

Berryville – Clarke County
Government Center
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Berryville, VA 22611



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BERRYVILLE
EST. 1798 *Genuine* VIRGINIA

BERRYVILLE PLANNING COMMISSION

Regular Meeting

Tuesday, October 28, 2025 – 7:00 p.m.

101 Chalmers Court – Main Meeting Room – Second Floor

AGENDA

1. Call to Order – William Steinmetz, Chair
2. Approval of Agenda
3. Approval of Minutes – August 26, 2025
4. Set Public Hearings:

Adam and Sarah Mank, Owners, are requesting approval of a special use permit per Section 603.3(I) of the Berryville Zoning Ordinance in order to operate a short-term rental at the property located at 116 Hermitage Boulevard, identified as Tax Map Parcel number 14A8-((3))-80, zoned DR-2 Detached Residential. SUP 02-25

A text amendment to ARTICLE III – SUPPLEMENTARY REGULATIONS SECTION 303 – FENCES, 303.3. of the Berryville Zoning Ordinance to amend the height of fences in front setbacks in residential zones and in front setbacks for residential uses in commercial zones.

5. New Business:

Friant Enterprises #1, LLC; Friant Enterprises #2, LLC; Friant Enterprises #3, LLC (Owners) (John Regan, Christopher Companies, Agent) are requesting a rezoning of the property identified as 14-A-80 (portion) consisting of approximately 42.46 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 01-25

Harry Lee Arnold, Jr.
Mayor

Erecka L. Gibson
Vice Mayor

Council Members

William Steinmetz
Ward 1

Paul Perez
Ward 2

Grant Mazzarino
Ward 3

Ryan Tibbens
Ward 4

Keith R. Dalton
Town Manager

7. Citizens Forum

8. Planning Update

9. Other

10. Adjourn

Planning Commission Agenda Item Report Summary

October 28, 2025

Item Title

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

Prepared By

Terry Russell

Adam and Sarah Mank, Owners, are requesting approval of a special use permit per Section 603.3(l) of the Berryville Zoning Ordinance in order to operate a short-term rental at the property located at 116 Hermitage Boulevard, identified as Tax Map Parcel number 14A8-((3))-80, zoned DR-2 Detached Residential. SUP 02-25

Background/General Information

Town Staff became aware that a short-term rental is being operated at 116 Hermitage Boulevard (zoned Detached Residential -2 DR-2 District) without having been granted a Special Use Permit as required by Section 603.3(i) of the Berryville Zoning Ordinance. A Notice of Violation was issued. One remedy for the violation is to apply for and receive a Special Use Permit. The property owners and residents, Adam and Sarah Mank, have applied for a Special Use Permit to operate a short-term rental.

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.

History

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. The following definition, which was adopted in October, is located in Article I of the Town Zoning Ordinance as follows:

10/23 **short-term rental**- The provision of a room or space that is suitable or intended for occupancy for dwelling, sleeping, or lodging purposes, for a period of fewer than 30

consecutive days, in exchange for a charge for the occupancy. Advertisement or operation of a short-term rental unit requires registration, a business license, remittance of transient occupancy tax, and is limited to dwellings which hold a Clarke County Certificate of Occupancy. Events are prohibited. No food preparation or service may be provided to primary renter or guests of short-term rental.

Each short-term rental unit shall advertise and implement a maximum occupancy of no more than as permitted by the Virginia Uniform Statewide Building Code or two (2) persons per bedroom, whichever is less, and at no time exceed 13 individuals.

Approved short-term rentals must be registered in the Short-term Rental Registry (Town Code Sec. 9-36) and pay Transient Occupancy Tax (Town Code Article VIII – Transient Occupancy Tax).

Findings/Current Activity

Building Information

The subject dwelling was constructed in 2003. The short-term rental space is in the lowest level. It has direct access to the rear yard, the patio pavilion and the swimming pool. The rental space includes a full kitchen, two bedrooms and a full bath. There is no record of a Certificate of Occupancy or Building Permit for the kitchen in the rental space. A second full kitchen is not permitted in a single-family dwelling in a R-1 district.

Adjacent Zoning

Adjacent properties are zoned DR-2 Detached Residential and developed with residential dwellings.

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 for an approved short-term rental.

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) of the Berryville Zoning Ordinance as follows:

- 307.3(f) Signs permitted for commercial uses permitted with Special Use Permits, excluding home occupations, in the R-2 Residential Zoning District.
 1. Not more than one (1) freestanding sign on any lot. Such sign shall not exceed six (6) square feet in area, at its highest point shall not exceed eight (8) feet in height from the grade, shall not project beyond the established public right-of-way, and shall not be internally illuminated.

Schedule/Deadlines

The first opportunity to hold a public hearing on this Special Use Permit Request is the Planning Commission meeting scheduled to be held on November 25, 2025.

Other Considerations

N/A

Recommendation

Set a public hearing for the November 25, 2025 Planning Commission meeting..

Sample Motion

I move that the Planning Commission of the Town of Berryville set a public hearing for its meeting to be held on Tuesday, November 25, 2025 for a special use permit in order to operate a short-term rental at the property located at 116 Hermitage Boulevard.

Attachments:

- Application
- Vicinity map
- Site plat
- Rental Advertisement
- Zoning Ordinance Section 603 – DR-2
- Zoning Ordinance Section 503 – Special Use Permit
- Town Code Sec. 9-36 -- Short-term Rental Registry
- Town Code Article VIII – Transient Occupancy Tax

Town of Berryville
101 Chalmers Court – Suite A
Berryville, Virginia 22611
Phone: (540) 955-4081 Fax: (540) 955-4524 E-mail: planner@berryvilleva.gov

SPECIAL USE PERMIT APPLICATION

Please Note: This is an application only. The permit will be issued only if approved by the Berryville Town Council after review and recommendation from the Planning Commission.

To be completed by Applicant:

Date: August 19, 2025

Applicant's Name: Sarah Mank

Applicant's Address: 116 Hermitage Blvd Berryville, VA 22611

Use Applied For: Short term rental

At the following address: 116 Hermitage Blvd Berryville, VA 22611

Special Conditions: _____

Property Owner's Name: Sarah & Adam Mank

Property Owner's Address: 116 Hermitage Blvd Berryville, VA 22611

Owner or Agent: The information provided is accurate to the best of my knowledge. I understand that the Town may deny, approve, or conditionally approve the request for which I am applying. I certify that all property corners have been clearly staked and flagged.

Signature: Sarah Mank Date: 8/19/25

Owner: I have read this completed application, understand its intent, and freely consent to its filing. Furthermore, I grant permission to the Town Planning Department and other government agents to enter the property and make such investigations and tests, as they deem necessary. I acknowledge that in accordance with Article X of the Subdivision Ordinance I am responsible for costs incurred for review of subdivision and/or development plans by the Town's engineer and that any other required tests or studies will be carried out at owner/agent expense

Signature: Sarah Mank Date: 8/19/25

TO BE COMPLETED BY ZONING ADMINISTRATOR

Special Use: _____ Zone: _____

Street Address: _____ Tax Map #: _____

Special Use Permit Fee: _____ Paid: _____

Site Plan Fee: _____ Paid: _____

Signature of Zoning Administrator: _____

Date: _____

Dear Town of Berryville,

We are writing to respectfully submit a **Special Use Permit** application for a short-term rental at our property, located at **116 Hermitage Boulevard**.

We are Adam and Sarah Mank, and we purchased this home last year with the goal of raising our two young boys in the wonderful community. We fell in love with Berryville and are excited to be part of its future. The property's finished basement, previously used as an in-law suite, offers a unique opportunity to contribute to the town's hospitality offerings.

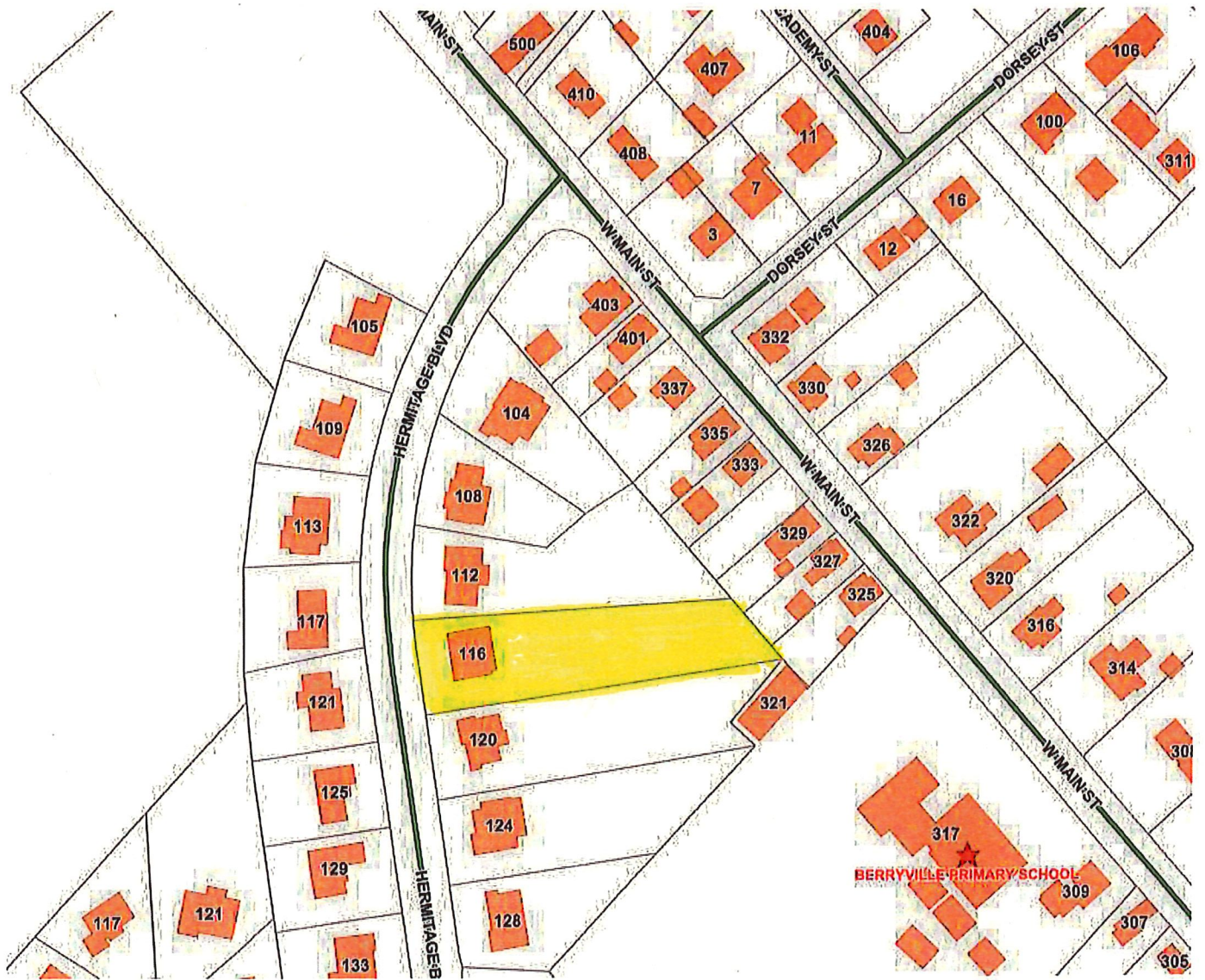
Our plan is to operate the basement as a private, two-bedroom, one-bathroom short-term rental. The unit, which has a separate entrance and its own kitchen and living room, has recently been updated to provide a comfortable and modern space for guests. The rental will be limited to a single party at a time, with a maximum occupancy of four individuals. Guests will have a designated parking spot and access to the backyard, but will not have access to the main and second floors of our home.

Given the limited number of lodging options in Berryville, we believe this short-term rental will be a valuable asset to the community. We aim to provide a convenient and welcoming place for visitors to stay while they explore all that Berryville and Clarke County have to offer. Our property is within walking distance of downtown shops and restaurants, historic Rosemont Manor, and local parks. We plan to provide guests with a curated list of local businesses to encourage them to patronize the community.

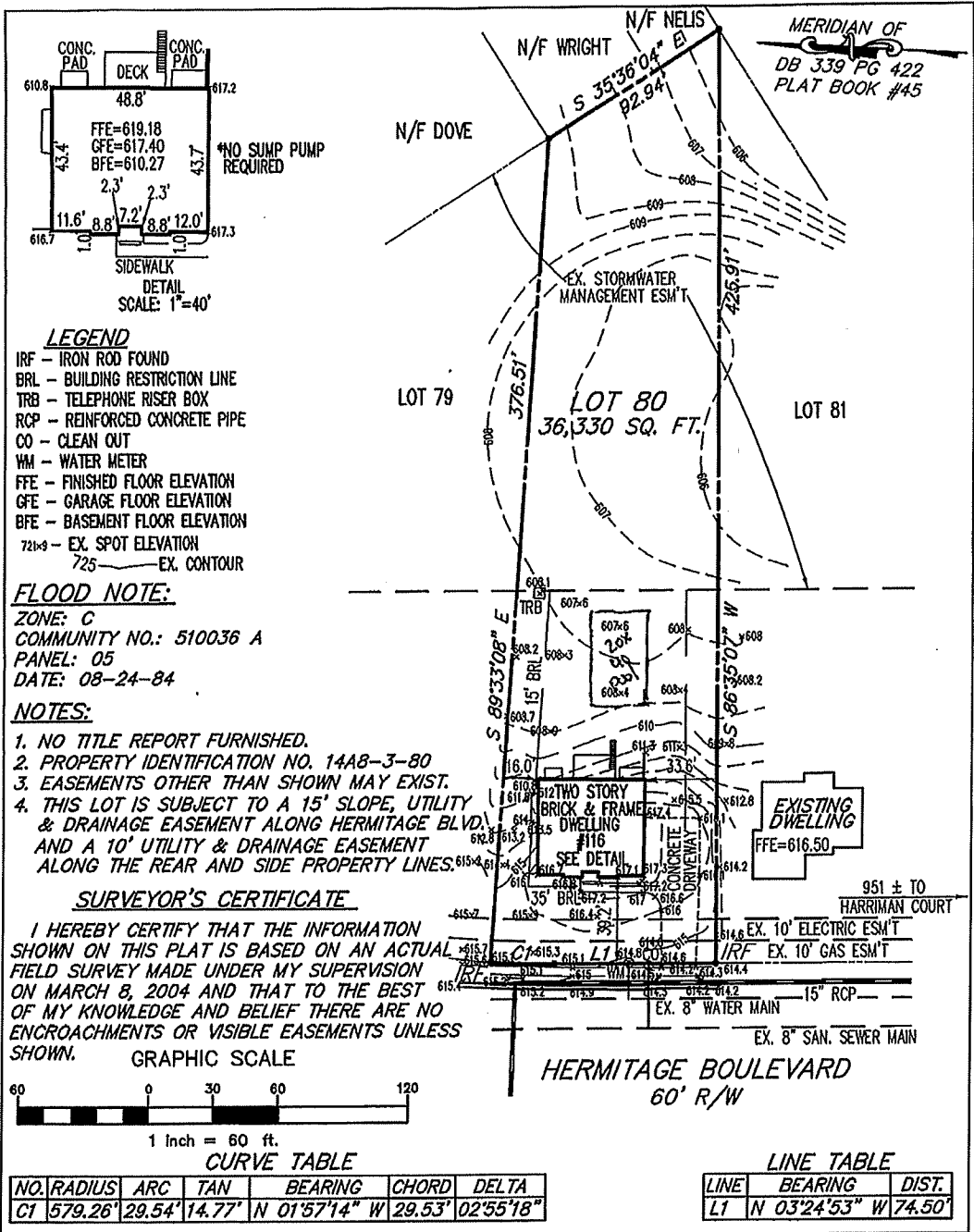
We are confident that our short-term rental will be a positive addition to the neighborhood and will be managed with the utmost care and respect for our neighbors. We look forward to your consideration and are available to answer any questions you may have.

