



Berryville Area Development Authority (BADA)
[REDACTED] – Regular Meeting
Wednesday, March 26, 2025 at 1:00PM
Berryville-Clarke County Government Center Main Meeting Room

ATTENDANCE:			
Allen Kitselman	✓	John Hudson	✓
George L. Ohrstrom, II	✓	Kathy Smart	✓
Diane Harrison	✓	David Weiss	✓

A meeting of the Berryville Area Development Authority (BADA) was held on Wednesday, March 26, 2025.

STAFF PRESENT: Terry Russell (Community Development Director – Berryville), Brandon Stidham (Director of Planning – County), Jeremy Camp (Senior Planner/Zoning Administrator – County)

OTHERS PRESENT:

1. **Call to Order** – By Mr. Stidham at 1:01PM
2. **Approval of Agenda**

The Authority voted unanimously to approve the agenda as presented by Staff.

Motion to approve the agenda as presented by Staff			
Allen Kitselman	AYE	John Hudson	AYE (moved)
George L. Ohrstrom, II	AYE	Kathy Smart	AYE (seconded)
Diane Harrison	AYE	David Weiss	AYE

3. **Election of Officers for 2025**

A. **Chair**

Mr. Stidham opened the floor for nominations for chair for 2025. Mr. Ohrstrom nominated Mr. Kitselman, seconded by Ms. Smart. Mr. Kitselman noted that he is willing to serve until his term ends in June. There were no further nominations so Mr. Stidham closed the floor to nominations.

Motion to elect Allen Kitselman as Chair for 2025			
Allen Kitselman	AYE	John Hudson	AYE
George L. Ohrstrom, II	AYE (moved)	Kathy Smart (seconded)	AYE (seconded)
Diane Harrison	AYE	David Weiss	AYE

Mr. Stidham turned the floor over to Chair Kitselman.

B. Vice-Chair

Chair Kitselman opened the floor to nominations for vice-chair for 2025 and nominated Mr. Ohrstrom, seconded by Mr. Hudson. There were no further nominations so Chair Kitselman closed the floor to nominations.

Motion to elect George, L. Ohrstrom, II as Vice-Chair for 2025			
Allen Kitselman	AYE (moved)	John Hudson	AYE (seconded)
George L. Ohrstrom, II	AYE	Kathy Smart (seconded)	AYE
Diane Harrison	AYE	David Weiss	AYE

4. Adoption of 2025 Meeting Dates

Mr. Stidham reviewed the recommended 2025 meeting dates and said it keeps the meetings on the fourth Wednesday of each month at 1:00PM. He noted the meetings in November and December will be on the third Wednesday to avoid the holidays. The Authority voted unanimously to adopt the 2025 meeting dates as presented by Staff.

Motion to adopt the 2025 meeting dates			
Allen Kitselman	AYE	John Hudson	AYE (seconded)
George L. Ohrstrom, II	AYE (moved)	Kathy Smart	AYE
Diane Harrison	AYE	David Weiss	AYE

5. Approval of Minutes – November 20, 2024 Meeting

The Authority voted unanimously to approve the November 20, 2024 minutes as presented by Staff.

Motion to approve the November 20, 2024 minutes as presented by Staff			
Allen Kitselman	AYE	John Hudson	AYE
George L. Ohrstrom, II	AYE (moved)	Kathy Smart	AYE
Diane Harrison	AYE (seconded)	David Weiss	AYE

PUBLIC HEARINGS

6. Sumit Sanjel, Agent (Radiant Summit Development, LLC, Owner)

Mr. Russell noted that the public hearing for the Hillson Grove Subdivision application for 20 lots located across from Litten Court on South Church Street was advertised in error. He noted that one mistake is that the Authority did not authorize the public hearing. He said the second mistake is that the application is not ready for consideration and that Staff still has a lot of work to do with the developer in terms of reviewing the plan with Town agencies. He said he recommended in the Staff report to defer to May and added that the developer requested in writing that the application not be taken up until April. He added the Staff does not think that April would provide enough time to get the application in order but that it may be an appropriate time for the Authority to authorize the public hearing. He also said that Staff should have a better idea in April of when the application will be ready. He recommended that the Authority take no action on what has been advertised and it is up to the Authority as to whether the public hearing is held. He noted that there are speakers present, the matter has been advertised, and notification has taken place.

