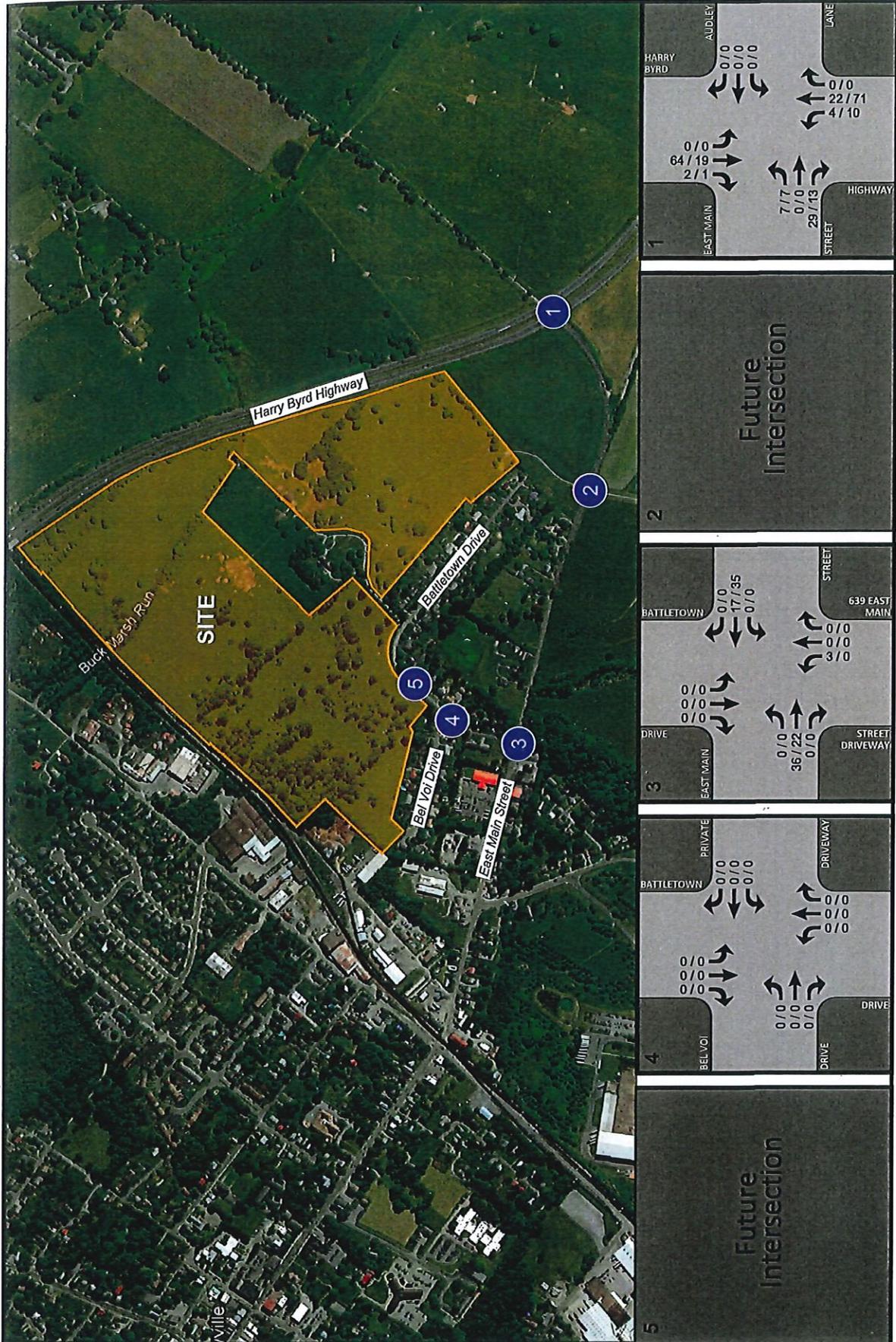
Site Trip Generation Analysis<sup>(1)</sup>

Use	ITE Land Use Code	Amount	Units	AM Peak Hour			PM Peak Hour			ADT
				In	Out	Total	In	Out	Total	
Single Family Detached	210	198	DU	36	103	139	119	70	189	1,892

Notes:

(1) Trips generated using Institute of Transportation Engineers (ITE) Trip Generation Manual, 11th Edition.



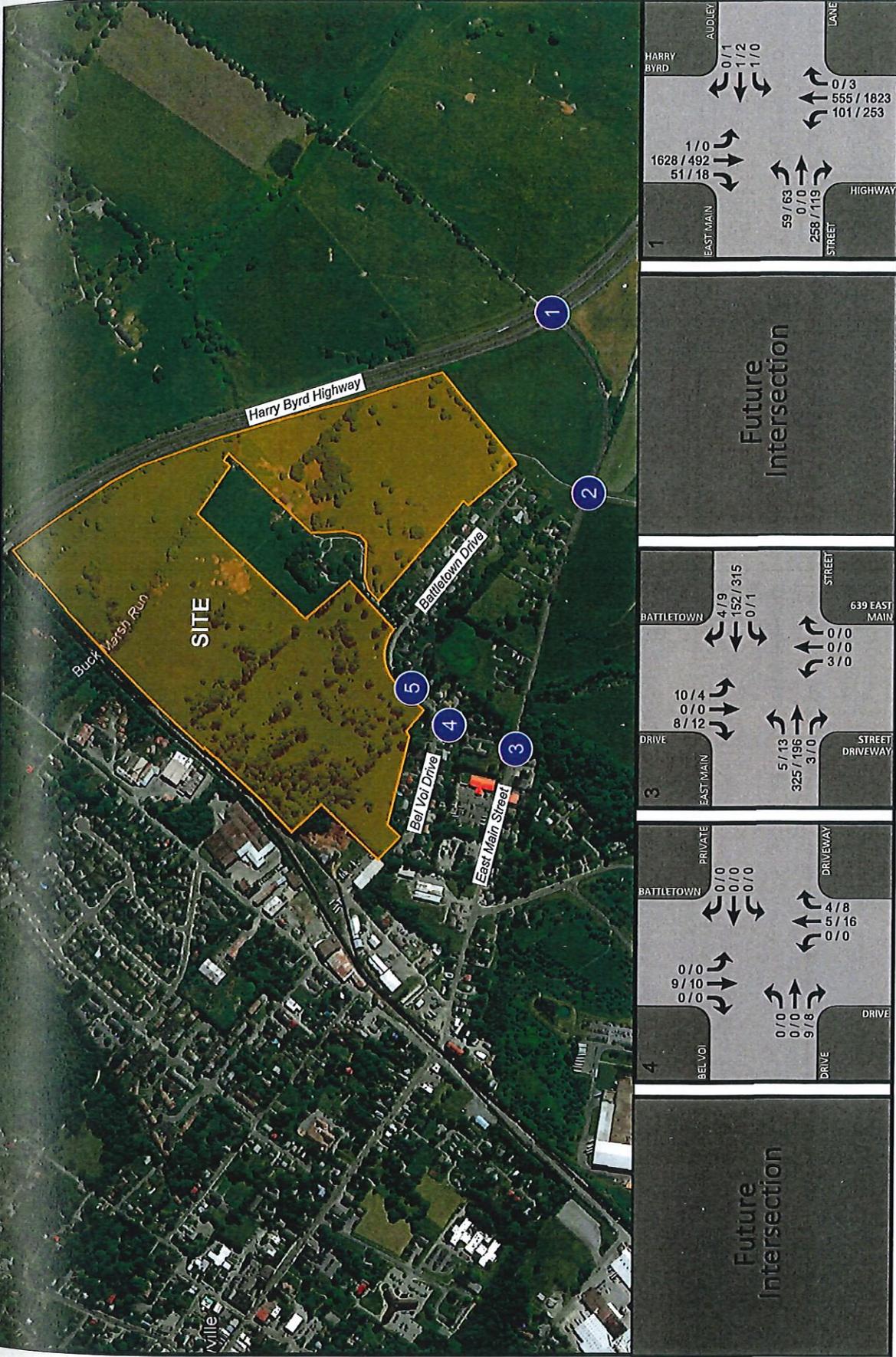


**Figure 3-1**  
Regional Growth (2022 to 2026)

AM PEAK HOUR  
PM PEAK HOUR  
000 / 000

# Study Intersection

← NORTH



**Figure 3-2**

Background Future (2026) Traffic Forecasts



NORTH

Friant Property  
Town of Berryville/Clarke County, Virginia



## **SECTION 7**

### **TOTAL FUTURE (2026) CONDITIONS WITHOUT BATTLETOWN DRIVE ACCESS**

#### **Site Trip Assignments**

The site trips generated by the proposed development were assigned to the study intersection according to the directional distributions below:

- Harry Byrd Highway to/from north 20%
- Harry Byrd Highway to/from south 30%
- E. Main Street to/from west 50%

The resulting site trip assignments are shown in Figure 7-1.

#### **Total Future (2026) Traffic Forecasts without Battletown Drive Access**

Total future (2026) traffic forecasts were developed by combining the background future (2026) traffic forecasts shown on Figure 3-2 and the site trip assignments shown on Figure 7-1. The resulting total future (2026) traffic forecasts are shown on Figure 7-2.

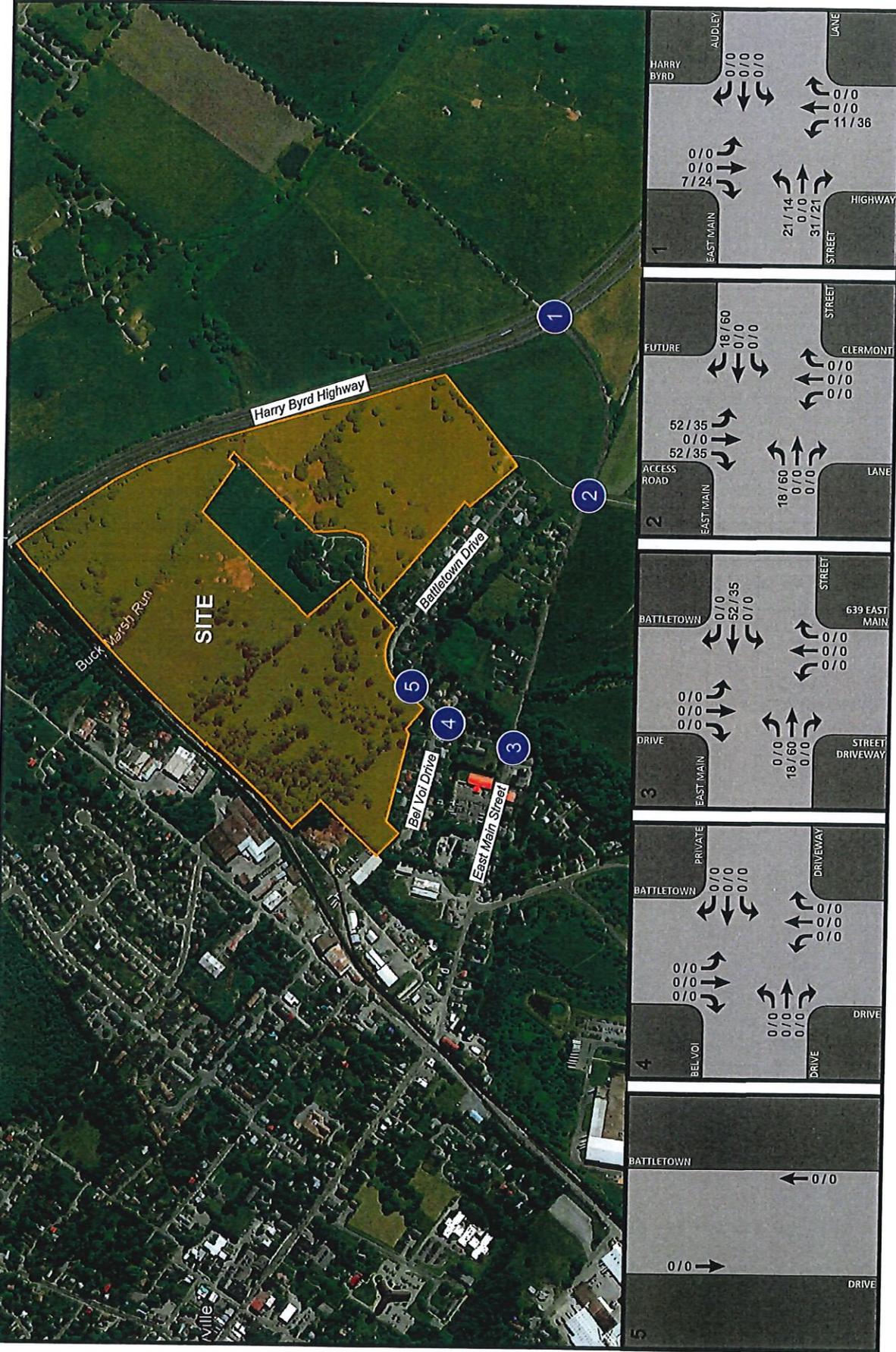
#### **Total Future (2026) Levels of Service without Battletown Drive Access**

Total future (2026) peak hour levels of service were estimated at the future study intersections based on the total future intersection lane usage and traffic controls shown on Figure 4-2, the total future (2026) traffic forecasts shown on Figure 7-2, and the Highway Capacity Manual methodologies using Synchro analysis files. The 2026 results are presented in Appendix I and summarized in Table 7-1.

