



Clarke County Planning Commission

AGENDA – Business Meeting

Friday, June 7, 2024 – 9:00AM

Berryville/Clarke County Government Center – Main Meeting Room

For more information on this public meeting, please contact the Clarke County Department of Planning at (540) 955-5132 or visit the Clarke County website at www.clarkecounty.gov.

<u>CALL TO ORDER/ADMINISTRATIVE MATTERS</u>		
1	Approval of Agenda	pp. 1-4
2	Approval of Minutes	pp. 5-18
	-- April 30, 2024 Work Session	pp. 5-9
	-- May 3, 2024 Business Meeting	pp. 10-18

<u>CONTINUED PUBLIC HEARING</u>		
3	<u>SUP-23-03/SP-23-04, Harry Z. Isaacs % Long Branch Farm.</u> Request approval of a special use permit (SUP) and site development plan to operate a minor commercial public assembly use per Section 5.2D (Recreation/Education/Assembly Uses) of the Zoning Ordinance. The property is subject to a 2002 SUP approved for a house museum and equine veterinary clinic. The proposed special use would include using the historic house and adjoining yards for events that are not covered by the existing SUP including weddings. No new development is proposed except for improvements to existing facilities required by State and County agencies. The public hearing includes consideration to revoke the equine veterinary clinic approval on grounds that this use is discontinued. The subject property is approximately 390 acres, zoned Agricultural-Open Space-Conservation (AOC), identified as Tax Map #29-A-29, and is located in the White Post Election District at 830 Long Branch Lane (private road) with primary entrance on Nelson Road (Route 626).	pp. 19-40
	-- Staff Report	pp. 19-26
	-- Geophysical Survey, Forrest Environmental Services, Inc. (May 2024)	pp. 27-40

<u>PUBLIC HEARINGS</u>		
4	<u>TA-24-01, Cesspools and Other Unpermitted Onsite Sewage Disposal Systems.</u> Proposed text amendment to amend Section 4.5.6E of the Subdivision Ordinance. The purpose is to require any existing cesspool or unpermitted onsite sewage disposal system to be replaced or upgraded to a Virginia Department of Health (VDH) approved system prior to final approval of a subdivision plat.	pp. 41-43

5	<p>TA-24-02, Minor Commercial Public Assembly Accessory Use – Country Inns. Proposed text amendment to amend the “country inn” use per Section 5.2C (Uses, Definitions, and Use Regulations – Business Uses) of the Zoning Ordinance. The purpose is to eliminate minor commercial public assembly as an allowable accessory use and to clarify that the sale of meals or prepared food is limited to overnight guests only. The text amendment also deletes reference to Code of Clarke County Chapter 57 (Special Events).</p>	pp. 44-47
6	<p>TA-24-03, Helicopter Landing Area Use and Prohibition of Private Airstrips and Airports. Proposed text amendment to add “helicopter landing area” as a new special use in AOC District per Section 5.2E (Uses, Definitions, and Use Regulations – Public and Miscellaneous Uses) of the Zoning Ordinance. The purpose is to require a special use permit and compliance with use regulations for departures and landings of non-commercial helicopters for personal use. The text amendment also clarifies that helicopter landing areas for commercial use and private or public airstrips or airports for aircraft other than helicopters are prohibited.</p>	pp. 48-50

<u>SCHEDULE PUBLIC HEARINGS</u>		
7	<p>TA-23-01, Regulations for Permanent Campgrounds and Temporary Camping. Proposed text amendment to add a new permanent use, “primitive campground,” to Zoning Ordinance Section 5.2D (Recreation/Education/Assembly Uses), to add a new temporary use, “temporary camping,” to Section 5.4 (Uses, Definitions, and Use Regulations – Temporary Uses), and to delete “campground” and “summer camp” uses from Section 5.2D. The purpose is to limit permanent campgrounds operated as a business or by a non-profit or not-for-profit organization to primitive camping only -- overnight stays by patrons using their own tents and subject to use regulations – in order to mitigate impact on surrounding properties and the environment. The text amendment also establishes regulations for the maximum duration for camping activities, the long-term lease of a lot for camping, and temporary event camping. Primitive campgrounds would be allowed with a special use permit in the Agricultural-Open Space-Conservation (AOC) and Forestal-Open Space-Conservation (FOC) Districts. Temporary camping would be allowed by-right in the AOC, FOC, and Institutional (ITL) Districts subject to use regulations.</p>	pp. 51-72

8	TA-24-04, Temporary Use of Major Recreational Equipment. Proposed text amendment to amend “temporary use of major recreational equipment” per Section 5.4 (Uses, Definitions, and Use Regulations – Temporary Uses and Structures) of the Zoning Ordinance. The purpose is to clarify that use of major recreational equipment for camping or sleeping is prohibited in the RR, OSR, DR-1, DR-2, and DR-4 zoning districts, and is allowed in the AOC and FOC zoning districts only in accordance with the “camping” temporary use. The text amendment also clarifies that major recreational equipment may not be used for residential purposes in these zoning districts except in accordance with the “temporary dwelling” use.	pp. 73-75
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<u>MINOR SUBDIVISION</u>		
9	MS-24-03, Charles & Shirley McIntosh. Request approval of a two-lot minor subdivision for the properties identified as Tax Map #26-A-2 and 26-A-11A, located on the east side of Retreat Road (Route 643) across from the intersection with Timber Lane, Buckmarsh Election District, zoned Forestal-Open Space-Conservation (FOC).	pp. 76-84
	-- Staff Report	pp. 76-81
	Virginia Department of Health (VDH) review letter (5/9/2024)	pp. 82
	-- Virginia Department of Transportation (VDOT) review email (5/29/2024)	pp. 83
	-- Subdivision plat	pp. 84

<u>REPORTS/OTHER BUSINESS/ADJOURN</u>		
10	Board and Committee Reports	--
	<ul style="list-style-type: none"> • Board of Supervisors (Terri Catlett) • Board of Septic & Well Appeals (George Ohrstrom, II) • Board of Zoning Appeals (John Staelin) • Historic Preservation Commission (Bob Glover) • Conservation Easement Authority (George Ohrstrom, II) 	
11	Other Business	--
12	Projected Upcoming Agenda Items, June – September	pp. 85-86
13	Adjourn	--

UPCOMING MEETINGS:	
Comprehensive Plan Committee	Tuesday, July 2 (2:00PM) – A/B Meeting Room Tuesday, July 23 (2:00PM) – Main Meeting Room
Policy & Transportation Committee	No upcoming meetings
Plans Review Committee	No upcoming meetings
Ordinances Committee	No upcoming meetings
Commission Work Session	Tuesday, July 9 (3:00PM) -- Main Meeting Room
Commission Business Meeting	Friday, July 12 (9:00AM) -- Main Meeting Room



Clarke County Planning Commission

DRAFT MINUTES – Work Session

Tuesday, April 30, 2024 – 3:00PM

Berryville/Clarke County Government Center – Main Meeting Room

ATTENDANCE:			
George L. Ohrstrom, II (Chair/Russell)	✓	Ronnie “Ron” King (Buckmarsh)	✓
Randy Buckley (Vice-Chair/White Post)	✓	Frank Lee (Berryville)	✓
Terri Catlett (Board of Supervisors)	✓	Gwendolyn Malone (Berryville)	✓
Buster Dunning (White Post)	X	Ryan Reed (Buckmarsh)	✓
Robert Glover (Millwood)	✓	John Staelin (Millwood)	E
Pearce Hunt (Russell)	✓	Doug Lawrence (BOS alternate)	X

E – Participated electronically

STAFF PRESENT: Brandon Stidham (Director of Planning), Jeremy Camp (Senior Planner/Zoning Administrator), Danielle Ritter (Office Manager/Zoning Officer)

OTHERS PRESENT: None.

CALL TO ORDER: By Chair Ohrstrom at 3:00PM.

Mr. Stidham introduced the Planning Department’s new office manager/zoning officer, Danielle Ritter. Chair Ohrstrom welcomed her to the County.

1. Approval of Agenda

The Commission approved the agenda by consensus as presented by Staff.

2. Review of May 3 Business Meeting Agenda Items

A. Conflict of Interest Statements

Mr. Stidham noted Vice-Chair Buckley’s conflict of interest with the Long Branch Farm special use permit (SUP) and site development plan application as he is the applicant in that case. Vice-Chair Buckley read the following conflict of interest statement on a minor subdivision application that is before the Commission:

I disqualify myself from participating in the matter of MS-24-02, Pleasant View Farms PVFC, Corporation (owner)/Jared Shiley (applicant) before the Planning Commission as I have a personal interest in said matter by reason of work which I performed for the applicant pertaining to this application, and I may realize a reasonably foreseeable direct or indirect benefit or detriment as a result of the action taken by the Planning Commission on the application.

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B. Agenda Review

Mr. Stidham noted the minutes from the April Work Session and Business Meeting in the packet and asked members to let him know if there are any changes that need to be made.

Vice-Chair Buckley left the dais prior to the discussion of SUP-23-03/SP-23-04 Harry Z. Isaacs % Long Branch Farm.

Mr. Camp reviewed the staff report for SUP-23-03/SP-23-04. He concluded his presentation by stating that the applicant is currently working with the Virginia Department of Health (VDH) to resolve issues with the onsite sewage disposal system. He said that at this point, a conditional approval would not be warranted per the Commission's policy. He added that Staff is recommending deferral for an additional month and noted that there may be new information provided by the Business Meeting on this issue. He also said that the applicant has been working with the neighbors and it is his understanding that the neighbors' concerns have been addressed.

Mr. Stidham asked Mr. Camp if a VDH representative will be able to attend the Business Meeting. Mr. Camp replied that he has requested that someone attend but that VDH staff may be tied up with Apple Blossom Festival work.

Commissioner Staelin said that it is his understanding that the Long Branch Board has unanimously approved and supports the application. Mr. Buckley replied yes. Commissioner Staelin also asked if the neighbors' concerns have been addressed and they now support the application and Mr. Buckley replied yes as of this morning.

Mr. Camp reviewed the staff report for MS-24-02, Pleasant View Farms PVFC, Corporation/ Jared Shiley. Members had no questions or comments.

Vice-Chair Buckley returned to the dais.

Mr. Stidham noted three new text amendments on the agenda to schedule public hearings. He said that the text amendments will be presented later in the Work Session agenda and that the Commission can choose to initiate consideration and schedule public hearings for them on Friday if they are comfortable doing so. He noted that there is a fourth text amendment under Other Business that will also be discussed later in the Work Session agenda, adding that this text amendment is dependent upon the outcome of the campgrounds text amendment modification under review by the Board of Supervisors. He said that Staff is recommending the Commission only initiate consideration of the text amendment at this time with public hearing to be scheduled after determining how the campgrounds text amendment will be resolved.

Mr. Stidham also noted the Board and Committee reports and the projected upcoming agenda items report on the Business Meeting agenda.

