

BERRYVILLE TOWN COUNCIL
Tuesday, November 9, 2010
Berryville-Clarke County Government Center
Regular Meeting
6:45 p.m.

MINUTES

Roll:

Town Council:

Present: Wilson Kirby, Mayor; Harry Lee Arnold, Jr., Recorder; Mary Daniel; Allen Kitselman; David Tollett; Lawrence Russell, III

Staff: Keith Dalton, Town Manager; Christy Dunkle, Town Planner/Assistant Town Manager; Neal White, Chief of Police; Dave Tyrrell, Director of Utilities; Celeste Heath, Town Clerk

Press: Mike Dowling, ClarkeDailyNews.com; Becky Lane, Winchester Star

1. Call to Order – Wilson Kirby, Mayor

Mayor Kirby called the meeting to order at 6:45 p.m.

2. Closed Session –Pursuant to Va. Code §2.2- 3711(A)(7) for consultation with legal counsel regarding probable litigation concerning the Joint Government Center HVAC system, for consultation with legal counsel for legal advice regarding zoning legal issues related to recent legislative enactments, and for consultation with legal counsel regarding probable litigation concerning the wastewater treatment plant.

a. Motion to enter Closed Session

It was moved by Council member Russell, seconded by Council member Kitselman that the Council of the Town of Berryville enter Closed Session pursuant to Va. Code §2.2-3711(A)(7) for consultation with legal counsel regarding probable litigation concerning the Joint Government Center HVAC system, for consultation with legal counsel for legal advice regarding zoning legal issues related to recent legislative enactments, and for consultation with legal counsel regarding probable litigation concerning the wastewater treatment plant.

VOTE:

Recorded Vote:

Ayes: Wilson Kirby, Mayor
 Harry Lee Arnold, Jr., Recorder
 Allen Kitselman
 Lawrence Russell, III
 David Tollett

Nays: None

Abstain: None

Absent During Vote: Mary Daniel

b. Enter Closed Session

The Town Council entered closed session at 6:46 p.m. Council member Daniel entered at 6:46 p.m.

- c. Reconvene Open Session
The Town Council reconvened in open session at 7:37 p.m.
- d. Certification of Closed Session

Town of Berryville
RESOLUTION

MEETING DATE: November 9, 2010

MOTION BY: Mary Daniel

SECOND BY: Allen Kitselman

CERTIFICATION OF CLOSED SESSION

WHEREAS, the Council of the Town of Berryville, Virginia (Council), has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of The Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3712.D of the Code of Virginia requires a certification by this Council that such closed meeting was conducted in conformity with Virginia law,

NOW, THEREFORE, BE IT RESOLVED that the Council hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Council.

VOTE:

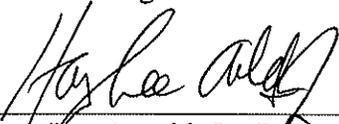
Recorded Vote:

Ayes: Wilson Kirby, Mayor
Harry Lee Arnold, Jr., Recorder
Mary Daniel
Allen Kitselman
Lawrence Russell, III
David Tollett

Nays: None

Abstain: None

Absent During Vote: None



Harry Lee Arnold, Jr., Recorder

3. Public Hearing - The Town of Berryville Planning Commission recommends modifications to the Berryville Zoning Ordinance concerning Assisted Living Facilities.

Mayor Kirby opened the public hearing at 7:38 p.m. There were no public comments. The public hearing was closed at 7:39 p.m.

4. Public Hearing - The Town of Berryville Planning Commission recommends modifications to the Berryville Zoning Ordinance concerning Temporary Family Health Care Structures.

Mayor Kirby opened the public hearing at 7:39 p.m. There were no public comments. The public hearing was closed at 7:40 p.m.

5. Public Hearing - The Town of Berryville Planning Commission sponsors an amendment to Section 607.3 of the Town of Berryville Zoning Ordinance as requested by Jay Hillerson (Agent) establishing “recreation, commercial indoor” as a use by Special Permit in the C-1 Commercial Zoning District.

Mayor Kirby opened the public hearing at 7:40 p.m. There were no public comments. The public hearing was closed at 7:41 p.m.