Table 7-1 indicates that under total future (2026) conditions without Battletown Drive access, the signalized study intersection, intersection #1, operates at overall LOS "D", or better, during both the AM and PM peak hours. Of the unsignalized study intersection approaches, all critical turning movements operate at LOS "B" or better, during both the AM and PM peak hours, which is consistent with background future (2026) conditions without buildout of the site.

#### **Total Future (2026) Queues without Battletown Drive Access**

A queueing analysis was completed for total future (2026) conditions without Battletown Drive access for the study intersections. The queueing results are presented in Appendix I and summarized in Table 7-2. As shown in Table 7-2, total future (2026) conditions turning movement queues are contained within available storage lengths, which is consistent with background future (2026) conditions, without buildout of the site.



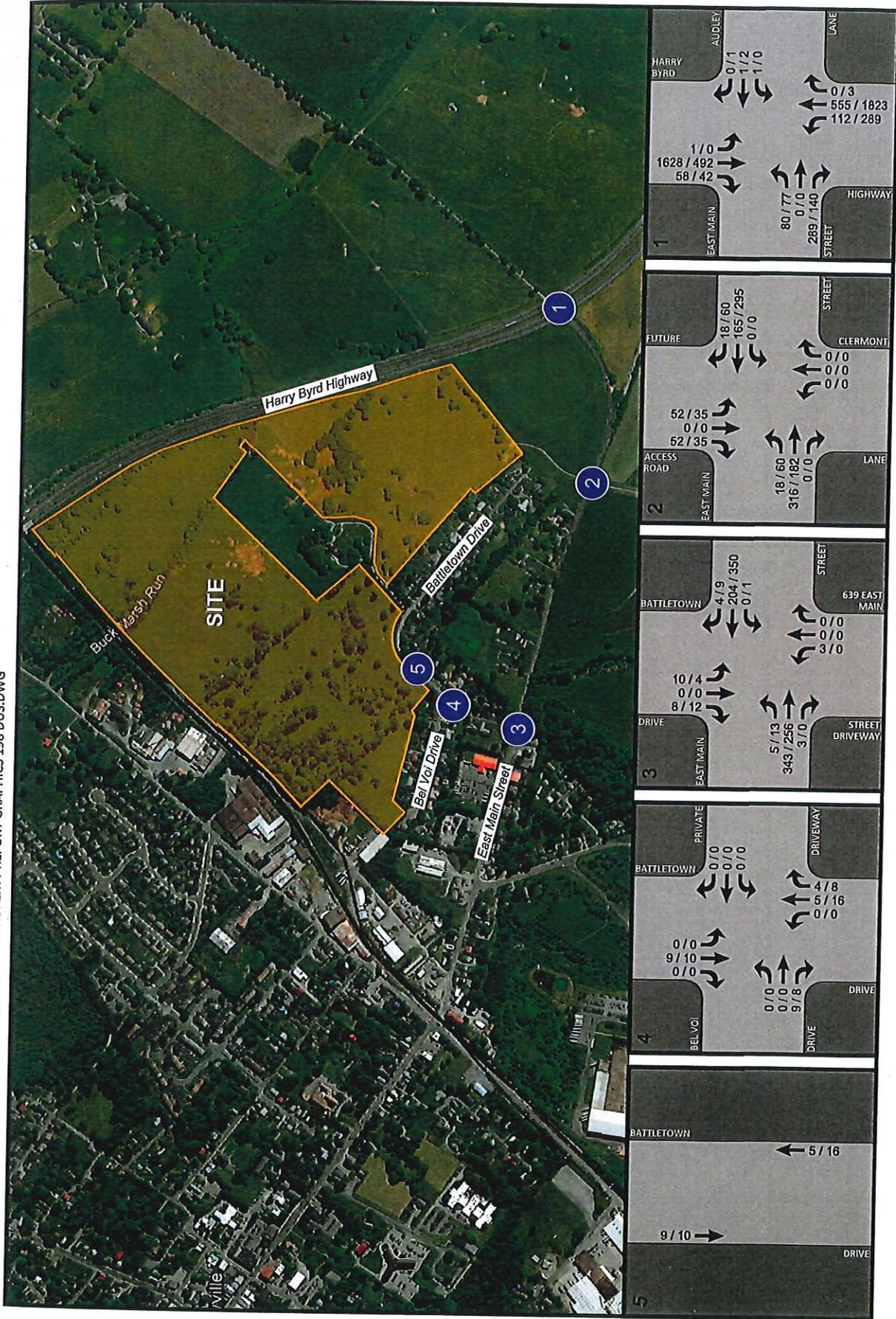
**Figure 7-1**  
 Site Trip Assignments  
 Without Battletown Drive Access

**NORTH** ←

AM PEAK HOUR  
 PM PEAK HOUR  
 000 / 000

**Study Intersection #**

Friant Property  
 Town of Berryville/Clarke County, Virginia



**Figure 7-2**  
 Total Future (2026) Traffic Forecasts  
 Without Battletown Drive Access

# Study Intersection  
← AM PEAK HOUR  
→ PM PEAK HOUR  
 000 / 000

← NORTH  
 Friant Property  
 Town of Berryville/Clarke County, Virginia

## Turn Lane Warrants

Based on total future (2026) traffic forecasts shown on Figure 7-2, left and right turn lane warrants, per the VDOT RDM Appendix F, were evaluated for turning movements along East Main Street at the New Access Road (Study Int. #2). The turn lane warrant worksheets are presented in Appendix J and the results summarized below:

### E. Main Street & New Access Road (Study Int. #2)

- E. Main Street eastbound left-turn: WARRANTED
- E. Main Street westbound right-turn: Taper Required (Full-width turn lane + taper provided)

For purposes of determining when turn lanes treatments would be warranted based on the buildout of the ultimate density, additional turn lane warrants were performed and summarized below:

### 185<sup>th</sup> Dwelling Unit:

#### E. Main Street & New Access Road (Study Int. #2)

- E. Main Street eastbound left-turn: NOT WARRANTED
- E. Main Street westbound right-turn: Taper Required (Full-width turn lane + taper provided)

### 117<sup>th</sup> Dwelling Unit:

#### E. Main Street & New Access Road (Study Int. #2)

- E. Main Street eastbound left-turn: NOT WARRANTED
- E. Main Street westbound right-turn: NOT WARRANTED

The turn lane warrant worksheets are presented in Appendix J for these threshold scenarios described above.

Beginning with the 118<sup>th</sup> dwelling unit, a westbound right-turn taper is warranted. Beginning with the 186<sup>th</sup> dwelling unit, an eastbound left-turn lane is warranted.

**FRIANT PROPERTY  
TOWN OF BERRYVILLE  
CLARKE COUNTY, VA**

**SCHOOL IMPACT ANALYSIS**

**DECEMBER 18, 2023**

**PREPARED BY:**

**MUNICAP, INC.**  
— PUBLIC FINANCE —

FRIANT PROPERTY  
TOWN OF BERRYVILLE  
CLARKE COUNTY, VA

SCHOOL IMPACT ANALYSIS

TABLE OF CONTENTS

I. OVERVIEW .....1  
    LEGISLATION PERTAINING TO RESIDENTIAL PROFFERS ..... 1  
II. *THE DEVELOPMENT* .....3  
    DEVELOPMENT SUMMARY ..... 3  
    THE SITE ..... 3  
III-A. *PUBLIC SCHOOL IMPACTS – PROFFER CONSIDERATIONS* .....5  
    METHODOLOGY ..... 5  
    PROJECTED NET STUDENT IMPACTS ..... 5  
    CURRENT CAPACITY OF PUBLIC SCHOOL FACILITIES ..... 6  
    MITIGATION STRATEGIES..... 9  
III-B. *PUBLIC SCHOOL IMPACTS – OPERATING REVENUE CONSIDERATIONS.* 10  
IV. ASSUMPTIONS AND LIMITATIONS ..... 12  
    ASSUMPTIONS AND LIMITATIONS..... 12  
APPENDICES..... 13  
    APPENDIX A ..... 13  
    APPENDIX B ..... 15  
    APPENDIX C ..... 19  
    APPENDIX D ..... 27  
    APPENDIX E ..... 29  
    APPENDIX F..... 32

---

## I. OVERVIEW

---

The purpose of this school impact analysis is to evaluate the impacts to the Clarke County Public School system as a result of the proposed development. The analysis is addressed in the two following sections:

- School proffer considerations – Evaluates projected capacity for Clarke County Public Schools based on projected incremental students added by the Development. Proffers only evaluate capital expenditures that will increase capacity and do not take into consideration operating costs. As such, this portion of the analysis only focuses on the Clarke County Public School facilities and potential capital improvements that will address capacity concerns, as identified in the Clarke County Capital Improvements Plan.
- School operating revenue considerations – Evaluates the projected annual allocation of operating revenues created by the Development and available to Clarke County Public Schools.

### LEGISLATION PERTAINING TO RESIDENTIAL PROFFERS

The above noted school proffer considerations address one of the four categories of public improvements required to be addressed by the Residential Proffer Legislation. The remaining three categories as discussed below are not addressed in this analysis.

The amended and reenacted Section 15.2-2303.4 of the Code of Virginia (the “Residential Proffer Legislation”) effective after July 1, 2019 places certain limitations on proffers for residential rezoning cases. As stipulated by the Residential Proffer Legislation, and unless an applicant elects to apply for a rezoning pursuant to Subsection D of that statute, a local government may only request or accept a proffer if it addresses an impact that is specifically attributable to a proposed new residential development, and, if it is an offsite proffer, it addresses an impact to an offsite public facility, such that (a) (i) the new residential development creates a need, or an identifiable portion of a need, for one or more public facility improvements in excess of existing public facility capacity at the time of the rezoning, and (b) (ii) each such new residential development applied for receives a direct and material benefit from a proffer made with respect to any such public facility improvements. For the purposes of the statute, a locality may base its assessment of public facility capacity on the projected impacts specifically attributable to the new residential development.