C. Status of Deferred Applications

Mr. Camp reported that there are four deferred applications. He said Suromi, LLC is a minor subdivision application in which the applicant is considering requesting a variance as the property is in a conservation easement. He said that the application is on hold as the applicant is looking for another drainfield site because the residue lot has an unapproved system. He added that the applicant may decide to withdraw the application. He said the Watermelon Park SUP and site development plan application is also on hold as the applicant is collecting septic system data for VDH to review in support of their request to expand the number of RV sites. He added that they expect to be ready for next month and also need to submit a revised site development plan. He said the Regan Partnership LP minor subdivision application has been deferred because the various owners are working out issues, adding that they expect to be ready for next month. He said the Berryville Berries SUP and site development plan application continues to be on hold as the owner is working out issues with the adjoining property owners. He noted that a revised site development plan also must be submitted.

3. Old Business – None scheduled

4. New Business

A. Proposed Text Amendments

Mr. Stidham began by noting that the staff reports for the proposed text amendments incorrectly state that they were developed by the Policy & Transportation Committee, adding that the Ordinances Committee did the work on these text amendments.

Mr. Stidham reviewed the staff report for TA-24-01, Cesspools and Other Unpermitted Onsite Sewage Disposal Systems. Regarding the possible hardships that the text amendment could cause, Chair Ohrstrom asked Mr. Stidham how they should be addressed. Mr. Stidham replied that if the goal is to protect groundwater quality, we should hold up approval of subdivisions until an applicant's septic system issue is resolved especially with cesspools. He added that an unpermitted system may be perfectly fine and only require a soil consultant to verify in order to obtain VDH approval. Chair Ohrstrom asked if there are grants available to assist property owners with replacing these systems. Mr. Stidham said that there used to be programs available but he did not know whether they are still in effect. Commissioner Lee said that VDH has a fund available to help out property owners with hardship situations, adding that it is not 100% and is usually a percentage of the total cost. Mr. Stidham asked if the program is income-based and Commissioner Lee replied yes. Mr. Stidham also noted that replacing a cesspool or unapproved system does increase the value of the property. He asked if commissioners were comfortable with scheduling public hearing for the text amendment on Friday and everyone agreed.

Mr. Stidham reviewed the staff report for TA-24-02, Minor Commercial Public Assembly Accessory Use – Country Inns. Regarding removing language referencing County Code Chapter 57 special events, Chair Ohrstrom said that the Commission should not include additional language to prohibit special events thereby leaving the decision to the Board of Supervisors. Commissioners agreed with Chair Ohrstrom's statement. Chair Ohrstrom asked for confirmation

that if a country inn guest wanted to invite their friends over for dinner, they could only have meal service if all of the friends were also overnight guests of the country inn. Mr. Stidham replied yes and said that the Committee discussed this point. He said that if you allow one guest to invite one friend over for dinner at the country inn, at what point would you establish a limit if the guest wanted to invite 50 friends over for dinner. Commissioner Catlett said that she thought this prohibition was already in place. Mr. Stidham replied that it is but it is not stated as clearly as possible. He added that if outside customers were allowed to dine at a country inn, then the meal service activity would not be an accessory use to the country inn. Commissioners were comfortable with scheduling public hearing on this text amendment.

Mr. Stidham reviewed the staff report for TA-24-03, Helicopter Landing Area Use and Prohibition of Private Airstrips and Airports. Commissioner Lee asked why the use is limited to the AOC District and not the FOC District, and Commissioner Glover added that he has the same question. Mr. Stidham replied that he thought it would be a bad idea to allow helicopter landing in the mountain areas but noted that there are safe areas where they could land. Commissioner Glover said that he would like the use to be allowed in the FOC District so it can be regulated. He added that there are property owners on the mountain that have the means and the lot size to have helicopter landing areas. Mr. Stidham asked if commissioners were comfortable with allowing the use in the FOC District and all agreed. Commissioner Lee asked if there are regulations regarding helicopter use around Mt. Weather. Mr. Stidham replied that he is sure that there are and noted that there are regulations for the flight paths for the Winchester Airport. Commissioner Catlett said that medical helicopter pilots are probably aware of the regulations and the locations where they can land to meet ambulances. She added that we cannot regulate medical helicopters. Commissioners were comfortable with scheduling public hearing on this text amendment with the requested change. Commissioner Catlett asked if different regulations would need to be written for the FOC District. Mr. Stidham replied no and said he would just need to add the use as being allowed in the FOC District.

Mr. Stidham reviewed the staff report for TA-24-04, Temporary Use of Major Recreational Equipment. Chair Ohrstrom said that the term, "major recreational equipment," is confusing and there should be a better way to title the text amendment so people will understand what it means. Mr. Stidham said that the term, "recreational vehicle," could be used but noted that the definition of "major recreational equipment" also includes boats. He added that a person could sleep in a parked boat that has a cabin just like they could sleep in a recreational vehicle. Chair Ohrstrom noted property owners who have friends and family that come to visit and who stay in their own recreational vehicles onsite. He asked whether this would no longer be allowed and Mr. Stidham replied that it is prohibited in the residential zoning districts but allowed in the AOC and FOC Districts. Chair Ohrstrom asked if it would be prohibited in Pine Grove. Mr. Stidham replied no because Pine Grove is zoned FOC but it would be prohibited in Rural Residential (RR) zoned Shenandoah Retreat. Mr. Stidham also noted that this text amendment is tied to the pending campground regulations text amendment so he is only asking for the Commission to initiate consideration and not to schedule public hearing at this time. He added that he is scheduled to present the primitive campgrounds modification to the Board at their May 13 work session.

Commissioner Staelin asked about storage of major recreational vehicles and asked whether there are limits on the numbers that one can store on their property. Mr. Stidham said that only

major recreational equipment that is a motor vehicle, such as a motor home, would be subject to the inoperable vehicle ordinance. He said that there are no other regulations that would restrict the quantity of major recreational equipment on a lot. Mr. Camp added that there are no restrictions on the number of pulled campers that you can have on a lot. Commissioner Staelin cited an example along the river and asked if this text amendment would cover that situation and Mr. Camp replied no. Mr. Stidham said that the text amendment does not regulate the quantity of major recreational equipment. He added that other regulations might apply such as campers in the floodplain at the wrong time of year or a camper being rented out illegally. He said we would need to look at additional language if we want to regulate the quantity of major recreational equipment on a lot. He also said we can have a discussion at the June work session on this issue and members agreed.

Mr. Stidham noted that a copy of the adopted Transportation Plan is included in the packets. He described the one change that the Board made to the improvement projects along Route 7 between Shepherds Mill Road and the Loudoun County line at Blue Ridge Mountain Road. Commissioner Glover asked if the new safety project for Route 7 describes the specific changes that we want to see. Mr. Stidham replied yes and that it references improvements to all of the public and private road intersections along the corridor. He also noted that it describes the long wait times to enter Route 7 as well as insufficient turn lanes and acceleration lanes.

Chair Ohrstrom asked about the new intersection being constructed on Route 7 in Frederick County just across the county line for a 400 lot subdivision. He said that it does not look like they are doing anything with the Valley Mill Road intersection to the north which is highly dangerous. Mr. Stidham said he did not know for sure but said that the subdivision was probably approved many years ago and it is just now going through the administrative approval process. He added that there was probably no mechanism reserved for off-site improvements and said that counties that develop haphazardly have to apply for funds through programs like Smart Scale to address the road problems that they did not account for. He also said if the subdivision was originally approved years ago, the Valley Mill Road intersection was probably not identified as a problem area. There was a brief conversation about the location of the future Route 37 intersection through this area.

ADJOURN

The Commission agreed by consensus to adjourn the meeting at 3:56PM.

George L. Ohrstrom, II (Chair)

Brandon Stidham (Clerk)



Clarke County Planning Commission

DRAFT MINUTES - Business Meeting

Friday, May 3, 2024 - 9:00AM

Berryville/Clarke County Government Center - Main Meeting Room

ATTENDANCE:			
George L. Ohrstrom, II (Chair/Russell)	✓	Ronnie “Ron” King (Buckmarsh)	✓
Randy Buckley (Vice-Chair/White Post)	✓	Frank Lee (Berryville)	✓
Terri Catlett (Board of Supervisors)	✓	Gwendolyn Malone (Berryville)	✓
Buster Dunning (White Post)	✓	Ryan Reed (Buckmarsh)	✓ L
Robert Glover (Millwood)	✓	John Staelin (Millwood)	X
Pearce Hunt (Russell)	X	Doug Lawrence (BOS alternate)	X

L- Arrived Late.

STAFF PRESENT: Brandon Stidham (Director of Planning), Jeremy Camp (Senior Planner/Zoning Administrator), Danielle Ritter (Office Manager/Zoning Officer), Chris Boies (County Administrator), and Jim Davis (Virginia Department of Health).

OTHERS PRESENT: Andy and Barbara Ferrari, Jim Rieger, Doris Simpson, Charlie McIntosh, Caroline Roberts, and Paul Almeter.

CALL TO ORDER: By Chair Ohrstrom at 9:00AM.

1. Approval of Agenda

The Commission voted 8-0-3 to approve the agenda as presented by Staff.

Motion to approve the agenda as presented by Staff:			
Ohrstrom (Chair)	AYE	King	AYE
Buckley (Vice-Chair)	AYE	Lee	AYE (seconded)
Catlett	AYE	Malone	AYE (moved)
Dunning	AYE	Reed	ABSENT
Glover	AYE	Staelin	ABSENT
Hunt	ABSENT		

Commissioner Reed entered the meeting.

2. Approval of Minutes

A. April 2, 2024 Work Session

The Commission voted 9-0-2 to approve the April 2, 2024 minutes as presented by Staff.

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Motion to approve the April 2, 2024 meeting minutes as presented by Staff:			
Ohrstrom (Chair)	AYE	King	AYE
Buckley (Vice-Chair)	AYE (moved)	Lee	AYE
Catlett	AYE	Malone	AYE (seconded)
Dunning	AYE	Reed	AYE
Glover	AYE	Staelin	ABSENT
Hunt	ABSENT		

B. April 5, 2024 Business Meeting

The Commission voted 9-0-2 to approve the April 5, 2024 minutes as presented by Staff.

Motion to approve the April 5, 2024 meeting minutes as presented by Staff:			
Ohrstrom (Chair)	AYE	King	AYE
Buckley (Vice-Chair)	AYE (moved)	Lee	AYE
Catlett	AYE	Malone	AYE (seconded)
Dunning	AYE	Reed	AYE
Glover	AYE	Staelin	ABSENT
Hunt	ABSENT		

Vice-Chair Buckley left the dais.

PUBLIC HEARING

3. SUP-23-03/SP-23-04, Harry Z. Isaacs % Long Branch Farm

Chair Ohrstrom stated that Vice-Chair Buckley has a conflict of interest with this application as he is the applicant. Vice-Chair Buckley read statements into the record of the January 2, 2024 work session disqualifying himself from participating in the deliberation of this matter.

Mr. Camp noted that the applicant had previously requested a 30-day deferral of this application to address Virginia Department of Health (VDH) comments and community concerns that had been raised. He said VDH staff provided updated comments just recently on April 25 and indicated the applicant is at this point in time pursuing the establishment of a new drain field. He added that VDH has field reviewed that proposed location at this time and that was completed April 23rd. He said they found that the soil is suitable for a system and the next steps are for the applicant to follow up with the design work including resistivity scanning that is required by the county. He then presented the staff report for the special use permit (SUP) and site development plan application. He concluded the report by stating that submission of resistivity application by the applicant, as well as the submission of a revised site development plan showing the location of the facilities for the drain field as proposed, is required. He added that submission of an application to VDH with design specifications is needed to approve the SUP.