**BERRYVILLE TOWN COUNCIL
PUBLIC HEARING NOTICE**

The Berryville Town Council will hold the following public hearings at 7:30 p.m., or as soon after as these matters may be heard, on Tuesday, November 9, 2010, in the Main Meeting Room, Second Floor, of the Berryville/Clarke County Government Center, 101 Chalmers Court, Berryville, Virginia to consider the following:

The Town of Berryville Planning Commission is recommending modifications to the Berryville Zoning Ordinance concerning Assisted Living Facilities as follows:

- Amendment of Article I, Section 102 of the Berryville Zoning Ordinance in order to establish a definition for "Assisted Living Facility";
- Amendment of Article I, Section 102 of the Berryville Zoning Ordinance in order to modify the definition of "dwelling, single-family";
- Amendment of Article I, Section 102 of the Berryville Zoning Ordinance in order to modify the definition of "family day home";
- Deletion of Sections 605.3(g); 606.3(h); and 614.3(d) of the Berryville Zoning Ordinance removing "housing for the elderly requiring medical and/or food support structures" as a use by Special Permit.

The Town of Berryville Planning Commission is recommending modifications to the Berryville Zoning Ordinance concerning Temporary Family Health Care Structures as follows:

- Amendment of Article I, Section 102 of the Berryville Zoning Ordinance in order to establish a definition for "Temporary Family Health Care Structure";
- Amendment of Article III, establishing Section 323 so as to regulate "Temporary Family Health Care Structures";
- Amendment adding "temporary family health care structures" as an accessory structure to the R-1; R-2; R-3; OSR, DR-1; DR-2; DR-4 and AR zoning districts.

The Town of Berryville Planning Commission is sponsoring an amendment to Section 607.3 of the Town of Berryville Zoning Ordinance as requested by Jay Hillerson (Agent) establishing "recreation, commercial indoor" as a use by Special Permit in the C-1 Commercial Zoning District. TA 04-10

Copies of the applications, amendments, and maps may be examined at the Berryville Planning Office, Berryville Clarke County Government Center, 101 Chalmers Court, Second Floor, Berryville, Virginia during regular business hours. Additional information may be obtained by calling Assistant Town Manager Christy N. Dunkle at 540/955-4081.

Any person desiring to be heard regarding the above matters should appear at the appointed time and place. Written copies of statements at public hearings are requested but not required.

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

By order of the Town Council
Keith R. Dalton, Town Manager

6. Approval of Minutes

October 12, 2010

Upon motion by Council member Tollett, seconded by Recorder Arnold, the minutes of the October 12, 2010 meeting were approved with Council member Kitselman abstaining.

October 26, 2010 Community Improvements Committee Meeting

Mr. Kitselman was the only member of the committee in attendance and approved the minutes of the October 26, 2010 Community Improvements Committee meeting.

October 27, 2010 Police and Security Committee Meeting

Upon motion by Council member Tollett, seconded by Council member Daniel, the minutes of the October 27, 2010 Police and Security Committee Meeting were approved.

7. Citizen's Forum:

Stan Kerns, Barns of Rose Hill said that he looks forward to reporting to the Council on the progress of the Barns of Rose Hill each month. He said that the project is a gift to the citizens of Berryville and that the project is 25 to 30 percent complete.

Scott Smalley, representing the Darbybrook Homeowner's Association, introduced June Higgins, President of the HOA and Robin Betz, Vice-President of the HOA. He said that the HOA is in the preliminary stages of discussing the possibility of transferring ownership of the stormwater pond and perhaps other common areas to the Town. He said the model that they wish to discuss is the one used with the Hermitage stormwater management pond in which a fund was created to handle maintenance of the pond. He noted that if the fund ever runs out, the town can come back and assess the homeowners for an additional amount.

8. Report of the Mayor

Mayor Kirby recognized Chief White to speak about an award received by Officer Terry Fritts. Chief White said that Officer Fritts received the award of Officer of the Year from the Horseshoe Curve Benevolent Association in recognition of a situation in which he resuscitated a young man who was not breathing when he arrived on the scene.

9. Planning and Zoning Matters Christy Dunkle

Ms. Dunkle said that there are several action items related to the public hearings. She said that the first two public hearings are regarding changes required by a 2010 amendment to the State Code concerning Assisted Living Facilities and Temporary Family Health Care Structures.

She said that the first public hearing regarding Assisted Living Facilities was advertised in the Winchester Star on October 26 and November 2, 2010 and that no comments were received in the Planning Office. She said that the Berryville Planning Commission held public hearings on these matters at their meeting on September 28, 2010 and recommend that the Town Council approve the changes as drafted.

Upon motion by Council member Kitselman, seconded by Council member Daniel, the Council of the Town of Berryville approved the attached ordinance amending Article 1, Section 102, of the Berryville Zoning Ordinance establishing the definition for “assisted living facility.”