The Residential Proffer Legislation designates four categories of public improvements and facilities, which are as follows:

- **Public school facility improvements:** construction of new primary and secondary public schools or expansion of existing primary and secondary schools, to include all buildings, structures, parking, and other costs directly related thereto;
- **Public safety facility improvements:** construction of new law enforcement, fire, emergency, medical, and rescue facilities or expansion of existing public facilities, to include all buildings, structures, parking and other costs directly related thereto;

- **Public park facility improvements:** construction of public parks or improvements and/or expansion of existing public parks, with “public parks” including playgrounds and other recreational facilities;
- **Public transportation facility improvements:** construction of new roads; improvement or expansion of existing roads and related appurtenances as required by applicable standards of the Virginia Department of Transportation, or the applicable standards of a locality; and construction, improvement, or expansion of buildings, structures, parking, and other costs directly related to transit.

According to the Residential Proffer Legislation, no proffer shall be used for any operating expense of an existing public facility, such as ordinary maintenance or repair, or any capital improvement to an existing public facility, such as a renovation or technology upgrade, that does not expand the capacity of such facility. In addition, a proffer will only be deemed reasonable if it addresses an impact on public facilities that is specifically attributable to the proposed residential development and there will not be adequate existing capacity at such facilities for the impacts of the proposed residential development.

Subsequent sections include thorough explanations of the methodology employed in calculating both the school proffer and school operating revenues as previously described.

---

## *II. The Development*

---

### DEVELOPMENT SUMMARY

As proposed by D.R. Horton (the “Developer” or the “Applicant”), the Residential Development is a residential community that includes 198 single-family detached units. The Residential Development site is 100.4 acres.

The site is approved for 66 “by-right” single-family detached units, or units allowed under existing zoning.

### THE SITE

The site is generally bounded to the northeast by Route 7, to the northwest by train tracks, to the southeast by East Main Street, to the south by residential development, and to the southwest by commercial development. The site includes parcels 14 A 80, 14 A 110, and 14 A 112.

#### *Current Zoning*

Current zoning for the parcels that comprise the site includes the following designations as described in the County Zoning Ordinance:

**Open Space Residential District (“OSR”)** – The OSR District is created to preserve and protect “existing residential properties and estates which have cultural and or historical value” and “properties with critical environmental features including 100 year floodplains, sink holes, slopes in excess of 15% and, rock outcrops.” OSR zoning allows for a maximum density of one residence per ten net developable acres.

**Detached Residential - 1 District (“DR-1”)** – The DR-1 District “is created to provide for single family detached residences in a carefully planned pattern compatible with the comprehensive plan’s goals for residential development in the Town of Berryville and within the precincts of the Berryville Area Plan.” DR-1 zoning allow for a maximum density of one unit per net developable acre.

**Detached Residential – 2 District (“DR-2”)** – The DR-2 District “is created to provide for single family detached residences in a carefully planned pattern compatible with the comprehensive plan’s goals for residential development in the Town of Berryville and within the precincts of the Berryville Area Plan.” DR-2 zoning allows for a maximum density of two units per net developable acre.

**Business Park District (“BP”)** – The BP district “is established to provide locations within the Berryville Area for a broad range of light industrial and business uses. “BP zoning does not allow for residential development.

Proposed Rezoning

The Applicant seeks rezoning of the site to facilitate the contemplated Residential Development. The requested zoning designations for the site are OSR (above) and DR-4:

Detached Residential – 4 District (“DR-4”) – The DR-4 District “is created to provide for the single-family detached residences at higher densities than other single family detached districts.” DR-4 zoning allows for a maximum density of four units per net developable acre.

---

### III-A. Public School Impacts – Proffer Considerations

---

#### METHODOLOGY

To project impacts to public school facilities, Clarke County Public Schools provided the students per unit for their most recent residential developments on September 20, 2023 (see Appendix A), as seen below in Table III-A.1.

**TABLE III-A.1**  
**Student Generation Rate**

<i>Development</i>	<i>Units<sup>(a)</sup></i>	<i>Students<sup>(a)</sup></i>	<i>Students Per Unit<sup>(a)</sup></i>
Shenandoah Crossing	83	35	0.422
Fellowship Square	50	17	0.340
Hermitage Phase V	53	35	0.660
<b>Total</b>	<b>186</b>	<b>87</b>	<b>0.468</b>

<sup>(a)</sup>Based on information provided by Clarke County Public Schools on September 20, 2023.

MuniCap then applied the students per unit to the proposed units within the Residential Development that exceed development allowed under the current zoning designations. For purposes of this exercise, MuniCap assumed that all projected students are new to Clarke County, rather than relocated from elsewhere within the Clarke County Schools system.

Finally, MuniCap identified the schools that would be impacted by the Residential Development based on school boundaries, researched the maximum capacity at each applicable school, and determined whether the projected net student impacts represented a burden beyond current school capacity.

#### PROJECTED NET STUDENT IMPACTS

As previously described, the Residential Development includes 198 single-family detached units with 66 single-family detached units allowed by-right. This results in approximately 132 net single-family detached units at the site following the proposed rezoning. Based on the students per unit of 0.468 as provided by the County and shown in Table III-A.1, the proposed Residential Development would generate an estimated 61.78 students net of by-right, as shown in Table III-A.2.

**TABLE III-A.2**  
**Students Generated by Development Above By-Right**

<i>Unit Type</i>	<i>Units</i>	<i>Students Per Unit<sup>(a)</sup></i>	<i>Total Projected Students</i>
<b>Proposed new units subject to rezoning<sup>(b)</sup></b>			
Proposed single-family detached units	198	0.468	92.66
Less: units allowed by-right <sup>(a)</sup>	(66)	0.468	(30.89)
<b>Total (net above by-right)<sup>(c)</sup></b>	132		61.78

<sup>(a)</sup>See Table III-A.1.  
<sup>(b)</sup>Represent new proposed units at the Development. Source: D.R. Horton.  
<sup>(c)</sup>Represent total students, net of units allowed by-right under existing zoning.

On November 14, 2023, Clarke County Public Schools provided additional information on the developments used to determine the students per unit, which provided the number of students that entered each school level (see Appendix B); (i.e., elementary, middle and high school). MuniCap then applied the percentage of students generated by each school level to the projected students from the Development, as seen on Table III-A.3.

**TABLE III-A.3**  
**Students Generated by School Type**

<i>School Level</i>	<i>% Of Total Student Generation<sup>(a)</sup></i>	<i>Students Generated<sup>(b)</sup></i>	<i>Students By-Right<sup>(c)</sup></i>	<i>Students Above By-Right<sup>(d)</sup></i>
Elementary School	59%	54.39	(18.13)	36.00
Middle School	20%	18.13	(6.04)	12.00
High School	22%	20.14	(6.71)	13.00
<b>Total</b>	100%	92.66	(30.89)	61.00

<sup>(a)</sup>Based on information provided by Clarke County Public Schools regarding enrollment allocations for the Shenandoah and Hermitage developments in the Town of Berryville.  
<sup>(b)</sup>Calculated as total students generated by proposed development identified in Table III-A.1 multiplied by % of total student generation.  
<sup>(c)</sup>Calculated as total students allowed by-right in Table III-A.1 multiplied by % of total student generation.  
<sup>(d)</sup>Students above by-right are rounded to the next whole number.

### CURRENT CAPACITY OF PUBLIC SCHOOL FACILITIES

Based on proximity to the Residential Development, the potentially impacted County schools are D.G. Cooley Elementary School, Johnson-Williams Middle School and Clarke County High School. Clarke County Public Schools provided the program capacity for each school on November 14, 2023 as seen on Table III-A.4.

On February 25, 2019, the Clarke County School Board voted to consolidate the D.G. Cooley Elementary School into the lower campus and close the upper campus. During this vote, the Clarke County School Board agreed to continue to maintain the upper campus in case there is future enrollment growth providing capacity for future development (see Appendix C).

### Elementary School Facilities

The Residential Development site is within the D.G. Cooley Elementary School boundaries. As previously mentioned, the D.G. Cooley Upper campus closed in 2020 therefore capacity is only based on the D.G. Cooley Lower campus. Based on information provided by Clarke County Public Schools, the program capacity for D.G. Cooley Lower campus is 496 students and a current enrollment of 464 meaning that D.G. Cooley Lower campus has excess capacity for 32 students. Therefore, four of the 36 students above by-right exceed existing capacity at the D.G. Cooley Lower campus and represent an additional need for Clarke County Public Schools.

As previously stated, D.G. Cooley Upper Campus is currently unoccupied but pursuant to the County vote is being maintained for future capacity.

### Middle School Facilities

The Residential Development site is within the Johnson-Williams Middle School boundaries. Based on information provided by Clarke County Public Schools, the program capacity for Johnson-Williams Middle School is 574 and current enrollment is 427 meaning that Johnson-Williams school has excess capacity for 147 students. Therefore, the twelve students above by-right do not exceed existing capacity and does not represent an additional need for Clarke County Public Schools.

### High School Facilities

The Residential Development site is within the Clarke County High School boundaries. Based on information provided by Clarke County Public Schools, the program capacity for Clarke County High School is 781 students and has a current enrollment of 710 students, meaning that Clarke County High School has excess capacity for 71 students. Therefore, the thirteen anticipated students above by-right do not exceed existing capacity and does not represent an additional need for Clarke County Public Schools.

Table III-A.4 on the following page provides the enrollment, capacity, projected students, and excess capacity including students allowed by-right.

**TABLE III-A.4**  
**Clarke County School Facilities – Current Capacity and Enrollment Consolidated**

School	SY 2024 Enrollment <sup>(a)</sup>	Maximum Capacity <sup>(b)</sup>	Excess Capacity	Total Students Generated <sup>(c)</sup>	Total County		Excess Capacity with By-Right <sup>(e)</sup>	Proffer Consideration <sup>(f)</sup>
					Excess Capacity <sup>(d)</sup>	Students By-Right <sup>(c)</sup>		
D.G. Cooley Lower E.S.	464	496	32	54.39	(22)	(18.13)	(4)	Exceeds Capacity
D.G. Cooley Upper E.S.	-	-	-	-	-	-	-	-
Johnson-Williams M.S.	427	574	147	13.13	129	(6.04)	135	Meets Capacity
Clarke County H.S.	710	781	71	20.14	51	(6.71)	58	Meets Capacity
<b>Total</b>	<b>1,601</b>	<b>1,851</b>	<b>250</b>	<b>93</b>	<b>157</b>	<b>(31)</b>	<b>189</b>	

<sup>(a)</sup>Based on information provided by the Clarke County Public Schools Superintendent as of October 13, 2023. Assumes enrollment is now 464, as Clarke County Public Schools stated that they have capacity for 32 additional elementary school students in a memo dated November 14, 2023.

<sup>(b)</sup>Projected program capacity for each school serving the development. As provided by Clarke County Public Schools on September 20, 2023 and further updated on November 14, 2023.

<sup>(c)</sup>See Table III-A.2.

<sup>(d)</sup>Represents total capacity for each county facility with the anticipated development, including units allowed by-right.

<sup>(e)</sup>Represents capacity for each county facility with the anticipated development, less the students allowed by-right. Students are rounded to the next whole number.

<sup>(f)</sup>D.G. Cooley Lower E.S. exceeds capacity by 22 students when evaluating the total students being generated and exceeds by 4 students when considering the students allowed by-right. Johnson-Williams M.S. and Clarke County H.S. meet capacity for total students generated and when considering students allowed by-right.

## MITIGATION STRATEGIES

The Residential Proffer Legislation stipulates that proffers can only provide for needs exceeding existing capacity. As such, the four elementary students above by right are eligible for a proffer contribution to the extent D.G. Cooley Upper is deemed not available to absorb the excess capacity.