Chair Ohrstrom asked for comments or questions from the Commission and none were offered. Chair Ohrstrom then stated the following:

For this morning's public hearing, please state your name and address for the record prior to addressing the Commission.

You will have a maximum of three minutes to address the Commission or ten minutes if you are identified as representing a recognized group or are speaking on behalf of a group of citizens present at the public hearing. The Planning Director will serve as the timekeeper for the public hearing.

All speakers shall be civil in tone and demeanor and shall not make personal, impertinent, slanderous, or profane remarks, or any threatening or intimidating gestures, to any commissioner, staff, the applicant, or the general public.

Speakers shall address the Commission and shall not address the audience, answer questions from the audience, or engage in debate with anyone in the audience.

Please note that the purpose of the public hearing is to provide your comments to the Commission and for the Commission to receive those comments. The public hearing is not the appropriate forum to engage in dialogue with the Commission or staff. You are welcome to raise questions during your speaking time which the Commission may address after the public hearing.

If you have brought documentation for the Commission, please provide it to staff prior to or at the conclusion of your comments.

I also want to say that we all live in a small community and there are strong feelings on both sides of any issue in a public hearing. I would urge that everyone exercise restraint, respect each other, and remain polite to all.

I will now open the public hearing.

Mr. Buckley asked to make a few comments before the floor was opened to the public and Chair Ohrstrom agreed.

Mr. Buckley stated in the public eye, weddings seem to have become the focus of this SUP and we do want to host a small number of weddings. He noted that the focus for Long Branch is events that they feel enrich the lives of those in our broader community. He said Long Branch holds events such as children's fishing derby, garden club events, easement authority events, a movie night on the lawn, Community Association gatherings, educational speakers, and the lecture speaker series that spans from the health of the Chesapeake Bay, and the list goes on. He stated the last thing they want Long Branch to be known for is a wedding venue.

Barbara Ferrari (735 Nelson Road, White Post) stated that she and her husband wanted to express gratitude to everyone who took the time and made an effort to amend the SUP. She stated the reduction in the maximum number of requested amplified events and in the number that can be held in a month is much appreciated. She said as she fully supports the approval of

the SUP they have two concerns, the level of noise permitted under the current county noise ordinance and the limited means available to enforce compliance with this ordinance. She states she appreciates how Clarke County is one of few that has preserved its rural character, peace, serenity, open space and diversity of plants and animals both domestic and wild. She stated that research shows that loud noise negatively impacts all forms of wildlife. She also stated that Virginia working landscape selected our farm for the biodiversity survey on the Virginia grassland initiative. Her concern is excessive noise causes birds to alter the behavior by interrupting mating, reducing the number of birds in the area, and preventing birds from hearing fellow birds which is essential in their everyday behavior. She said that the procedure for enforcing the noise ordinance needs to be revised. She wanted to be sure her concerns were on record but she wants to reiterate their support for Long Branch.

Paul Almeter (Montana Hall Farm) stated his only objection to Long Branch is the weddings. He stated that people have said if Long Branch does not have weddings they will fail and the county will have a housing development instead. He then stated that the Virginia Outdoors Foundation (VOF) easement would prevent a housing development. He noted that Long Branch had been doing weddings prior and that just because something has been in use for 20 to 30 years does not mean it should continue. He stated that anything could happen and anyone's property could go up for sale including his own. He stated that Long Branch needs to find another way to support themselves. Instead of weddings he stated that they could do events for other agricultural means to support themselves.

Jim Rieger (479 Red Gate Road) stated he was thankful for the documents and how they were easy to read and understand. He stated he can tolerate the new amplified sound and he appreciates Long Branch for working with everyone. He stated that Long Branch is a good neighbor and that he supports them. He also wanted to thank Mr. Ohrstrom maintaining a polite public hearing.

Doris Simpson (304 Nelson Road) stated that she has been a neighbor of Long Branch since 1981 and that the weddings and private parties have been in existence since 1993 with no negative impact. She stated that when there is amplified sound she cannot hear it in her house and can only faintly hear it outside. She also stated that Long Branch offers itself to many local nonprofit organizations. She stated she supports Long Branch and that they are a community asset and hopes it remains that way.

Charlie McIntosh (1543 Red Gate Road) stated he has been a neighbor of Long Branch for over 31 years and that he approves all of the various amendments that have been made. He stated he thinks that Long Branch is a community asset and that if they agree to make the changes that the SUP should be approved.

Caroline Roberts (1132 Borden Spring Road) stated she grew up on the farm next door to Long Branch and she feels nothing but positive about living so close to Long Branch. She served as a member of the Board of Directors for nine years and had been an emeritus member since 2017. She stated that Clarke County is lucky to still have such a beautiful open space and historic home available for all to enjoy. She strongly feels this SUP should be approved and that the longer this process goes on the more misinformation spreads. She stated that not all of the events would be

weddings and in fact only a small portion would be. She stated that Long Branch accommodated the local garden club after a water issue prevented them from meeting at their typical location. She stated that Long Branch helps the community when last minute events space is in need and all of these accommodations are considered events. She stated she is here today as a longtime neighbor and friend of Long Branch and she fully supports the approval of the SUP.

There were no additional speakers. Chair Ohrstrom asked for a motion to accept the applicant’s deferral request and to continue the public hearing. The Commission voted 8-0-3 to accept the applicant’s deferral request and continue the public hearing to the June 7 Business Meeting.

Motion to accept the applicant’s deferral request and continue the public hearing to the June 7, 2024 Business Meeting.			
Ohrstrom (Chair)	AYE	King	AYE
Buckley (Vice-Chair)	ABSTAINED	Lee	AYE (moved)
Catlett	AYE	Malone	AYE (seconded)
Dunning	AYE	Reed	AYE
Glover	AYE	Staelin	ABSENT
Hunt	ABSENT		

Vice-Chair Buckley returned to the dais.

MINOR SUBDIVISION

4. MS-24-02, Pleasant View Farms PVFC Corporation (Owner)/Jared Shiley (applicant)

Mr. Camp presented the staff report on this minor subdivision and maximum lot size exception application. He said that the proposed subdivision appears to meet all the requirements for the subdivision ordinance and the zoning. Staff is recommending approval of the minor subdivision MS-24-02.

Chair Ohrstrom asked if commissioners had any questions. Commissioner Buckley made a note that he disqualified himself and will be abstaining.

Chair Ohrstrom asked for a motion on the application. The Commission voted 8-0-3 for the approval of the minor subdivision and maximum lot size.

Motion to Approve Minor Subdivision.			
Ohrstrom (Chair)	AYE	King	AYE
Buckley (Vice-Chair)	ABSTAINED	Lee	AYE (seconded)
Catlett	AYE	Malone	AYE (moved)
Dunning	AYE	Reed	AYE
Glover	AYE	Staelin	ABSENT
Hunt	ABSENT		

5. Proposed Text Amendments

Mr. Stidham stated the next three items are to schedule public hearings on text amendments that were discussed at the work session on Tuesday April 30th.

A. TA-24-01, Cesspools and Other Unpermitted Onsite Sewage Disposal Systems

Mr. Stidham stated this would be a change that would require any lot that contains a cesspool, or other unpermitted septic system where there are no records with VDH to have the cesspool or system replaced, repaired, or otherwise approved by VDH. He stated that he is looking to initiate consideration of the text amendment and schedule a public hearing for the June 7 Business Meeting. Chair Ohrstrom asked if this would make it so that nobody could subdivide until they took care of this. Mr. Stidham stated yes and that they would request for those applicants that fall in that situation to have all of that worked out before they filed the plat application. Chair Ohrstrom asked for any thought or comments. Commissioner Lee said he thinks it is a great idea. Chair Ohrstrom states he agrees and thinks it is necessary and asks for a motion of approval to set public hearing and initiate consideration. The Commission voted 9-0-2 to initiate consideration of the text amendment and set Public Hearing for the June 7, 2024 Business Meeting.

Motion to initiate consideration of the text amendment and set Public Hearing for the June 7, 2024 Business Meeting.			
Ohrstrom (Chair)	AYE	King	AYE
Buckley (Vice-Chair)	AYE (moved)	Lee	AYE
Catlett	AYE	Malone	AYE (seconded)
Dunning	AYE	Reed	AYE
Glover	AYE	Staelin	ABSENT
Hunt	ABSENT		

B. TA-24-02, Minor Commercial Public Assembly Accessory Use- Country Inns

Mr. Stidham stated this text amendment would remove the minor commercial public assembly activities as an allowable accessory use to a country inn. He said if a future country inn applicant wanted to have those activities they would have to apply for a separate SUP for a minor commercial public assembly use as opposed to having it be a default accessory use with the country inn. Chair Ohrstrom asked for any thoughts or comments. After no questions or comments, Chair Ohrstrom asked for a motion. The Commission voted 9-0-2 to initiate the consideration of the text amendment and set Public Hearing for the June 7 Business Meeting.

Motion to initiate consideration of the text amendment and set Public Hearing for the June 7, 2024 Business Meeting.			
Ohrstrom (Chair)	AYE	King	AYE
Buckley (Vice-Chair)	AYE	Lee	AYE (moved)
Catlett	AYE	Malone	AYE (seconded)
Dunning	AYE	Reed	AYE
Glover	AYE	Staelin	ABSENT
Hunt	ABSENT		

C. TA-24-03, Helicopter Landing Area Use and Prohibition of Private Airstrips and Airports

Mr. Stidham stated that state code preempts localities from being able to prohibit non-commercial helicopter landing areas for private use of the property owner. He stated that to ensure that we are not interpreted as allowing them with no zoning regulations, this would require it to be approved by SUP. He stated that this would be allowed in both the AOC and the FOC zoning districts and subject to reasonable use regulations. Chair Ohrstrom asked for a motion. The Commission voted 9-0-2 to initiate the consideration of the text amendment and set Public Hearing for the June 7 Business Meeting.

Motion to initiate consideration of the text amendment and set Public Hearing for June 7, 2024 Business Meeting.			
Ohrstrom (Chair)	AYE	King	AYE (moved)
Buckley (Vice-Chair)	AYE	Lee	AYE (seconded)
Catlett	AYE	Malone	AYE
Dunning	AYE	Reed	AYE
Glover	AYE	Staelin	ABSENT
Hunt	ABSENT		

5. Board and Committee Reports

Board of Supervisors (Catlett)

Commissioner Catlett said that Parks and Recreation is having a ribbon cutting on May 15th for the pool reopening. She also reported that there will be a commuter bus service that will take you from Waterloo Park to Rosslyn and that will start May 15th as well.

Board of Septic & Well Appeals (Ohrstrom)

Chair Ohrstrom said that the Board of Well and Septic appeals have not seen an application recently.

Board of Zoning Appeals (Staelin)

Chair Ohrstrom stated Mr. Staelin was not present. He asked Mr. Camp if there is anything scheduled to come before the Board of Zoning Appeals and Mr. Camp replied no.

Historic Preservation Commission (Glover)

Commissioner Glover stated they have their award ceremony Wednesday, May 22. Mr. Camp said that there will be a meeting at 11:00 and then the luncheon will be begin at 12:00 and it will be catered by Patty Brown. Mr. Camp stated this will be the 25th anniversary of the awards program.

