

BERRYVILLE PLANNING COMMISSION
Berryville-Clarke County Government Center
Organizational Meeting Minutes
January 27, 2024

A meeting of the Berryville Planning Commission was held on Tuesday, January 27, 2024 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: none

1. Call to Order – Christy Dunkle

Ms. Dunkle called the meeting to order at 7:00 p.m.

2. Election of Officers – Chair and Vice Chair

She asked for nominations for chair and vice chair. Ms. Malone made the motion, seconded by Ms. Marino, that Mr. Steinmetz and Ms. Kemp retain the positions of chair and vice chair, respectively. The motion passed by voice vote.

3. Approval of Meeting Dates

Ms. Marino made the motion to approve the 2024 meeting dates as amended, seconded by Ms. Malone. The motion passed by voice vote.

4. Approval of Agenda

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

5. Approval of Meeting Minutes

Ms. Malone made the motion to approve the minutes of the November 28, 2023 meeting as presented, seconded by Ms. Marino. The motion passed by voice vote.

6. 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

Chair Steinmetz recognized Ty Lawson, representing D.R. Horton, Inc. Mr. Lawson discussed updated proffers and reviewed the by-right zoning that includes light industrial and residential districts. He discussed traffic impacts of the by-right scenario and the current request adding that there are an estimated 1,878 average daily trips with the by-right zoning. He referenced current transportation network and proposed cluster development, adding that the units originally located in Sub-Area 16 have been removed. He said there will be full connections to the street on the Audley property which will be gated and accessible to emergency and Town personnel. Mr. Lawson discussed cash proffers that could be used by the Town to construct a sidewalk on Battletown Drive. He added that this sidewalk will connect with the proposed future sidewalk on East Main Street.

Mr. Lawson said that the applicant has offered \$1,202 per lot for Clarke County Public Schools which would fund two new school buses. He said the road improvements have been proffered to the Town and approved by VDOT. He discussed the design guidelines and the fiscal impact analysis which is net tax-positive for the Town and the County. He said the applicant will pay over six-million dollars in availability fees and approximately \$362,387 into the enterprise funds. He added that the developer pays for all of the infrastructure installation.

Chair Steinmetz asked if Commissioners if they had any questions. Mr. Parker inquired about the status of access and utility easement on the Emma property. Mr. Lawson said that the plan and the road plans are proffered and that the approval is subject to that agreement. He said that according to property title research, the driveway is a dedicated right-of-way that runs the length of the driveway through the Friant property. He said the developer would grant the right-of-way to the Town and dedicate water and sewer easements. He said that an agreement is under discussion with the property owner for utility easements at the rear of the property. Mr. Parker asked if there was an alternative route for the utilities. Ms. Dunkle said she did not have that information. Mr. Parker asked if the Town would be required to take any action on the property owner for easements. Mr. Lawson replied that the plan under review does not ask for that.

Chair Steinmetz asked if there were additional questions from the Commissioners. There were none.

Chair Steinmetz opened the public hearing.

Chair Steinmetz recognized Tim Sinclair, Town resident. Mr. Sinclair said he is still concerned about the traffic burden this subdivision would create. He discussed traffic on Main Street and solutions to accommodate the 1,900 trips per day generated from the subdivision adding that this would create a 20% increase in downtown traffic. He said the Town has been trying to look at traffic upgrades on the east end for years. He said BADA members are at a crossroads with the southeast collector adding that this is not a priority project, is cost prohibitive to both governments, and the working solution

that is not favored by many of them is that this must be a developer-funded project if they can be enticed to build their own project. He concluded that the truck traffic is here to stay for the foreseeable future. He said there is not much momentum to build the collector road moving forward. Mr. Sinclair said widening Main Street for turn lanes would not be possible adding that there is nothing to mitigate to accommodate the traffic. He discussed zoning types in the plan which references low- and medium-density development around the core of the Town in the Hermitage and Battlefield Estates developments. Mr. Sinclair said that nothing is available to mitigate traffic except the reduction of units. He said David Weiss indicated that when they wrote the original BADA plan, they did not anticipate that all of the unused lots would go to one specific property. He concluded by saying that the Planning Commission has public support to put forth the denial.

Chair Steinmetz recognized Mary Veilleux, Town resident. She said that the vast majority of Town and County residents oppose this request. She said citizens have little opportunity for feedback and no idea if their voices are being heard because they are given no opportunity to hear the Commission members' viewpoints. She added that there are no provisions for dialog. She asked what other deals D.R. Horton is working on the side that the public has no knowledge of. She asked if they have considered the unintended consequences of overdevelopment in Berryville, asking if this is the legacy they want to leave behind. Ms. Veilleux said her third question is will the members of the Commission have the courage to recommend what is right and good for Berryville and the County. She said if money and proffers are the all-encompassing and main factor in making this recommendation, then we will all suffer in ways we cannot conceive of. She said to stick to the plan and reject the rezoning request.