Vice-Chair Ohrstrom asked if the Authority holds the public hearing today, would it start the 60-day review period. Mr. Russell replied that it would not, adding that the Authority is not taking any action and will not be reviewing any additional materials beyond what is already publicly available. He also said that there will not be a formal presentation which should not make a difference with the 60-day review period. Ms. Harrison asked if the public hearing would be continued. Mr. Russell replied that he does not recommend continuing the public hearing given the accuracy of the public hearing advertisement. He added that the public hearing would be held to hear from the people who took their time to attend today and then start all over with a new authorization for public hearing. Vice-Chair Ohrstrom asked if we are not actually going to open the public hearing and Mr. Weiss replied that you would have to open the public hearing in order to hold it. Mr. Russell said that he recommends holding the public hearing today and closing it. He added that the matter can be started over at a future meeting with the authorization of another public hearing.

Chair Kitselman asked if there is a sign-up sheet for the public hearing and Mr. Russell replied no. Mr. Hudson noted in the interest of full disclosure to those present that they will be commenting on a proposal that may look very different when it is brought back for further consideration. Mr. Russell also suggested that the Authority schedule the next public hearing for the evening in consideration of the interested speakers. Chair Kitselman said that the people in attendance took off work to be here at 1:00PM so they should have a chance to speak. Members concurred with the Chair. Mr. Weiss added that he does not think they should close the public hearing and should instead continue it. Mr. Stidham replied that he concurs with Mr. Russell that if the advertisement is going to be different, then you want to close today's public hearing and start from scratch. Chair Kitselman asked for confirmation that there are enough issues with this application that it will likely change quite a bit and Mr. Russell replied that this could be the case.

Chair Kitselman said he would open the public comment period. Mr. Weiss noted that there is a difference between a public hearing and a public comment period. Vice-Chair Ohrstrom recommended opening the public hearing, closing it at the end of comments, not continue it, and hold a new public hearing at a later date. Members agreed with this. Chair Kitselman opened the public hearing and Vice-Chair Ohrstrom added that each speaker should give their name and address. Chair Kitselman asked speakers to come to the podium and to limit their comments to three minutes.

Kevin McMichael (8 Litten Court) said that he understands that the development is in the early stages and there may or may not be changes coming. He said he moved to Berryville to live on a quiet street and he is one house off of South Church Street. He said there are children that play on his street and traffic speeding on South Church Street. He noted that this would create an issue adding a new ingress/egress to South Church Street. He suggested repositioning the entrance in a location away from Litten Court. He said he has some ideas of what could be done and asked if there is a meeting where he can offer suggestions to the developer. He said residents on South Church Street, Litten Court, and the court just down from his street would agree with him as his suggestions will benefit everyone. He asked what would be the best avenue for him to convey his proposals. Vice-Chair Ohrstrom suggested giving his suggestions to Mr. Russell to pass on to the developer. He also suggested getting signatures from his neighbors in support of his recommendations.

Sara Stern (107 Taylor Street) said that she looked up the developer's LLC and it appears to be one year old. She said she thinks that the owner also owns the vacuum store in Winchester and is a heck of a nice guy if that is who he is. She noted that if the LLC is relatively new, would there be a performance bond to make sure that the developer fulfills their obligations. Mr. Russell said that there are bonds required for

public improvements. Ms. Stern replied that those are construction bonds and she is referring to performance bonds. Mr. Russell said that he will need to look into that to get the information.

Dana Libby (7 Josephine Street) said that the development backs up to Josephine Street and houses will be within 35 feet of the property line. He added that the detached residential zoning regulations say that the district will preserve existing natural features and vegetation and promotes excellence in site planning and landscape design. He noted that this contrasts with a note on the applicant's site plan that the property used to be a dump site and that none of these things matter, negating the concept of preserving grades. He said it has the tone that the developer is going to level it all. He said that buffers should be required to preserve trees adjacent to the existing historic community on Josephine Street and provide a transition between two very different areas. He noted that he looked at the USDA soil reports because the developer will be building a new road. He said that the soils on this property are very limited for building that cannot be overcome without remediation. He added that we will be taking over maintenance of the road once they have built it. He said that the other option is to remove and replace all of the soil and if they choose this option, the impacts on neighboring properties should be addressed. He noted that this property is very wet although not considered to be wetlands. He also said that the USDA says that these soils are not suited for buildings with basements.