Conservation Easement Authority (Ohrstrom)

Chair Ohrstrom said that they have been working to close a few easements. He stated that some applicants are throwing ideas back and forth but they are making progress.

Broadband Implementation Committee (Stidham)

Mr. Stidham stated that the Broadband Committee is no longer in existence.

6. Other Business

A. TA-24-04. Temporary Use of Major Recreational Equipment

Mr. Stidham stated this text amendment would clarify language so that it could not be interpreted that one could potentially live in a recreational vehicle in the AOC and FOC districts. He stated at this time they will not be scheduling a public hearing until we coordinate the Board's decision on what to do with campground regulations. He stated that they are just asking to move and initiate consideration of the text amendment. Chair Ohrstrom asked for a motion to initiate the consideration of the text amendment and the Commission voted 9-0-2 to do so.

Motion to initiate consideration of the text amendment.			
Ohrstrom (Chair)	AYE	King	AYE
Buckley (Vice-Chair)	AYE (moved)	Lee	AYE
Catlett	AYE	Malone	AYE (seconded)
Dunning	AYE	Reed	AYE
Glover	AYE	Staelin	ABSENT
Hunt	ABSENT		

7. Projected Upcoming Agenda Items, May -- July

Mr. Stidham went over the highlights for the next few meetings. He stated there is one committee meeting scheduled for the Comprehensive Plan Committee. That meeting is scheduled for May 20, 2024 at 2pm. He stated for the June 4 work session, he hopes to be able to report on what the board has decided with the campground regulations. He went over the public hearings that would be scheduled with the campground regulations. He stated there are two outstanding minor subdivision applications.

Chair Ohrstrom asked if there were any thoughts or comments.

After no comments or questions Chair Ohrstrom asked for a motion to adjourn the meeting.

ADJOURN

The Commission voted 9-0-2 to adjourn the meeting at 9:49AM.

Motion to adjourn:			
Ohrstrom (Chair)	AYE	King	AYE (seconded)
Buckley (Vice-Chair)	AYE	Lee	AYE (moved)
Catlett	AYE	Malone	AYE
Dunning	AYE	Reed	AYE
Glover	AYE	Staelin	ABSENT
Hunt	ABSENT		

George L. Ohrstrom, II (Chair)

Danielle L. Ritter (Clerk)

SPECIAL USE PERMIT & SITE DEVELOPMENT PLAN (SUP-23-03 / SP-23-04)

June 7, 2024 Planning Commission Business Meeting – **Continued Public Hearing**

STAFF REPORT– Department of Planning

The purpose of this staff report is to provide information to the Planning Commission & Board of Supervisors to assist them in reviewing this land use request. It may be useful to members of the general public interested in this request.

Case Summary

Applicant:

Randy Buckley

Property Owner:

Harry Z Isaacs % Long Branch Farm

Location:

The subject property consists of approximately 390 acres in the Agricultural-Open Space-Conservation (AOC) Zoning District. The parcel is identified by tax map #29-A-29. It has frontage to Nelson Road, Red Gate Road, and Bordens Spring Road. The proposed use would be located within the mansion house (830 Long Branch Lane) and the grounds immediately adjacent to it. The mansion is listed on the Virginia Landmark Register and National Register of Historic Places, and the property is within the Greenway Rural Historic District and White Post Election District.¹



Request:

The applicant requests approval of a special use permit and site development plan to operate a Minor Commercial Public Assembly use per Section 5.2D of the Clarke County Zoning Ordinance. During the May 3, 2024 Planning Commission Business Meeting the application was deferred at the request of the applicant until June 7, 2024, and the public hearing was continued. The deferral request was intended to allow the applicant time to move forward with the review and approval process for the new drainfield that is proposed to comply with VDH and County regulations. Revised SUP conditions were presented in May and are also included with this report.

¹ Planning Commission Representatives: Buckley & Dunning
Board of Supervisors Representative: McKay

Below is the table that was included in previous reports to breakdown the events on the Long Branch property.

	House Museum <i>(SUP-01-07)</i>	Minor Commercial Public Assembly <i>(SUP-23-03)</i>	Special Events <i>(Chapter 57)</i>
<u>Quantity</u>	No limit	57 events, as follows: --12 events of up to 149 persons with amplified sound --20 events of up to 149 persons without amplified sound --25 events of up to 50 persons without amplified sound	Up to 5 per year (days)
SEE THE RECOMMENDED SUP CONDITIONS FOR ADDITIONAL LIMITATIONS			
<u>Type</u>	Events and activities held for a purpose directly related to the functions of the House Museum	A venue for temporary public or private assemblies including meetings, conferences, weddings, parties, and similar events	As defined by Chapter 57 of the County Code. Generally described as outdoor events that involve any type of re-couping of funds
<u>Location</u>	Historic house	Within the historic house and in the yards immediately surrounding the historic house (approximately 1 acre)	Entire property subject to permit review
<u>Attendees</u>	25 persons or fewer	149 persons or fewer by code.	Over 149 persons
SEE THE RECOMMENDED SUP CONDITIONS FOR ADDITIONAL LIMITATIONS			
<u>Hours</u>	12PM to 4PM, Saturday and Sunday 8:30AM -5PM for employees	11PM for amplified sound 12PM max duration of events	7AM-12AM (midnight) for activities unless otherwise specified by the Board
SEE THE RECOMMENDED SUP CONDITIONS FOR ADDITIONAL LIMITATIONS			

Current Review Status:

In previous staff reports the comments of multiple agencies were discussed. At this time, there are no outstanding issues other than with the Planning Department and Virginia Department of Health (VDH). Below is an update of the current review status by the Planning Department and VDH.

Planning Department Review Comments - UPDATED:

Staff has revised the recommended draft SUP conditions in this report based on input received from the Planning Commission during the public hearing held on April 3, 2024 at the Planning Commission Business Meeting. At that meeting the Planning Commission deferred the application and continued the public hearing until May 3, 2024. Changes to the SUP Conditions also include changes requested from the Applicant, including additional limitations they have proposed to mitigate concerns of impacts raised by the community and during the Planning Commission Public Hearing.

Based on VDH's comments on April 25, 2024, the site development plan is required to be updated to show the proposed new on-site sewage disposal system and reserve area. Resistivity is required.

Virginia Department of Health Review Comments – UPDATED:

VDH provided comments on April 25, 2024 stating the following:

- 1) The CCHD received a conditional assessment report from the project OSE on April 24, 2024 indicating that the dispersal pipe in the existing drainfield is non-functional. Camera refusal was found in a previous inspection by a septic company at 65 feet. This indicates that the dispersal pipe may not be functioning beyond 65 feet. The cause of the malfunction was not reported, but could be attributed to a number of reasons. The project OSA in consultation with Long Branch staff determined that repairing or replacing the existing drainfield from the point of reported camera refusal to the distal end of the trenches would require invasive techniques that could potentially further compromise the functionality of the drainfield. A replacement drainfield site with a 100% reserve area is proposed to ensure that the system is restored to normal function. No increase in flow or waste strength to the drainfield is proposed.
- 2) The site and soils for the proposed replacement drainfield were field reviewed by this office on April 23, 2024 and appeared to be suitable for a conventional onsite sewage dispersal system with a 100% alternative drip reserve. No design information has been submitted to this office, but it appears to be of similar size as the existing drainfield. It is assumed timed dosing will be proposed. Final approval is pending resistivity approval and an application with full design specifications.

Update: Since the May 3, 2024 Planning Commission Business Meeting the applicant has completed resistivity testing for the new drainfield. This was received on May 29, 2024. Submission of a resistivity application and review by the County's Karst Consultant is the next step. The typical review time by the Karst Consultant is two-weeks. Following resistivity approval the applicant will be able to submit an application for review and approval by VDH for the drainfield. This process typically takes 15 days. The applicant also needs to revise the site development plan to show the new on-site sewage disposal system (drainfield/septic tank).

Recommended Special Use Permit Conditions:

Below is a draft of special use permit conditions for consideration by the Planning Commission. The language is the same as presented at the May 3, 2024 Planning Commission Meeting but with the mark-up edits removed that showed the changes from the initial public hearing in April.

SPECIAL USE PERMIT/SITE PLAN (SUP-23-03/SP-23-04) **Longbranch Farm**

Special Use Permit (SUP) Conditions:

1. **Special Use Permit purpose; nontransferable.** This Special Use Permit is issued specifically for the property identified as tax map #29-A-29, commonly referred to as Longbranch Farm, for the operation of a Minor Commercial Public Assembly use solely by the applicant/property owner, Harry Z. Isaacs % Longbranch Farm. As requested by the applicant/property owner, this Special Use Permit shall not be transferable to any other person or entity. Upon transfer of the property to a different person or entity the SUP shall become void and automatically revoked.
2. **Applicant/Property Owner to sign list of adopted permit conditions.** The applicant/property owner shall sign the list of adopted conditions to indicate receipt of the conditions and the intention to comply fully with the conditions for the life of the Special Use Permit. A signed copy of the conditions shall be provided to Planning Department Staff (“Staff”) within thirty (30) days of receipt of the adopted conditions by the applicant/property owner.
3. **Access for inspections required.** Staff and other County officials shall have access to the property with 24 hour notice to applicant/owner in order to conduct periodic compliance inspections of the facility and the subject property throughout the life of the permit.
4. **Ongoing maintenance of site features.** The following site features shall be properly maintained throughout the life of the permit:
 - Property entrance shall be maintained consistent with VDOT regulations.
 - The existing driveways and parking area shall be maintained for safe travel and parking.
 - The well and septic system shall be maintained consistent with VDH regulations.
 - Access for emergency service and law enforcement shall be permitted in conjunction with all events.
5. **Entrance requirements.** Access to the property for all events shall be limited to the existing entrances located along Nelson Road (Route 626). Use of the existing southern entrance, located off of Bordens Springs Road (Route 622), shall be prohibited for all events, except for emergency access purposes.
6. **State and Federal permits.** The Applicant shall comply with all state and federal regulations. A copy of all state or federal permits shall be provided to the County for documentation purposes. This includes, but is not limited to, final approval from the Virginia Department of Health for the proposed new on-site sewage disposal system and 100% reserve area. Resistivity approval is required as a prerequisite to VDH approval.