Thank you,

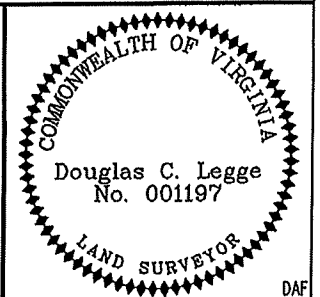
Adam and Sarah Mank 116 Hermitage Boulevard Berryville, Virginia 22611



116 HERMITAGE BLVD.



HOUSE LOCATION & TOPOGRAPHIC SURVEY
 LOT 80
 PHASE 3-B
HERMITAGE
 116 HERMITAGE BOULEVARD
 TOWN OF BERRYVILLE
 LONGMARSH MAGISTERIAL DISTRICT
 CLARKE COUNTY, VIRGINIA
 MARCH 9, 2004



MARSH & LEGGE Land Surveyors, P.L.C. 560 NORTH LOUDOUN STREET WINCHESTER, VIRGINIA 22601
 PHONE (540) 667-0468 FAX (540) 667-0469





[Overview](#) [Amenities](#) [Policies](#)

Apartment

Berryville Bliss: Basement Apartment in welcoming Berryville

10 Exceptional

[See all 3 reviews >](#)

2 bedrooms

1 bathroom

Sleeps 5

Popular amenities

Kitchen

Parking available

Pool

Hot Tub

Barbecue grill

Outdoor Space

[See all property amenities >](#)



Add 1 night and save

This host offers a weekly discount when you stay 7 nights or longer.

[Add 1 night](#)

Partially refundable ⓘ

Before Sat, Aug 9

Your dates are available

Start date
Aug 23

End date
Aug 29

Travelers
2 travelers

\$269

\$1,614 for 6 nights

✓ All fees included



(4/92) **SECTION 603 - DETACHED RESIDENTIAL-2 (DR-2) DISTRICT**

603.1 PURPOSE AND INTENT

The Detached Residential-2 (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. A maximum density of two (2) units 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. Cluster residential development shall be encouraged and permitted, by right, so that specific environmental preservation and land use goals may be promoted.

603.2 PERMITTED USES

- (a) Single-family detached dwellings, either a conventional "dispersed" layout or a clustered layout subdivision--a clustered subdivision requiring site plan approval.
- (b) Accessory uses, to include detached carports and garages, tool sheds, children's playhouses, doghouses, private swimming pools and Temporary Family Health Care Structures as established in Section 323. **(11/10)**
- (c) Municipal utilities.

603.3 SPECIAL PERMIT USES

- (a) Bed and breakfast lodging occupying more than 300 square feet of a residence
- (b) Cemeteries
- (c) Churches and shrines
- (d) Day care centers and nursery schools **(10/94)**
- (e) Fire stations
- (f) Home occupations as defined in Section 315 **(12/93)**
- (g) Libraries and museums
- (h) Plant nurseries with no sale of nursery products permitted on premises
- (i) Private or public schools, parks, playgrounds, and related uses
- (j) Public utility uses (sub-stations, pump stations, storage tanks, etc.) and related easements, except for municipal utilities
- (k) Recreational uses such as public swimming pools, tennis courts, and golf courses
- (l) Short-term rentals **(10/23)**

603.5 LOT SIZE, YARD, AND BULK REQUIREMENTS FOR CONVENTIONAL LOTS

- (a) Lot area: Minimum--20,000 square feet; maximum--45,000 square feet.
Refer to Section 611 regarding the impact of critical environmental areas on lot size requirements.) **(1/93)**
- (b) Minimum lot width
 - (1) Interior lot: 100 feet **(7/04)**
 - (2) Corner lot: 120 feet **(7/04)**
- (c) Minimum yard requirements
 - (1) Front yard: 30 feet **(7/04)**
 - (2) Side yard: 15 feet

Section 603 Detached Residential-2 (DR-2)

- (3) Rear yard: 40 feet (residences) (7/04)
- (4) Accessory structure: 5 feet (rear and side setbacks)
- (d) Maximum building height: 35 feet

603.6 MINIMUM DISTRICT SIZE FOR CLUSTERING
Minimum district size for cluster subdivision: 4 acres

603.7 LOT SIZE, YARD, AND BULK REQUIREMENTS FOR CLUSTER LOTS

- (a) Minimum lot area: 12,500 square feet (7/04)
Maximum lot area: 30,000 square feet (7/04)
(Refer to Section 614 regarding the impact of critical environmental areas on lot size requirements.)
- (b) Minimum lot width
 - (1) Interior lot: 75 feet
 - (2) Corner lot: 90 feet
- (c) Minimum yard requirements
 - (1) Front yard: 25 feet
 - (2) Side yard: 10 feet
 - (3) Rear yard: 35 feet (residences) (7/04)
 - (4) Accessory structure: 5 feet (rear and side setbacks)
- (d) Maximum building height: 35 feet

603.8 OPEN SPACE REQUIREMENTS FOR DR-2 CLUSTER SUBDIVISIONS

- (a) In subdivisions approved for cluster development, twenty (20) percent of the net site area which excludes 100-year floodplain, sinkholes, and slopes exceeding twenty-five (25) percent and fifty (50) percent of land with slopes between fifteen (15) and twenty-five (25) percent shall be open space, dedicated to common usage and ownership.

603.9 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 614 for special regulations relating to cluster subdivisions, critical environmental areas, and open spaces.
- (e) Refer to Section 317 Karst Features for additional requirements. (7/04)
- (f) The lot size, yard, and bulk requirements in effect at the time of subdivision plat approval prior to January 1, 2011 shall remain applicable to such subdivisions until July 1, 2017. The foregoing shall not be effective unless any unreleased performance bonds and agreements or other financial guarantees of completion of public improvements in or associated with the subdivision are continued in force. (12/14)

SECTION 503 - SPECIAL USE PERMIT

503.1 PROVISIONS FOR SPECIAL USE PERMITS

- (a) In consideration of an application filed with the Zoning Administrator, the Council may, after a public hearing, authorize the establishment of those uses that are expressly listed as Special Permit uses in a particular zoning district.
- (b) In addition to all applicable conditions and requirements of this Ordinance, the Council may impose any conditions deemed appropriate in the public interest to secure compliance with the provisions of this Ordinance.
- (c) Once a Special Use Permit is granted, the use shall not be enlarged, extended, increased in intensity or relocated unless authorized by the Council.
- (d) Whenever a Special Use Permit is granted by the Council, the authorized activities shall be established within one (1) year of the date of approval, or such Special Use Permit shall expire without notice.
- (e) Should the owner or operator of the use covered by the Special Permit fail to observe all requirements of law with respect to the maintenance and conduct of the use and all permit conditions, the Council may, after due notice to permit holder and a public hearing, revoke the Special Use Permit.

503.2 APPLICATIONS

An application for a Special Use Permit may be submitted by the property owner of record, tenant, or contractor owner.

503.3 APPLICATION REQUIREMENTS

Applications for Special Use Permits shall be accompanied by seven (7) copies of the following items:

- (a) Letter of request, signed by property owner and applicant, outlining complete details of special use desired.
- (b) Site development plan.
- (c) Floor plan, front, side, and rear elevations of proposed new buildings.
- (d) Certified house location plat.
- (e) Information deemed necessary by the Zoning Administrator.
- (f) Applicable filing fee.

503.4 APPLICATION PROCEDURE

- (a) Application submitted to Zoning Administrator, which shall be referred to the Planning Commission for recommendation, and a public hearing shall be scheduled by the Town Council.
- (b) Review by the Planning Commission (public hearing if desired) and recommendation to Town Council.
- (c) Public hearing by Town Council.
- (d) Town Council action (In acting upon the application, the Town Council shall consider the following, among other relevant factors):
 - 1. The health, safety, and welfare of the general public.
 - 2. Physical and visual impact on adjoining and abutting properties.
 - 3. Adequate utilities, drainage, parking, and other necessary facilities to serve the proposed use.

Section 503 Special Use Permit

4. Compliance with the adopted master plan.
 5. Environmental compatibility.
 6. Community sentiment.
- (e) Applicant to be notified by Zoning Administrator of Town Council action.

SECTION 504 - SCHEDULE OF FEES, CHARGES, AND EXPENSES

- 504.1** The Town Council shall establish, by resolution, a schedule of fees, charges, and expenses and collection procedures for zoning permits, certificates of use and occupancy, special permits, variances, appeals, amendments, and other matters pertaining to this Ordinance.
- 504.2** The schedule of fees shall be available for inspection in the office of the Zoning Administrator and may be altered or amended by the Governing Body by resolutions. Until all application fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

The provisions of the preceding paragraph shall not be construed to allow, without payment of the tax imposed by this section, a performance for charitable or benevolent purposes by a company, association or persons, or a corporation, in the business of giving such exhibitions, no matter what terms of contract may be entered into or under what auspices such exhibition is given by such company, association or persons, or corporation. It is the intent and meaning of this section that every company, association, person, or corporation in the business of giving exhibitions for compensation, whether a part of the proceeds are for charitable or benevolent purposes or not, shall pay the tax imposed by the authority of this section. Such tax shall not be imposed on a bona fide local association or corporation organized for the principal purpose of holding legitimate agricultural exhibitions or industrial arts exhibits when they rent or lease fair or exhibition grounds or buildings for the purpose of giving such exhibitions or performances and exhibit therein agricultural or industrial arts products as a part of such exhibition.

([Ord. of 10-8-19\(3\)](#))

Editor's note— An [Ord. of 10-8-19\(3\)](#), set out provisions intended for use as 9-34. For purposes of maintaining the numbering style of the Code, and at the editor's discretion, these provisions have been included as 9-35.

State Law reference— Code of Virginia, § 58.1-3728.

Sec. 9-36. Short-term Rental Registry

- (a) Registration of short-term rentals is required prior to operation, must be renewed annually, and be updated to reflect current contact information as needed. Each registration shall include:
- (1) name, telephone number, mailing address, and email address of property owner;
 - (2) name, telephone number, mailing address, and email address of operator, if different;
 - (3) address of property;
 - (4) emergency contact telephone number and email address;
 - (5) number of bedrooms and maximum occupancy of short-term rental unit(s);
 - (6) listing platforms that will be used for advertisement of unit(s);
 - (7) Copy of Town of Berryville Business License;
 - (8) copy of certificate of occupancy issued by Clarke County Building Department; and
 - (9) filing fee as set by Town Council.
- (b) Registration of short-term rentals may be waived under Code of Virginia Title 15.2, Ch. 9, § 15.2-983 if operator is (i) licensed by the Real Estate Board or is a property owner who is represented by a real estate licensee; (ii) registered pursuant to the Virginia Real Estate Time-Share Act (§ 55.1-2200 et seq.); (iii) licensed or registered with the Department of Health, related to the provision of room or space for lodging; or (iv) licensed or registered with the locality, related to the rental or management of real property, including licensed real estate professionals, hotels, motels, campgrounds, and bed and breakfast establishments.

State Law Reference – Code of Virginia, § 15.2-983.

ARTICLE VIII. - TRANSIENT OCCUPANCY TAX

Sec. 16-101. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

~~Hotel shall mean any public or private hotel, inn, apartment hotel, bed and breakfast, hostelry, tourist home or house, motel, rooming house or other lodging place within the town offering lodging for two (2) or more persons at any one (1) time, and the owner and operator thereof, who, for compensation, furnishes lodging to any transients.~~

~~Room or space rental shall mean the total charge made by any hotel, inn, bed and breakfast, hostelry, tourist home or house, motel, rooming house, campground, short-term rental, or any other lodging furnished to any transient or travel campground for lodging or space furnished any transient.~~ If the charges made by such ~~room or space rental hotel or travel campground~~ to transients includes any charge for services or accommodations, in addition to that of lodging, and the use of space, then such portion of the total charge as represents only room and space rental shall be distinctly set out and billed to such transient ~~by such hotel or travel campground~~ as a separate item.

~~Town shall mean Town of Berryville, Virginia.~~

~~Transient shall mean any natural person who, for any period of not more than thirty (30) consecutive days, either at his own expense or at the expense of another, obtains lodging or the use of any space in any room or space rental hotel or travel campground for which lodging or use of space a charge is made.~~

~~Travel campground means any area or tract of land used to accommodate two (2) or more camping parties, including tents, travel trailers or other camping outfits.~~

(Ord. of 4-21-15)

Sec. 16-102. - Penalty for violation.

Any person violating or failing to comply with any of the provisions of this article shall be guilty of a class 3 misdemeanor. Each such violation or failure and each day's continuance thereof shall constitute a separate offense. Such conviction shall not relieve any such person from the payment, collection or remittance of the tax as provided in this article.

(Ord. of 4-21-15)

Sec. 16-103. - Amount and levy.

There is hereby imposed and levied by the town, in addition to all other taxes, fees, and charges of every kind, now or hereafter imposed by law, a tax in the amount of two (2) percent of the total amount paid for room or space rental ~~to any hotel travel campground.~~

(Ord. of 4-21-15)

Sec. 16-104. - Collection.

Every person receiving any payment of room or space rental with respect to which a tax is levied under this article, shall collect the amount of tax hereby imposed from the transient on whom the same is levied or from the person paying for such room or space rental, at the time payment for such rooms or space is made, and the tax shall be paid to the town.

Planning Commission Agenda Item Report Summary

October 28, 2025

Item Title

Set Public Hearing – Zoning Ordinance text amendments for fences

Prepared By

Terry Russell

Background/History/General Information

A text amendment to ARTICLE III – SUPPLEMENTARY REGULATIONS SECTION 303 – FENCES, 303.3. of the Berryville Zoning Ordinance to amend the height of fences in front setbacks in residential zones and in front setbacks for residential uses in commercial zones.

Fences are regulated by **Section 303 – Fences** of the Berryville Zoning Ordinance. Fences may be located along property lines up to a height of six feet. In some cases fences this height cause the front yards of adjacent properties to feel too enclosed and may cause a vision obstruction for vehicles exiting the adjacent properties. In other jurisdictions fences tend to be lower in height in front yards than in rear yards. A maximum height of 4 feet is common in other jurisdictions. The following proposes amended language that would lower the maximum height of fences to 4 feet in front setbacks.

ARTICLE I – DEFINITIONS

* * *

SECTION 102 – SPECIFIC TERMS

* * *

fence - A barrier, usually made of posts and wire, boards, or masonry, intended to prevent escape or intrusion or to make a boundary. Trees, shrubbery, or other foliage does not constitute a fence under this definition.

* * *

ARTICLE III – SUPPLEMENTARY REGULATIONS

* * *

SECTION 303 – FENCES

303.1 No fragile, readily flammable material such as paper, cloth, or canvas shall constitute a part of any fence, nor shall any such material be employed as an adjunct or supplement to any fence.

- 303.2** No fence shall be constructed within two (2) feet of any right-of-way line **(12/98)**, except on corner lots as set forth in Section 302.
- 303.3** Fences shall not exceed a height of six (6) feet, except that fences shall not exceed a height of four (4) feet in front setbacks in residential zones and in front setbacks for residential uses in commercial zones, as measured from the top-most point thereof to the ground or surface, along the center line of the fence, in a commercial or residential zone, except on corner lots as set forth in Section 302.
- 303.4** Fences in commercial zones shall not exceed a height of six (6) feet, as measured from the top-most point thereof to the ground or surface, along the center line of the fence, except on corner lots as set forth in Section 302. The Planning Commission may approve fences of up to ten (10) feet in height on a case-by-case basis. **(12/98)**
- 303.5** Fences surrounding industrial sites, public playgrounds, institutions, or schools may not exceed a height of fourteen (14) feet.

Findings/Current Activity

Staff has received concerns from citizens regarding the height of fences in front yards in some locations. It is common in local jurisdictions to restrict fences to lower heights in front yards to prevent vision obstructions for vehicles and other security considerations, while providing higher height limits in rear yards to enhance privacy.

Schedule/Deadlines

Staff is recommending that the Planning Commission set a public hearing for the December 23, 2025 meeting.

Other Considerations

N/A

Recommendation

Staff recommends that the Planning Commission sponsor this amendment to the Zoning Ordinance and set a public hearing for the December 23, 2025 meeting to hear public comment and make recommendations to Town Council.

Sample Motion

I move that the Planning Commission of the Town of Berryville, VA set a public hearing for a text amendment to ARTICLE III, SUPPLEMENTARY REGULATIONS, of the Berryville Zoning Ordinance, amending the height of fences to be held on December 23, 2025.

Planning Commission Agenda Item Report Summary

October 28, 2025

Item Title

New Business – Rezoning

Prepared By

Terry Russell

Friant Enterprises #1, LLC; Friant Enterprises #2, LLC; Friant Enterprises #3, LLC (Owners) (John Regan, Christopher Companies, Agent) are requesting a rezoning of the property identified as 14-A-80 (portion) consisting of approximately 42.46 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 01-25

Background/History/General Information

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

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

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

General Information

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

In 1992, the Berryville Area Plan was adopted by the Town and County. Sub-areas were identified on all parcels within Annexation Area B. Detailed studies were performed on each of these sub-areas that included, but were not limited to, transportation, historic resources, and environmental suitability. Land use and zoning were applied to each parcel and a Future Land

Use table was created which included lot yields for residentially-zoned parcels. The plan was updated in 2015 and adopted by Town and County officials in 2016.