Chair Steinmetz recognized Turner Kobayashi, County resident. Mr. Kobayashi said he is the general manager of Audley Farm. He said there is only one in and out of the proposed subdivision with an anticipated 2,000 daily trips from the site. He said the road is outside of the easement granted on the Audley property adding that additional turn lanes would encroach on either the Audley or Clermont properties. He said Audley representatives question the validity of the easement on their property. He said that 50 concerned citizens are against this development and only one public voice is for it adding that the sentiment is quite clear. He said safety, traffic congestion, track record of D.R. Horton, fire and rescue concerns, schools, aesthetics, and site concerns of an out-of-town developer and owners are a concern. He said to listen to constituents and vote against the development.

Chair Steinmetz recognized Julie Abrera, Town resident. Ms. Abrera said that the developer can demonstrate on paper that this property can support 198 new homes. She said a sense of community and connection is missing and creating these large pockets of development is robbing residents of this opportunity. She said the stream of cars leaving in the morning and returning in the evening with goods purchased outside of the community is creating a place where people live and not thrive. She said it is time to think about development beyond dollars and utility hook-up fees. Ms. Abrera said we are living on borrowed time and adjacent communities are competing with us for resources. She said the 198 units proposed is not the answer, adding that it needs to be kept to a human scale. She asked if we can work together to create a plan that doesn't create or add to the problems we are already dealing with.

Chair Steinmetz recognized Tait Simmons, County resident. Ms. Simmons said she is a teacher and a farmer. She said we are located between the two fastest growing counties in the US, Loudoun and Frederick. She said the Berryville Area Plan was made prior to the current state legislature. She said several bills are under consideration to limit carbon use and prohibit fossil fuel continuance by 2035. She said that should it become a state law, the burden will be on the Town of Berryville and Clarke County to provide requirements for this many new residents. Ms. Simmons said this land is priceless for carbon capture and that could be too costly in the end.

Chair Steinmetz recognized Wingate Mackay-Smith, County resident. She discussed sliding scale zoning in the County and that Clarke County has been a model for steady growth. She said she has been a member of the County Planning Commission, sub-committees, and the County Board of Zoning Appeals and has learned from the experts. She said the Clarke County Conservation Easement Authority offers open space that directly contributes to lower taxes for all residents. She said she served on the Berryville Area Development Authority that reviewed and updated the plan. Ms. Mackay-Smith said that Berryville has an excellent plan for growth and that making exceptions to the plan to accommodate developers is a slippery slope. She said planning is based on population growth and how the resources can handle it and where. Ms. Mackay-Smith added that people cost money based on the cost of community services. She concluded by saying that she strongly opposes increasing the density in this location and that planning means thinking ahead.

Chair Steinmetz recognized David Pratt, County resident. Mr. Pratt said he is proud of the citizens and his friends who are taking action, adding that he is frustrated and angry because the system seems rigged. He asked how we get into the situation where a corporation that has physical evidence of what they are capable of creating which is ugly, cheaply made, and is designed to be a money-making machine. He said that he is a product of the suburbs and purchased a beautiful home outside Kearneysville, WV, adding that he has commuted his whole life. Mr. Pratt said this was the ugliest, worst looking subdivision he has ever seen in his whole life anywhere in America. He said that to think that this builder will be able to build more is astounding.

Chair Steinmetz recognized Brian Snyder, Town resident. Mr. Snyder said he has spoken twice at previous hearings. He referenced others who previously spoke against the development and only two who spoke in favor. He discussed increased costs associated with increased services, school resources, and utility infrastructure which would offset any additional revenue. He addressed diversity and the need for a mix of housing types for that to occur. He discussed the proposed proffer intended for a sidewalk on Battletown Drive adding that the street was not designed for curb, gutter, and sidewalk and the cost to build the sidewalk would be in excess of the amount proffered. He said increased traffic, as residents return to work, will further degrade the intersection of East Main Street and the Route 7 Bypass.

Chair Steinmetz recognized Robert Lauten, Town resident. Mr. Lauten said he agreed with previous speakers and that it is almost unanimous that Town and County residents oppose the request adding that this rezoning may not be in the best interest of the Town. He said that the developer had offered

some amenities including a ball field at the Soldiers Rest property which was not constructed. He said the request has created an awful traffic situation, referencing a pipestem that bypasses the Battletown Drive neighborhood, access off a farm road that the Town owns and gated streets that no one can access that all create an awkward result that had not been thought out. He suggested that the industrially-zoned property be accessed from Cattlemans Lane. Mr. Lauten said that it may make sense to access this area for light-industrial and neighborhood traffic too adding that it would take some creativity and thought to make that happen. He referenced density that would leapfrog from half acre lots in his neighborhood to smaller properties on this parcel.

Chair Steinmetz recognized Sam Card, Town resident. Mr. Card said that at the previous public hearings, there were complaints made about poor quality homes. He said Bel Voi means “good view” and that John Friant would not want to see his property desecrated. He said that the proposed area for the playground is located in a wetlands area and that it had environmental and social impacts. He said that Berryville needs a thriving downtown and discussed family members who had lived in the area. He concluded by saying do it right or don’t do it at all.