7. **Business license.** The Applicant must maintain a valid Clarke County business license for the event venue for the life of the Special Use Permit
8. **Noise.** All amplified sound and live music shall conclude no later than 11:00 PM. All events shall conclude no later than 12:00 AM (midnight). With the exception of the more restrictive SUP conditions herein, all noise generated from event activities, or other activities on the property, shall adhere to the noise regulations specified under Clarke County Code, Chapter 120, or as it may be amended in the future.
9. **Lighting and temporary lighting for events.** Lighting shall adhere to the County's outdoor lighting regulations in order to limit impacts on adjacent and nearby properties.
10. **Minor Commercial Public Assembly Events - Limitations.** Exclusive from events associated with the House Museum (condition #11) or Special Events (condition #13), except where otherwise noted, the following limitations shall apply to the Minor Commercial Public Assembly use:
 - A. The maximum allowable persons (participants, spectators, staff, etc.) on-site shall be 149.
 - B. All event activity is limited to the historic house, approximately 1-acre of yard area around the historic house, and the designated parking area.
 - C. The maximum number of events per calendar year shall be 57 events, or fewer, in accordance with the following breakdown:
 1. Events with Amplified Sound:
 - a. Up to 12 events of 149 persons or less, with amplified sound.
 - (1) Such events shall be limited to no more than 1 per day, and shall not occur on the same day as a Special Event (condition #13).
 - (2) There shall be no more than two (2) events with amplified sound that are held after 6:00 PM per calendar month. For the purpose of this condition, amplified events held after 6:00 PM shall include both Minor Commercial Public Assembly events and Special Events.
 2. Events without Amplified Sound:
 - a. Up to 20 events of 149 persons or less, with no amplified sound except incidental amplified sound for short announcements that shall be limited to 15 minutes in total per event.
 - b. Up to 25 events of 50 persons or less, with no amplified sound except incidental amplified sound for short announcements that shall be limited to 15 minutes in total per event.
 - D. For the purpose of the above, each day that an event is held shall be counted as 1 event, regardless if the event extends over multiple days or not.
 - E. The applicant shall give notice to the public in advance of each event held that includes amplified sound, including those authorized under 10C-1a. above, and any Special Events (Condition #13) that may be authorized in the future. Notice may include posting the event information online on the applicant's website. Such notice shall be provided at least thirty (30) days in advance of the event.
 - F. The applicant shall supply a list of the past year's events to the Department of Planning by January 15 of each year.
 - G. The applicant shall have an employee or representative on site at all times for each event with amplified sound and shall provide contact information for the employee or representative to adjoining property owners upon request.

- 11. House Museum (SUP-01-07) – Clarification.** SUP-01-07 shall be considered exclusive from the Minor Commercial Public Assembly use and shall remain in effect, except for the revocation of the veterinary clinic as described under condition #12. Events held for the house museum shall be subject to compliance with its original SUP conditions. For clarification purposes, this includes the following stipulations:

 - The House Museum will continue to be able to hold public visitation hours between 12:00 p.m.(noon) and 4:00 p.m., Saturday and Sunday.
 - Staff working hours are between 8:30 a.m. and 5:00 p.m., Monday through Friday.
 - In regards to events, the House Museum may hold events of 25 or fewer persons that are primarily held within the historic house and occasionally held outdoors. Events larger than 25 persons are not permitted for the House Museum unless counted against the maximum number of events for the Minor Commercial Public Assembly Use (condition #10), or as may be permitted as a Special Event (condition #13).
 - The smaller events of 25 persons or less shall only include events held for a purpose directly related to the functions of the House Museum.

- 12. Veterinary Clinic (SUP-01-07) – Revocation.** The SUP previously issued for a Veterinary Clinic, specifically for R.E.A.C.H Equine Veterinary Clinic, documented by an approval letter dated January 4, 2002, is hereby revoked. Such revocation is based on condition #5 of its SUP conditions; and, that the use is no longer in existence.

- 13. Special Events.** Upon approval of a permit for a Special Event, pursuant to Clarke County Code Chapter 57, up to 5 Special Events may be held on the property during a calendar year. Such authorized Special Events shall be governed by the regulations of Clarke County Code Chapter 57 and shall be considered exclusive from the events associated with the Minor Commercial Public Assembly use and House Museum use. Furthermore, such Special Events shall not be counted toward the maximum number of events stipulated under condition #10, except for the limitations related to frequency of amplified events described under condition 10C-1a.

- 14. No lodging or food preparation on site.** There shall be no overnight accommodations or food preparation on site. Licensed caterers may provide food services provided that the number of catering employees shall be counted towards the maximum number of persons for the type of event being held.

- 15. Fireworks prohibited.** The use of fireworks for public assembly events on the subject property is prohibited.

Conclusions:

The Applicant has submitted a complete Special Use Permit Application and Site Development Plan Application. All review agency comments have been resolved at this time other than comments from the Planning Department and comments from the Virginia Department of Health (VDH) regarding the required improvements to the on-site sewage disposal system (drainfield/septic tank).

The most recent review comments from VDH clarify what needs to occur for the applicant to obtain approval from VDH and Clarke County in regards to the on-site sewage disposal system. This includes the following:

- Submission of a Resistivity Application and report for the new drainfield and reserve area. Review typically takes 2 weeks from the County's Karst Consultant following submission of this information by the applicant.
[Current Status: partially complete as of 5/29/2024]
- Submission of a revised site development plan to show the new on-site sewage disposal system and reserve area that is proposed for the proposed use. Review by Planning Staff and VDH staff is expected to occur within 15 days of submission.
[Current Status: incomplete as of 5/29/2024]
- Submission of an application to VDH with design specifications of the new on-site sewage disposal system. VDH has a 15-day review time period for such applications. This process can begin after resistivity approval by the County and submission of an application to VDH.
[Current Status: incomplete as of 5/29/2024]

The Planning Commission's conditional approval policy stipulates that conditional approval may be issued by the Planning Commission if all of the following criteria is met.

1. *The issue has been informally resolved and only requires final written submission by the applicant and confirmation by Planning Staff and/or the applicable review agency.*
2. *The issue is reasonably expected to be resolved fully within the next 21 days or finalizing of the Planning Commission's next meeting agenda, whichever is sooner.*
3. *The issue is not one that, in the Commission's opinion, warrants continuance of a public hearing (if applicable).*

Recommendation:

The criteria for conditional approval is not currently satisfied. In particular, the approval of the new drainfield can not be reasonably expected to be approved within the next 21 days given the current status (see above). However, the applicant completed the resistivity testing on May 29, 2024. Given the subsequent steps following this, the criteria for conditional approval may be met, or approval obtained, by the July 12, 2024 Planning Commission Business Meeting. Staff would recommend deferral at this time until the July 12, 2024 Planning Commission Business Meeting as requested by the applicant.

A continued public hearing is scheduled for the June 7, 2024 Planning Commission Business Meeting.

History:

November 27, 2023	Applications & fees submitted
December 5, 2023	Applications transmitted to review agencies
December 5, 2023	Sheriff's Office comments received
December 6, 2023	Economic Development Dept. comments received
December 7, 2023	Comments received from Fire, EMS & Emergency Services
December 12, 2023	Comments received from the Virginia Outdoor Foundation (VOF)
December 14, 2023	2nd Review comments from Planning Department discussed with applicant following previous review comments sent on October 24th
December 18, 2023	Applicant submitted partial revision of site development plan
December 20, 2023	VDH comment letter received
December 21, 2023	Applicant submitted a revised site development plan
January 2, 2024	Scheduled Planning Commission Work Session
January 5, 2024	Scheduled Planning Commission Business Meeting - deferred
January 23, 2024	VDOT comment letter received
January 30, 2024	Scheduled Planning Commission Work Session
February 2, 2024	Scheduled Planning Commission Business Meeting - deferred
February 9, 2024	On-site meeting with VDH and Longbranch.
February 13&16, 2024	Correspondence received from VDOT clarifying their original comments.
March 1, 2024	Planning Commission Business Meeting (set public hearing)
March 6, 2024	Updated comments received from VDOT
March 26, 2024	Updated comments received from VDH
April 2, 2024	Planning Commission Work Session
April 5, 2025	Planning Commission Business Meeting (initial public hearing - deferred)
April 22, 2024	Update to application received from applicant including recommended SUP conditions with further limitations
April 25, 2024	Updated VDH comments
April 30, 2024	Planning Commission Work Session
May 3, 2024	Planning Commission Business Meeting (continued public hearing - deferred)
May 29, 2024	Resistivity testing report completed by Forrest Environmental
June 4, 2024	Scheduled Planning Commission Work Session
June 7, 2024	Scheduled Planning Commission Business Meeting (continued public hearing)

**Geophysical Survey
Tax Map 29 A 29
830 Long Branch Road
Boyce, Virginia**

Prepared For:

**Mr. Harry Z. Isaacs c/o
Long Branch Historic House and Farm**
PO Box 241
Millwood, Virginia 22646

Prepared By:

Forrest Environmental Services, Inc.



3057 Crosen Court
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May 2024

FES Project No. 24158

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A	ER Cross-Sections 1 and 2

1.0 Introduction

Forrest Environmental Services, Inc. (FES) performed a geophysical survey for a proposed septic field and reserve (Tax Map Number 29-A-29) located on 830 Long Branch Road in Boyce, Virginia on the 22nd May 2024 (Figure 1). The survey consisted of an electric resistivity (ER) survey to locate potential voids that may develop into sinkholes.

Two electric resistivity lines (ER lines 1 and 2) were conducted at the site (Figure 2). The ER survey covered approximately 670 linear feet and approximately 1,400 soundings were collected. The electrode spacing (dipole size) was 3 meters (10 feet) used 35 electrodes for ER lines 1 and 2 for a total distance of 335 feet.

The 830 Long Branch Road site is located within the Valley and Ridge Province of Virginia. The site geology includes the contact between the Elbrook Formation which is a predominately a gray to light blue limestone with algal structures and Conococheague Formation which is a predominately a gray to dark gray limestone with sandy chert widespread.

No sinkholes or depressions were observed during the survey. Bedrock/float was observed approximately 15 feet west of the proposed septic field. The closest stream is Long Branch located approximately 1,000 feet south of the site. The closest geologic feature is an anticline located approximately 1,000 feet east of the proposed septic field. These features appear not to influence the proposed septic field and reserve.

Topographically, the site slopes downhill to the east. The site generally consisted of a grass pasture. Survey locations and physical features are shown in Figure 2. Details of the geophysical survey are described in the following sections.

2.0 Equipment and Procedures

The geophysical survey instrument used during this survey was an earth resistivity meter that maps the resistivity changes in the earth. Resistivity is a fundamental parameter of the material that describes how easily the material can transmit electrical current. High values of resistivity imply that the material is very resistant to the flow of electricity, and low values of resistivity imply that the material transmits electrical current very easily.

The primary factors affecting the resistivity of earth materials are porosity, water saturation, clay content, and ionic strength of the pore water. The minerals making up soil and rock generally do not readily conduct electric current. Most of the current flow takes place through the material's pore water in which the resistivity decreases with increasing porosity and water saturation. Clay minerals are conductive because of the availability of free ions in the sheet structure of the clay particles in which resistivity decreases with increasing clay content. Similarly, higher salinity in groundwater makes the water more conductive to electrical current and resistivity decreases. Hard competent bedrock, such as limestone or granite, generally has a high resistivity in the absence of fracture or other permeable features.

The geophysical survey instrument used during this survey was a Sting R8 earth resistivity meter (Sting) connected to a Swift automatic electrode system (Swift). The Sting measures the electrical resistivity of the earth and the Swift automates the resistivity measurement process using the multi-electrode system.

The Swift was connected to the Sting and SMART electrodes to optimize survey efficiency by gathering maximum information with a minimum of electrodes. Each SMART electrode is numbered by a computer chip located within the electrode. The Swift selects which electrodes to employ as the current and receiver. For example for this ER survey, the first sounding uses electrodes 1 and 2 as the transmitter and electrodes 3 and 4 as the receiver. The next sounding uses electrodes 2 and 3 as the transmitter and electrodes 4 and 5 as the receiver. The Swift also uses redundancies in the data set to reduce the effects of lateral heterogeneities in the earth and to calculate uncertainties in the data. The survey was conducted automatically using the Sting/Swift dipole-dipole array system.