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

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

Property Information

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

- **Sub-area 13 – Buckmarsh Run Conservation Area (32.4 acres)**
Land use: environmental conservation
Current zoning applied: OSR Open Space Residential
Lot yield: 3
Sub-area 13 is adjacent to the Norfolk-Southern railroad tracks and is an environmentally-sensitive area due to Buckmarsh Run and flood-prone characteristics.
- **Sub-area 14 – Northeast Residential Transition Area (7.2 acres)**
Land use: Medium - low density residential
Current zoning applied: BP Business Park
Lot yield: 28
The land use originally applied to this sub-area was light industrial based on its location to the railroad tracks and existing businesses on Cattleman's Lane. The 2015 update modified the land use from industrial to medium-low residential due to concerns about the lack of access as an industrial site and the nature of the adjacent residential land uses.
- **Sub-area 15 – Northeastern Residential Growth Area (63.1 acres)**
Land use: low density residential
Current zoning applied: DR-1 Detached Residential - 1, DR-2 Detached Residential - 2, OSR Open Space Residential
Lot yield: 81

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

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

The lot yield identified on the Future Land Use Table in the BAP for these sub-areas totals 112 lots. The developer is requesting a rezoning of approximately 42.46 acres in the western portion of the site to DR-4 Residential in order to construct 110 dwelling units. The developer plans to develop 24 single-family lots in the eastern portion of the site by-right under the existing DR-1 Residential zoning district. The developer is proposing to use 22 of the 160 undeveloped lots to increase the density for a total of 134 single-family homes. The sub-area descriptions state that additional density should be considered for a portion of these residual units to be included in these locations.

Proffers

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

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

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

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

- Proffers may impose additional requirements and restrictions to address the impacts of a rezoning or may allow modifications from the requirements of the zoning ordinance,
- Proffers must be voluntary, which means that after the locality identifies the impacts arising from the rezoning, it is up to the owner to decide whether they want to address the impacts through proffers or risk having the rezoning denied by the governing body because impacts were not addressed; it is improper for a locality to deny a rezoning simply because the owner did not proffer something requested by the locality.
- Proffers must be reasonable.
- Once accepted by the governing body, proffers become part of the zoning regulations applicable to the land and they run with the land until it is rezoned (there are exceptions).
- Proffers must be in writing.

- Proffers must be submitted before the public hearing by the governing body and may not be materially amended once the public hearing begins without holding another public hearing, provided that the governing body may waive the requirement for a public hearing if the amendment does not affect conditions of use or density.
- Proffers must be signed by the owner(s) of the land being rezoned.
- Proffers to dedicate substantial land, make substantial cash payments, to construct substantial improvements, or which specify the permitted use or density, may create vested rights in the zoning of the land.

Findings/Current Activity

N/A

Schedule/Deadlines

Per Section 508.8 of the Berryville Zoning Ordinance, the Planning Commission shall act upon any proposed amendment within 100 days of the first Planning Commission meeting after the receipt of a complete rezoning application (by January 2, 2026). Town Council shall, under Section 508.9 of the Berryville Zoning Ordinance, act upon any proposed amendment within one year after receipt of a complete application (by September 25, 2026).

Staff is recommending that a work session be held in November prior to the November 28, 2025 Commission meeting.

Other Considerations

The documents that comprise this application may be viewed in the Town Business Office and the Community Development Department.

Recommendations

Set a public hearing for the Planning Commission meeting to be held on December 23, 2025.
Set a date for a work session to be held in November.

Sample Motion

I move that the Planning Commission of the Town of Berryville set a public hearing for the December 23, 2025.

I move that the Planning Commission of the Town of Berryville hold a work session on _____ to discuss this application and the proposed development of the Friant Enterprises LLC properties.

Rezoning Application Overview: Harvest View Development

The proposed **Harvest View** development is a thoughtfully master-planned residential community designed to align with the guiding principles and land use goals of the **Berryville Area Plan (the Plan)**. This application requests the rezoning of land within Sub-Areas **14**, and a **portion of 15** to accommodate **medium-low density residential development**, consistent with the vision for Berryville and Clarke County's primary growth area.

The overall project (portion is being rezoned and remaining to be developed by-right) encompasses Sub-Areas 13, 14,15, and a portion of 16 with the following considerations:

- **Sub-Area 13:** Reserved for environmental conservation, integrated into the development plan.
- **Sub-Areas 14 & 15:** Targeted for medium-low density residential development (2.67 DU/acre), in keeping with the Plan's allowance under a cohesive master plan.
- **Sub-Area 16 (portion):** Reserved for historic and cultural preservation.

The Harvest View plan supports the Berryville Area Plan by:

- **Improving transportation and connectivity** through a new entrance from Battletown Drive and enhanced circulation consistent with the Town's secondary street network.
- **Reducing environmental and infrastructure impact** through compact, clustered design that preserves natural features and limits development footprint.
- **Creating a walkable, healthy community** with sidewalks on all residential streets and an integrated open-space trail system.
- **Protecting important viewsheds** along Route 7 Bypass using natural topography and evergreen screening to minimize visual impact.
- **Providing urban-level utilities** including public water, sewer, and stormwater management through on-site infrastructure.
- **Offering cash proffers or improvements** to address impacts on public facilities and services.

In summary, Harvest View fulfills the Berryville Area Plan's call for **balanced, sustainable growth** within the designated growth areas by concentrating development where it is planned, supporting infrastructure efficiency, preserving the County's scenic and environmental resources, and enhancing the vibrancy of the Town.

LAND DEVELOPMENT APPLICATION TOWN OF BERRYVILLE

(Please print or type)

Current Property Owner Friant Enterprises #1.LLC, Friant Enterprises #2 LLC, Friant Enterprises #3 LLC

Owner's Address 1504 Charles Town WV 22514

Phone 304-261-6238 Katherine

Agent (Contact Person) John Regan

Agent's Address 10461 White Granite Dr. Suite 250 Oakton Va 22124

Phone 703-927-8677

Check Appropriate Request:

- Subdivision - creating more than 2 lots
- Minor Subdivision - single lot divided into 2 lots
- Boundary Line Adjustment
- Site Plan
- Rezoning**
- Text Amendment: Zoning or Subdivision Ordinance
- ARB Certificate of Appropriateness
- Town of Berryville Utilities
- Other: _____

RECEIVED

SEP 25 2025

Town of Berryville, VA

Complete As Applicable:

Nature of Request/Proposal: Christopher Companies – Harvest View Rezoning Project

Tax Map & Parcel Number(s): 14-A-80 (Portion)

Size of Project Site: Acres Land area to be Rezoned is 42.46 Acres

Proposed # of Lots: 110 Existing Zoning OSR, DR-1, DR-2, BP

Owner or Agent: The information provided is accurate to the best of my knowledge. I understand that the Town may deny, approve, or conditionally approve the request for which I am applying. I certify that all property corners have been clearly staked and flagged.

Signature: *[Handwritten Signature]* President of C. Dunbar Date: 9/24/2025

Owner: I have read this completed application, understand its intent, and freely consent to its filing. Furthermore, I grant permission to the Town Planning Department and other government agents to enter the property and make such investigations and tests, as they deem necessary. I acknowledge that in accordance with Article X of the Subdivision Ordinance I am responsible for costs incurred for review of subdivision and/or development plans by the Town's engineer and that any other required tests or studies will be carried out at owner/agent expense

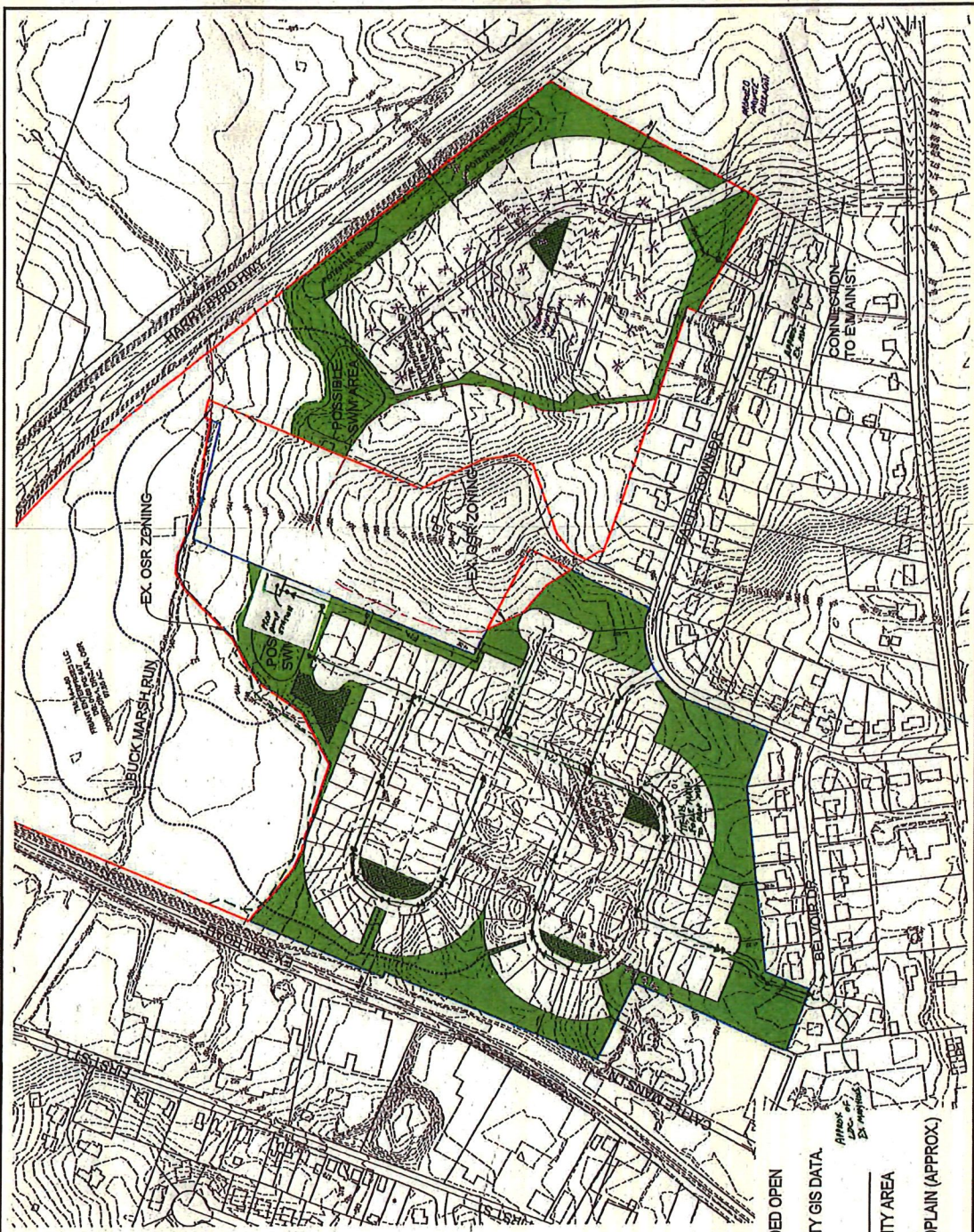
Signed by: Katherine F. Funkhouser Katherine F. Funkhouser Date: 9/25/2025
Signature: *[Handwritten Signature]* D0292640EFE3405...

OFFICE USE ONLY

Public Hearing Required? _____ Dates Advertised _____

Adjoining Property Owners Notified? _____

Action Taken: _____



DEVELOPMENT SUMMARY (BY RIGHT AREA) -
 EX DRI SITE AREA: 24.40 AC.
 EX OSR SITE AREA: 32.42 AC.
 TOTAL SITE AREA: 56.82 AC.

BY RIGHT ZONE: DR4 CLUSTER
 PROPOSED SFD UNITS: 24 UNITS
 TOTAL DENSITY: 0.98 D.U./AC.
 (BASED ON DRI SITE AREA)

LOT DIMENSIONS:
 WIDTH: 107 INT./120 CORNER
 DEPTH: 125'
 MIN. LOT AREA: 20,000 SF.
 SETBACKS (FOR PRIMARY STRUCTURES):
 FRONT: 35'
 SIDE: 15'
 REAR: 45'

REQUIRED OPEN SPACE (15%) 3.66 AC.
 PROVIDED OPEN SPACE (APPROX.) 6.25 AC.
 (BASED ON DRI SITE AREA)

DEVELOPMENT SUMMARY (REZONING AREA)
 SITE AREA: 41.20 AC.
 DR4 CLUSTER
 PROPOSED SFD UNITS: 110 UNITS
 TOTAL DENSITY: 2.67 D.U./AC.

LOT DIMENSIONS:
 WIDTH: 60 INT./75 CORNER
 DEPTH: 125'
 MIN. LOT AREA: 7,500 SF.
 SETBACKS (FOR PRIMARY STRUCTURES):
 FRONT: 15'
 SIDE: 10'
 REAR: 25'

REQUIRED OPEN SPACE (20%) 8.34 AC.
 PROVIDED OPEN SPACE (APPROX.) 12.40 AC.

- NOTES:
1. FLOODPLAIN AREA HAS NOT BEEN INCLUDED IN PROVIDED OPEN SPACE CALCULATIONS
 2. BACKGROUND INFORMATION BASED ON CLARKE COUNTY GIS DATA.
 3. 100 YEAR FLOODPLAIN BOUNDARY IS APPROXIMATE.

LEGEND

- OPEN SPACE
- POSSIBLE AMENITY AREA
- BY-RIGHT SITE AREA
- POSSIBLE TRAIL
- REZONING SITE AREA
- EXISTING FLOODPLAIN (APPROX.)