The Clarke County Public School Capital Improvement Plan identifies items that are elementary school related but specific to maintenance. Maintenance improvements will not increase capacity at the elementary school serving the site. As previously mentioned, the Residential Proffer Legislation stipulates that no proffer shall be used for any operating expense of an existing public facility, such as ordinary maintenance or repair, or any capital improvement to an existing public facility, such as a renovation or technology upgrade, that does not expand the capacity of such facility. As such, a proffer contribution has not been contemplated for these improvements.

On November 14, 2023, Clarke County Public Schools stated that D.G. Cooley Upper campus needs significant renovation and maintenance upgrades which would cost approximately \$2,000,000 - \$4,000,000 in order to reopen (see Appendix B). These improvements are not eligible for proffer contributions as mentioned above.

The Applicant has elected to provide additional proffers for two new school busses based on responses by Clarke County Public Schools on September 20, 2023 (see Appendix A). The Clarke County Capital Improvement Plan includes an allocation for a new bus. This study includes an additional proffer based on the estimated cost of two new busses, as seen on Table III-A.5 below.

**TABLE III-A.5**  
**Additional Proffer Contribution**

<i>School Impact for Proposed Rezoning</i>	
<b>School bus cost</b>	
a) Approximate cost per bus <sup>(a)</sup>	\$119,000
b) Number of busses required <sup>(b)</sup>	2.00
c) Total projected students at Development <sup>(c)</sup>	92.66
d) Projected students at Development above by-right allocation <sup>(c)</sup>	61.78
e) Cost per student	\$2,568
<b>f) School bus proffer contribution for Development (e × c)</b>	<b>\$238,000</b>
<b>Proffer contribution per single-family detached unit (f ÷ 198)</b>	<b>\$1,202</b>
<sup>(a)</sup> School bus replacement cost. Source: Clarke County Capital Improvement Plan FY 2024-2029. <sup>(b)</sup> Based on information provided by Clarke County Public Schools on September 20, 2023. Clarke County Public School suggests that the development would likely require a minimum of two additional busses. <sup>(c)</sup> See Table III-A.1.	

### III-B. Public School Impacts – Operating Revenue Considerations

#### Estimated School Allocation of Tax Revenues

The purpose of the allocation of tax revenues is to estimate the projected increase in the percentage of revenues allocated to school operating as a result of the Development. These allocations are not taken into consideration when evaluating proffer impacts or eligible contributions, as proffer contributions are a one-time contribution specific to capital improvements that increase capacity as identified within the County Capital Improvement Plan.

Table III-B.1 evaluates the Clarke County Public School FY 24 Adopted School Budget and the percentage of revenues contributing to the Clarke County Public School Operating Fund.

**TABLE III-B.1**  
**Estimated Annual Allocation to School Operating Fund**

	<i>Operating Budget<sup>1</sup></i>	<i>Percentage of Budget</i>
County School operating expenditures	\$27,585,063.00	100.00%
Revenues:		
Local (miscellaneous other revenues)	\$242,685.00	0.88%
State	\$11,492,196.00	41.66%
Federal	\$1,106,901.00	4.01%
Insurance recovery	\$3,500.00	0.01%
Total revenues before transfers	\$12,845,282.00	46.57%
General fund transfer to school operating fund	\$14,739,781.00	53.43%
Total school operating revenues	\$27,585,063.00	100.00%

<sup>1</sup>Clarke County Public Schools FY 24 Adopted School Budget.

Table III-B.2 determines the percentage of total general fund revenues being transferred to the school operating fund.

**TABLE III-B.2**  
**Percentage of County General Fund Revenues**

<i>Percentage of County General Fund Revenues</i>	
General fund transfer to schools <sup>1</sup>	\$14,739,781.00
Total County general fund local revenues <sup>2</sup>	\$30,986,239.00
Percentage of total revenues	47.57%

<sup>1</sup>Clarke County Public Schools FY 24 Adopted School Budget.  
<sup>2</sup>Clarke County FY 24 Adopted Budget.

To determine the estimated annual allocation to schools from the development, Table III-B.3 applies the percentage identified on Table III-B.2 to the total estimated annual revenues.

**TABLE III-B.3**  
**Estimated Annual Allocation to School Operating Fund**

	<i>Friant Development</i>
Units <sup>1</sup>	198
Estimated new residents <sup>2</sup>	552
Average assessed value <sup>1</sup>	\$565,990
Real property tax rate <sup>3</sup>	\$0.60
Annual tax per unit	\$3,396
<b>Total development real property tax revenues</b>	<b>\$672,396</b>
Cars per household <sup>4</sup>	2.23
Total cars per development	442
Personal property tax per vehicle <sup>5</sup>	\$1,313
Annual personal property tax	\$2,927
<b>Total development personal property tax revenues</b>	<b>\$579,625</b>
Per resident additional revenues <sup>6</sup>	\$191
<b>Total additional revenues</b>	<b>\$105,544</b>
<b>Total estimated annual revenues</b>	<b>\$1,357,565</b>
<b>Percentage allocation to school operating<sup>7</sup></b>	<b>47.57%</b>
<b>Estimated Annual allocation to school operating budget</b>	<b>\$645,777</b>
<sup>1</sup> Provided by D.R. Horton. <sup>2</sup> Source: Based on persons per unit estimate (2.79 per unit) provided by the United States Census Bureau, American Community Survey 2021 5-Year Estimates. <sup>3</sup> Represents the rate per \$100 for tax year 2023. Source: Clarke County CY 2023 Tax Rate Resolution. <sup>4</sup> Based on average number of vehicles per owner-occupied unit in the Town of Berryville. Source: U.S. Census Bureau, 2021 American Community Survey 5-Year Estimates. <sup>5</sup> Applies the personal property tax rate (\$4.271 per \$100) as identified in the CY2023 Tax Rate Resolution to the average assessed value per vehicle (\$30,736) as identified in the NADA Annual Report. <sup>6</sup> Based on Clarke County FY24 Budget. Anticipated revenues to be impacted include sales and use tax, meals tax, fees for ambulance and rescue services, recreation center fees, swimming pool fees, and parks program fees. Analysis evaluates resident impacts only and does not evaluate impacts from employees and total service population (i.e. employees and residents combined). <sup>7</sup> See Table 2.	

---

## *IV. Assumptions and Limitations*

---

### ASSUMPTIONS AND LIMITATIONS

In preparation of this narrative, MuniCap relied on multiple sources for the information presented and used herein. While these sources are believed to be reliable, MuniCap has not undertaken any efforts to independently verify the veracity of such information.

While the methodology employed, and the content provided herein, are believed to be consistent with applicable law, including the Residential Proffer Legislation, none of the statements in this document should be construed as legal advice.

Appendix A

Questions received from Christy Dunkle/ Berryville Planning Commissioners on August 29, 2023, regarding the Friant Development rezoning. (Questions in Black ink and CCPS responses in Bold italics): *Responses as of 9/20/2023*

What school year was DG Cooley consolidated into one building K-5? If I recall correctly, it may have been for the 2017-2018 school year.

*In the summer of 2019, pK was moved to Boyce Elementary and DG Cooley consolidated into one K-5 building for the 2019-2020 school year. The specific grade level breakdown over the years: (Cooley Lower = old High School)*

<i>2013-2014:</i>	<i>Berryville Primary: pK-1</i>	<i>Cooley Upper: 2-5</i>
<i>2014-2015:</i>	<i>Cooley Lower: pK-3</i>	<i>Cooley Upper: 4-5</i>
<i>2015-2016:</i>	<i>Cooley Lower: pK-3</i>	<i>Cooley Upper: 4-5</i>
<i>2016-2017:</i>	<i>Cooley Lower: 1-5</i>	<i>Cooley Upper: pK-K</i>
<i>2017-2018:</i>	<i>Cooley Lower: 1-5</i>	<i>Cooley Upper: pK-K</i>
<i>2018-2019:</i>	<i>Cooley Lower: 1-5</i>	<i>Cooley Upper: pK-K</i>
<i>2019-2020:</i>	<i>Cooley Lower: K-5</i>	<i>Cooley Upper: vacant, pK to Boyce</i>
<i>2020-2021:</i>	<i>Cooley Lower: K-5</i>	<i>Cooley Upper: vacant, pK to Boyce</i>
<i>2021-2022:</i>	<i>Cooley Lower: K-5</i>	<i>Cooley Upper: vacant, pK to Boyce</i>
<i>2022-2023:</i>	<i>Cooley Lower: K-5</i>	<i>Cooley Upper: vacant, pK to Boyce</i>
<i>2023-2024:</i>	<i>Cooley Lower: K-5</i>	<i>Cooley Upper: pK (and Headstart)</i>

- Has the School Board expressed a desire to bring the preschool program into one of the school buildings with K-5 students? ( I understand it just moved from Boyce back to the Cooley Upper Campus.)

*The school board has not discussed the details, however, for many reasons, it would be ideal to have the preschool program in a consolidated K-5 school so that pK students have access to the total school community experience, services, administration, counselors, etc.*

- What was the enrollment at Cooley Lower Campus the year it was first consolidated into one building?

*CES Lower Campus (CLC) full-time enrollment for K-5 was 466 on 9/30/2019*

- What is the current enrollment of Cooley Lower Campus? (Would also like to get the September 30th enrollment when that is available.)

*The current enrollment at CLC for K-5 is 467 as of 9/18/2023*

- What is the current total cost per pupil for CCPS?- What is the County funded share of the cost per pupil?

*The cost per pupil is published in Table 15 of the Superintendent's Annual Report for Virginia. FY23 is not yet available. The breakdown for FY22 (the 2021-2022 school year):*

<i>TOTAL:</i>	<i>\$13,862</i>
<i>COUNTY:</i>	<i>\$ 7,249</i>

- Does CCPS have capacity ratings for it's schools? Please provide.

*In the summer of 2019, DG Cooley Elementary was consolidated into one K-5 building for the 2019-2020 school year, and the students were housed in DG Cooley Lower Campus (the old/former Clarke County High School at 240 Westwood Road). DG Cooley Upper Campus (34 Westwood Road) currently houses pre-K and Head Start and needs significant renovation before additional grade levels can be added back to the campus; therefore, the capacity for Cooley Elementary should be limited to the Cooley Lower Campus (CLC).*

*There are different capacity ratings to consider: Program Capacity vs. Building Capacity. Program capacity is based on the number of existing core classrooms and the specific unique programs assigned to a school that differ from the original design of the building. This capacity is recalculated every school year based on programmatic changes. Building capacity is based on the initial building design accommodations regarding the number of classrooms and ancillary spaces.*

*We are in the process of reviewing the current program capacity. The data documents provided by DR Horton determined capacity at all schools by using the maximum number of students enrolled in a school over a 10-year period. Using that methodology, the capacity of CLC would be 466, the enrollment at Cooley Lower Campus (CLC) on September 30, 2019. The current enrollment at CLC, as of 9/18/23, is 467.*

- Would the 214 unit development proposal (estimated to generate 69 total students) require the addition of school buses or is there capacity in the existing fleet to provide transportation services? Does CCPS consider bus purchases a capital expense?

*The additional students would likely require a minimum of 2 additional buses, routes, and drivers. School bus purchases are a capital expense and the last bus purchased was approx. \$110,000.00.*

- Does CCPS have a way to calculate actual student generation from the newly occupied units in Berryville? Specifically, the homes in Hermitage Phase V, Fellowship Square, and Shenandoah Crossing.