The earth resistivity meter works by introducing a measured current into the earth through two electrodes; the resultant voltage is then measured across two different electrodes. At the low

currents used, the voltage is proportional to the current. The resistivity meter calculates the voltage/current ratio or resistance in ohms. The resistance is then converted to resistivity using an algorithm which is a function of the electrode array configuration. Measured differences in the electrical resistivity of various earth materials are then used to map the geology and character of the soil and rock materials. For example, clays generally have low resistivities and limestones have high resistivities.

A contact resistance test was conducted before the Sting/Swift dipole-dipole survey commenced. The contact resistance test ensures the stake has good contact with the ground. The Sting produces a current between the first two stakes and measures the voltage. The instrument measures the resistance between the first and second stakes and the ground. The contact resistance is also checked for the measurements consistent for all of the 35 electrodes.

The Swift cable resistance checks the voltage difference signal between two electrodes. Four leads of the Swift cable using two electrodes send a current through a 1 ohm resistor in the Swift box. The test is checked before the first ER survey and after the last ER line for each day.

The Swift switch relays test is performed to check the Swift cable is continuous and the relays in the electrodes are working properly. A current is sent through each lead in the Swift cable to make sure the relays are functioning properly and there is no leakage between leads, and to test the relays for sticking. The test is checked before the first ER survey and after the last ER line for each day.

The depth of investigation by Sting is a function of the total distance of the electrode layout was 335 feet. The Sting has an effective analysis depth of approximately 60 feet using a 3-meter (10 feet) electrode spacing. This depth is considered sufficient to locate voids and caverns at the 830 Long Branch Road site.

3.0 Interpretation Methods

The ER data was converted into a resistivity depth model using Rapid 2D resistivity inversion model and the least-squares method (RES2DINV). Soundings from each line were modeled to produce the measured apparent resistivity pseudo-sections. The model calculated the apparent resistivity pseudo-sections using finite-difference forward modeling. The least-squares optimization technique was used for the inversion routine that calculated the modeled resistivity section. The profiles include cross-sections that consist of the inverse model resistivity cross-section. The horizontal and vertical scales are in feet.

The cross-section is the inverse model resistivity pseudo-section. The ER data was converted into a resistivity depth model (RES2DINV) using a resistivity inversion model by the least-squares method and is topographically corrected. The ground surface elevations were determined by interpolating between contours interpreting contours from a USGS topographic quadrangle map. RES2DINV confirms the model reliability by calculating the modeled data into empirical data or the calculated resistivity pseudo-section. The difference between the measured and calculated data is the root mean square percent error. The modeled calculated mean root square error was approximately less than 10 rms error which is considered accurate.

Low resistive materials can be caused by certain conductive soils such as clay. High resistive materials are caused generally by bedrock, sand, wood, and air. Low ER values represent the thickening overburden. Lower ER anomalies are generally found at saturated or semi-saturated sinkholes, or fractures in the rock.

Typical resistivities of the overburden (clay) are approximately 100 ohm meters (blue). Limestone resistivities typically range from 200 (green) to 5,000 (red) ohm meters. Saturated zone/mud-filled void resistivities typically measure approximately less than 50 ohm meters (dark blue), and less dense or soft zone areas that can cause lower blow counts during split-spoon sampling typically measure approximately 1,000 ohm meters (yellow). Air-filled voids typically measure greater than 3,500 ohm meters (red).

4.0 Survey Results

The objective of the ER survey was to locate suspected voids and caverns that may develop into sinkholes. ER cross-sections are provided in Appendix A. The horizontal scale is in feet. The vertical scale is in feet above sea level.

ER Line 1 indicated two resistive anomalies centered at approximately 115 feet West and 175 feet West about 10 feet below ground surface. The resistive anomalies appear to be limestone ledge and limestone float, respectively. Depth to bedrock appears to be near ground surface at approximately 95 feet West to about 60 feet below ground surface at approximately 150 feet East.

ER Line 2 indicated one resistive anomaly centered at approximately 180 feet West about 10 feet below ground surface. The resistive anomaly appears to be limestone float. Depth to bedrock appears to be near ground surface at approximately 310 feet West to about 50 feet below ground surface at approximately 160 feet West.

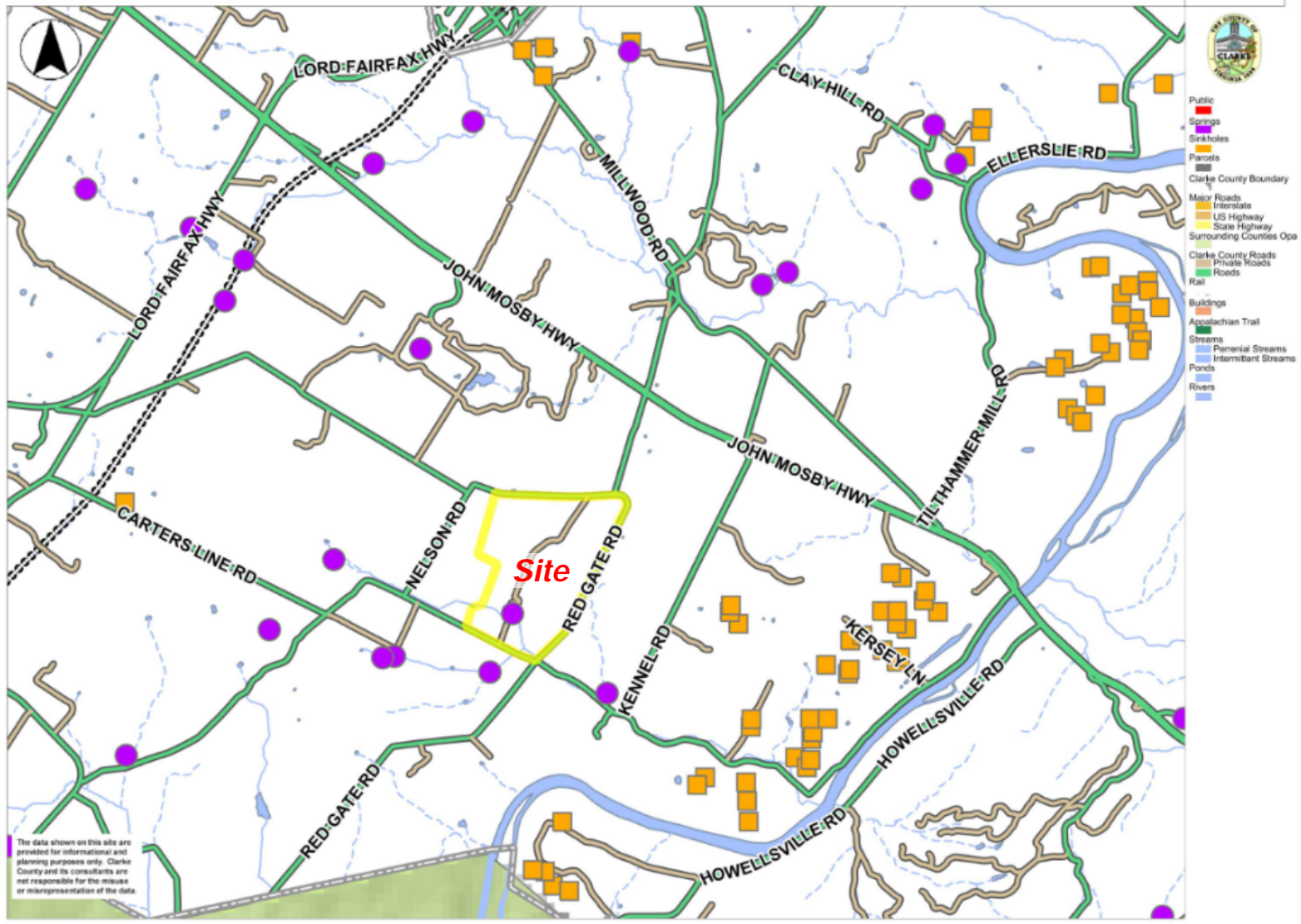
ER lines 1 and 2 indicate depth to bedrock appears to be approximately near surface to about 60 feet ground surface.

The geophysical survey indicated two karst features within the proposed septic field. The karst features appear to be limestone float and limestone ledge.

The geophysical survey indicated no groundwater-threatening karst-related structures beneath the proposed septic field and reserve and has a low to moderate risk in collapse or groundwater contamination.



Photo 1 - ER Line 1



0 5000 10000 ft

Printed on 05/27/2024 at 08:05 PM

Clarke County MapsOnline

Forrest Environmental Services, Inc.
 Oak Hill, Virginia
 (703) 648-9090
www.fesinc.net

DATE	SCALE
May 2024	shown
DRAWN BY	APPROVED BY
JOB NO.	DWG. NO./REV. NO.
24158	LB29A29F1

TITLE	CLIENT
Geophysical Area Map Tax Map 29 A 29 830 Long Branch Road Boyce, Virginia	Long Branch Historic House and Farm