Chair Steinmetz recognized Bob Steig, County resident. Mr. Steig said he is the CEO of the Clermont Foundation and offered information about the farm and its location. He said that it is dangerous to have one access point from the proposed development. He said that the 1,892 average daily trips added to existing traffic and tractor trailers will create congestion in this area. He said that the traffic study indicated there were zero trips coming from the institutional entrance to Clermont, adding that school buses, deliveries, visitors, farm vehicles, and others frequent the site. He voiced concerns about left turning movements and that the current posted speeds are dangerous. He said the trustees of the organization recommend denial of the request.

Chair Steinmetz recognized Michael Wilson, County resident. Mr. Wilson referenced Ms. Mackay-Smith’s comments and said that residential building creates negative tax revenues. He said that all of the infrastructure is no good if there is no water, reminding Commissioners of the drought in 1987 – 1992 and referencing the current drought in Berryville. He said the developer and the people selling the property benefit from the project. He said the public will is clear. He said in 1991, Purcellville was like Berryville and that we need to learn from these things.

Chair Steinmetz recognized Sara Stern, Town resident. Ms. Stern said that despite concessions made by the developer, the basics have not changed. She said any town that allows a level of development so dense that it cannot be allowed to connect to existing streets for better traffic flow and cohesion with the neighbors with only one point of access is the wrong type of development. She said it feels like the Town is concerned about unused lots, adding that even if there are no areas now, there will be other areas for development that are better suited for this density. She recommended sticking with the plan and denying the request for rezoning.

Chair Steinmetz recognized Mike LeBlanc, County resident. Mr. LeBlanc said that he owns a house on Battletown Drive. He said contractors ran into rock when a new water line was installed and it took two weeks to complete the project. He said big excavating equipment will be a nuisance to residents

adding that blasting is not safe. He said that stormwater has nowhere to go and that there is no drainage whatsoever. He recommended sticking to the original plan.

Chair Steinmetz recognized Matthew Swanson, Town resident. Mr. Swanson said that he had recently moved to Berryville from Prince William County where he experienced overcrowding. He said that his kids used to be safe playing there and has that safety again in Berryville. He recognized the Clarke County school system and said that if the system is overwhelmed, the students will lose their connection.

Chair Steinmetz recognized Lauren Heck, County resident. Ms. Heck voiced concern about floodplain areas adding that there are too many lots proposed for this development. She said she moved to the community because there was not a CVS and asked that this is done differently.

Chair Steinmetz asked for additional comments. There were none. Mr. Bell made the motion to close the public hearing, seconded by Ms. Malone. The motion passed by voice vote.

Chair Steinmetz addressed comments about resident and Planning Commission discourse. He said he is open to conversations adding that many people have given him their opinions but have not asked for his. He said Citizens' Forums are available at every meeting adding that more information is available from staff and said no one is shutting residents out.

Discussion of Public Hearing

Vice Chair Kemp thanked attendees for coming to the meeting. She said she did not have any additional questions.

Chair Steinmetz asked if there were additional comments. Ms. Malone thanked residents for coming to the meeting. She said she had listened to residents. She said one of the things she takes personally is that Planning Commissioners are stewards of the land. She reiterated that Planning Commissioners have heard you.

Mr. Parker said he was prepared to make a motion. He thanked the audience for attending. He referenced Ms. Mackay-Smith's comments and experience. He said he thinks the Berryville Area Plan set out what was envisioned at that time. He added there was a little room to use the unallocated units which have been under consideration. He said Planning Commissioners and staff have given due consideration to the request and he finds that what has been proposed is not appropriate for the location or the character of the Town. He questioned some of the school fiscal impact information adding that he has calculated over \$200,000 a year in impacts.

There being no further discussion, Mr. Parker made the motion to recommend that Council deny the request to include additional density created by a rezoning of the parcels identified as 14-A-80 and 14-A-112 due to the density being inappropriate for the proposed location and for the character of the Town of Berryville. Ms. Kemp seconded the motion. The motion was approved by voice vote.

7. Citizens' Forum

There were no comments.

8. New Business – Set Public Hearing – Special Use Permit for Short-Term Rental

Ms. Dunkle said that Mr. Perez and Ms. Gallagher are requesting a special use permit for a short-term rental. She said that zoning and town code regulations have been implemented for this use and this is the first application for short-term rentals. Ms. Dunkle explained that the applicants have renovated a summer kitchen on their property and would like to offer accommodation. Commissioners were interested in a site visit to the property prior to the public hearing. There was a discussion about the house and the renovation. She said one of the new requirements is a Certificate of Occupancy which is critical for this use. Ms. Malone made the motion to set the public hearing for the February 27 meeting, seconded by Vice Chair Kemp, the motion passed by voice vote.

9. Planning Update

There was no update.

10. Other

There was no other business.

11. Adjourn

Mr. Bell made the motion to adjourn the meeting, seconded by Ms. Marino. The meeting was adjourned at 7:55 p.m.

William Steinmetz, Chair

Christy Dunkle, Secretary