*CCPS has not completed a Student Generation Factor study. Instead of a study, we calculated the number of students enrolled from the most recent developments (see below) and determined a rate per single-family household.*

<i>Shenandoah Crossing:</i>	<i>35 students</i>	<i>83 units</i>
<i>Fellowship Square:</i>	<i>17 students</i>	<i>50 units</i>
<i>Hermitage V:</i>	<i>35 students</i>	<i>53 units (71 total units are planned)</i>
<i>Total students/units:</i>	<i>87 students</i>	<i>186 units</i>
<i>Students Per Unit:</i>	<i>0.468</i>	

*Developer projection: 214 units x 0.321 students per unit for 69 students.*

*Revised projection: 214 units x 0.468 students per unit for 100 students.*

## Appendix B

Berryville Planning Commission Additions: Questions regarding Private Property from Christy Dunkle  
(CCPS responses in bold italics):  
November 14, 2023

1. Capacity numbers for JWMS and CCHS

**Program capacity for all schools has been completed. JWMS is 574 and CCHS is 781. Cooley Lower Campus capacity was shared on October 13 and is 496.**

2. Final updated student generation and breakdown on which school

*The CCPS response to Student Generation Factor has not changed from the information previously provided on September 20. Here is that response:*

*CCPS has not completed a Student Generation Factor study. Instead of a study, we calculated the number of students enrolled from the most recent developments (see below) and determined a rate per single-family household.*

*Shenandoah Crossing: 35 students 83 units*

*Fellowship Square: 17 students 50 units*

*Hermitage V: 35 students 53 units (71 total units are planned)*

*Total students/units: 87 students 186 units*

*Students Per Unit: 0.458*

*Developer projection: 214 units x 0.321 students per unit for 69 students.*

*Revised (CCPS) projection: 214 units x 0.468 students per unit for 100 students.*

3. - Difference between by right/rezoning student generation. I believe the current zoning would allow a by-right development of 36 homes. The Berryville Area Plan would allow up to 109 and the rezoning seeks 214. Can you provide the student generation number at each of these development levels with a breakdown on the number of students at each level (elementary, middle, high)?

*The rate of students per single-family household (see the response above) is calculated at 0.468. Using that factor, the following is estimated:*

*66 homes - 31 students*

*109 homes - 51 students*

*214 homes - 100 students*

**Using the previously provided information, 59% of new students entered at the elementary level, 20% at the middle, and 21% at the high school. Using those factors, we could estimate the following:**

66 homes - 31 students (18 at elem, 6 at middle, 7 at high)

109 homes - 51 students (30 at elem, 10 at middle, 11 at high)

214 homes - 100 students (59 at elem, 20 at middle, 21 at high)

4. - How many students would push Cooley to have to use more of the upper campus building  
*There is capacity for 32 more students at Cooley Lower if those students are spread across k-5. However, if new students are clustered at a grade level requiring a new classroom/teacher to a grade level, we do not have available general education classrooms at Cooley Lower; that scenario would require moving a grade level to Cooley Upper sooner rather than later.*

5. and what capital costs would be required to bring the space into shape for that use?  
*See below, but our unofficial estimate to renovate Cooley Upper is a range of two to four million dollars. A full renovation isn't required to use more of the upper campus, but the building is in need of significant renovation (New roof, HVAC Rooftop units, kitchen equipment replacement, Restrooms, and other plumbing, etc.) Another factor to consider is Head Start, a valuable community resource utilizes some of Cooley Upper's space.*

6. -Mine and Tom's questions are the same. The only other thing I would add what does the school want from Horton if they were to go over the program numbers? When I met with David from Horton for the site visit, he expressed to me that while the PC or the TOB could not ask for a proffer, David said the schools could. I would conclude that Horton wants to be able to provide needed items to the school system as part of this development. However, they don't know what those "items" are as he said they cannot get a straight answer from the schools.  
*Our most recent meeting with DR Horton was on October 2nd. Ty Lawson initiated the meeting and brought a representative from DR Horton, whom we hadn't previously met. This may have been David. From the onset of the meeting, he challenged the data we had previously provided and our approach/methodology to determine capacity in our schools. He asked for a dollar amount for renovating the Cooley Upper Campus. We responded that we have not had a consultant study the renovation costs, and it would not be appropriate to toss a number, but the cost would be significant. He insisted on a number and was told we did not have a reliable estimate. He never requested a list of "items"; rather, he debated our capacity methodology, disagreed with most of what we were saying, and wanted to know the fiscal impact of the development on the schools. Regarding proffers, DR Horton has already made public their offer of proffers to the TOB, and it is our understanding that what proffer money is put toward is something the developer and town Council will have to decide.*

## Appendix C

**Clarke County School Board  
School Board Regular Meeting  
February 25, 2019**

The Clarke County School Board met in the School Board Administrative Offices located at 317 West Main Street, Berryville, Virginia on February 25, 2019 for the purpose of holding a regular meeting.

**Present:**

Members

Ms. Katie Kerr-Hobert

Ms. Zara Ryan

Mr. Charles "Chip" Schutte

Ms. Monica Singh Smith

Mr. Jon Turkel

Staff

Dr. Chuck Bishop, Superintendent

Ms. Renée Weir, Clerk

**1. OPENING OF THE MEETING**

**1.01 Call to Order**

Ms. Singh-Smith called the meeting to order at 6:30 p.m.

**1.02 Pledge of Allegiance**

**1.03 Review and Approval of Agenda**

Mr. Schutte moved, seconded by Ms. Ryan, to approve the agenda as presented.

The motion carried as follows:

Ms. Kerr-Hobert        -        aye

Ms. Ryan                -        aye

Mr. Schutte            -        aye

Ms. Singh-Smith       -        aye

Mr. Turkel              -        aye

**2. CONSENT AGENDA**

**2.01 Approval of Facility Use**

**2.02 Approval of Fundraising Requests**

**2.03 Approval of Donations**

**2.04 Approval of Overnight Field Trip**

**2.05 Approval of Minutes - January 28, 2019 and February 11, 2019**

**2.06 Approval of Consent Agenda**

Mr. Turkel moved, seconded by Ms. Kerr-Hobert, to approve the February 25, 2019 Consent Agenda as presented.

The motion carried as follows:

Ms. Kerr-Hobert        -        aye

Ms. Ryan - aye  
Mr. Schutte - aye  
Ms. Singh-Smith - aye  
Mr. Turkel - aye

### **3. PRESENTATIONS AND RECOGNITIONS**

#### **3.01 School Board Appreciation Month**

In recognition of School Board Appreciation Month, the principals of each school presented items to the board members in appreciation for their commitment to the students and staff.

Boyce Elementary - Chip Schutte and Jon Turkel  
D.G. Cooley Elementary - Zara Ryan  
Johnson-Williams Middle School - Katie Kerr-Hobert  
CCHS - Monica Singh-Smith

#### **3.02 Earth Right Energy Solar Proposal**

Mr. Jim Brinkmeier and Mr. Brad Carlson, representatives of Earth Right Energy Solar, presented information to the Board regarding a program on solar energy. Mr. Brinkmeier emphasized there would be no cost to the division for implementing the system as all costs are borne by Earth Right Energy. He provided a list of benefits to the division and included information on where the solar panels can be installed. Mr. Carlson spoke on the energy savings costs, the installation, and sustainability of the panels. Mr. Carlson also spoke on the curriculum available on solar energy.

### **4. SUPERINTENDENT AND STAFF REPORTS**

#### **4.01 Finance Committee Report**

Mr. Judge presented information on the February 13, 2019, Finance Committee meeting held jointly with the Board of Supervisors.

Mr. Judge spoke on the errors discovered in the October bills and claims reports. He stated his staff are reviewing all reports and is working to correct the problems. There are no errors in the system or claims, the issue is the formatting in providing the reports in a readable document. Corrected reports will be provided in the next finance committee meeting and then submitted to the Board in March.

#### **4.02 Advisory Committee Reports/Minutes**

Dr. Bishop spoke on the CTE Advisory Committee minutes provided in the packet for the board's information.

#### **4.03 Superintendent's update**

Dr. Bishop spoke on the dual enrollment statistics provided by Lord Fairfax Community College. He announced that the WOW event will be September 27, 2019 and STEM+ camp will be held June 24-28, 2019.

Other highlights included the Random Acts of Kindness celebrated by all schools, a student scholarship for post-secondary education in a technical field provided by Barrett Machine in Winchester, an upcoming visit by Vickie Tucci founder and creator of the

Competent Learner Model, a VA Museum of Fine Arts traveling exhibit that all 4th and 5th graders will attend, and the donation of greenhouse tables by the Claude Moore Foundation.

Ms. Singh-Smith asked Dr. Bishop for clarification regarding the notice of public meetings and packets, specifically §2.2-307 which refers to when the notice is posted, and when packets need to be made available to the public.

Dr. Bishop said that notice of the meetings are distributed immediately just after the organizational meeting. Notice of meeting is not the same as the distribution. Section F of §2.2-307 states the materials have to be available at the same time they are available to the board. We provide them to all at the same time and are in compliance.

Ms. Ryan asked if the after-school program will begin soon. Dr. Bishop replied it will start next week at Cooley and end just before spring break, lasting six weeks.

**5. AUDIENCE COMMENTS**

**5.01 Audience Comments**

No Comments

**6. UNFINISHED BUSINESS**

**6.01 Consideration of Policy and Regulation Revisions 2nd Reading**

Ms. Kerr-Hobert stated she received an email from a citizen who expressed concern that a local coordinator who is hosting a student under the supervision of another supervisor would not be able to host or supervise and she doesn't see where the policy states that. Is that a misinterpretation?

Dr. Bishop said the policy does not say that, the policy states that a local coordinator cannot host. It is the desire to have a single coordinator.

Ms. Kerr-Hobert said the local coordinator should not serve as a host family which is in the policy and that is a regulation that exists outside of Clarke County.

Dr. Bishop stated that is part of the guidelines.

Ms. Kerr-Hobert said that to clarify we are looking to have the coordinator be a Clarke County resident and asked Dr. Bishop to speak on that

Dr. Bishop said that for ease of communication, having someone who is connected to our schools, makes a difference than someone who is 40-50 miles away. It makes sense to have someone with a connection to the school system.

Mr. Schutte moved, seconded by Mr. Turkel, to accept Policy J-CCPS and Regulation J-CCPS-R for second reading.

Mr. Turkel said he is glad to see the program back.

The motion carried as follows:

Ms. Kerr-Hobert - aye

Ms. Ryan - aye

Mr. Schutte - aye  
Ms. Singh-Smith - aye  
Mr. Turkel - aye

**7. NEW BUSINESS**

**7.01 Consideration of Proposed Consolidation of Cooley Upper Campus**

Dr. Bishop presented information on the proposal to consolidate the Cooley campus into one building and closing Cooley Upper campus. Only nine of the 14 classes are used as regular classrooms, other rooms are used for specials but most of the rooms are vacant during the day. This will also be a more efficient use of staff.

Dr. Bishop spoke on several concerns about closing Boyce Elementary.

Mr. Schutte said leaving a building empty goes down. The building would be owned by the county, what would the county do with the property? Dr. Bishop said it would be wise not to do anything right now but to maintain it so that if there is potential growth in enrollment or curriculum prospects, the space would be available.

Dr. Bishop stated he is not sure if Head Start will be in our schools next year but he would make sure space is available if they request it.

Mr. Schutte moved, seconded by Ms. Kerr-Hobert, to approve the consolidation of Cooley Upper and Lower Campuses for FY20.

The motion carried as follows:

Ms. Kerr-Hobert - aye  
Ms. Ryan - aye  
Mr. Schutte - aye  
Ms. Singh-Smith - aye  
Mr. Turkel - aye

**7.02 Consideration of the Superintendent's FY20 Revised Budget Proposal**

Dr. Bishop reviewed some budget development factors including ADM and a line by line review of the school-based allocation methodology. He noted no new positions are proposed. He also provided an overview of salary and benefit increases since FY15 and the impact on the budget.

Dr. Bishop reviewed proposed initiatives for FY20 and spoke on the food service funds and capital projects funds. He spoke on the misrepresentation of the capital funds at the Board of Supervisors meeting.