FIGURE
1

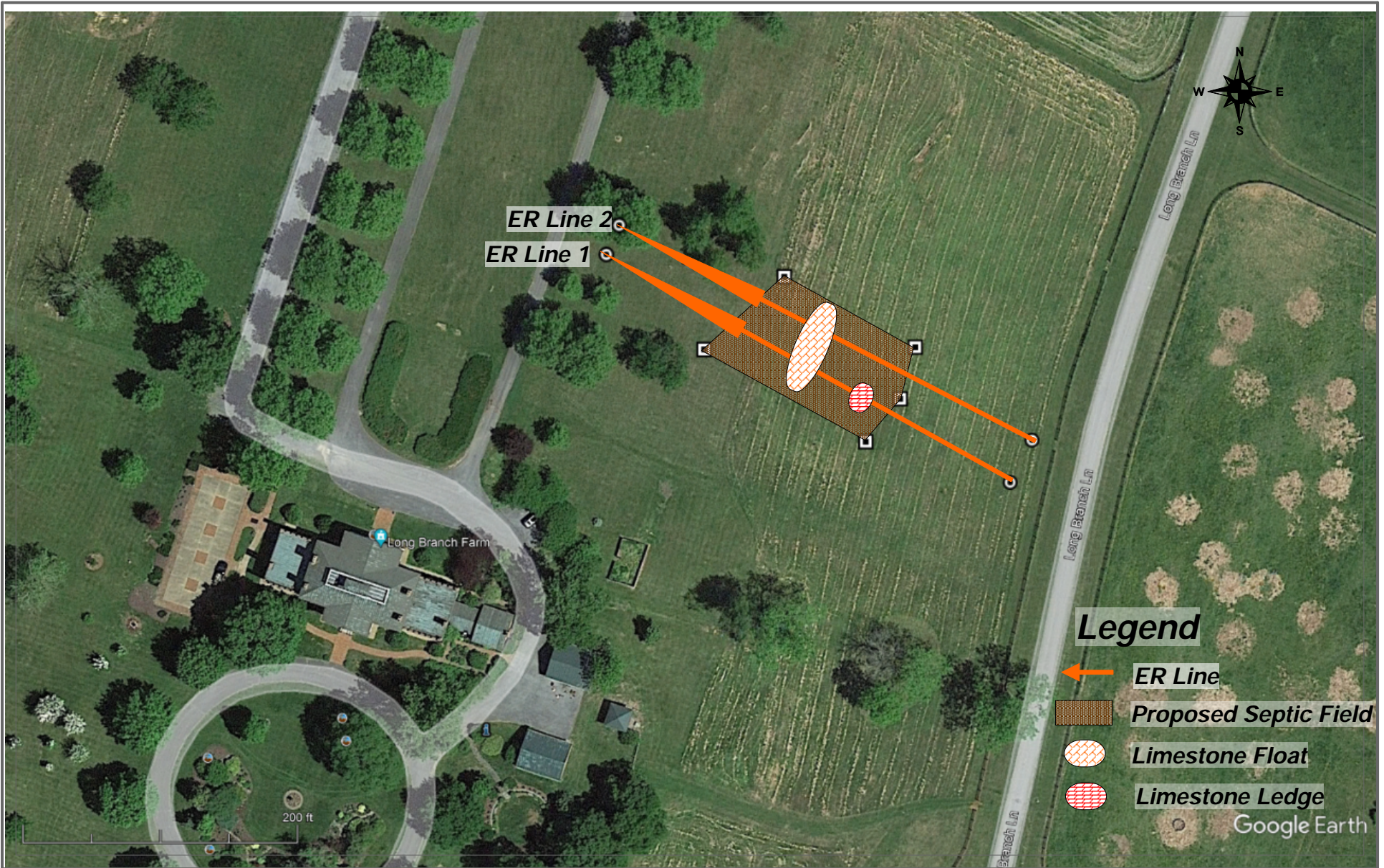


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DATE	SCALE	TITLE	FIGURE
May 2024	1 inch ~ 100 ft,	Geophysical Site Map	2
DRAWN BY	APPROVED BY	Tax Map 29 A 29	
JOB NO.	DWG. NO./REV. NO.	830 Long Branch Road	
24158	LB29A29F2	Boyce, Virginia	
	CLIENT	Long Branch Historic House and Farm	



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DATE	SCALE	TITLE	FIGURE
May 2024	1 inch ~ 100 ft.	Geophysical Anomaly Map Tax Map 29 A 29 830 Long Branch Road Boyce, Virginia	
DRAWN BY	APPROVED BY	CLIENT	3
JOB NO.	DWG. NO./REV. NO.	Long Branch Historic House and Farm	
24158	LB29A29F3		

Appendix A

ER Cross-Sections

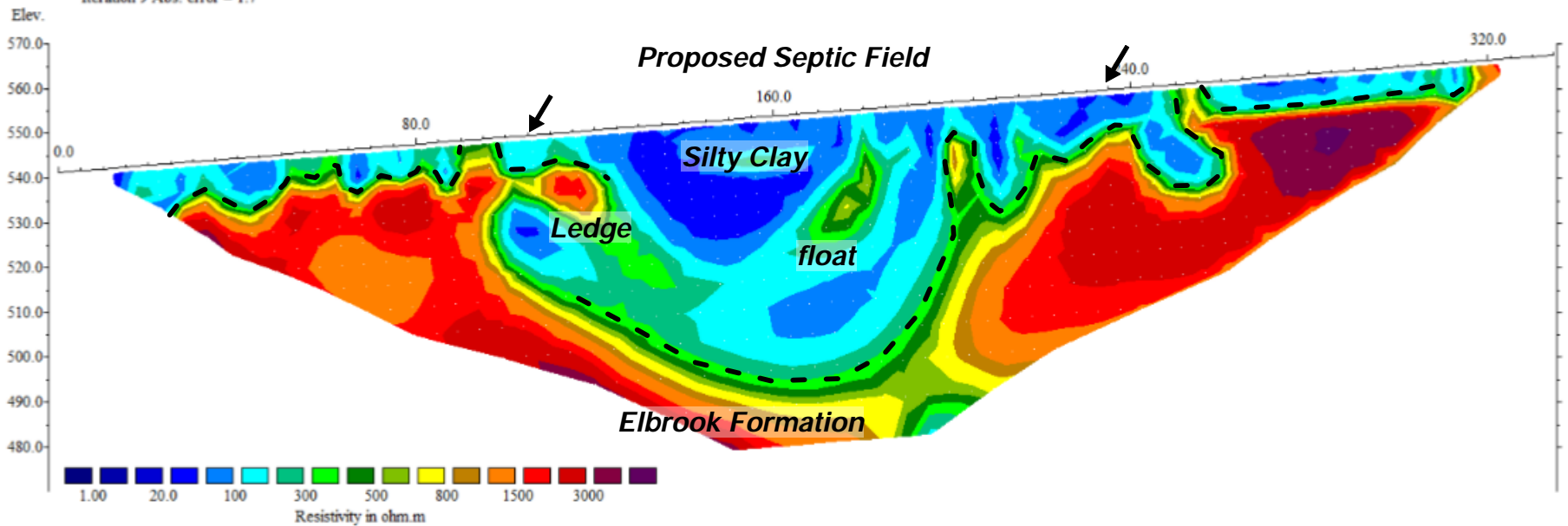
1 and 2

East

West

Sting/Swift prg: LB29A29A

Model resistivity with topography
Iteration 9 Abs. error = 1.7



Horizontal scale is 20.00 pixels per unit spacing
 Vertical exaggeration in model section display = 1.00
 First electrode is located at 0.0 ft.
 Last electrode is located at 334.6 ft. Unit Electrode Spacing = 4.92 ft.

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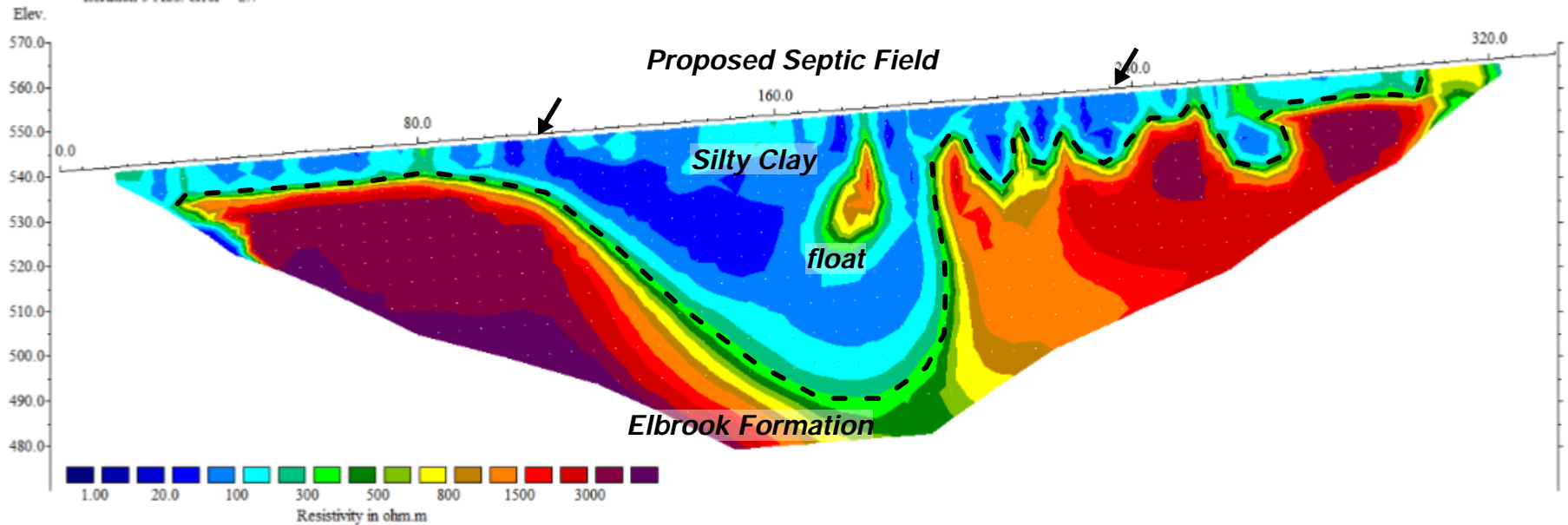
DATE May 2024	SCALE shown	TITLE ER Line 1 Tax Map 29 A 29 830 Long Branch Road Boyce, Virginia	
DRAWN BY	APPROVED BY		
JOB NO. 24158	DWG. NO./REV. NO. LB29A29-1	CLIENT Long Branch Historic House and Farm	FIGURE

East

West

Sting/Swift prg: LB29A29B

Model resistivity with topography
Iteration 9 Abs. error = 2.7



Horizontal scale is 20.00 pixels per unit spacing
 Vertical exaggeration in model section display = 1.00
 First electrode is located at 0.0 ft.
 Last electrode is located at 334.6 ft. Unit Electrode Spacing = 4.92 ft.

Forrest Environmental Services, Inc.



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DATE May 2024	SCALE shown	TITLE ER Line 2 Tax Map 29 A 29 830 Long Branch Road Boyce, Virginia	FIGURE
DRAWN BY	APPROVED BY	CLIENT Long Branch Historic House and Farm	
JOB NO. 24158	DWG. NO./REV. NO. LB29A29-2		

ZONING ORDINANCE TEXT AMENDMENT (TA-24-01)
Cesspools and Other Unpermitted Onsite Sewage Disposal Systems
June 7, 2024 Planning Commission Business Meeting – PUBLIC HEARING
STAFF REPORT – Department of Planning

The purpose of this staff report is to provide information to the Planning Commission and Board of Supervisors to assist them in reviewing this proposed ordinance amendment. It may be useful to members of the general public interested in this proposed amendment.

Description:

Proposed text amendment to amend Section 4.5.6E of the Subdivision Ordinance. The purpose is to require any existing cesspool or unpermitted onsite sewage disposal system to be replaced or upgraded to a Virginia Department of Health (VDH) approved system prior to final approval of a subdivision plat.

Requested Action:

Conduct advertised public hearing and take action on the proposed text amendment.

Staff Analysis:

When subdividing a lot containing an existing dwelling, Subdivision Ordinance Section 4.5.6E requires the plat to show either:

1. *Location of an existing approved standard septic system as shown by VDH record and a 100% reserve drainfield area, or*
2. *Location of a new primary and 100% reserve drainfield area as approved by VDH.*

The wording of 4.5.6E only obligates the applicant to demonstrate that the Virginia Department of Health (VDH) has approved their existing or proposed system and to show that system on the plat. The applicant is not obligated to construct the new system. This is particularly problematic for existing dwellings served by a cesspool or other substandard, unpermitted system as 4.5.6E contains no requirement to install the proposed system.

The proposed text amendment would require any existing cesspool or unpermitted system (no VDH records of approval exist) to be replaced or upgraded to a VDH-approved system before final approval of the subdivision plat. The draft text amendment would not apply to nonconforming systems that are currently permitted in good standing with VDH. The justification for this rule is to protect groundwater from contamination. Cesspools have never been an approved method of sewage disposal per VDH and should be replaced to guard against groundwater contamination before a failure occurs. Unpermitted systems may be just as problematic or may be able to be deemed compliant upon inspection by a design professional, making repairs or modifications if required, and with review/approval by VDH.