VOTE:

Recorded Vote:

Ayes:

Wilson Kirby, Mayor
Harry Lee Arnold, Jr., Recorder
Mary Daniel
Allen Kitselman
Lawrence Russell, III
David Tollett

Nays:

None

Abstain:

None

Absent During Vote:

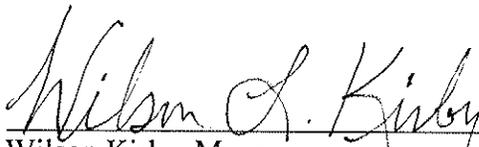
None

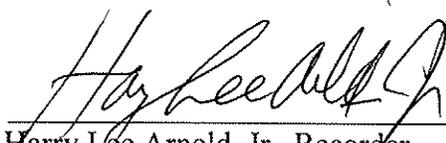
AN ORDINANCE AMENDING
ARTICLE I, SECTION 102, SPECIFIC TERMS,
OF THE TOWN OF BERRYVILLE ZONING ORDINANCE

BE IT ORDAINED, by the Council of the Town of Berryville, that Article I, Section 102 Specific Terms, of the Town of Berryville Zoning Ordinance shall be established as follows:

SECTION 102

(11/10) Assisted Living Facility – a residential facility in which no more than eight individuals with mental illness, mental retardation, or developmental disabilities reside, with one or more resident counselors or other staff persons, as residential occupancy by a single family.

SIGNED: 
Wilson Kirby, Mayor

ATTEST: 
Harry Lee Arnold, Jr., Recorder

Upon motion by Recorder Arnold, seconded by Council member Tollett, the Council of the Town of Berryville approved the attached ordinance amending Article I, Section 102, of the Berryville Zoning Ordinance deleting “housing for the elderly requiring medical and/or food support structures” as a use by Special Permit in Sections 605, 606 and 614 of the Zoning Ordinance.

Council member Daniel noted that all these changes are required by a new Virginia Statute. Ms. Dunkle said that this specific instance amends an existing definition to conform to the state code.

VOTE:

Recorded Vote:

Ayes:

Wilson Kirby, Mayor
Harry Lee Arnold, Jr., Recorder
Mary Daniel
Allen Kitselman
Lawrence Russell, III
David Tollett

Nays:

None

Abstain:

None

Absent During Vote:

None

AN ORDINANCE AMENDING
ARTICLE VI, SECTIONS 605, 606 AND 614,
OF THE TOWN OF BERRYVILLE ZONING ORDINANCE

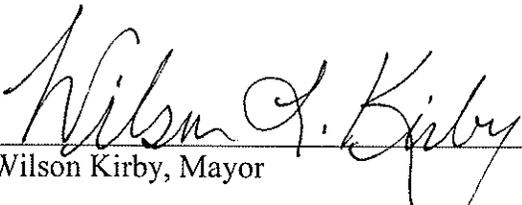
BE IT ORDAINED, by the Council of the Town of Berryville, that Article VI, Section 605.3(g); Section 606.3(h); and Section 614.3(g), of the Town of Berryville Zoning Ordinance shall be deleted as follows:

Section 605.3(g) – Housing for Older Persons requiring medical and/or food support services

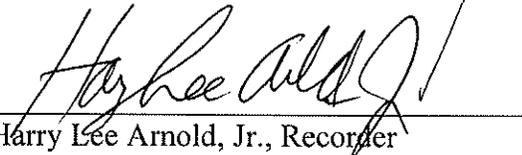
Section 606.3(g) – Housing for Older Persons requiring medical and/or food support services

Section 614.3(g) – Housing for Older Persons requiring medical and/or food support services

SIGNED:


Wilson Kirby, Mayor

ATTEST:


Harry Lee Arnold, Jr., Recorder

Upon motion by Recorder Arnold, seconded by Council member Kitselman, the Council of the Town of Berryville approved the attached ordinance amending Article I, Section 102, of the Berryville Zoning Ordinance amending the definition for “family day home” by increasing the number of residents permitted in a family day home from five (5) to eight (8).

Council member Daniel recused herself from this vote.

VOTE:

Recorded Vote:

Ayes:	Wilson Kirby, Mayor Harry Lee Arnold, Jr., Recorder Allen Kitselman Lawrence Russell, III David Tollett
Nays:	None
Abstain:	Mary Daniel
Absent During Vote:	None

AN ORDINANCE AMENDING
ARTICLE I, SECTION 102, SPECIFIC TERMS,
OF THE TOWN OF BERRYVILLE ZONING ORDINANCE

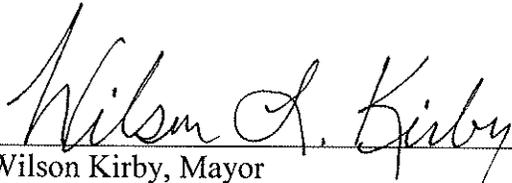
BE IT ORDAINED, by the Council of the Town of Berryville, that Article I, Section 102 Specific Terms, of the Town of Berryville Zoning Ordinance shall be amended as follows:

SECTION 102

(11/10) family day home - A day care program offered in the residence of the provider or the home of any person in care for one through **five eight** persons, exclusive of the provider's own immediate family members and any persons who reside in the home, when at least one person receives care for compensation. The persons receiving care may be either children ("child care") or adults ("elder care" or "adult care").