Roger Hampton (4 Litten Court) said that he watches the morning commute and a lot of traffic goes by. He noted that it is very difficult to see oncoming traffic when pulling out of Litten Court. He added that there is a fieldstone wall that has been there for centuries and asked if this will be saved.

Lisa Payne (408 South Church Street) said she is right in the hook of where the proposed subdivision is located. She said she has three little children and described an event in which her daughter's basketball went into the street and a car was almost unable to stop in time for it. She said people drive fast on the road and are on their cell phones, adding that her trash can was recently hit and shattered. She is concerned with adding 20 houses and all the new traffic and is unsure whether a different entrance would help this problem. She added that the noise from the trains can be heard even with new windows in her house and she is concerned that the loss of trees will increase the train noise. She noted that Mr. Russell said that the new houses might be a better sound barrier but she does not agree. She also said this will be an issue for the residents in these new houses as they will be even closer to the railroad. She said there is a ledge on her property close to the property line that will cut her off from accessing her two-level garage. She asked whether the houses will be built all at once or whether they will build as the lots are sold, noting that there will be a lot of noise associated with the construction. She also asked whether a tree barrier could be added to separate the properties. She said she and her family like to see the turkeys and deer from this property and will miss that. She also asked whether the new development will impact the Town's water quality and declining infrastructure.

Colby Baughman (406 South Church Street) said that he just learned about this application and has only had a short time to compile his research. He said that wooded areas block sound five to ten times more than neighborhoods. He said it is nice to hear the train in the distance but cannot imagine what it would sound like being closer. He said 20 homes means 80 cars going up and down the road every day which is not a good situation for his neighbors who have small children. He is concerned about what is to come.

Catherine Christopher (522 South Church Street) said that she and her parents have several concerns with the proposed development including increased traffic, safety walking along South Church Street, and construction related damage to our houses. She said we live in a unique geological region dominated by

karst topography and is why there are limestone outcroppings and sinkholes. She added that limestone is easily eroded by water over time resulting in the formation of caves and tunnels which can make for unpredictable foundations. She said that the property is designated as a special hazard flood zone and the property has flooded in the past. She noted that the removal of vegetation can cause additional runoff and penetrate the limestone to cause groundwater issues. She asked when the vegetation is removed that acts as a living sponge, how many sinkholes will there be on the property. She also asked whether sinkholes will cause damage to their homes and safety. She said the more unmitigated development we allow, the more trouble we will have down the road.

Chair Kitselman asked for a motion to close the Public Hearing. The Authority voted unanimously to close the Public Hearing.

Motion to close the Public Hearing			
Allen Kitselman	AYE	John Hudson	AYE (moved)
George L. Ohrstrom, II	AYE	Kathy Smart	AYE
Diane Harrison	AYE (seconded)	David Weiss	AYE

Chair Kitselman said that when we schedule a future Public Hearing on this matter, we will also carry these ideas to the developer for their consideration. He added that they will set the next Public Hearing for the evening.

Mr. Weiss suggested that Mr. Stidham provide an overview of the BADA's role is in reviewing projects that are already zoned for a long time and what the BADA's ability to do in that role really is. Chair Kitselman added that he would appreciate that explanation. Mr. Stidham said that the subdivision application is an administrative review. He said the BADA is a joint planning commission composed of both Town and County members and is the approval authority for subdivision applications. He noted that in this case, the property is zoned DR-2 and proposes to subdivide it in accordance with DR-2 zoning. He said if the applicant complies with all Town ordinance requirements and satisfies all outstanding concerns with internal and external reviewing agencies, then the BADA is obligated to approve the plat. He said that this process differs from a rezoning or special use permit application which is a legislative review in which the approval body has discretion to decide whether to approve an application or impose conditions on a case by case basis. He added that the approval body does not have the authority to vary the regulations so the BADA has to honor the Town zoning and subdivision regulations. He noted that there may be wiggle room to ask the developer to modify the proposal to address issues such as the placement of the entrance. However, if the proposed entrance meets all regulatory requirements as shown on the plat, the BADA is obligated to approve it. There is room for negotiation but it is the applicant's decision whether to make requested changes. Mr. Weiss said that while the BADA may agree with some of the issues raised, they will try to apply pressure but will ultimately have to approve the proposal if it complies with all regulations.