CONCEPTUAL LAYOUT - VERSION 3

* - Lots Sold by Greater Pines County and Maintained by HOA

— FM — ROUTE REZONING MAINTAINED BY HOA

— M — MAINTAINED ADJACENT SANITARY SEWER (MAINTAINED BY TOWN)

— M — MAINTAINED ADJACENT SANITARY SEWER (MAINTAINED BY TOWN)

— M — MAINTAINED ADJACENT SANITARY SEWER (MAINTAINED BY TOWN)

— M — MAINTAINED ADJACENT SANITARY SEWER (MAINTAINED BY TOWN)

CONNECTION TO REMAINS

Scale: 1" = 50'

DATE: May 15, 2025

Friant Property

Town of Berryville, VA

PRELIMINARY SANITARY SYSTEM LAYOUT

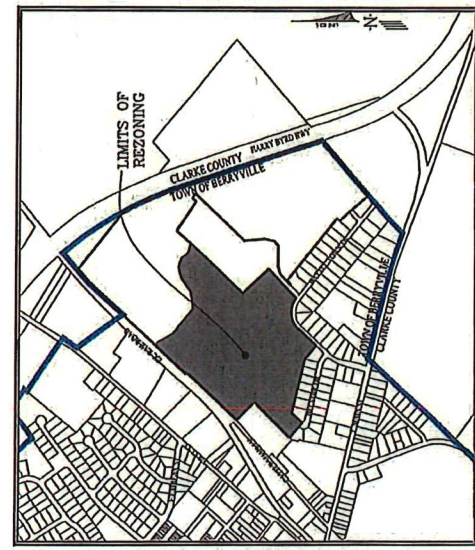
7-30-25

1000-114 - (0-255)Preliminary Sanitary System - 1200 (North) by 21, 2025 - 8:10am (edit)

A B C D E

MASTER ZONING PLAN HARVEST VIEW

TOWN OF BERRYVILLE
CLARKE COUNTY, VIRGINIA
SUBJECT PARCEL: TAX MAP # 14-A-80 (PORTION)



- SHEET INDEX**
- | | |
|----|-------------------------|
| 1 | COVER SHEET |
| 2 | CONTRIBUTIONS |
| 3 | MASTER DEVELOPMENT PLAN |
| 4 | UTILITY PLAN |
| 5 | TRANSPORTATION PLAN |
| 6 | EXISTING LAND USE PLAN |
| 7 | PROPOSED LAND USE PLAN |
| 8 | |
| 9 | |
| 10 | |
| 11 | |

urban
PLANNING & DESIGN

Project Name:
HARVEST VIEW

MASTER ZONING PLAN
Town of Berryville
Clarke County, Virginia

Date: September 23, 2022

Project No.: 2202

Sheet No.: 1 of 11

Client: Tetra Corporation

Address: 231 E MAIN STREET
SUITE 201
PURCELLVILLE, VA 20122

VICINITY MAP
SCALE: 1"=500'

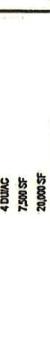
<p>DEVELOPER/APPLICANT CHRISTOPHER LAND LLC 1840 WHITE GRANITE DRIVE SUITE 250 OAKTON, VIRGINIA 22174 (703) 353-3950</p>	<p>CIVIL ENGINEER UREAN, LTD 7713 JEFFERSON URSHIKE ANNANDALE, VA 22003 (703) 682-0080</p>	<p>OWNER FRUANT ENTERPRISES #1 LLC 1501 EMERSON ROAD CHARLES TOWN, WV 25414</p>
<p>REAL ESTATE CONSULTANT TETRA CORPORATION 231 E MAIN STREET SUITE 201 PURCELLVILLE, VA 20122</p>		



GENERAL NOTES

1. THE SUBJECT PROPERTY IS LOCATED WITHIN THE HARVEST VIEW MASTER ZONING PLAN. ALL DEVELOPMENT SHALL BE IN ACCORDANCE WITH THE HARVEST VIEW MASTER ZONING PLAN AND THE ZONING ORDINANCES OF CLATSOP COUNTY, OREGON.
2. THE PROPERTY IS CURRENTLY ZONED DR-4 (DETACHED RESIDENTIAL-4).
3. THE PROPERTY IS CURRENTLY ZONED DR-4 (DETACHED RESIDENTIAL-4).
4. THE PROPERTY IS CURRENTLY ZONED DR-4 (DETACHED RESIDENTIAL-4).
5. THE PROPERTY IS CURRENTLY ZONED DR-4 (DETACHED RESIDENTIAL-4).
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11. THE PROPERTY IS CURRENTLY ZONED DR-4 (DETACHED RESIDENTIAL-4).
12. THE PROPERTY IS CURRENTLY ZONED DR-4 (DETACHED RESIDENTIAL-4).
13. THE PROPERTY IS CURRENTLY ZONED DR-4 (DETACHED RESIDENTIAL-4).
14. THE PROPERTY IS CURRENTLY ZONED DR-4 (DETACHED RESIDENTIAL-4).
15. THE PROPERTY IS CURRENTLY ZONED DR-4 (DETACHED RESIDENTIAL-4).

**TYPICAL LOT
SETTINGS FOR PRIMARY STRUCTURE**



DR-4 CLUSTER DEVELOPMENT STANDARDS

- MAX. DENSITY, RESIDENTIAL USES: 4 DU/AC
- SPD MIN. LOT SIZE: 7,500 SF
- SPD MAXIMUM LOT SIZE: 20,000 SF
- SPD MINIMUM LOT WIDTH: 60 FT, (90 CORNER LOT)
- SPD MINIMUM SIDE YARD: 10 FT
- SPD MINIMUM REAR YARD FOR PRIMARY STRUCTURE: 25 FT
- SPD MINIMUM SIDE AND REAR YARD FOR ACCESSORY STRUCTURES: 5 FT
- SPD MINIMUM FRONT YARD FOR PRIMARY STRUCTURE: 15 FT
- SPD MINIMUM FRONT YARD FOR GARAGES, CARPORTS, OR OTHER STRUCTURES FOR VEHICLES: 25 FT
- MAXIMUM BUILDING HEIGHT: 35 FT
- OPEN SPACE REQUIRED: 20% NET AREA EXCLUDES HARVEST FLOODPLAIN, SINKHOLES, SLOPES EXCEEDING 25% AND 50% OF LAND WITH SLOPES BETWEEN 15% AND 25%.

DEVELOPMENT SUMMARY AND TABULATIONS

Category	Value
TOTAL PARCEL AREA	97.85 AC
AREA TO BE REZONED	42.46 AC
EXISTING ZONE	DR-4 (DETACHED RESIDENTIAL-4)
PROPOSED ZONE	DR-4 (DETACHED RESIDENTIAL-4)
LOTS PROPOSED	119 DU
PROPOSED DENSITY	119 DU / 42.46 AC = 2.80 DU/AC
100-YR FLOODPLAIN AREA, SINKHOLES, SLOPES EXCEEDING 25% AND 50% OF LAND WITH SLOPES BETWEEN 15% AND 25%:	2.86 AC
NET SITE AREA	42.46 AC - 2.86 AC = 40.60 AC
OPEN SPACE REQUIRED (20% NET AREA)	8.12 AC (40.60 AC * 20%)
OPEN SPACE PROVIDED	13.70 AC (32.90 AC * 41.6%)

urban.

2023 Urban Plan Update
 1000 NE Oregon Street, Suite 200
 Portland, Oregon 97232
 503.255.1100

Seal

Project Name: **HARVEST VIEW**

MASTER ZONING PLAN
 Town of Bonyon
 Clatsop County, Oregon

Scale: 1" = 100'

North Arrow

Y-axis: 100, 200, 300, 400, 500, 600, 700, 800, 900, 1000

X-axis: 100, 200, 300, 400, 500, 600, 700, 800, 900, 1000

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City of Bonyon
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 503.255.1100

HARVEST VIEW

DESIGN GUIDELINES

SEPTEMBER 2025

PREPARED BY:



FOR:

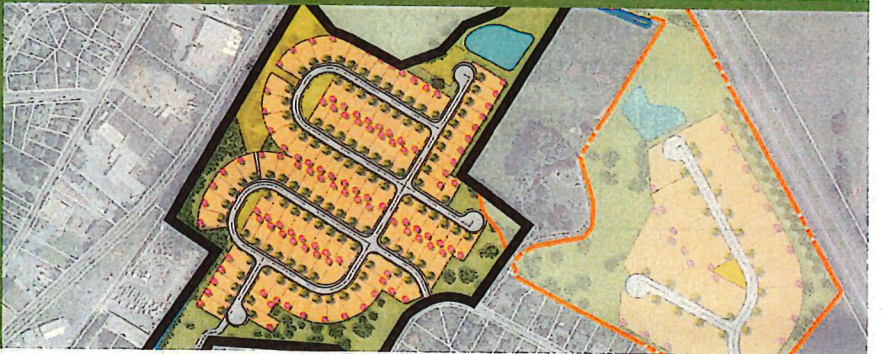
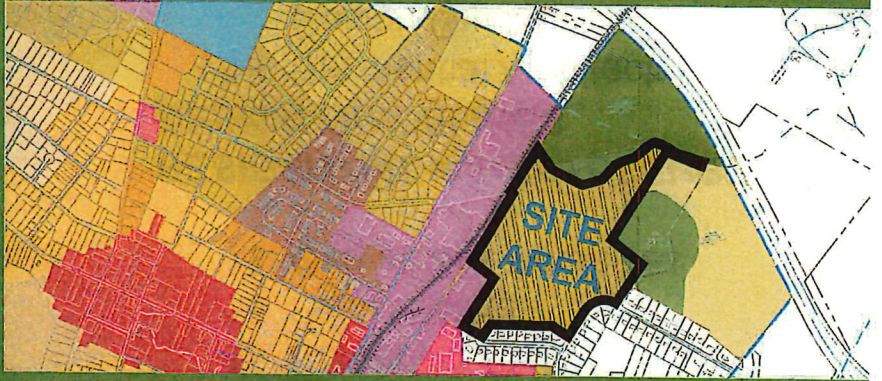


TABLE OF CONTENTS

PROJECT SUMMARY

- 1. Cover
- 2. Table of Contents
- 3. Overview
- 4. Basis of Design
- 5. Project Summary
- 6. Achieved Design Elements

TRANSPORTATION DESIGN

- 7. Vehicular Transportation
- 8. Pedestrian Walkability
- 9. Street and Trail Details

OPEN SPACE

- 10. Open Space Area
- 11. Open Space Plan
- 12. Optional Open Space Amenities

LANDSCAPING

- 13. Landscape Standards
- 14. Residential Landscape and Hardscape Guidelines
- 15. Screening Plan
- 16. Plant Palette
- 17. Overall Site Amenities

RESIDENTIAL ARCHITECTURE DESIGN GUIDELINES

- 18. Residential Architecture Design Guidelines
- 19. Residential Architecture Design Guidelines
- 20. Architectural Features
- 21. Landscape Lot Details

OVERVIEW

PROJECT LOCATION

Harvest View is a thoughtfully planned single-family residential community proposed in the northeastern-most portion of the Town of Berryville in Clarke County, Virginia. The community will provide 110 residential lots while preserving more than 30% of the rezoned property as open space. 50% of the overall development will be open space (by-right and rezoning portions) which will support both conservation goals and a high quality of life for future residents. Strategically located with easy access to Route 7 and only minutes from downtown Berryville, Harvest View offers convenient proximity to essential amenities, services, and public schools within 2 to 3 miles. This location strengthens the connection between new housing opportunities and the Town's existing infrastructure and community assets.



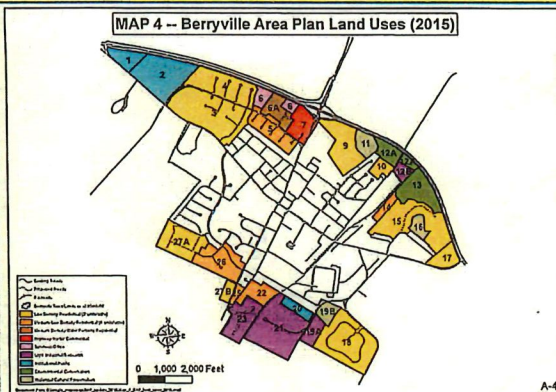
BASIS OF DESIGN

Enhanced Transportation and Connectivity – The community design incorporates roadway and access improvements that strengthen connectivity to the Town's transportation network, ensuring safe and efficient circulation for residents and emergency services.

Cluster Development Approach – Homes are arranged in a clustered pattern to minimize infrastructure demands, reduce long-term public service costs, and preserve significant open space, thereby aligning with smart growth & environmental stewardship objectives.

Pedestrian-Friendly Design – A comprehensive system of sidewalks and trails is proposed to promote walkability, encourage healthier lifestyles, and provide safe, accessible routes that connect residents to open spaces and community amenities.

Viewshed and Scenic Resource Protection – The plan preserves key visual corridors and natural features, protecting the community's rural character and maintaining the scenic quality valued by Clarke County residents & visitors.



The Town of Berryville is uniquely positioned to provide urban-level services as Clarke County's primary designated growth area for both residential & business uses. With the support of a comprehensive master plan that addresses all relevant planning elements, the proposed residential area can appropriately accommodate medium-low density development at a target of 4 units/ac. Pedestrian connection between the west & east sides of the community can be provided through the existing parcels.

The Harvest View development plan has been carefully crafted to reflect and implement the guiding principles of the Berryville Area Plan (the Plan). This Plan, jointly developed by Clarke County and the Town of Berryville, was established to balance the protection of natural resources, historic landscapes, and agricultural lands with the Town's role as the County's designated growth center. Within this framework, the Plan provides specific recommendations for sub-areas. The Harvest View property encompasses Sub-areas 13, 14, 15, and a part of 16:

Sub-area 13 is identified for environmental conservation, which has been incorporated directly into the Harvest View plan through preserved open spaces and resource protection.

Sub-areas 14 and 15 are designated for medium-low (2–4 units/ac.) and low-density (1–2 units/ac.) residential development, respectively. However, the Plan clearly acknowledges that both areas may support medium-low density (up to 4 units/ac) residential development under a cohesive master plan that integrates Sub-areas 13, 14, and 15. The Plan further emphasizes that unused residential density from other growth areas should be considered for application within Sub-area 15, making Harvest View an ideal location to absorb this capacity in a planned, responsible manner.

Sub-area 16, portion under separate ownership, is designated for historical and cultural preservation. The Plan recognizes that connectivity between the east and west sides of Sub-area 15 is a known challenge, which can be resolved with the future development of the Bel Voi parcel by others.

In summary, Harvest View delivers a cohesive master plan that directly advances the Berryville Area Plan's objectives by:

- Preserving sensitive environmental areas.
- Establishing a compact, walkable, and connected neighborhood form.
- Supporting efficient provision of urban services within the Town's primary growth boundary.
- Responsibly accommodating planned residential density consistent with the County's adopted growth policies.

This coordinated approach not only meets the intent of the Plan but also strengthens Berryville's role as the County's focal point for growth while ensuring long-term protection of surrounding rural and agricultural lands.

PROJECT SUMMARY

The Harvest View community has been designed using a clustered development approach that minimizes infrastructure demands while preserving significant environmental resources. This design strategy allows development to be concentrated in appropriate areas, while maintaining large portions of the property as permanent open space, consistent with Town planning objectives.

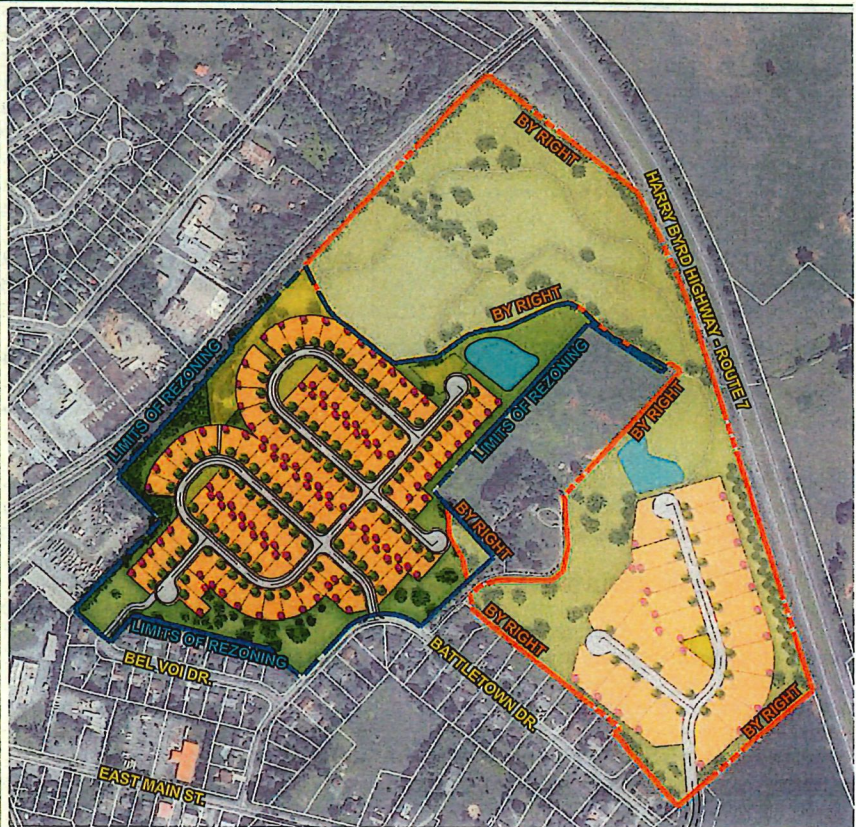
A walkable community framework has been prioritized. All residential streets will be built with sidewalks on both sides, ensuring safe pedestrian movement throughout the neighborhood. Beyond the streetscape, a trail system will weave through the preserved open space areas, creating opportunities for recreation, connectivity, and access to natural resources.

Open space preservation is a defining feature of the plan. The majority of the site, when including both the rezoning and by-right plans, will remain open space, with select areas thoughtfully programmed for active and passive recreation to serve residents of all ages.

Modern infrastructure will be provided. Each home will be served by public water and sanitary sewer, while on-site stormwater management systems will be implemented to meet regulatory requirements and protect downstream resources.

LEGEND

-  LIMITS OF REZONING
-  BY-RIGHT



ACHIEVED DESIGN ELEMENTS

GOALS:

1. TRANSPORTATION & CONNECTIVITY

- Harvest View is designed to strengthen the Town's transportation network by providing a new access point. The primary entrance will extend from Battletown Drive and incorporate road improvements, ensuring safe and efficient traffic flow. This new entrance will improve circulation within the Town and maintaining the secondary street network envisioned in the Berryville Area Plan.
- *Plan Alignment:* The Berryville Area Plan (Chapter 2, Section C) emphasizes the need for linkages to and through Battletown Subdivision and adjacent sub-areas, while also calling for additional access options to Sub-area 15. The Harvest View plan directly fulfills this requirement.