As provided in Section 15.1-486.5 of the Code of Virginia, as amended, any family day home serving one through **five eight** persons (as defined above) shall be considered to be for all zoning purposes, residential occupancy by a single family. Such a family day home shall be allowed wherever a family (See definition.) is permitted to occupy a dwelling. No additional permits or conditions may be imposed on such a use.

SIGNED:


Wilson Kirby, Mayor

ATTEST:


Harry Lee Arnold, Jr., Recorder

Ms. Dunkle said that the second public hearing regarding Temporary Family Healthcare Structures was advertised in the Winchester Star on October 26 and November 2, 2010 and that no comments were received in the Planning Office. She said that the Berryville Planning Commission held public hearings on these matters at their meeting on September 28, 2010 and recommend that the Town Council approve the changes as drafted.

Upon motion by Council member Kitselman, seconded by Council member Daniel, the Council of the Town of Berryville approved the attached ordinance amending Article I, Section 102, of the Berryville Zoning Ordinance establishing a definition for "Temporary Family Health Care Structure."

VOTE:

Recorded Vote:

Ayes:

Wilson Kirby, Mayor
Harry Lee Arnold, Jr., Recorder
Mary Daniel
Allen Kitselman
Lawrence Russell, III
David Tollett

Nays:

None

Abstain:

None

Absent During Vote:

None

AN ORDINANCE AMENDING
ARTICLE I, SECTION 102, SPECIFIC TERMS,
OF THE TOWN OF BERRYVILLE ZONING ORDINANCE

BE IT ORDAINED, by the Council of the Town of Berryville, that Article I, Section 102 Specific Terms, of the Town of Berryville Zoning Ordinance shall be amended as follows:

SECTION 102

(11/10) Temporary Family Health Care Structure – A structure that shall be (i) for use by a caregiver in providing care for a mentally or physically impaired person and (ii) on property owned or occupied by the caregiver as his/her residence as a permitted accessory use as established in Section 323 of the Town of Berryville Zoning Ordinance.

SIGNED: Wilson D. Kirby
Wilson Kirby, Mayor

ATTEST: Harry Lee Arnold, Jr.
Harry Lee Arnold, Jr., Recorder

Upon motion by Council member Kitselman, seconded by Council member Daniel, the Council of the Town of Berryville approved the attached ordinance amending Article III, Section 323, of the Berryville Zoning Ordinance establishing regulations for Temporary Family Health Care Structures.

VOTE:

Recorded Vote:

Ayes: Wilson Kirby, Mayor
Harry Lee Arnold, Jr., Recorder
Mary Daniel
Allen Kitselman
Lawrence Russell, III
David Tollett

Nays: None

Abstain: None

Absent During Vote: None

AN ORDINANCE AMENDING
ARTICLE III, SECTION 323, TEMPORARY FAMILY HEALTH CARE
STRUCTURE,
OF THE TOWN OF BERRYVILLE ZONING ORDINANCE

BE IT ORDAINED, by the Council of the Town of Berryville, that Article III, Section 323, Temporary Family Health Care Structure, of the Town of Berryville Zoning Ordinance shall be established as follows:

SECTION 323 – Temporary Family Health Care Structure (11/10)

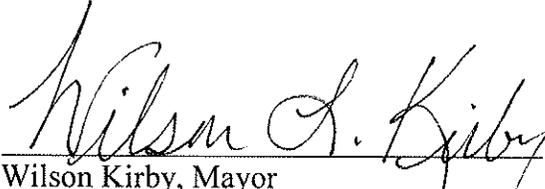
323.1 Provisions for Temporary Family Health Care Structures