Dr. Bishop spoke on the salary history of the division. He also provided a comparison scale with Winchester and Frederick County. He presented three options for salaries, 3% across the board, 4% across the board, or 4% for teachers and support staff with 3% for administrators. Dr. Bishop spoke on items that have been discussed but not included in the proposal such as increasing the percentage of health insurance paid by the division, and payment of advanced course fees.

Ms. Kerr-Hobert said there has been a complaint because of the drop of enrollment that there should not be an increase in salaries, while she does not see the correlation, are there any comments on that.

Dr. Bishop agreed the number of students does not necessarily impact compensation. Personnel adjustments are made every year. Positions are lost when enrollment is down, adjustments are always made. You still have to provide the services.

Mr. Schutte said he is glad that support staff is included.

Ms. Ryan stated she is hopeful about the proposal and offering the increase to our staff.

Ms. Singh-Smith asked the board to decide on which scenario they would like to propose.

Mr. Schutte moved, seconded by Mr. Turkel, to approve the fiscal budget as presented in the amount of \$27,888,154 which is inclusive of school operating, food service, debt service and school capital which is option 3.

Mr. Schutte stated he is not making this motion to denigrate the administrators but the numbers work to this being the best solution.

Mr. Turkel stated that it is pragmatic and in terms of option 3 it is not a denigration but in recognition in what staff has done and understanding we can't afford to slip in the valley. He said this speaks to our staff and administrators that we believe in you and we need to stay competitive. He looks forward to seeing comparative administrator scales in future discussions.

Ms. Singh-Smith said every budget year is difficult and Dr. Bishop does a great job in determining what is needed but we can only do so much. It was nice to have the Board on the same page in that priority is staff and while we cannot compare to Loudoun, we can try to keep up with Winchester and Frederick. It was very helpful staying in communication with the Board of Supervisors and believe they appreciate the effort in working together.

The motion carried as follows:

Ms. Kerr-Hobert	-	aye
Ms. Ryan	-	aye
Mr. Schutte	-	aye
Ms. Singh-Smith	-	aye
Mr. Turkel	-	aye

## **8. SCHOOL BOARD MEMBER REPORTS**

### **8.01 Board Member Comments**

Ms. Ryan said that as her first budget session, she really enjoyed the process, in particular the finance meetings, and working with the Board of Supervisors. The meetings were productive.

Ms. Kerr-Hobert said she is happy they went with a 4% increase for support and teachers. It is painful not to do that for administrators and looking toward next year, the Board needs to work on those scales comparing to surrounding counties. The Board has heard complaints that we offer more money to teachers with master's degrees but it is very small compared to the surrounding counties. Those counties offer other stipends for hours above the masters which Clarke does not. The stress and weight that administrators take home with them every day is a lot and we need to recognize that. The fact that it was not 4% for administrators does not mean they are not appreciated.

Mr. Turkel said he is less sympathetic towards the administrators as that is what they are paid for, but believes that we cannot afford to lose our administrators, we have good administrators and don't want to lose them. It is not his point to come across as negative. Mr. Turkel agrees that administrators pay structure needs to be reviewed. He thanked staff for the CTE minutes that was included in the packet.

Mr. Turkel spoke on an experience where one of our students was an attendant with the rescue squad who is in the health science program and it brought home to him that the future is now, these young students are stepping into a role and taking care of others now.

Mr. Schutte said that this is the tenth time he has been through a budget and the relationship between the two boards is the best than he can remember. The one thing he wished we could do is to fund the testing costs.

Ms. Singh-Smith said she attended the chorus kick-off fundraiser on Saturday, it was a great event. She thanked staff for what they do and stated the board makes the best decision they can.

## 9. **CLOSED SESSION -**

### 9.01 **Convene Closed Session - 8:10 pm**

Mr. Turkel moved, seconded by Ms. Kerr-Hobert, to convene a closed session to discuss personnel matters, including appointments, retirements, and resignations, pursuant to Code of Virginia § 2.2 - 3711 (A) (1). The estimated time required for closed session is 30 minutes and action is expected.

The motion carried as follows:

Ms. Kerr-Hobert	-	aye
Ms. Ryan	-	aye
Mr. Schutte	-	aye
Ms. Singh-Smith	-	aye
Mr. Turkel	-	aye

### 9.02 **Reconvene Open Session**

Ms. Kerr-Hobert moved, seconded by Mr. Turkel, to come out of closed session at 8:25 pm.

The motion carried as follows:

Ms. Kerr-Hobert	-	aye
Ms. Ryan	-	aye
Mr. Schutte	-	aye
Ms. Singh-Smith	-	aye
Mr. Jon Turkel	-	aye

**9.03 Certification of Closed Session**

WHEREAS, the Clarke County School Board has convened a closed meeting on this date pursuant to an affirmative vote and in accordance with the provisions of the Virginia Freedom of Information Act;

And WHEREAS, §2.2-3712 of the Code of Virginia requires certification by this School Board that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED, that the Clarke County School Board hereby certifies that to the best of each member's knowledge,

(1) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed and,

(2) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed, or considered.

Members verified by roll call:

- Ms. Kerr-Hobert - aye
- Ms. Ryan - aye
- Mr. Schutte - aye
- Ms. Singh-Smith - aye
- Mr. Jon Turkel - aye

**9.04 Action Based on Closed Session Recommendation(s)**

Mr. Turkel moved, seconded by Ms. Ryan, to approve the person el agenda as presented (ATTACHMENT A).

The motion carried as follows:

- Ms. Kerr-Hobert - aye
- Ms. Ryan - aye
- Mr. Schutte - aye
- Ms. Singh-Smith - aye
- Mr. Jon Turkel - aye

**10. ADJOURNMENT**

**10.01 Adjournment**

Ms. Singh-Smith adjourned the meeting at 8:27 p.m.

Recorded by Renée Weir, Clerk

\_\_\_\_\_  
Monica Singh-Smith, Chair

\_\_\_\_\_  
Renée F. Weir, Clerk

## Appendix D

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 17 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 2013-2024 was 26. # 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.**

## Appendix E



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.

## Appendix F

Follow-up responses to DR Horton regarding Friant Property:

1) Neighborhood Data:

CCPS has not completed a Student Generation Factor study. Instead of a study, we calculated the number of students enrolled from the most recent developments (see below) and determined a rate per single-family household.

Shenandoah Crossing:	35 students	33 units
Fellowship Square:	17 students	50 units
Hermitage V:	35 students	53 units (71 total units are planned)
Total students/units:	87 students	136 units
Students Per Unit:	0.468	

Developer projection: 214 units x 0.321 students per unit for 69 students.

CCPS projection: 214 units x 0.468 students per unit for 100 students.

2) Capacity for Cooley:

In the summer of 2019, DG Cooley Elementary was consolidated into one K-5 building for the 2019-2020 school year, and the students were housed in DG Cooley Lower Campus (the old/former Clarke County High School at 240 Westwood Road). DG Cooley Upper Campus (34 Westwood Road) currently houses pre-K and Head Start and needs significant renovation before additional grade levels can be added back to the campus; therefore, the capacity for Cooley Elementary should be limited to the Cooley Lower Campus (CLC).

There are different capacity ratings to consider: Program Capacity vs. Building Capacity. Program capacity is based on the number of existing core classrooms and the specific unique programs assigned to a school that differ from the original design of the building. This capacity is recalculated every school year based on programmatic changes. Building capacity is based on the initial building design accommodations regarding the number of classrooms and ancillary spaces.

We are in the process of reviewing the current program capacity. The data documents provided by DR Horton determined capacity at all schools by using the maximum number of students enrolled in a school over a 10-year period. Using that methodology, the capacity of CLC would be 466, the enrollment at Cooley Lower Campus (CLC) on September 30, 2019. The current enrollment at CLC, as of 9/18/23, is 467.

**PROFFER STATEMENT**

REZONING: RZ# \_\_\_\_\_  
Detached Residential – 1 (DR 1), Detached Residential – 2 (DS 2),  
Business Park (BP) and Open Space Residential (OSR) to \_\_\_ acres  
Detached Residential – 4 (DR 4) and \_\_\_\_\_ acres Open Space  
Residential (OSR)

PROPERTY: 100.041 Acres +/-;  
Tax Map Parcels 14-A-80 and 14-A-112 (the “Properties”)

RECORD OWNERS: Friant Enterprises #1, LLC, Friant Enterprises #2, LLC, and Friant  
Enterprises #3, LLC (collectively, the “Owners”)

APPLICANT: D.R. Horton, Inc. (the “Applicant”)

ORIGINAL DATE  
OF PROFFERS: \_\_\_\_\_, 2023

REVISION DATE(S): \_\_\_\_\_

---

The undersigned Owners hereby proffer that the use and development of the above-referenced parcels, which are requested to be rezoned, shall be in strict conformance with the following conditions, which shall supersede all other proffers on the Properties that may have been made prior hereto. In the event that the above-referenced conditional rezoning is not granted as applied for by the Owners, these proffers shall be deemed withdrawn and shall be null and void. Further, these proffers are contingent upon final rezoning of the Properties with “final rezoning” defined as that rezoning which is in effect on the day following the last day upon which the Town Council of the Town of Berryville, Virginia (the “Town”) decision granting the rezoning may be contested in the appropriate court. If the Town’s decision is contested, and the Owners elect not to submit development plans until such contest is resolved, the term rezoning shall include the day following entry of a final court order affirming the decision of the Town which has not been appealed, or, if appealed, the day following which the decision has been affirmed on appeal.

The headings of the proffers set forth below have been prepared for convenience or reference only and shall not control or affect the meaning or be taken as an interpretation of any provision of the proffers. The improvements proffered herein shall be provided at the time of development of that portion of the Properties adjacent to or including the improvement or other proffered requirement, unless otherwise specified herein. Any proffered conditions that would prevent the Owners from conforming with State and/or Federal regulations shall be considered null and void. The term “Owners” as referenced herein shall include within its meaning all future owners and successors in interest. When used in these Proffers, “MZP” shall refer to the plan entitled “Friant Master Zoning Plan” dated July 31, 2023 and revised November 8, 2023, and shall include the following:

1. LAND USE:

- 1.1 Residential development of the Properties shall be limited to a maximum of 198 single-family detached dwelling units in accordance with the requirements of the Town's Zoning Ordinance and Subdivision Ordinance.
- 1.2 The minimum amount of open space to be provided for the Properties, in their entirety, is twenty percent (20%) of the entire parcels subject to the rezoning which is generally 20.0082 acres as shown on the MZP.
- 1.3 The Properties shall be developed in general conformance with the MZP subject to minor modifications upon the time of final engineering.

2. SITE DEVELOPMENT:

- 2.1 Prior to the issuance of the 132<sup>nd</sup> occupancy permit, the Applicant shall install landscaping and screening to protect the viewshed of Bel Voi Manor located on the adjoining property identified as Clarke County Tax Map No. 14-A-81 in general conformance with the MZP.
- 2.2 Prior to the issuance of the 100<sup>th</sup> occupancy permit, the Applicant shall deliver a tot lot and workout stations which shall be installed on the Properties in general conformance with the MZP and design guidelines.
- 2.3 Prior to the issuance of the 100<sup>th</sup> occupancy permit, the Applicant shall deliver a public trail system which shall be installed on the Properties in general conformance with the MZP and design guidelines.
- 2.4 Prior to the issuance of the 132<sup>nd</sup> occupancy permit, the Applicant shall dedicate a portion of the open space in the subdivision as a scenic easement to an appropriate conservation authority or agency. The location of the scenic easement shall be in general conformance with MZP.
- 2.5 All development shall be in substantial conformance with the attached and incorporated Design Guidelines.