2. CLUSTER DESIGN TO REDUCE INFRASTRUCTURE COSTS & ADVERSE ENVIRONMENTAL IMPACTS

- The Harvest View neighborhood is designed as a clustered community, reducing infrastructure demands while preserving sensitive natural resources and drainage ways. The proposed density of 2.59 DU/AU reflects the Plan's call for medium-low density residential development at 4 units per acre, consistent with Sub-area 15's potential.
- *Plan Alignment:* The Berryville Area Plan (Chapter 2, Section C) encourages cluster development to protect environmental areas, increase land efficiency, and reduce infrastructure costs. The Plan further notes that unbuilt residential density from Annexation Area B should be considered for Sub-area 15—supporting Harvest View's proposed density.

3. WALKABILITY & TRAILS

- All residential streets in Harvest View will include sidewalks on both sides, providing approximately 1.75 miles of safe pedestrian pathways. In addition, a trail system approximately 1 mile will extend through the preserved open space, creating a comprehensive pedestrian circulation network that enhances recreation and accessibility.
- *Plan Alignment:* The Berryville Area Plan (Chapter 1, Section D) highlights the importance of walkable communities, noting benefits such as healthier and more active residents, reduced transportation costs, improved air quality, and increased economic activity. Harvest View fully embraces this vision by delivering an interconnected, pedestrian-friendly neighborhood.

4. VIEWSHED PROTECTION

- Harvest View has been carefully designed to protect the highly visible landscape along Route 7. The majority of development is located more than a quarter-mile from the corridor. In areas where homes are closer, the property's natural topography and additional evergreen screening will preserve scenic views and mitigate visual impacts.
- *Plan Alignment:* The Berryville Area Plan (Chapter 2, Section C) specifically identifies the Route 7 Bypass viewshed as requiring careful siting. Harvest View addresses this requirement by combining natural terrain with landscape screening to preserve the County's scenic

5. MASTER PLANNING FOR UTILITIES & STORMWATER

- Harvest View will be fully served by public water and sanitary sewer, consistent with the Town's role as the primary growth area. On-site stormwater management will be achieved through strategically located ponds, ensuring regulatory compliance and long-term protection of downstream resources.

6. PROFFERS & MITIGATION OF DEVELOPMENT IMPACTS

- As outlined in the proffer statement, Harvest View includes cash proffers to help address Town needs, ensuring that the costs of new growth are responsibly offset by developer contributions.

In summary, the Harvest View master plan directly implements the Berryville Area Plan by:

- Expanding safe and efficient transportation linkages,
- Preserving environmental resources through clustered design,
- Establishing a robust walkability and trail system,
- Protecting key scenic viewsheds,
- Delivering urban-level services in the designated growth area, and
- Mitigating impacts through proffers.

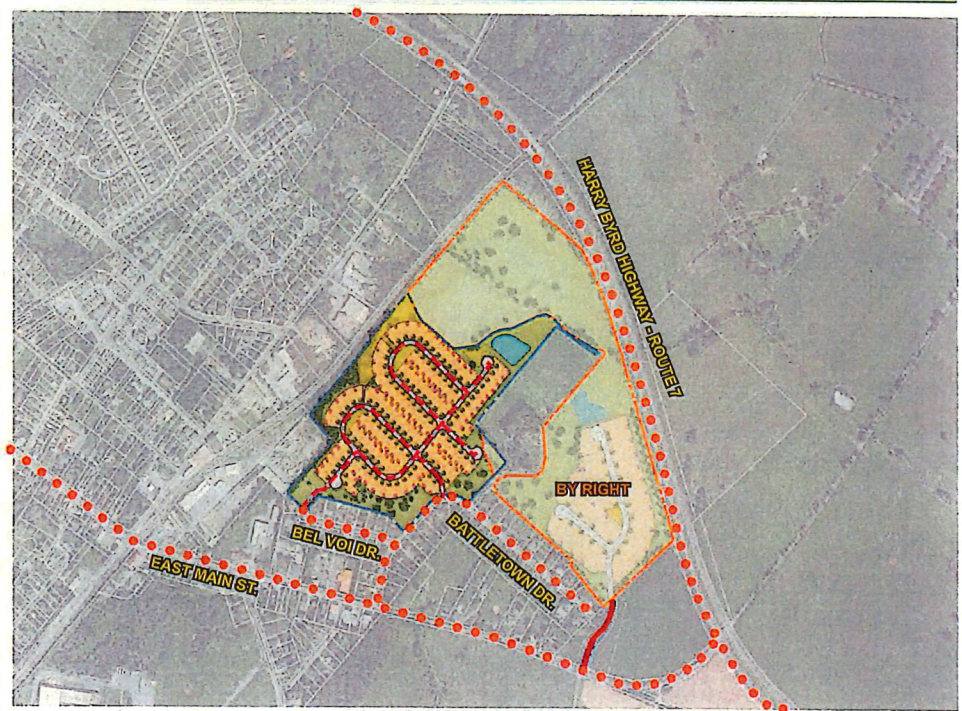
Harvest View reflects the balanced growth strategy envisioned jointly by The Town of Berryville—strengthening the Town as the growth center while safeguarding the rural and historic character that defines the surrounding landscape.

VEHICULAR TRANSPORTATION

The Harvest View community shall be designed with a well-connected internal street network that supports safe and efficient two-way vehicular circulation while accommodating on-street parking to enhance neighborhood character and convenience. To ensure strong integration with the Town's overall transportation system, the development shall include an entrance point connecting the community to the rest of the existing surrounding neighborhood along Battletown Drive.

LEGEND

- EXISTING STREETS
- PROPOSED RESIDENTIAL STREET
- PROPOSED CONNECTION UNDER SEPARATE APP.

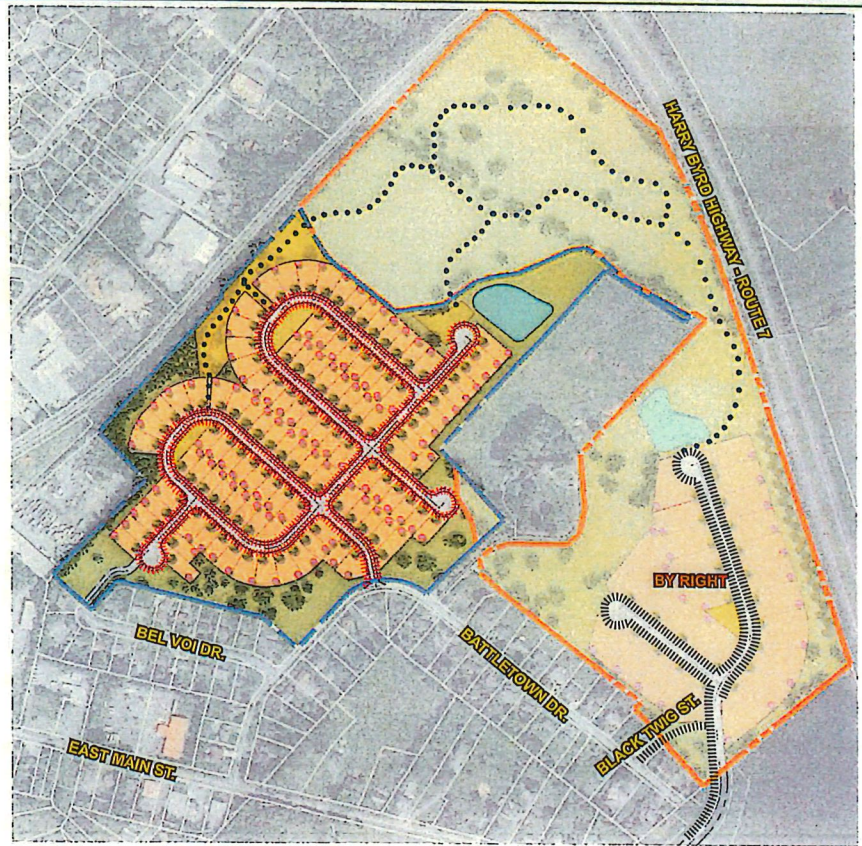


PEDESTRIAN WALKABILITY

The internal residential streets of Harvest View shall be designed with sidewalks on both sides, ensuring safe and continuous pedestrian access throughout the community. In addition, sidewalks, trails, and similar pedestrian connections shall link residential areas to community amenities and recreational features located within designated open spaces. The open space network shall be further enhanced by a system of interconnected internal trails, providing multiple routes and access points that encourage public use, strengthen connectivity, and promote an active, walkable neighborhood environment.

LEGEND

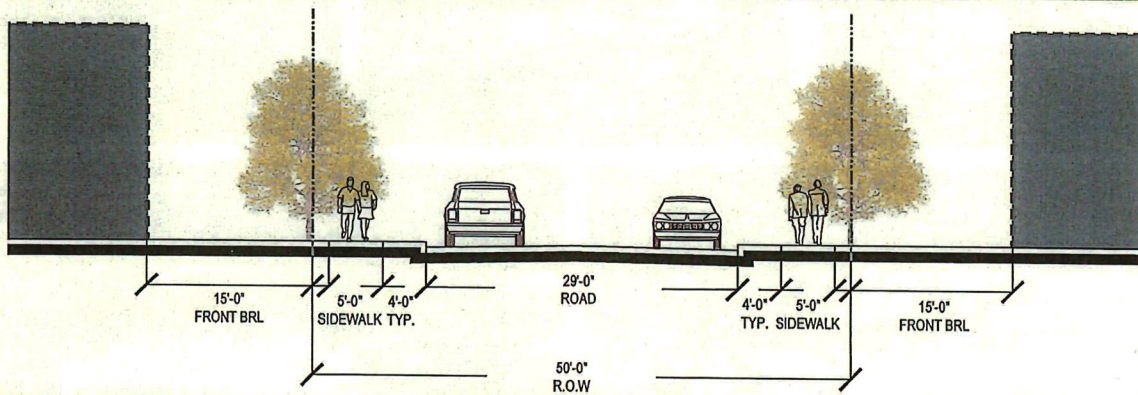
-  PROPOSED SIDEWALK
-  PROPOSED SIDEWALK BY-RIGHT
-  PROPOSED TRAIL



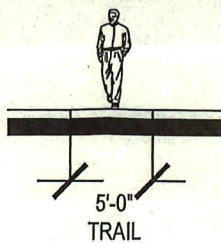
SEPTEMBER 2025

STREET AND TRAIL DETAILS

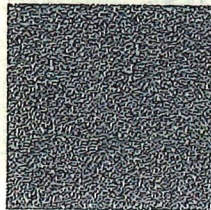
RESIDENTIAL STREETS All internal residential streets shall be designed as 50-foot public rights-of-way, incorporating sidewalks on both sides to ensure safe, convenient, and accessible pedestrian circulation throughout the community. Sidewalks shall connect to open space areas, trails, and adjoining neighborhoods to promote walkability and support a cohesive, interconnected community fabric.



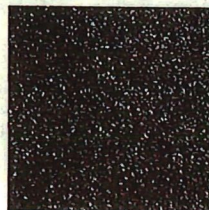
TRAILS A system of private trails shall supplement the sidewalk network to expand recreational opportunities and provide public access connections to designated open space areas. Trails shall be a minimum of 5 feet in width and may utilize a range of high-quality surface materials—including natural stone dust, asphalt, mulch, concrete, pavers, or similar materials—selected to balance durability, accessibility, and the desired character of the trail environment.



STONE DUST



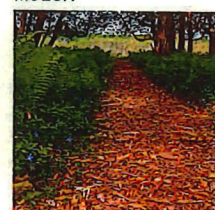
ASPHALT



NATURAL

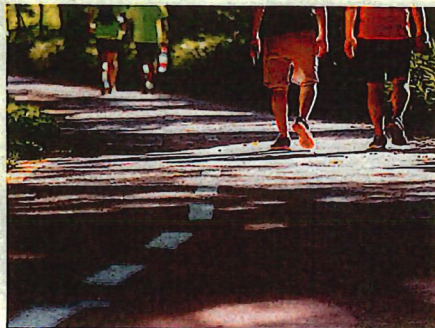


MULCH



OPEN SPACE AREA

To uphold the cluster design principles established in the Master Plan, the majority of the Harvest View community shall be preserved and enhanced as open space. These areas shall serve as both conservation and community functions, protecting natural resources while offering residents meaningful opportunities for recreation. Select portions of the open space shall be thoughtfully programmed with amenities that support a balance of active and passive recreational uses for all ages. Public access to these amenities shall be provided through a connected trail system that links seamlessly to the internal public street network, ensuring accessibility, walkability, and integration with the overall neighborhood design.



OPEN SPACE PLAN

LEGEND

- OPEN SPACE
- AMENITY SPACE

OPEN SPACE REQUIRED:
(20%)

8.08 AC

OPEN SPACE PROVIDED:
(NOT INCLUDING FLOODPLAIN)

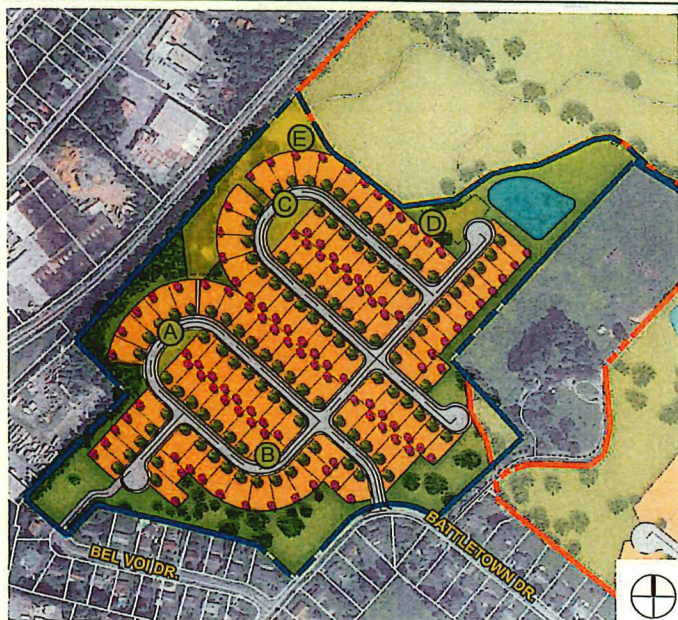
13.78 AC

**ACTIVE RECREATION & ACTIVE COMMUNITY
REQUIRED:**
(5% OF NET AREA)

2.02 AC



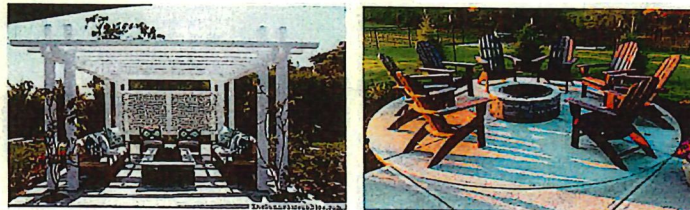
OPTIONAL OPEN SPACE AMENITIES



A Playground: The Playground acts as a central hub for children to explore their surroundings in a healthy and safe environment. The playground equipment shall be intentionally selected to promote creativity and physical fitness for ages 5-12. The materials selected shall be complimentary to the surrounding architecture.



B Fire Pits & Pavilion: Fire Pits will be proposed within an open space area, facing a wooded buffer, allowing users to enjoy a quiet evening or afternoon with friends around the fire.



C Passive Park: Has space for users to have picnics, birdwatch, and enjoy nature.

D Dog Park: The enclosed Dog Park includes seating and open space for users.

E Exercise Equipment: Exercise equipment will be proposed along the trail for users to enjoy cardio and strength training outdoors.