- (a) A Temporary Family Health Care Structure shall be (i) for the use by a caregiver in providing care for a mentally or physically impaired person and (ii) on property owned or occupied by the caregiver as his residence as a permitted accessory use. Such a structure shall comply with all setback requirements that apply to the primary structure and with any maximum floor area ration limitations that may apply to the primary structure. Only one family health care structure shall be allowed on a lot or parcel of land.
- (b) The purposes of this section:
 - 1. “Caregiver” means an adult who provides care for a mentally or physically impaired person within the Commonwealth. A caregiver shall be either related by blood, marriage, or adoption to or the legally appointed guardian of the mentally or physically impaired person for whom s/he is caring.
 - 2. “Mentally or physically impaired person” means a person who is a resident of Virginia and who requires assistance with two or more activities of daily living, as defined in § 63.2-2200, as certified in a writing provided by a physician licensed by the Commonwealth.
 - 3. “Temporary family health care structure” means a transportable residential structure, providing an environment facilitating a caregiver’s provision of care for a mentally or physically impaired person, that (i) is primarily assembled at a location other than its site of installation, (ii) is limited to one occupant who shall be the mentally or physically impaired person, (iii) has no more than 300 gross square feet, and (iv) complies with applicable provisions of the Industrialized Building Safety Law (§ 136-70 et seq.) and the Uniform Statewide Building Code (§ 36-97 et seq.). Placing the temporary family health care structure on a permanent foundation shall not be required or permitted.
- (c) Any person proposing to install a temporary family health care structure shall first obtain a permit from the Berryville Town Council, for which the Town of Berryville will charge a fee per the Planning and Zoning Fee Schedule, as amended. The Town of Berryville may

not withhold such permit if the applicant provides sufficient proof of compliance with this section. The Town of Berryville may require that the applicant provide evidence of compliance with this section on an annual basis as long as the temporary family health care structure remains on the property. Such evidence may involve the inspection by the Berryville Zoning Administrator of the temporary family health care structure at reasonable times convenient to the caregiver, not limited to any annual compliance confirmation.

- (d) Any temporary family health care structure installed pursuant to this section may be required to connect to any water, sewer, and electric utilities that are serving the primary residence on the property and shall comply with all applicable requirements of the Virginia Department of Health.
- (e) No signage advertising or otherwise promoting the existence of the structure shall be permitted either on the exterior of the temporary family health care structure or elsewhere on the property.
- (f) Any temporary family health care structure installed pursuant to this section shall be removed within thirty (30) days in which the mentally or physically impaired person is no longer receiving or is no longer in need of assistance provided for in this section.
- (g) The Zoning Administrator may revoke the permit granted pursuant to subsection C if the permit holder violates any provision of this section. Additionally, the Town Council may seek injunctive relief or other appropriate actions or proceedings in Circuit Court to ensure compliance with this section. The Zoning Administrator is vested with all necessary authority to ensure compliance with this section.

SIGNED:


Wilson Kirby, Mayor

ATTEST:


Harry Lee Arnold, Jr., Recorder

Upon motion by Council member Kitselman, seconded by Council member Daniel, the Council of the Town of Berryville approved the attached ordinance amending Article II, Sections 201, 202, and 203 and Article VI, Sections 601, 602, 603 and 604 of the Berryville Zoning Ordinance establishing Temporary Family Health Care Structures as accessory structures.

VOTE:

Recorded Vote:

Ayes:

Wilson Kirby, Mayor
Harry Lee Arnold, Jr., Recorder
Mary Daniel
Allen Kitselman
Lawrence Russell, III
David Tollett

Nays:

None

Abstain:

None

Absent During Vote:

None

AN ORDINANCE AMENDING
ARTICLE II AND ARTICLE VI
OF THE TOWN OF BERRYVILLE ZONING ORDINANCE

BE IT ORDAINED, by the Council of the Town of Berryville, that Article II and Article VI of the Town of Berryville Zoning Ordinance shall be amended as follows (in **bold**):

- 201.1(e)** Accessory buildings **and Temporary Family Health Care Structures** as defined; however, garages, carports, porches, and stoops attached to the main building shall be considered part of the main building. Accessory buildings may be located in a rear yard area, but shall not be located closer than five (5) feet from any property line or to any other structure.
- 202.1(l)** Accessory buildings **and Temporary Family Health Care Structures** permitted as defined; however, garages and other accessory structures, such as carports, porches, and stoops attached to the main building shall be considered part of the main building. Accessory buildings shall not be located closer than five (5) feet from any property line or to any other structure.
- 203.1(i)** Accessory buildings **and Temporary Family Health Care Structures** permitted as defined; however, garages or other accessory structures, such as carports, porches, and stoops, attached to the main building, shall be considered part of the main building. Accessory buildings may be located in a rear yard area, but shall not be located closer than five (5) feet from any property line or to any other structure.
- 601.2(b)** Accessory uses to include detached carports and garages, tool sheds, children's playhouses, swimming pools, **and doghouses, and Temporary Family Health Care Structures as established in Section 323 (11/10)**
- 602.2(b)** Accessory uses, to include detached carports and garages, tool sheds, children's playhouses, doghouses, **and private swimming pools and Temporary Family Health Care Structures as established in Section 323.**
- 603.2(b)** Accessory uses, to include detached carports and garages, tool sheds, children's playhouses, doghouses, **and private swimming pools and Temporary Family Health Care Structures as established in Section 323.**
- 604.2(b)** Accessory uses, to include detached carports and garages, tool sheds, children's playhouses, doghouses, **and private swimming pools, and Temporary Family Health Care Structures as established in Section 323.**