Mr. Stidham added that some of the members of the public may be aware of the recent Friant subdivision proposal. He said that this was a rezoning application as the applicant was attempting to gain approval of a higher number of lots by changing the zoning classification of the property. He noted that rezoning applications allow Town Council the authority to decide whether to approve or deny on a case by case basis. He said there were a number of other things that Council could consider by virtue of it being a rezoning application.

7. **SP-25-01, Shirley Properties, LLC/Painter-Lewis, PLC (agent)**

Mr. Stidham said that Mr. Camp will be presenting the Staff report on this application. He noted that the County Zoning Ordinance requires a public hearing to be held at the Authority's first consideration of a site development plan application. He said this is because there is a 60-day time limit for the Authority to act and the ordinance was changed a few years ago to reflect this. Chair Kitselman asked if the public hearing is set at the first meeting. Mr. Stidham replied no and that we actually skip the step of setting the public hearing.

Mr. Camp presented the Staff report on this application. He noted that the applicant has requested a two-month deferral of the application and Staff supports the deferral request. He also said that this would stop the Authority's 60-day review period.

Ms. Harrison said that when we had a lot of rain a few years ago, this property was pretty flooded. She asked whether flooding issues will be addressed with this site plan amendment. Mr. Camp replied that the erosion and sediment control plan is designed to prevent erosion during construction. Ms. Harrison asked if anyone has looked at what will happen on the property the next time we have a rainy period. Mr. Camp replied that the project area is under the minimum acreage threshold for requiring stormwater management plan review by the Virginia Department of Environmental Quality (DEQ). He said stormwater management is looked at generally by the County and its engineering consultant, Hurt & Proffitt.

Chair Kitselman asked Mr. Stidham for his opinion on whether he may have a conflict of interest on this matter as he was the original architect for this facility. Mr. Stidham asked Chair Kitselman if he is still working for the applicant and Chair Kitselman replied no. Mr. Stidham said that he would not need to recuse himself then.

Chair Kitselman opened the Public Hearing. No members of the public wished to speak. Mr. Weiss asked the applicant if he wanted to speak on the matter.

R.K. Shirley, owner of the property, spoke on behalf of the application. He said he was not aware of the issues with this application and would appreciate the one-month deferral so he can speak to Painter-Lewis about the issues. He added that there will be a few changes to this plan.

Chair Kitselman asked for a motion to close the Public Hearing. Mr. Stidham said that the Authority may want to continue the Public Hearing in this case and accept the applicant's deferral request. The Authority voted unanimously to continue the Public Hearing and to accept the applicant's one month deferral request. As a point of order, the applicant's agent requested a two-month deferral. Mr. Shirley said that a two-month deferral would be fine.

Motion to continue the Public Hearing and accept the applicant's 2 month deferral request			
Allen Kitselman	AYE	John Hudson	AYE
George L. Ohrstrom, II	AYE (moved)	Kathy Smart	AYE
Diane Harrison	AYE (seconded)	David Weiss	AYE

Mr. Stidham said that this application will be taken up at the May 28 meeting. He said that assuming the Authority acts at the April 23 meeting to schedule public hearing on the Hillson Grove subdivision

application, then that matter will also be on the May 28 agenda. He added that it sounds as though the May 28 meeting will be scheduled for the evening.

8. Berryville Area Plan Update Process

Mr. Stidham said that at the November meeting, we essentially finished our task to identify all key issues and address changes to the sub-areas. He said we are now at the Staff drafting phase and said that it may take a while for Staff to bring drafts for discussion as Mr. Russell is still new to the job and we have a Town-County partnership in drafting this plan. He asked if there are any issues that we have previously discussed that members may want to revisit, then they should let Staff know and we will add it to a meeting agenda.

9. Other Business -- None

10. Adjourn

The Authority voted unanimously to adjourn the meeting at 1:53PM.

Motion to adjourn			
Allen Kitselman	AYE	John Hudson	AYE
George L. Ohrstrom, II	AYE (moved)	Kathy Smart	AYE (seconded)
Diane Harrison	AYE	David Weiss	AYE

Allen Kitselman, Chair

Brandon Stidham, Clerk