3. CREATION OF HOMEOWNERS' ASSOCIATION:

- 3.1 The Properties shall be made subject to a homeowners' association ("HOA") that shall be responsible for the ownership, maintenance and repair of all common areas, including any conservation areas that may be established in accordance herewith not dedicated to the Town or others, for each area subject to their jurisdiction, and shall be provided such other responsibilities, duties and powers as are customary for such associations or as may be required for such HOA herein. The HOA shall be created not later than the date upon which the first building permit is issued.
- 3.2 In addition to such other duties and responsibilities as may be assigned, the HOA shall have title to and responsibility for (i) all common open areas not otherwise

dedicated to public use, (ii) common buffer areas located outside of residential lots, and (iii) ownership and maintenance of stormwater management facilities. The HOA shall be responsible for all areas on the MZP that are not otherwise dedicated for public use.

4. SCHOOL/FIRE & SAFETY/POLICE/PROMOTION OF WALKABILITY:

4.1 The Applicant shall make a payment in the amount of One Thousand Two Hundred Two and 00/100 Dollars (\$1,202.00) per unit to be used to purchase new school bus[es] for Clarke County Schools, which was referenced in correspondence received from the Clarke County Schools Superintendent.

5. WATER & SEWER:

5.1 The Applicant shall be responsible for connecting the Properties to public water and sewer and for constructing all facilities required for such connection. All water and sewer infrastructure shall be constructed in accordance with the requirements of the Town.

5.2 The Applicant shall dedicate to the Town any and all water and sewer lines as well as any sewage pump stations constructed on the Properties, subject to the Town engineer's approval along with any necessary easements to permit access to and maintenance of said water lines, sewer lines, sewage pump stations, and any other associated public water and sewer improvements.

5.3 All provisions of Section 5 of the Proffers are also subject to the Town's existing water and sewer ordinances.

6. STORMWATER MANAGEMENT:

6.1 Stormwater management and Best Management Practices (BMP) for the Properties shall be provided in accordance with Virginia Stormwater Management Regulations and in substantial conformance with the MZP.

7. TRANSPORTATION:

7.1 Design of the roadway system shall be substantially consistent with the final approved MZP. The exact location and design of proffered improvements shall be subject to reasonable adjustment upon final engineering thereof, as approved by the Town Engineer.

7.2 Prior to the issuance of the first building permit, the Applicant shall install a temporary construction road and construction entrance from East Main Street through the adjoining property identified as Clarke County Tax Map No. 14-A-110 and across the property identified as Clarke County Tax Map No. 14-A-81 as needed and permitted to the Properties. Said temporary construction road and construction entrance shall be the sole means of access to and from the Properties

during the construction of the subdivision and the residential units. There shall be no construction traffic permitted to gain access to the subdivision via the existing Battletown community streets.

- 7.3 The connection from the Properties to Battletown Drive shall be designed to meet the Virginia Department of Transportation standards and shall be considered Emergency Access only unless otherwise acted upon by Council after all units are built out.
- 7.4 Within the Virginia Department of Transportation right of way and consistent with the terms of that agreement dated July 13, 1990 by and between Profundus Virginia Properties, Inc. and Friant Enterprises, and as recorded in Deed Book 207 at Page 44, in Deed Book 588 at Page 849, and in Plat Book 12 at Page 4, there will be the construction of a right turn taper on East Main Street that will be installed and/or construction of a left turn lane on East Main Street turning into the new entrance into the Profundus property when warranted by and approved by the Virginia Department of Transportation.
- 7.5 All public streets and roads shall be designed and constructed in accordance with the Virginia Department of Transportation subdivision street requirements and subject to review and approval by the Town.
- 7.6 All sidewalks shall be constructed in accordance with the Town's Zoning Ordinance and Subdivision Ordinance in the general locations as shown on the MZP to accommodate pedestrian movement.
- 7.7 There will be a payment to the Town in the amount of One Thousand Two Hundred and 00/100 Dollars (\$1,200.00) per unit to be used at the discretion of the Town and which is being made to allow for the installation of a sidewalk which shall connect the Properties along the existing right of way of Battletown Drive and to connect to the SmartScale sidewalk being installed on East Main Street.

8. ESCALATOR CLAUSE:

- 8.1 In the event the monetary contributions set forth in these Proffers are paid to the Town within eighteen (18) months of the approval of this rezoning, as applied for by the Owner, said contributions shall be in the amounts as stated herein. Any monetary contributions set forth in these Proffers which are paid to the Town after eighteen (18) months following the approval of this rezoning shall be adjusted in accordance with the Urban Consumer Price Index ("CPI-U") published by the United States Department of Labor, such that at the time the contributions are paid, they shall be adjusted by the percentage change in the CPI-U from that date eighteen (18) months after the approval of this rezoning to the most recently available CPI-U to the date the contributions are paid, subject to a cap of six percent (6%) per year, non-compounded.

9. EXCLUSION OF PUBLIC PROPERTY FROM PROFFERS:

9.1 Any portion of the Properties may hereafter be dedicated for public street purposes (or otherwise conveyed to a public entity) shall, upon such dedication, be excluded from the terms and conditions of these Proffers and the remainder of the Properties shall continue to be subject to the full force and effect of these Proffers.

10. SEVERABILITY:

10.1 In the event any portion of these Proffers are subsequently determined to be illegal or unenforceable, the remaining Proffers shall continue in full force and effect.

11. BINDING EFFECT:

11.1 These Proffers run with the land and shall be binding upon all heirs, executors, administrators, assigns and successors in interest of the Owners.

[The remainder of the page is intentionally left blank]

Respectfully submitted,

FRIANT ENTERPRISES #1, LLC

\_\_\_\_\_  
By:  
Its:

STATE/Commonwealth of \_\_\_\_\_, AT LARGE  
CITY/COUNTY OF \_\_\_\_\_, to-wit:

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_,  
2023, by \_\_\_\_\_, \_\_\_\_\_ of FRIANT ENTERPRISES #1,  
LLC.

\_\_\_\_\_  
NOTARY PUBLIC

My commission expires: \_\_\_\_\_  
Registration number: \_\_\_\_\_

FRIANT ENTERPRISES #2, LLC

\_\_\_\_\_  
By:  
Its:

STATE/Commonwealth of \_\_\_\_\_, AT LARGE  
CITY/COUNTY OF \_\_\_\_\_, to-wit:

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_,  
2023, by \_\_\_\_\_, \_\_\_\_\_ of FRIANT ENTERPRISES #2,  
LLC.

\_\_\_\_\_  
NOTARY PUBLIC

My commission expires: \_\_\_\_\_  
Registration number: \_\_\_\_\_

FRIANT ENTERPRISES #3, LLC

\_\_\_\_\_  
By:  
Its:

STATE/Commonwealth of \_\_\_\_\_, AT LARGE  
CITY/COUNTY OF \_\_\_\_\_, to-wit:

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_,  
2023, by \_\_\_\_\_, \_\_\_\_\_ of FRIANT ENTERPRISES #3,  
LLC.

\_\_\_\_\_  
NOTARY PUBLIC

My commission expires: \_\_\_\_\_  
Registration number: \_\_\_\_\_

D.R. HORTON, INC.

\_\_\_\_\_  
By:  
Its:

STATE/Commonwealth of \_\_\_\_\_, AT LARGE  
CITY/COUNTY OF \_\_\_\_\_, to-wit:

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_,  
2023, by \_\_\_\_\_, \_\_\_\_\_ of D.R. HORTON, INC.

\_\_\_\_\_  
NOTARY PUBLIC

My commission expires: \_\_\_\_\_  
Registration number: \_\_\_\_\_

# Planning Commission Agenda Item Report Summary

January 23, 2024

## Item Title

Set Public Hearing – Special Use Permit – Short-term rental

## Prepared By

Christy Dunkle

---

Paul Perez and Gail Gallagher, Owners, are requesting a special use permit in order to operate a short-term rental at the property located at 116A South Church Street, identified as Tax Map Parcel number 14A5-((A))-69, zoned R-2 Residential. SUP 01-24

## Background/History/General Information

Mr. Perez and Ms. Gallagher own the property referenced above. They have undertaken a renovation of an accessory structure, the former summer kitchen, which they would like to operate as a short-term rental.

In October of 2023, Town Council adopted requirements that would require a special use permit in order to operate a short-term rental. Other requirements include obtaining a business license, submitting Transient Occupancy Taxes to the Town, and completing the short-term rental registration form.

Section 503 of the Berryville Zoning Ordinance regulates special use permits. The Council may impose any conditions deemed appropriate in the public interest to secure compliance with the provisions of the ordinance. Once a special use permit is granted, the use shall not be enlarged, extended, increased in intensity or relocated unless authorized 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.

## Findings/Current Activity

The property is located within the local historic district as well as the national district.

### *Building Information*

The renovation of the former summer kitchen is anticipated to be completed within the next several months. At that time, a Certificate of Occupancy will be issued by the County Building Department.

### *Adjacent Zoning*

The property to the north and the east is zoned C General Commercial, property to the south and the west is zoned R-2 Residential.

### *Parking*

Section 305 of the Berryville Zoning Ordinance regulates parking. Section 305.9 identifies two spaces required for the dwelling and 1.25 for each guest room. Access to the property's driveway is off of Smithy Lane and offers a surplus of off-street parking to accommodate ordinance requirements.

### *Signage*

Up to six (6) square feet of signage is permitted in the R-2 zoning district for a business with a special use permit per Section 307.3(f).

### **Schedule/Deadlines**

Staff recommends that the Planning Commission set a public hearing for the February 27, 2024 meeting.

### **Other Considerations**

N/A

### **Recommendation**

Set a public hearing for the February 27, 2024 meeting.

### **Sample Motion**

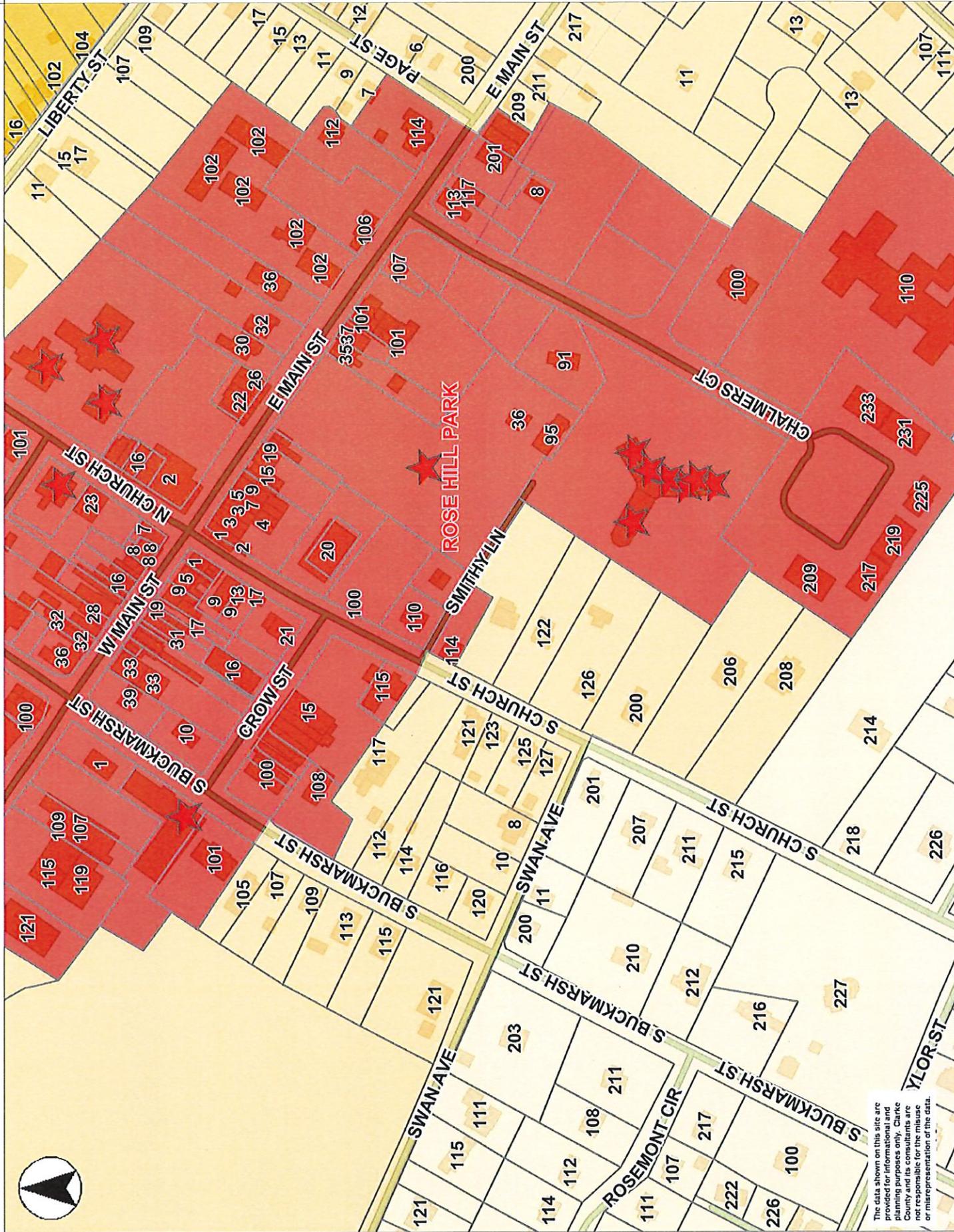
I move that the Planning Commission of the Town of Berryville set a public hearing for a special use permit in order to operate a short-term rental at 116A South Church Street for the February 27, 2024 meeting.