LANDSCAPE STANDARDS

1. PLANTING DESIGN GUIDELINES AND GENERAL REQUIREMENTS

- A. Landscape material selections shall respond to the surrounding architecture and shall reinforce and define the public open space within the site. In general, street tree species shall correspond to the specific street type they are located on. This will help define the overall hierarchy of street connections and create clear pedestrian and vehicular zones. Overall, landscape selections will be based on year round interest, the ecology of the site, the need to define spaces, and the theme of the design.
- B. Plants shall be selected based on their ultimate height, width, and growth habit in relation to the space where they will be planted. When planted adjacent to buildings, plantings should not obscure the building's architectural features.
- C. To the extent possible, regional indigenous species are to be integrated into the planting designs.
- D. Plant materials shall be resistant to disease and damage by deer and other fauna of the area.
- E. There shall be a diverse mix of plant species to avoid monoculture and ensure seasonal interest. No more than 33% of plantings shall be of any one species.
- F. Non-native species may be used in high visibility areas (e.g. entrance features, adjacent to buildings), however invasive and aggressively spreading species are not permitted.
- G. All plant beds shall be fully prepared as per the plan specifications.
- H. Minimum Plant Size:
 Street/Shade Trees: 2" cal.
 Ornamental Trees: 1.5" cal.
 Evergreen Trees: 6' height
 Shrubs: 18" - 24"

2. EXISTING VEGETATION

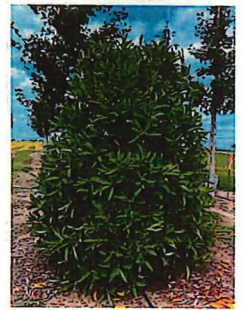
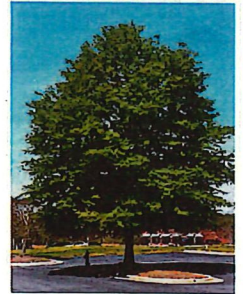
- A. General Guidelines: Existing stands of vegetation shall be preserved whenever possible.
- B. Buffer Credits: Existing vegetation may be used to meet landscape buffer requirements. To be credited, existing vegetation stands must meet the buffer width requirement and be in good health. Existing buffer areas shall be supplemented where necessary with planted trees and shrubs to achieve the minimum number of trees and shrubs required.

3. STREET TREES

- A. General Requirements: Shade trees shall be planted as street trees along all rights-of-way within the project area.
- B. Spacing: Shade trees shall be planted at a minimum, one tree approximately every 50 feet with the centerline of the roadway as the basis of measurement.

4. RESIDENTIAL LANDSCAPING

Landscape plantings for individual homes should consist of a limited variety of trees, shrubs, and groundcovers to create an attractive well organized cohesive landscape. Shrubs and groundcovers should be planted in masses of a single species or cultivar in sufficient numbers to create beds or drifts of plants.



RESIDENTIAL LANDSCAPE AND HARDSCAPE GUIDELINES

LANDSCAPING

Lot landscaping and screening can add a lot of value and create an aesthetically pleasing streetscape throughout the community. The following guidelines shall be used:

- Foundation plantings must be included on every house prior to occupancy.
- Lots with walk-out basements or exposed foundations shall include some landscaping to break up large architecture planes.
- Columnar or taller evergreens shall be used to "soften" the architecture.
- Corner lots or high vis lots shall have some landscape screening or fencing to screen rear or sides of houses from the street.
- Lots that back to other lots shall include some landscaping or fencing at the rear of the property to create a visual screen between adjacent lots. Landscape material shall be located outside drainage or utility easements.

FENCES

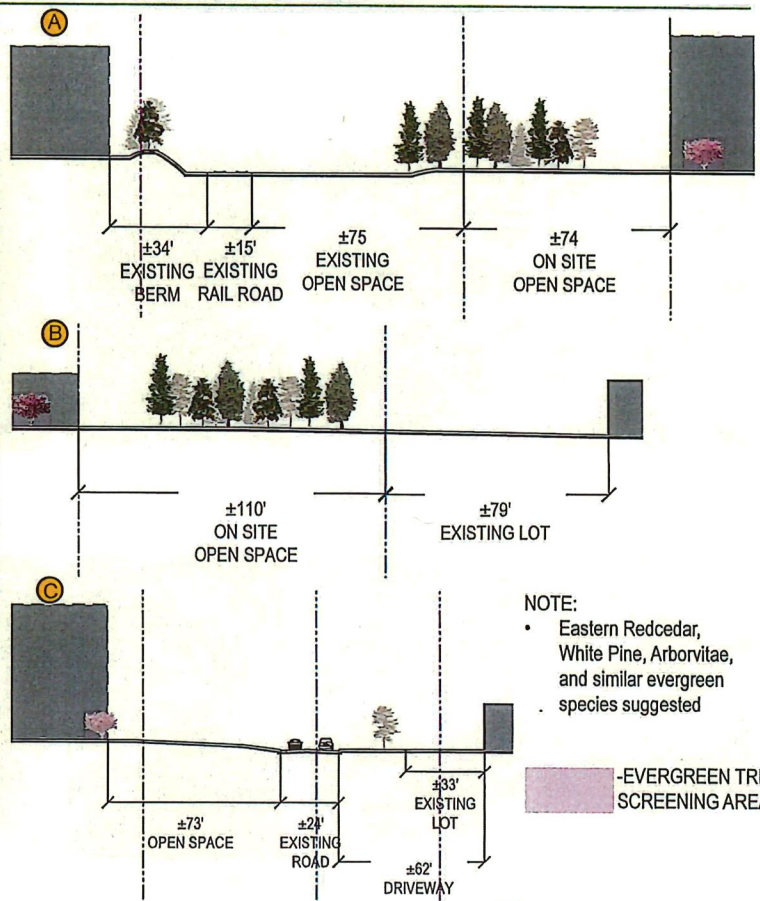
Fences will be permitted within the Harvest View community but must follow the guidelines below:

- Fence material shall be treated wood, vinyl, wrought iron or aluminum.
- Vertical vinyl covered black picket fencing is permitted.
- Maximum fence height shall be six (6) feet, not including lattice.
- Side yard fencing shall be a minimum of four (4) feet behind the front plane of the house.
- Corner lot fencing layout shall not extend beyond the front plane of the house on the perpendicular street.
- No front yard fencing shall be allowed.

HVAC EQUIPMENT & GENERATORS

- HVAC & generators shall be placed in the rear yard whenever possible.
- HVAC & generators shall be screened from view of the street or adjacent lots with a fence or opaque landscape screen.
- No equipment shall be placed on the side of the house that abuts two public streets.

SCREENING PLAN



- NOTE:
- Eastern Redcedar, White Pine, Arborvitae, and similar evergreen species suggested

EVERGREEN TREES SCREENING AREA



SEPTEMBER 2025



CHRISTOPHER COMPANIES
QUALITY BY DESIGN

PLANT PALETTE

DECIDUOUS TREES

SCIENTIFIC NAME	COMMON NAME
<i>Quercus falcata</i>	Southern Red Oak
<i>Quercus phellos</i>	Willow Oak
<i>Nyssa sylvatica</i>	Blackgum
<i>Acer saccharum</i>	Sugar Maple

EVERGREEN TREES

SCIENTIFIC NAME	COMMON NAME
<i>Ilex opaca</i>	American Holly
<i>Juniperus virginiana</i>	Eastern Redcedar
<i>Pinus strobus</i>	Eastern White Pine
<i>Thuja occidentalis</i>	Arborvitae

ORNAMENTAL TREES

SCIENTIFIC NAME	COMMON NAME
<i>Cercis canadensis</i>	Redbud
<i>Crataegus phaenopyrum</i>	Washington Hawthorn
<i>Malus angustifolia</i>	Southern Crabapple

SHRUBS

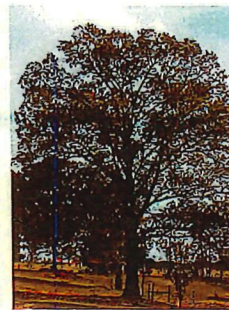
SCIENTIFIC NAME	COMMON NAME
<i>Aquilegia canadensis</i>	Red Columbine
<i>Osmanthus americanus</i>	Devilwood
<i>Ilex glabra</i>	Inkberry
<i>Prunus laurocerasus</i> var. 'Otto Luyken'	Otto Luyken Cherrylaurel



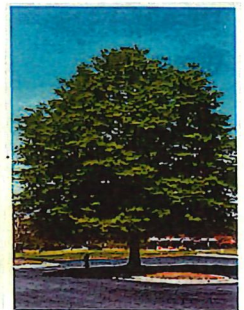
AMERICAN HOLLY



EASTERN RED CEDAR



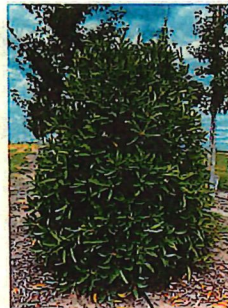
SOUTHERN RED OAK



WILLOW OAK



RED COLUMBINE



DEVILWOOD



WASHINGTON HAWTHORN

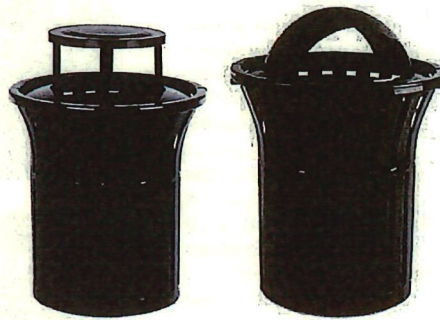


REDBUD

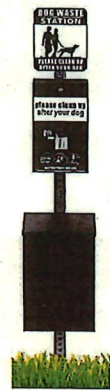
NOTE: The species shown are representative of the desired characteristics of the trees that will be within the Harvest View community and are not intended to be the entire list of species. Additional species may be added at time of final design.

OVERALL SITE AMENITIES

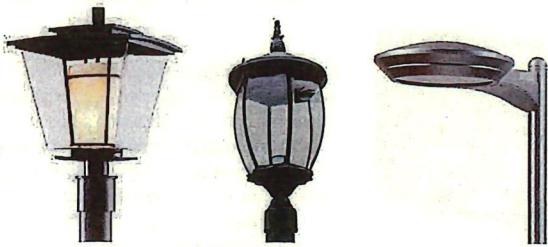
Outdoor furniture within active and passive amenity spaces shall be selected and designed to employ a unified and consistent aesthetic throughout the development. Matching benches, tables, chairs, bike racks, exercise equipment, playground equipment, trash receptacles, etc. are encouraged.



WASTE RECEPTACLES



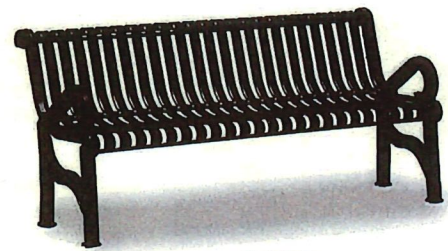
PET WASTE DISPOSAL



PEDESTRIAN LIGHTING



BIKE RACK



SEATING

RESIDENTIAL ARCHITECTURE DESIGN GUIDELINES

Building design guidelines seek to create a distinct yet coherent architecture that will foster a unique identity for Harvest View and form the backdrop to a rich street level experience. These guidelines will help distinguish the community, help define its character, and eventually raise its value in the marketplace. The following set of principles will be applied to each of the buildings, irrespective of its use or location.

1. Build in the tradition of simple yet elegant designs. Building architecture and elevations promote a more contemporary nature through the use of simple unifying roof and window lines and careful selection of materials. The building aesthetic should emerge from elevation components and building details rather than from mere ornamentation.

2. Use traditional, high quality and durable materials throughout the community: When walls are constructed of more than one material, changes in material shall be permitted along a horizontal or vertical line and should reinforce a base, middle and top for the building.

3. Variety. No more than three of nine continuous lots can be the same elevation. In addition, lots next to, across or across the street from each other cannot be the same elevation and color scheme. No identical color schemes for houses shall be repeated within three continuous lots.



4. Emphasize main entries of each home regardless of elevation. The main entrance to each home should be easily identifiable through the use of materials and forms.

5. Complimentary. Within the parameters of the principles as described herein, in addition to modern building practices and current market feasibility and projections, the architecture shall be complimentary, to the extent practical, to the architecture as typically found in the Town of Berryville.

Building walls shall be of the following materials:

- Brick: A variety of traditional brick colors and modules and bonding variations are encouraged.
- Stone: Stone veneers are permitted and shall be laid predominantly rectilinear stones in a horizontal pattern. Cast stone shall be permitted as sills, headers and accents.
- Siding: High quality vinyl or its equivalent is the prescribed siding material where brick or stone is not utilized. Aluminum siding is not permitted. A variance in color and texture is encouraged.



RESIDENTIAL ARCHITECTURE DESIGN GUIDELINES

ELEVATIONS & MATERIALS

Creating a unique and diverse streetscape throughout Harvest View is a high priority. Therefore, limitations are placed on the frequency and location of elevations that can be used on adjacent lots.

The following guidelines shall be followed:

- Building elevations will be reviewed and approved by the developer prior to construction to ensure a cohesive theme throughout the community.
- No more than three out of every nine continuous lots can be the same elevation.
- Lots next to or across the street from each other cannot be the same elevation.
- No identical color schemes for houses shall be repeated within three consecutive lots.
- Accent materials shall be varied to create more differentiation between lots.
- Single level models shall add architectural features to the road facing roof to break up vast roof planes.
- Garage dominate elevations should utilize varying front yard setbacks and a mix of models and elevations to keep variety in the streetscape.
- Accessory structures exterior color must match the main color of the primary structure.
- All lead walks shall be broom finished concrete. Traditional, high-quality, and durable building materials shall be used throughout the community. Building materials shall meet all current Local, State, and Federal building codes and regulations.

WALK OUT BASEMENTS, EXPOSED FOUNDATIONS, & SLAB TREATMENT

Lots with walk out basements or exposed foundations, including front porch or stoops, shall be finished with an architectural CMU or stone material.

Approved finishes include:

- Patterned form-liner; must also be painted to compliment architecture color scheme
- Stone or brick; must match the material being used as water table treatment
- Split-faced CMU block; color of block must compliment architecture color scheme.

Zero barrier entry lots are housing designed to accommodate aging population and buyers with disabilities that affect mobility. To accommodate the need, these housing units limit architectural elements such as stoops and porches. Builders are encouraged to pull masonry materials up from the foundation to the bottom of the lowest window in the front façade across the entire front elevation. If a zero-barrier entry house is proposed on a high visibility lot, the application will be managed on a case-by-case basis with the developer.

PARKING

All lots are to provide a minimum of two off-street parking spaces on a driveway with a minimum width and depth of 18 feet.

ARCHITECTURAL FEATURES

SINGLE FAMILY DETACHED HIGH VISIBILITY LOTS

High Visibility (HV) lots are corner / end units, or units that have the side or rear elevation facing a roadway. HV lots are not required if there is a thirty (30) feet or more landscape buffer between the lot and the roadway. HV lots will be required to provide the masonry treatment illustrated below. Three (3) additional architectural treatments listed below must also be provided.

Features required:

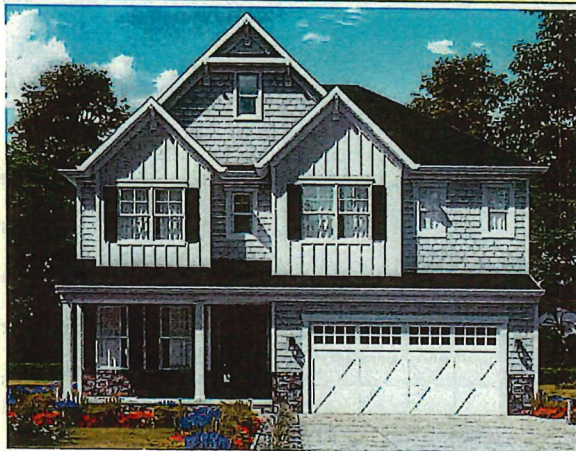
- Masonry water table; masonry used on the side elevation shall match masonry used on the front.
- A minimum of one optional feature shall be provided on each unit level.

Optional features:

- Shutters
- Trimmed windows
- Pigeon ledge, which is a break in building elevation running eave to eave.
- Bird box, which is a return on the eave. See example (right)
- Siding above pigeon ledge shall be architecturally different from main portion of the house.