SIGNED: _____

Wilson Kirby
Wilson Kirby, Mayor

ATTEST: _____

Harry Lee Arnold, Jr.
Harry Lee Arnold, Jr., Recorder

Ms. Dunkle said that the public hearing regarding a proposed text amendment to the C-1 zoning district was advertised in the Winchester Star on October 26 and November 2, 2010 and that no comments were received in the Planning Office. She said that the Berryville Planning Commission held a public hearing on the matter at their meeting on October 26, 2010.

Ms. Dunkle said that Mr. Hillerson has requested an amendment to the C-1 zoning district in order to construct an indoor shooting range at the Battletown Business Center. She noted that this amendment is for commercial indoor use and not specifically an indoor shooting range. She said that if this text amendment is adopted then Mr. Hillerson would be required to apply for a Special Use Permit for the indoor shooting range. Such a request would be heard by the Planning Commission and the Town Council.

Upon motion by Council member Tollett, seconded by Council member Russell, the Council of the Town of Berryville approved the attached ordinance amending Article VI, Section 607, of the Berryville Zoning Ordinance establishing recreation, commercial indoor as a use by Special Permit under Section 607.3(v).

VOTE:

Recorded Vote:

Ayes:

Wilson Kirby, Mayor
Harry Lee Arnold, Jr., Recorder
Lawrence Russell, III
David Tollett

Nays:

None

Abstain:

Mary Daniel
Allen Kitselman

Absent During Vote:

None

AN ORDINANCE AMENDING
ARTICLE VI, SECTION 607, C-1 COMMERCIAL ZONING DISTRICT.
OF THE TOWN OF BERRYVILLE ZONING ORDINANCE

BE IT ORDAINED, by the Council of the Town of Berryville, that Article VI, Section 607, C-1 Commercial Zoning District of the Town of Berryville Zoning Ordinance shall be amended as follows:

SECTION 607 0 Commercial (C-1) Zoning District

607.3(v) Recreation, commercial indoor (11/10)

Resolution for Local Support of the Utilization of Industrial Access Railroad Track Funds

Ms. Dunkle said that Mike Spence of Meherrin Fertilizer contacted her because his company is interested in purchasing the Tri-County Farm Services Building on Cattleman's Lane. She said that they are requesting funding from Virginia's Department of Rail and Public Transportation to improve the rail siding that accesses the property. She presented a resolution that states that the Town Council supports that project.

Upon motion by Council member Daniel, seconded by Council member Russell, the Council of the Town of Berryville adopted the attached Resolution for Local Support of the Utilization of Industrial Access Railroad Track Funds.

VOTE:

Recorded Vote:

Ayes:	Wilson Kirby, Mayor Harry Lee Arnold, Jr., Recorder Mary Daniel Allen Kitselman Lawrence Russell, III David Tollett
Nays:	None
Abstain:	None
Absent During Vote:	None

Town of Berryville Town Council

**RESOLUTION FOR LOCAL SUPPORT OF THE UTILIZATION OF
INDUSTRIAL ACCESS RAILROAD TRACK FUNDS**

WHEREAS, Meherrin Fertilizer has expressed its intent and desire to the Town of Berryville to locate its commercial, business or industrial operations in the Town of Berryville; and

WHEREAS, Meherrin Fertilizer and its operation will require rail access; and

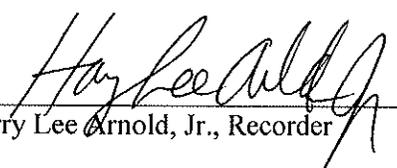
WHEREAS, the officials of Meherrin Fertilizer have reported to the Town their intent to apply for Industrial Access Railroad Track Funds from the Commonwealth of Virginia's Department of Rail and Public Transportation in order to improve the rail siding; and

WHEREAS, Meherrin Fertilizer has requested that the Town of Berryville provide a resolution supporting its application for said funds which are administered by the Virginia Department of Rail and Public Transportation.

NOW THEREFORE, BE IT RESOLVED, the Town Council of the Town of Berryville hereby endorses and supports the application of Meherrin Fertilizer in order to improve the rail siding with Industrial Access Railroad Track Funds not to exceed \$90,000.