### **Attachments:**

- Vicinity and zoning map
- Site plan
- Letter from the applicant
- Photos of the structure

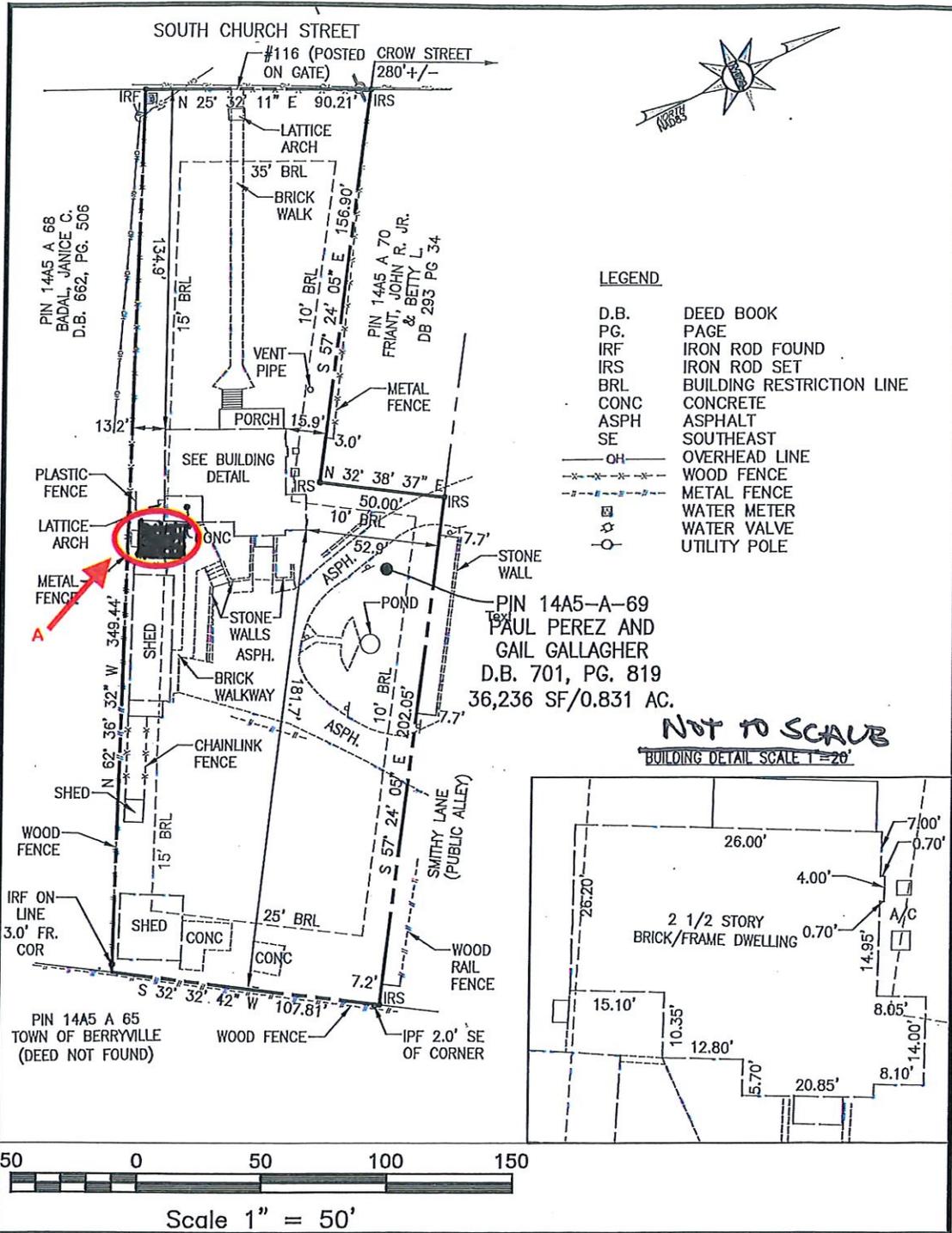


- Public
- Parcels
- Berryville Zoning
  - Detached Res-1 (DR)
  - Detached Res-2 (DR)
  - Detached Res-4 (DR)
  - Residential-1 (R-1)
  - Residential-2 (R-2)
  - Residential-3 (R-3)
  - Residential-4 (R-4)
  - Attached Res (AR)
  - Older Persons Res (OP)
  - Open Space Res (OS)
  - Business (B)
  - Business Park (BP)
  - Bus Commercial (BC)
  - Light Commercial (LC)
  - Drivon Commercial (DC)
  - Light Industrial (L-1)
  - Institutional (ITL)
- County Zoning
  - Rural Residential (RR)
  - Commercial Nibbe (C)
  - Commercial Heavy (CH)
  - Ag (A)
  - Forest/OS/Conserv (FC)
- Clarke County Boundary
- Major Roads
  - Interstate
  - US Highway
  - State Highway
- Surrounding Counties Opa
- Clarke County Roads
  - Private Roads
  - Roads
- Rail
- Buildings
- Appalachian Trail
- Streams
  - Perennial Streams
  - Intermittent Streams
- Ponds
- Rivers



The data shown on this site are provided for informational and planning purposes only. Clarke County and its consultants are not responsible for the misuse or misrepresentation of the data.



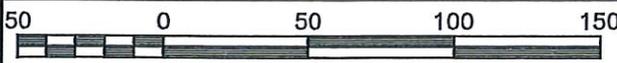
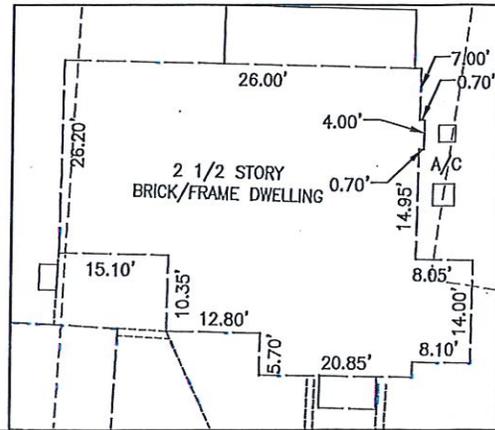


**LEGEND**

D.B.	DEED BOOK
PG.	PAGE
IRF	IRON ROD FOUND
IRS	IRON ROD SET
BRL	BUILDING RESTRICTION LINE
CONC	CONCRETE
ASPH	ASPHALT
SE	SOUTHEAST
— OH —	OVERHEAD LINE
— X — X — X —	WOOD FENCE
— — — — —	METAL FENCE
⊠	WATER METER
⊙	WATER VALVE
○	UTILITY POLE

**PIN 14A5-A-69**  
**PAUL PEREZ AND**  
**GAIL GALLAGHER**  
 D.B. 701, PG. 819  
 36,236 SF/0.831 AC.

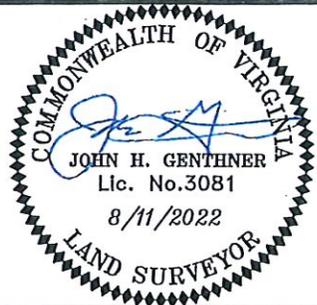
**NOT TO SCALE**  
 BUILDING DETAIL SCALE 1"=20'



Scale 1" = 50'

**PROPERTY INFORMATION:**  
 OWNERS: PAUL PEREZ AND GAIL GALLAGHER  
 ADDRESS: 116 S CHURCH ST  
 BERRYVILLE VA 22601  
 REFERENCE: D.B. 701, PG. 819

**FLOOD INFORMATION:**  
 MAP NUMBER: 51043C0063D  
 PANEL: N/A  
 DATE: 09/28/2007  
 ZONE: X



**NOTES:**  
 1) THIS PLAT WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT.  
 2) EASEMENTS MAY EXIST THAT ARE NOT SHOWN ON THIS PLAT.  
 3) THE BOUNDARY INFORMATION SHOWN HEREON IS BASED ON A SURVEY PERFORMED BY MORRIS AND RITCHIE ASSOCIATES COMPLETED ON AUGUST 11, 2022.



**MORRIS & RITCHIE ASSOCIATES, INC.**  
 ENGINEERS, ARCHITECTS, PLANNERS, SURVEYORS AND LANDSCAPE ARCHITECTS  
 604 SOUTH KING STREET  
 LEESBURG, VA 20175  
 (703) 994-4047  
 www.mragta.com

**BOUNDARY AND PHYSICAL IMPR. SURVEY**  
 SHOWING THE PROPERTY OF  
**PAUL PEREZ AND**  
**GAIL GALLAGHER**  
 TOWN OF BERRYVILLE, VIRGINIA

SCALE: AS NOTED	DATE: 08/11/22	DRAWN BY: NAB	DESIGN BY: N/A	REVIEW BY: JHG
-----------------	----------------	---------------	----------------	----------------

January 11, 2024

To Berryville Planning Commission,

After one look at the property at 116-118 South Church Street in May 2022, we knew that we had found our next home. One of the most appealing features were several outbuildings in the backyard. The one closest to the house was near the point of collapse with decaying wood siding and crumbling plaster. Because of the dire need and its suspected history, we began focusing on how to renovate it.

So far it has been a year-long process of architectural design, permits, and construction. During that time, we have gathered information that indicates the structure was built by 1870 at the latest and was likely used as a summer kitchen for the main house.

We have tried to salvage whatever we could and incorporate it back into the building, but we also brought it into the present by adding water, electricity and a bathroom. Every detail of the kitchen house has been carefully designed and selected.

Although we had not originally renovated for the purpose of a rental, we have decided to do this as an option for weekends. It is a prime location to anything in town and we have ample parking. Our property had formerly housed an antique store. (Originally the property was a carriage factory.) We hope to begin weekend rentals in the late spring or early summer of this year.

Most importantly, we would like to share this rare piece of history with others. It has been a blessing to be able to save this structure and imagine the joy that the people who worked here would have if they could return.

Sincerely,  
Gail Gallagher and Paul Perez