Pigeon ledge options include:

- Tighter spaced siding
- Shake siding
- Vertical siding

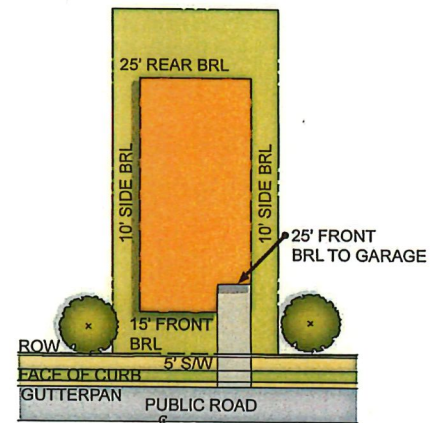


LOT DETAILS

DR-4 CLUSTER DEVELOPMENT STANDARDS


MAX. DENSITY, RESIDENTIAL USES:	4 DU/AC
SFD MIN. LOT SIZE:	7,500 SF
SFD MAXIMUM LOT SIZE:	20,000 SF
SFD MINIMUM LOT WIDTH :	60 FT, (75 FT CORNER LOT)
SFD MINIMUM SIDE YARD:	10 FT
SFD MINIMUM REAR YARD FOR PRIMARY STRUCTURE:	25 FT
SFD MINIMUM SIDE AND REAR YARD FOR ACCESSORY STRUCTURES:	5 FT
SFD MINIMUM FRONT YARD FOR PRIMARY STRUCTURE:	15 FT
SFD MINIMUM FRONT YARD FOR GARAGES, CARPORTS, OR OTHER STRUCTURES FOR VEHICLES:	25 FT
MAXIMUM BUILDING HEIGHT:	35 FT

TYPICAL LOT
(SETBACKS FOR PRIMARY STRUCTURE)



SINGLE-FAMILY DETACHED UNIT

LEGEND

 LARGE DECIDUOUS STREET TREES

Section 508 Amendments

SECTION 508 - AMENDMENTS

- 508.1** Whenever the public necessity, convenience, general welfare, or good zoning practice require, the Town Council may by ordinance amend, supplement, or change the regulations of the Zoning Ordinance (text amendment) or the zoning district boundaries or classifications of property (rezoning/zoning map amendment). (11/02)
- 508.2** Such amendments may be initiated (i) by resolution of the Governing Body, or (ii) by motion of the Planning Commission. Any such resolution or motion shall state the above public purpose therefor. (11/02)
- 508.3** A rezoning/zoning map amendment may be initiated by petition of the owner, contract purchaser with the owner's written consent, or owner's agent therefor of the property which is the subject of the proposed rezoning/zoning map amendment. (11/02)
- 508.4** An owner of property in the Town, or citizen of the Town, may request the Town Council or the Planning commission, in writing, to initiate a text amendment. The determination of whether to initiate a text amendment shall be in the sole discretion of the Town Council or Planning Commission. The property owner or citizen shall submit with the written request any applicable fee, which shall be returned to such property owner or citizen less the expended fees if the Town Council or Planning Commission elects not to initiate the requested text amendment. (11/02)
- 508.5** Any proposed text amendment or rezoning/zoning map amendment shall be referred to the Planning Commission for its recommendation. (11/02)
- 508.6**
- (a) All amendments shall be advertised and written notices provided as required by Section 15.2-2204, Code of Virginia.
 - (b) In the case of a proposed rezoning/zoning map amendment, the public notice shall state the general usage and density range, if any, of the proposed amendment, and the general usage and density range, if any, set forth in the applicable part of the Comprehensive Plan.
 - (c) In the case of a proposed rezoning/zoning map amendment initiated under Section 507.3, the Town Planning Office shall be responsible for the giving of all written notices required by Section 15.2-2204. At least five (5) days prior to the first public hearing, the Town Planner shall supply an affidavit that the required written notices have been sent and a list of the persons to whom such written notice has been sent. (11/02)
- 508.7** A public hearing shall be held on a proposed amendment by the Planning Commission and by the Town Council, which public hearing may be joint. (11/02)
- 508.8** The Planning Commission shall act upon any proposed amendment referred to it within one hundred (100) days of the first meeting of the Planning Commission (i) after a resolution of the Town Council initiating the amendment, or (ii) after receipt of a complete application for a rezoning/zoning map amendment. Unless the time period is extended by

Section 508 Amendments

resolution of the Town Council or by the request or consent in writing of the applicant for a rezoning/zoning map amendment, or unless the proposed amendment is withdrawn by the Town Council or the applicant, failure of the Planning Commission to act within said one hundred (100)-day period shall be deemed a recommendation for approval by the Planning Commission of the proposed amendment. (11/02)

- 508.9** The Town Council shall act upon any proposed amendment within one (1) year (i) after the initiation of the proposed amendment by the Town Council or the Planning Commission or (ii) after receipt of a complete application for a rezoning/zoning map amendment, unless the applicant requests or consents to action beyond such period or withdraws the request for the proposed amendment. (11/02)
- 508.10** In the event of and upon a withdrawal of a request for an amendment, processing of the proposed amendment shall cease without further action. (11/02)
- 508.11** If a petition for a proposed rezoning/zoning map amendment initiated under Section 507.3 is denied by the Town Council, substantially the same petition may not be filed for a period of one (1) year. (11/02)

Section 509 Amendments with Proffered Condition

SECTION 509 - AMENDMENTS WITH PROFFERED CONDITIONS (1/90)

509.1 VOLUNTARY PROFFERED CONDITIONS

Pursuant to Section 15.1-491.2:1 of the Code of Virginia, the Planning Commission and/or the Town Council may consider reasonable conditions to be applied to a rezoning amendment initiated pursuant to Section 507.4 of this Ordinance provided:

- (a) The conditions are voluntarily submitted by the applicant;
- (b) Proposed proffered conditions are in writing and signed by all of the legal and equitable owners of the property which is the subject of the proposed amendment;
- (c) The proposed conditions are in accordance with the Comprehensive Plan;
- (d) The proposed conditions bear a reasonable relation to the rezoning;
- (e) The proposed conditions are received by the Planning Commission and/or the Town Council prior to commencement of the public hearing of the Planning Commission and/or the Town Council at which the proposed rezoning amendment is to be considered; and
- (f) The proposed conditions are in full accordance with Section 15.1-491.2:1 of the Code of Virginia.

509.2 EFFECT OF CONDITIONS

Upon approval of any rezoning approved subject to proffered conditions, all conditions proffered by the applicant and accepted by the Town Council shall be deemed part of the zoning regulations affecting the district in which the parcel is classified. Such conditions shall remain in force until fully performed by the applicant or amended or released by the Town Council in accordance with Section 15.1-491.6 of the Code of Virginia.

509.3 PROFFERED CONDITION REGULATIONS

Following approval of any zoning approved subject to proffered conditions, no site plan, subdivision plan, or development plan thereafter submitted for the development of the property in question shall be approved unless in substantial conformity with all proffered conditions, and no agent or official of the Town shall have the power to permit any development or construction upon the property not in substantial conformance with such proffered conditions.

509.4 PROFFERED AMENDMENTS

Proffered conditions may be amended or released by the Town Council upon application for zoning amendment submitted in accordance with Section 507. Any such amendment shall be the subject of a public hearing in accordance with the provisions of Section 507.1.

509.5 ZONING MAP NOTATION AND CONDITIONAL ZONING INDEX

Each rezoning shall be designated on the Zoning Map by an appropriate symbol designated by the Zoning Administrator. In addition, the Zoning Administrator shall keep and maintain the conditional zoning index, which shall be available for public inspection and which shall provide ready access to the ordinance creating such conditions.

Code of Virginia
Title 15.2. Counties, Cities and Towns
Chapter 22. Planning, Subdivision of Land and Zoning

§ 15.2-2201. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Affordable housing" means, as a guideline, housing that is affordable to households with incomes at or below the area median income, provided that the occupant pays no more than thirty percent of his gross income for gross housing costs, including utilities. For the purpose of administering affordable dwelling unit ordinances authorized by this chapter, local governments may establish individual definitions of affordable housing and affordable dwelling units including determination of the appropriate percent of area median income and percent of gross income.

"Conditional zoning" means, as part of classifying land within a locality into areas and districts by legislative action, the allowing of reasonable conditions governing the use of such property, such conditions being in addition to, or modification of the regulations provided for a particular zoning district or zone by the overall zoning ordinance.

"Designated agent" means any agent employed or authorized by a locality and designated by the governing body to review and act on subdivision plats, site plans, and plans of development. "Designated agent" does not include the local planning commission. However, the local planning commission may serve as the designated agent of any locality with a population of 5,000 or less.

"Development" means a tract of land developed or to be developed as a unit under single ownership or unified control which is to be used for any business or industrial purpose or is to contain three or more residential dwelling units. The term "development" shall not be construed to include any tract of land which will be principally devoted to agricultural production.

"Historic area" means an area containing one or more buildings or places in which historic events occurred or having special public value because of notable architectural, archaeological or other features relating to the cultural or artistic heritage of the community, of such significance as to warrant conservation and preservation.

"Incentive zoning" means the use of bonuses in the form of increased project density or other benefits to a developer in return for the developer providing certain features, design elements, uses, services, or amenities desired by the locality, including but not limited to, site design incorporating principles of new urbanism and traditional neighborhood development, environmentally sustainable and energy-efficient building design, affordable housing creation and preservation, and historical preservation, as part of the development.

"Local planning commission" means a municipal planning commission or a county planning commission.

"Military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under jurisdiction of the U.S. Department of Defense, including any leased facility, or any land or interest in land owned by the Commonwealth and administered by the Adjutant General of Virginia or the Virginia Department of Military Affairs. "Military installation" does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.

"Mixed use development" means property that incorporates two or more different uses, and may include a variety of housing types, within a single development.

"Official map" means a map of legally established and proposed public streets, waterways, and public areas adopted by a locality in accordance with the provisions of Article 4 (§ 15.2-2233 et seq.) hereof.

"Planned unit development" means a form of development characterized by unified site design for a variety of housing types and densities, clustering of buildings, common open space, and a mix of building types and land uses in which project planning and density calculation are performed for the entire development rather than on an individual lot basis.

"Planning district commission" means a regional planning agency chartered under the provisions of Chapter 42 (§ 15.2-4200 et seq.) of this title.

"Plat" or "plat of subdivision" means the schematic representation of land divided or to be divided and information in accordance with the provisions of §§ 15.2-2241, 15.2-2242, 15.2-2258, 15.2-2262, and 15.2-2264, and other applicable statutes.

"Preliminary subdivision plat" means the proposed schematic representation of development or subdivision that establishes how the provisions of §§ 15.2-2241 and 15.2-2242, and other applicable statutes will be achieved.

"Resident curator" means a person, firm, or corporation that leases or otherwise contracts to manage, preserve, maintain, operate, or reside in a historic property in accordance with the provisions of § 15.2-2306 and other applicable statutes.

"Site plan" means the proposal for a development or a subdivision including all covenants, grants or easements and other conditions relating to use, location and bulk of buildings, density of development, common open space, public facilities and such other information as required by the subdivision ordinance to which the proposed development or subdivision is subject.

"Special exception" means a special use that is a use not permitted in a particular district except by a special use permit granted under the provisions of this chapter and any zoning ordinances adopted herewith.

"Street" means highway, street, avenue, boulevard, road, lane, alley, or any public way.

"Subdivision," unless otherwise defined in an ordinance adopted pursuant to § 15.2-2240, means the division of a parcel of land into three or more lots or parcels of less than five acres each for the purpose of transfer of ownership or building development, or, if a new street is involved in such division, any division of a parcel of land. The term includes resubdivision and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided and solely for the purpose of recordation of any single division of land into two lots or parcels, a plat of such division shall be submitted for approval in accordance with § 15.2-2258. Nothing in this definition, section, nor any ordinance adopted pursuant to § 15.2-2240 shall preclude different owners of adjacent parcels from entering into a valid and enforceable boundary line agreement with one another so long as such agreement is only used to resolve a bona fide property line dispute, the boundary adjustment does not move by more than 250 feet from the center of the current platted line or alter either parcel's resultant acreage by more than five percent of the smaller parcel size, and such agreement does not create an additional lot, alter the existing boundary lines of localities, result in greater street frontage, or interfere with a recorded easement, and such agreement shall not result in any nonconformity with local ordinances and health department regulations. Notice shall be provided to the zoning administrator of the locality in which the parcels are located for review. For any property affected by this definition, any division of land subject to a partition suit by virtue of order or decree by a court of competent jurisdiction shall take precedence over the requirements of Article 6 (§ 15.2-2240 et seq.) and the minimum lot area, width, or frontage requirements in the zoning ordinance so long as the lot or parcel resulting from such order or decree does not vary from minimum lot area, width, or frontage requirements by more than 20 percent. A copy of the final decree shall be provided to the zoning administrator of the locality in which the property is located.

"Variance" means, in the application of a zoning ordinance, a reasonable deviation from those provisions regulating the shape, size, or area of a lot or parcel of land or the size, height, area, bulk, or location of a building or structure when the strict application of the ordinance would unreasonably restrict the utilization of the property, and such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the

purpose of the ordinance. It shall not include a change in use, which change shall be accomplished by a rezoning or by a conditional zoning.

"Working waterfront" means an area or structure on, over, or adjacent to navigable waters that provides access to the water and is used for water-dependent commercial, industrial, or governmental activities, including commercial and recreational fishing; tourism; aquaculture; boat and ship building, repair, and services; seafood processing and sales; transportation; shipping; marine construction; and military activities.

"Working waterfront development area" means an area containing one or more working waterfronts having economic, cultural, or historic public value of such significance as to warrant development and reparation.

"Zoning" or "to zone" means the process of classifying land within a locality into areas and districts, such areas and districts being generally referred to as "zones," by legislative action and the prescribing and application in each area and district of regulations concerning building and structure designs, building and structure placement and uses to which land, buildings and structures within such designated areas and districts may be put.

Code 1950, § 15-961.3; 1962, c. 407, § 15.1-430; 1964, c. 547; 1966, c. 344; 1975, c. 641; 1976, c. 642; 1977, c. 566; 1978, c. 320; 1987, c. 8; 1989, c. 384; 1990, c. 685; 1993, c. 770; 1995, c. 603; 1997, c.; 2008, cc. 635, 718; 2011, c. 237; 2012, c. 554; 2013, cc. 149, 213; 2015, c. 597; 2017, c. 216; 2022, c. 271; 2025, c. 594.

Code of Virginia
Title 15.2. Counties, Cities and Towns
Chapter 22. Planning, Subdivision of Land and Zoning

§ 15.2-2204. Advertisement of plans, ordinances, etc.; joint public hearings; written notice of certain amendments.

A. Plans or ordinances, or amendments thereof, recommended or adopted under the powers conferred by this chapter need not be advertised in full, but may be advertised by reference. Every such advertisement shall identify the place or places within the locality where copies of the proposed plans, ordinances or amendments may be examined.

The local planning commission shall not recommend nor the governing body adopt any plan, ordinance or amendment thereof until notice of intention to do so has been published twice in some newspaper published or having general circulation in the locality, with the first notice appearing no more than 28 days before and the second notice appearing no less than five days before the date of the meeting referenced in the notice; however, the notice for both the local planning commission and the governing body may be published concurrently. The notice shall specify the time and place of hearing at which persons affected may appear and present their views. The local planning commission and governing body may hold a joint public hearing after public notice as set forth in this subsection. If a joint hearing is held, then public notice as set forth in this subsection need be given only by the governing body. In any instance in which a locality has submitted a correct and timely notice request to such newspaper and the newspaper fails to publish the notice, or publishes the notice incorrectly, such locality shall be deemed to have met the notice requirements of this subsection so long as the notice was published in the next available edition of a newspaper having general circulation in the locality. After enactment of any plan, ordinance or amendment, further publication thereof shall not be required.

B. When a proposed amendment of the zoning ordinance involves a change in the zoning map classification of 25 or fewer parcels of land, then, in addition to the advertising as required by subsection A, the advertisement shall include the street address or tax map parcel number of the parcels subject to the action. Written notice shall be given by the local planning commission, or its representative, at least five days before the hearing to the owner or owners, their agent or the occupant, of each parcel involved; to the owners, their agent or the occupant, of all abutting property and property immediately across the street or road from the property affected, including those parcels that lie in other localities of the Commonwealth; and, if any portion of the affected property is within a planned unit development, then to such incorporated property owner's associations within the planned unit development that have members owning property located within 2,000 feet of the affected property as may be required by the commission or its agent. However, when a proposed amendment to the zoning ordinance involves a tract of land not less than 500 acres owned by the Commonwealth or by the federal government, and when the proposed change affects only a portion of the larger tract, notice need be given only to the owners of those properties that are adjacent to the affected area of the larger tract. One notice sent by registered, certified, or first-class mail to the last known address of such owner as shown on the current real estate tax assessment books or current real estate tax assessment records shall be deemed adequate compliance with this requirement, provided that a representative of the local planning commission shall make affidavit that such mailings have been made and file such affidavit with the papers in the case. If the hearing is continued, notice shall be remailed. Costs of any notice required under this chapter shall be taxed to the applicant.