Date: November 9, 2010
Moved By: Mary Daniel
Seconded By: Allen Kitselman
Recorded Vote:
Ayes: Wilson Kirby, Mayor
Harry Lee Arnold, Jr., Recorder
Mary Daniel
Allen Kitselman
Lawrence Russell
David Tollett

Nays: None
Absent: None
Abstain: None

ATTEST: 
Harry Lee Arnold, Jr., Recorder

Update on Clarke County High School

Ms. Dunkle reported that there was a progress meeting on November 2 and an E&S inspection today. Robina Bouffault from the Clarke County School Board was present and reported that she is pleased that the project is ahead of schedule.

Mr. Dalton reported that he attended a November 1 meeting at the VDOT offices in Staunton to discuss the Mosby Boulevard project. He said that he wants to highlight several concerns that he has about the project. He said that he is concerned that street lighting along the south side of Mosby Boulevard may fall through the cracks. In order for this street lighting to be installed he said that the School Board must grant easements to Rappahannock Electric Cooperative (REC). He said that from his discussions with Town Council, not continuing street lighting along Mosby is not an option.

Mr. Dalton said that another concern is that VDOT has determined that it needs an additional 15 foot easement on the south side of Mosby Boulevard to provide the planned multi-use trail. He said VDOT claims that the additional easement is needed because of the switch to a rural rather than an urban design. He said that he believes that the path along Mosby Boulevard is an important part of the inter-connection of the community, essential for safe walking and also provides an additional element to the school's recreation programs.

Mr. Dalton said that his third concern is about the first DG Cooley entrance on Westwood Road. He said that one of the essential elements of blending Mosby and Westwood was closing the first Cooley entrance at the corner of Westwood and Main. He said that VDOT is now moving toward keeping that entrance open. Mr. Dalton said that he and staff believe that not closing the first entrance, especially with its proximity to the new roundabout, would be a serious traffic safety issue.

The Mayor recognized Ms. Bouffault from the School Board. She said that the lighting is a town issue and that she doesn't want to get involved in that issue. She said that the VDOT meeting was the first time that the School Board heard about the path and that the School Board has offered some easement on the north and that she thinks that VDOT could re-design to use that easement.

Ms. Bouffault said that regarding the entrance to DG Cooley, VDOT has proposed to the School Board that the entrance remain open because VDOT doesn't want to spend the money to re-design the road. She said that the School Board is willing to wait and see how the entrance works and adjust as needed.

Mr. Dalton said that VDOT officials were asked who will pay for the change if a wait and see strategy is taken and subsequently the entrance needs to be closed. He said that VDOT's first response was that the School Board would pay for any changes. Mr. Dalton said that he finds this problematic because the money to make the change will come out of local coffers. He said that although this is not a town issue he hates to see the locality left holding the bag when the entrance has to be closed.

Ms. Bouffault said that once the high school moves, the old high school and Cooley sites will be reconfigured anyway and that there is talk of one entrance for the whole project. She said that it is not a big deal if VDOT doesn't pay for the entrance but she agrees with Mr. Dalton that the first Cooley entrance will be quite close to the roundabout.

Council member Kitselman said that he wants to go on record as stating that not closing the first DG Cooley entrance is a traffic safety issue. He said that this is not under the town's jurisdiction but that he is still concerned about safety.

Community Improvements Committee Discussion on Signage

Ms. Dunkle reported that the Community Improvements Committee of the Town Council met on Tuesday, October 26, 2010. She said that the committee discussed off-site signage and banners in town, cross street banners and tourist oriented signage that would be located on the Route 7 Bypass and downtown.

Council member Kitselman said that the signage would be a two-tiered approach. The first tier would be getting people off the highway and into town. He said that this tier involves the County of Clarke and perhaps the Industrial Development Board and Historical Association being on board and also helping with the initial cost and annual fee for the signage.

He said that the second tier after getting people into town are wayfinding signs at the entrances and the center of town. He said that Council member Arnold had the idea of a "North Pole"-like sign at the intersection of Main and Buckmarsh Street. Council member Arnold said that this sign would serve to draw additional business to the downtown by listing shopping, food, museums, etc.

Council member Kitselman said that he believes that there is a way to interpret all the other offerings in the County (including Long Branch, Millwood, etc.) with Berryville as the portal to all of these things. He said that he is working to establish a conversation with the County and other entities about signage cost, benefits and content.

Council member Arnold said that he wants to look into the possibility of hanging banners from the Route 7 Bypass bridge at 340 North of town to advertise special events in town. Council member Kitselman said that the committee is also looking at installing permanent standards for the installation of cross-street banners and is now waiting for VDOT's reaction to the proposal.

Barns of Rose Hill

Ms. Dunkle said that Mr. Kerns covered the Barns project and that she continues to attend weekly meetings on the Barns progress.