When a proposed amendment of the zoning ordinance involves a change in the zoning map classification of more than 25 parcels of land, or a change to the applicable zoning ordinance text regulations that decreases the allowed dwelling unit density of any parcel of land, then, in addition to the advertising as required by subsection A, the advertisement shall include the street address or tax map parcel number of the parcels as well as the approximate acreage subject to the action. For more than 100 parcels of land, the advertisement may instead include a description of the boundaries of the area subject to the changes and a link to a map of the subject area. Written notice shall be given by the local planning commission, or its representative, at least five days before the hearing to the owner, owners, or their agent of each parcel of land involved, provided, however, that written notice of such changes to

zoning ordinance text regulations shall not have to be mailed to the owner, owners, or their agent of lots shown on a subdivision plat approved and recorded pursuant to the provisions of Article 6 (§ 15.2-2240 et seq.) where such lots are less than 11,500 square feet. One notice sent by first-class mail to the last known address of such owner as shown on the current real estate tax assessment books or current real estate tax assessment records shall be deemed adequate compliance with this requirement, provided that a representative of the local planning commission shall make affidavit that such mailings have been made and file such affidavit with the papers in the case. Nothing in this subsection shall be construed as to invalidate any subsequently adopted amendment or ordinance because of the inadvertent failure by the representative of the local planning commission to give written notice to the owner, owners, or their agent of any parcel involved.

The governing body may provide that, in the case of a condominium or a cooperative, the written notice may be mailed to the unit owners' association or proprietary lessees' association, respectively, in lieu of each individual unit owner.

Whenever the notices required hereby are sent by an agency, department, or division of the local governing body, or their representative, such notices may be sent by first-class mail; however, a representative of such agency, department, or division shall make affidavit that such mailings have been made and file such affidavit with the papers in the case.

A party's actual notice of, or active participation in, the proceedings for which the written notice provided by this section is required shall waive the right of that party to challenge the validity of the proceeding due to failure of the party to receive the written notice required by this section.

C. When a proposed comprehensive plan or amendment thereto; a proposed change in zoning map classification; or an application for special exception for a change in use or to increase by greater than 50 percent of the bulk or height of an existing or proposed building, but not including renewals of previously approved special exceptions, involves any parcel of land located within one-half mile of a boundary of an adjoining locality of the Commonwealth, then, in addition to the advertising and written notification as required by this section, written notice shall also be given by the local planning commission, or its representative, at least 10 days before the hearing to the chief administrative officer, or his designee, of such adjoining locality.

D. When (i) a proposed comprehensive plan or amendment thereto, (ii) a proposed change in zoning map classification, or (iii) an application for special exception for a change in use involves any parcel of land located within 3,000 feet of a boundary of a military base, military installation, military airport, excluding armories operated by the Virginia National Guard, or licensed public-use airport then, in addition to the advertising and written notification as required by this section, written notice shall also be given by the local planning commission, or its representative, at least 30 days before the hearing to the commander of the military base, military installation, military airport, or owner of such public-use airport, and the notice shall advise the military commander or owner of such public-use airport of the opportunity to submit comments or recommendations.

E. The adoption or amendment prior to July 1, 1996, of any plan or ordinance under the authority of prior acts shall not be declared invalid by reason of a failure to advertise or give notice as may be required by such act or by this chapter, provided a public hearing was conducted by the governing body prior to such adoption or amendment. Every action contesting a decision of a locality based on a failure to advertise or give notice as may be required by this chapter shall be filed within 30 days of such decision with the circuit court having jurisdiction of the land affected by the decision. However, any litigation pending prior to July 1, 1996, shall not be affected by the 1996 amendment to this section.

F. Notwithstanding any contrary provision of law, general or special, the City of Richmond may cause such notice to be published in any newspaper of general circulation in the city.

G. When a proposed comprehensive plan or amendment of an existing plan designates or alters previously designated corridors or routes for electric transmission lines of 150 kilovolts or more, written notice shall also be given by the local planning commission, or its representative, at least 10 days before the hearing to each electric

utility with a certificated service territory that includes all or any part of such designated electric transmission corridors or routes.

H. When any applicant requesting a written order, requirement, decision, or determination from the zoning administrator, other administrative officer, or a board of zoning appeals that is subject to the appeal provisions contained in § 15.2-2311 or 15.2-2314, is not the owner or the agent of the owner of the real property subject to the written order, requirement, decision or determination, written notice shall be given to the owner of the property within 10 days of the receipt of such request. Such written notice shall be given by the zoning administrator or other administrative officer or, at the direction of the administrator or officer, the requesting applicant shall be required to give the owner such notice and to provide satisfactory evidence to the zoning administrator or other administrative officer that the notice has been given. Written notice mailed to the owner at the last known address of the owner as shown on the current real estate tax assessment books or current real estate tax assessment records shall satisfy the notice requirements of this subsection.

This subsection shall not apply to inquiries from the governing body, planning commission, or employees of the locality made in the normal course of business.

Code 1950, § 15-961.4; 1962, c. 407, § 15.1-431; 1964, c. 632; 1968, cc. 354, 714; 1973, cc. 117, 334; 1974, cc. 100, 570; 1975, c. 641; 1976, c. 642; 1977, c. 65; 1982, c. 291; 1990, c. 61; 1992, cc. 353, 757; 1993, cc. 128, 734; 1994, c. 774; 1995, c. 178; 1996, cc. 613, 667; 1997, c.; 2001, c. 406; 2002, c. 634; 2004, cc. 539, 799; 2005, c. 514; 2007, cc. 761, 813; 2011, c. 457; 2012, c. 548; 2013, cc. 149, 213; 2022, c. 478; 2023, cc. 506, 507; 2024, cc. 225, 242; 2025, cc. 52, 171.

Code of Virginia
Title 15.2. Counties, Cities and Towns
Chapter 22. Planning, Subdivision of Land and Zoning

§ 15.2-2235. Additions and modifications.

The governing body may by ordinance make, from time to time, other additions to or modifications of the official map by placing thereon the location of any proposed street, street widening, street vacation, waterway, impounding structures and their dam break inundation zones, or public area in accordance with the procedures applicable to the locality.

Prior to making any such additions or modifications to the official map, the governing body shall refer the additions or modifications to the local planning commission for its consideration. The commission shall take action on the proposed additions or modifications within sixty days and report its recommendations to the governing body.

Upon receipt of the report of the commission, the governing body shall hold a public hearing on the proposed addition or modification to the official map and shall give notice of the hearing in accordance with § 15.2-2204. All such reports of the commission, when delivered to the governing body, shall be available for public inspection.

Any ordinance embodying additions to or modifications of the official map shall be adopted by at least the vote required for original adoption of the official map. After the public hearing and the final passage of such ordinance, the additions or modifications shall become a part of the official map of the locality. All changes, additions or modifications of the official map shall be filed with the clerk of the court as provided in § 15.2-2234.

Code 1950, § 15-965.2; 1962, c. 407, § 15.1-460; 1988, c. 436; 1997, c. 587; 2008, c. 491.

Code of Virginia
Title 15.2. Counties, Cities and Towns
Chapter 22. Planning, Subdivision of Land and Zoning

§ 15.2-2286.1. Provisions for clustering of single-family dwellings so as to preserve open space.

A. The provisions of this section shall apply to any county or city that had a population growth rate of 10% or more from the next-to-latest to latest decennial census year, based on population reported by the United States Bureau of the Census. However, the requirements of this section shall not apply to any such county or city that has a population density of more than 2,000 people per square mile, according to the most recent report of the United States Bureau of the Census.

B. Any such locality shall provide in its zoning or subdivision ordinances, applicable to a minimum of 40% of the unimproved land contained in residential and agricultural zoning district classifications, standards, conditions, and criteria for the clustering of single-family dwellings and the preservation of open space developments. In establishing such standards, conditions, and criteria, the governing body may, in its discretion, include any provisions it determines appropriate to ensure quality development, preservation of open space, and compliance with its comprehensive plan and land use ordinances. A cluster development is otherwise subject to applicable land use ordinances of the locality; however, the locality shall not impose more stringent land use requirements for such cluster development.

The locality shall not prohibit extension of water or sewer from an adjacent property to a cluster development provided the cluster development is located within an area designated for water and sewer service by a county, city, or town or public service authority.

For any "open space" or "conservation areas" established in a cluster development, the locality shall not (i) require in such areas identification of slopes, species of woodlands or vegetation and whether any of such species are diseased, the locations of species listed as endangered, threatened, or of special concern, or riparian zones or require the applicant to provide a property resource map showing such matters in any conservation areas, other than that which may be required to comply with an ordinance adopted pursuant to § 15.2-961 or 15.2-961.1 or applicable state law; (ii) require such areas be excluded from the calculation of density in a cluster development or exclude land in such areas because of prior land-disturbing activities; (iii) prohibit roads from being located in such areas for purposes of access to the cluster development, but the locality may require such roads be designed to mitigate the impact on such areas; (iv) prohibit stormwater management areas from being located in such areas; or (v) require that lots in the cluster development directly abut such areas or a developed pathway providing direct access to such areas.

For purposes of this section, "open space" or "conservation areas" shall mean the same as "open-space land" in § 10.1-1700.

The density calculation of the cluster development shall be based upon the same criteria for the property as would otherwise be permitted by applicable land use ordinances. As a locality provides for the clustering of single-family dwellings and the preservation of open space developments, it may vary provisions for such developments for each different residential zoning classification within the locality. For purposes of this section, "unimproved land" shall not include land owned or controlled by the locality, the Commonwealth or the federal government, or any instrumentality thereof or land subject to a conservation easement.

If proposals for the clustering of single-family dwellings and the preservation of open space developments comply with the locality's adopted standards, conditions, and criteria, the development and open space preservation shall be permitted by right under the local subdivision ordinance. The implementation and approval of the cluster development and open space preservation shall be done administratively by the locality's staff and without a public

hearing. No local ordinance shall require that a special exception, special use, or conditional use permit be obtained for such developments. However, any such ordinance may exempt (a) developments of two acres or less and (b) property located in an Air Installation Compatible Use Zone from the provisions of this subdivision.

C. Additionally, a locality may, at its option, provide for the clustering of single-family dwellings and the preservation of open space at a density calculation greater than the density permitted in the applicable land use ordinance. To implement and approve such increased density development, the locality may, at its option, (i) establish and provide, in its zoning or subdivision ordinances, standards, conditions, and criteria for such development, and if the proposed development complies with those standards, conditions, and criteria, it shall be permitted by right and approved administratively by the locality's staff in the same manner provided in subsection A, or (ii) approve the increased density development upon approval of a special exception, special use permit, conditional use permit, or rezoning.

D. Notwithstanding any of the requirements of this section to the contrary, any local government land use ordinance in effect as of June 1, 2004, that provides for the clustering of single-family dwellings and preservation of open space development by right in at least one residential zoning classification without requiring either a special exception, special use permit, conditional use permit, or other discretionary approval may remain in effect at the option of the locality and will be deemed to be in compliance with this section. Any other locality may adopt provisions for the clustering of single-family dwellings, following the procedures set out in this section, in its discretion.

2006, c. 903; 2011, cc. 519, 549.

Code of Virginia
Title 15.2. Counties, Cities and Towns
Chapter 22. Planning, Subdivision of Land and Zoning

§ 15.2-2296. Conditional zoning; declaration of legislative policy and findings; purpose.

It is the general policy of the Commonwealth in accordance with the provisions of § 15.2-2283 to provide for the orderly development of land, for all purposes, through zoning and other land development legislation. Frequently, where competing and incompatible uses conflict, traditional zoning methods and procedures are inadequate. In these cases, more flexible and adaptable zoning methods are needed to permit differing land uses and the same time to recognize effects of change. It is the purpose of §§ 15.2-2296 through 15.2-2300 to provide a more flexible and adaptable zoning method to cope with situations found in such zones through conditional zoning, whereby a zoning reclassification may be allowed subject to certain conditions proffered by the zoning applicant for the protection of the community that are not generally applicable to land similarly zoned. The exercise of authority granted pursuant to §§ 15.2-2296 through 15.2-2302 shall not be construed to limit or restrict powers otherwise granted to any locality, nor to affect the validity of any ordinance adopted by any such locality which would be valid without regard to this section. The provisions of this section and the following six sections shall not be used for the purpose of discrimination in housing.

1978, c. 320, § 15.1-491.1; 1997, c. 587.

Code of Virginia
Title 15.2. Counties, Cities and Towns
Chapter 22. Planning, Subdivision of Land and Zoning

§ 15.2-2297. Same; conditions as part of a rezoning or amendment to zoning map.

A. A zoning ordinance may include and provide for the voluntary proffering in writing, by the owner, of reasonable conditions, prior to a public hearing before the governing body, in addition to the regulations provided for the zoning district or zone by the ordinance, as a part of a rezoning or amendment to a zoning map; provided that (i) the rezoning itself must give rise for the need for the conditions; (ii) the conditions shall have a reasonable relation to the rezoning; (iii) the conditions shall not include a cash contribution to the locality; (iv) the conditions shall not include mandatory dedication of real or personal property for open space, parks, schools, fire departments or other public facilities not otherwise provided for in § 15.2-2241; (v) the conditions shall not include a requirement that the applicant create a property owners' association under the Property Owners' Association Act (§ 55.1-1800 et seq.) which includes an express further condition that members of a property owners' association pay an assessment for the maintenance of public facilities owned in fee by a public entity, including open space, parks, schools, fire departments and other public facilities not otherwise provided for in § 15.2-2241; however, such facilities shall not include sidewalks, special street signs or markers, or special street lighting in public rights-of-way not maintained by the Department of Transportation; (vi) the conditions shall not include payment for or construction of off-site improvements except those provided for in § 15.2-2241; (vii) no condition shall be proffered that is not related to the physical development or physical operation of the property; and (viii) all such conditions shall be in conformity with the comprehensive plan as defined in § 15.2-2223. The governing body may also accept amended proffers once the public hearing has begun if the amended proffers do not materially affect the overall proposal. Once proffered and accepted as part of an amendment to the zoning ordinance, the conditions shall continue in effect until a subsequent amendment changes the zoning on the property covered by the conditions. However, the conditions shall continue if the subsequent amendment is part of a comprehensive implementation of a new or substantially revised zoning ordinance.

B. In the event proffered conditions include a requirement for the dedication of real property of substantial value or construction of substantial public improvements, the need for which is not generated solely by the rezoning itself, then no amendments to the zoning map for the property subject to such conditions, nor the conditions themselves, nor any amendments to the text of the zoning ordinance with respect to the zoning district applicable thereto initiated by the governing body, which eliminate, or materially restrict, reduce, or modify the uses, the floor area ratio, or the density of use permitted in the zoning district applicable to such property, shall be effective with respect to such property unless there has been mistake, fraud, or a change in circumstances substantially affecting the public health, safety, or welfare.

C. Any landowner who has prior to July 1, 1990, proffered the dedication of real property of substantial value or construction of substantial public improvements, the need for which is not generated solely by the rezoning itself, but who has not substantially implemented such proffers prior to July 1, 1990, shall advise the local governing body by certified mail prior to July 1, 1991, that he intends to proceed with the implementation of such proffers. The notice shall identify the property to be developed, the zoning district, and the proffers applicable thereto. Thereafter, any landowner giving such notice shall have until July 1, 1995, substantially to implement the proffers, or such later time as the governing body may allow. Thereafter, the landowner in good faith shall diligently pursue the completion of the development of the property.

Any landowner who complies with the requirements of this subsection shall be entitled to the protection against action initiated by the governing body affecting use, floor area ratio, and density set out in subsection B, unless there has been mistake, fraud, or a change in circumstances substantially affecting the public health, safety, or welfare, but any landowner failing to comply with the requirements of this subsection shall acquire no rights pursuant to this section.

D. The provisions of subsections B and C of this section shall be effective prospectively only, and not retroactively, and shall not apply to any zoning ordinance text amendments which may have been enacted prior to March 10, 1990. Nothing contained herein shall be construed to affect any litigation pending prior to July 1, 1990, or any such litigation nonsuited and thereafter refiled.

Nothing in this section shall be construed to affect or impair the authority of a governing body to:

1. Accept proffered conditions which include provisions for timing or phasing of dedications, payments, or improvements; or
2. Accept or impose valid conditions pursuant to subdivision A 3 of § 15.2-2286 or other provision of law.

1978, c. 320, § 15.1-491.2; 1982, c. 293; 1990, c. 868; 1997, c. 587; 2001, c. 703; 2006, c. 450.