5. Report of Town Manager

Darbybrook Homeowners Association

Mr. Dalton said that he doesn't have much to add to what Mr. Smalley said. He said that Mr. Smalley should be in touch about the framework of their plan. He said that in the

meantime he will be looking into the cost for maintaining a stormwater pond.

Holidays

Mr. Dalton noted that the Governor has granted additional holiday time off with a closure at noon on November 24.

Mayor Kirby said that he is comfortable with granting the additional time that the Governor has granted.

Upon motion by Council member Kitselman, seconded by Council member Russell the Council of the Town of Berryville granted additional staff holiday leave time, closing all Town offices at noon on November 24, 2010.

VOTE:

Recorded Vote:

Ayes:	Wilson Kirby, Mayor Harry Lee Arnold, Jr., Recorder Mary Daniel Allen Kitselman Lawrence Russell, III David Tollett
Nays:	None
Abstain:	None
Absent During Vote:	None

Barns of Rose Hill

Mr. Dalton said at this time, the only cash outlay that the Town Council has committed to the barns project is the donation toward the availability fees that will have to come out of the general fund. He said that staff has become aware of an issue regarding an interior wall that has agricultural graffiti that the Barns had not planned to preserve. He said that he would like to ask the Council if they would like to provide funding for a box header and shelf around these items in order to preserve them and to provide display space for artifacts that have been recovered from the site. He said that he estimates that the cost would be about \$1350.

Council member Daniel said that it would be a tragedy to lose this when we can save it for \$1350. Mayor Kirby said that he is in favor of the project.

Upon motion by Council member Russell, seconded by Council member Daniel the Council of the Town of Berryville authorized the expenditure of \$1350 from the General Fund Contingency account to preserve the agriculture graffiti and provide shelf space for display of artifacts in the Barns of Rose Hill.

VOTE:

Recorded Vote:

Ayes:	Wilson Kirby, Mayor Harry Lee Arnold, Jr., Recorder Mary Daniel
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	Allen Kitselman
	Lawrence Russell, III
	David Tollett
Nays:	None
Abstain:	None
Absent During Vote:	None

Ms. Dunkle then provided the Council with copies of the Better Models for Development publication from the Valley Conservation Council in which the Government Center is highlighted as an award winner for shared resources and smart growth.

8. Standing Committee Reports

a) BADA Liaison – Allen Kitselman

Council member Kitselman reported that the BADA will meet tomorrow.

b) Budget Finance / CIP – Jay Arnold

Nothing to add to report.

c) Community Improvements – Allen Kitselman

Council member Kitselman reported that a Community Arts Summit will be held on November 17 at 6:00 p.m. to discuss formation of a County-wide arts council.

d) Planning Commission – Lawrence Russell.

Nothing to add to report.

e) Police and Security – Mary Daniel.

Chief White said that the committee met on November 27 and that they are working on a reserve program for the Police Department. He said that the committee is developing policies and procedures to allow qualified law enforcement personnel to volunteer for the Police Department.

Chief White then presented General Order #24 with a minor revision to accommodate the Corporal position in the hierarchy. Council member Daniel said that the addition of the Corporal position is the only change and that she recommends adoption. Council member Tollett concurred.

Upon motion by Council member Daniel, seconded by Council member Tollett the Council of the Town of Berryville adopted General Order #24 as amended (attached).

VOTE:

Recorded Vote:

Ayes:	Wilson Kirby, Mayor
	Harry Lee Arnold, Jr., Recorder
	Mary Daniel
	Allen Kitselman
	Lawrence Russell, III
	David Tollett

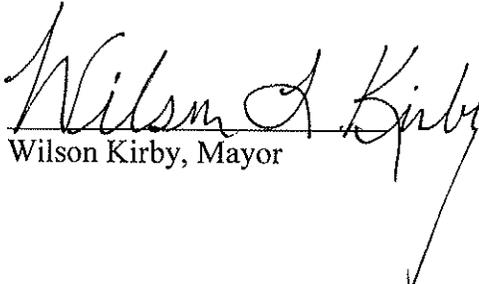
Nays: None
Abstain: None
Absent During Vote: None

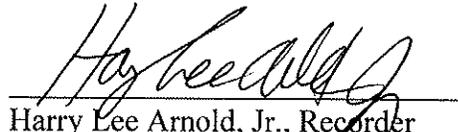
g) Streets and Utilities – Wilson Kirby
Nothing to add.

h) Personnel / Appointments – Wilson Kirby
Nothing to add.

Adjourn

There being no further business, on motion by Council member Russell, seconded by Council member Kitselman and passed, the Council meeting was adjourned at 9:46 p.m.


Wilson Kirby, Mayor


Harry Lee Arnold, Jr., Recorder