As a matter of practice, Staff would recommend that any applicant in this situation conduct the work to replace or install a compliant system before filing their subdivision application. Staff would not recommend the Commission grant a conditional approval in these cases contingent

upon the system being replaced or installed before final plat approval. 3.1.3C requires subdivision plats to be recorded within six months of approval and it could take longer than six months for a property owner to complete the replacement or upgrade.

One additional technical issue is noted. Under subsection E, the word “standard” in first bullet is unnecessary and could be interpreted as only allowing “conventional” systems to qualify. Staff recommends deleting this word.

Staff Recommendation:

Staff has no outstanding concerns with the adoption of this text amendment.

History:

- | | |
|------------------------|--|
| April 18, 2024. | Ordinances Committee agreed by consensus to forward the proposed text amendment to the full Commission for consideration. |
| April 30, 2024. | Placed on the Commission’s Work Session agenda for initial discussion. |
| May 3, 2024. | Commission voted 9-0-2 (Hunt, Staelin absent) to initiate consideration of the text amendment and to schedule public hearing for the June 7, 2024 Business Meeting. |
| June 7, 2024. | Placed on the Commission’s Business Meeting agenda and scheduled for public hearing. |

Ordinance Amendment Text (changes shown in bold italics with strikethroughs where necessary):

4.5.6 Private Wells and Onsite Sewage Disposal Systems

E. Existing Onsite Sewage Disposal Systems.

1. If any lot contains an existing dwelling, the plat shall indicate one of the following:

- Location of an existing approved ~~standard~~ septic system as shown by the Virginia Department of Health (VDH) records and 100% reserve drain field area, or
- Location of a new primary and a 100% reserve drain field area, as shown in a permit, approved by VDH, pursuant to a certificate of approval signed by the Health Official evidencing conformity with VDH requirements with respect to individual on-site subsurface septic systems and potable water supply systems, as applicable. Such location shall be shown by distance and bearing to one corner of the primary drain field and one corner of the reserve drain field from two property corners.

2. *If any lot contains a cesspool or an onsite sewage disposal system for which no records of VDH approval exist, the cesspool or unpermitted system shall be replaced with or upgraded to a system that can be approved by VDH. Such system shall be replaced or upgraded and VDH approval obtained prior to final approval of the subdivision plat.*

ZONING ORDINANCE TEXT AMENDMENT (TA-24-02)
Minor Commercial Public Assembly Accessory Use – Country Inns
June 7, 2024 Planning Commission Business Meeting – PUBLIC HEARING
STAFF REPORT – Department of Planning

The purpose of this staff report is to provide information to the Planning Commission and Board of Supervisors to assist them in reviewing this proposed ordinance amendment. It may be useful to members of the general public interested in this proposed amendment.

Description:

Proposed text amendment to amend the “country inn” use per Section 5.2C (Uses, Definitions, and Use Regulations – Business Uses) of the Zoning Ordinance. The purpose is to eliminate minor commercial public assembly as an allowable accessory use and to clarify that the sale of meals or prepared food is limited to overnight guests only. The text amendment also deletes reference to Code of Clarke County Chapter 57 (Special Events).

Requested Action:

Conduct advertised public hearing and take action on the proposed text amendment.

Staff Analysis:

The “country inn” special use allows minor commercial public assembly activities to be approved as an accessory use subject to the requirements of use regulation 3. Following the Carter Hall special use permit application deliberation, some commissioners indicated a preference for removing this as an accessory use. If this accessory use is removed, applicants who want to operate a country inn and have minor commercial public assembly activities would be required to get a special use permit for a country inn and a separate special use permit for a minor commercial public assembly use.

The proposed changes below would remove use regulation 3 and reference to “permanent place(s) of public assembly” in the definition of “country inn.” Staff also recommends removal of use regulation 8 referencing compliance with County Code Chapter 57 requirements for any special events. Special events are not considered to be minor commercial public assembly uses however reference to them in the use regulations could give the impression that country inns are appropriate places to hold special events. Removal of use regulation 8 would not prohibit special events from being approved at country inns.

Language is also added to use regulation 2 to clarify that meal service is only allowed for overnight guests of the country inn. This ensures that meal service is not expanded to the general public and operated as a restaurant. The language would also prohibit meal service to individuals who may be visiting guests at the country inn but who are not staying overnight. Corresponding language in the definition would also be deleted.

Staff Recommendation:

Staff has no outstanding concerns with the adoption of this text amendment.

History:

April 18, 2024.

Ordinances Committee agreed by consensus to forward the proposed text amendment to the full Commission for consideration.

April 30, 2024.

Placed on the Commission's Work Session agenda for initial discussion.

May 3, 2024.

Commission voted 9-0-2 (Hunt, Staelin absent) to initiate consideration of the text amendment and to schedule public hearing for the June 7, 2024 Business Meeting.

June 7, 2024.

Placed on the Commission's Business Meeting agenda and scheduled for public hearing.

Ordinance Amendment Text (changes shown in bold italics with strikethroughs where necessary):

COUNTRY INN	
Permitted Use	CN
Accessory Use	None
Special Use	AOC, FOC

Definition:

A business offering for compensation to the public guestrooms for transitory lodging or sleeping accommodations for a period of fewer than 30 consecutive days. ~~As accessory uses to a country inn, meal service and/or permanent place(s) of public assembly may be provided.~~

Use Regulations:

1. Maximum occupancy and use of onsite sewage disposal system.
 - a. A maximum of 15 guest rooms for transitory lodging or sleeping accommodations shall be permitted subject to compliance with Virginia Department of Health (VDH) regulations for onsite sewage disposal systems if applicable. The maximum occupancy shall not exceed the maximum occupancy allowed by the onsite sewage disposal system permit issued by the Virginia Department of Health (VDH). If the onsite sewage disposal system serving the country inn is shared with another structure or structures, the maximum occupancy of all structures shall not exceed the maximum occupancy allowed by the onsite sewage disposal system permit.
 - b. An application for a country inn that is served by an onsite sewage disposal system shall be reviewed by VDH in conjunction with the site development plan application review. Written confirmation by VDH that the existing onsite sewage disposal system can support the proposed maximum capacity of the country inn shall be a prerequisite to approval of a site development plan.
 - c. If a country inn is served by an onsite sewage disposal system, that system shall be maintained and remain in an operable condition for the life of the use. In the event that the system fails as determined by the Virginia Department of Health (VDH), the zoning administrator may issue a notice of violation to cease the country inn use until the system is repaired or replaced and is approved in writing by VDH.
2. The sale of meals or prepared food *to overnight guests only*, which may include beverages and confections, is permitted as an accessory use to a country inn. Approvals or permits by applicable State agencies shall be obtained and remain active for the lifespan of this activity.

- ~~3. Assembly activities for compensation are permitted as an accessory use. The maximum number of building occupants during an assembly activity shall not exceed 149, or the maximum occupancy of the facility as approved by the Building Department, whichever is lesser.~~
3. One bathroom shall be provided per each bedroom in structures less than 50 years old or one bathroom shall be provided per each two bedrooms in structures 50 years or older.
4. Any need for parking shall be met off the street and other than in a required front yard, and shall conform in all other ways with the provisions of [Section 7.2.5 \(Parking Regulations\)](#).
5. No equipment, process, or vehicles which create unreasonable noise, vibration, glare, fumes or odors which are detectable to the normal sense off the premises shall be permitted.
6. Regulations for country inns in the AOC and FOC Districts:
 - a. A country inn shall require the use of a dwelling unit right (DUR).
 - b. If a country inn is developed in a structure other than an existing single-family dwelling, the structure shall be designed to resemble a single-family dwelling and constructed to enable the structure to be converted to a single-family dwelling if the country inn use is discontinued. Architectural renderings and construction plans for the proposed structure shall be submitted for review with the special use permit application.
- ~~8. Special events shall comply with [Chapter 57 of the Code of Clarke County](#).~~

ZONING ORDINANCE TEXT AMENDMENT (TA-24-03)
Helicopter Landing Area Use and Prohibition of Private Airstrips and Airports
June 7, 2024 Planning Commission Business Meeting – PUBLIC HEARING
STAFF REPORT – Department of Planning

The purpose of this staff report is to provide information to the Planning Commission and Board of Supervisors to assist them in reviewing this proposed ordinance amendment. It may be useful to members of the general public interested in this proposed amendment.

Description:

Proposed text amendment to add “helicopter landing area” as a new special use in the Agricultural-Open Space-Conservation (AOC) and Forestal-Open Space-Conservation (FOC) Districts per Section 5.2E (Uses, Definitions, and Use Regulations – Public and Miscellaneous Uses) of the Zoning Ordinance. The purpose is to require a special use permit and compliance with use regulations for departures and landings of non-commercial helicopters for personal use. The text amendment also clarifies that helicopter landing areas for commercial use and private or public airstrips or airports for aircraft other than helicopters are prohibited.

Requested Action:

Conduct advertised public hearing and take action on the proposed text amendment.

Staff Analysis:

Staff recently noted the provisions in Code of Virginia §15.2-2293.2, Regulation of Helicopter Use:

No local zoning ordinance shall impose a total ban on departures and landings within the locality by non-commercial helicopters for personal use, but local zoning ordinances may require a special exception, special use permit, or conditional use permit for repetitive helicopter landings and departures on the same parcel of land in some or all zoning districts. Special exceptions or special use permits may be made subject to reasonable conditions for the protection or benefit of owners and occupants of neighboring parcels, including but not limited to conditions related to compliance with applicable regulations of the Federal Aviation Administration.

The Zoning Ordinance is silent on the use of helicopter landing areas for personal use. Per Section 5.1.2A, if a use does not meet the definition of any use listed in Section 5, then it is considered to be a prohibited use. This would appear to mean that helicopter landing areas for personal use are a prohibited use. Because the Code of Virginia does not allow localities to prohibit these uses, a legal argument could be made that helicopter landing areas are unregulated and are therefore by-right uses allowable without regulations or permitting requirements. Since the Code of Virginia allows localities to require special use permits for helicopter landing areas and to include reasonable regulations, Staff recommends that a new special use be established and use regulations be created for them.

Use regulations are proposed for helicopter landing areas. The use would only be allowed in the Agricultural-Open Space-Conservation (AOC) and Forestal-Open Space-Conservation (FOC)

Districts by special use permit. Use regulation 1 requires them to be accessory to a residential use on the same lot – this is to ensure that a vacant lot is not used for helicopter landings. The minimum lot size is 50 acres and setbacks from property lines (300 feet) and residences on adjacent lots (500 feet) are proposed to minimize impacts on adjoining properties. Setbacks of 300 feet from overhead power lines and 100 feet from structures on the same lot are proposed for safety purposes.

Use regulation 5 allows helicopter landing areas to be hard surfaced and at a minimum requires them to be stabilized with grass or gravel to prevent erosion. The goal is to require these uses to be low impact and a site development plan would not be required. Improvements are limited to markings, lighting, or other equipment required by State or Federal law and use of required lighting is limited to takeoffs and landings – lights are to be turned off when the landing area is not in use. An applicant would not be prohibited from constructing a building or shelter to house the helicopter when not in use as that structure would have to be located a minimum of 100 feet from and would not be part of the landing area.

The Zoning Ordinance also contains no allowable uses for private airstrips or commercial airports thereby making them prohibited uses. Language is included in the use regulations for “helicopter landing area” to reinforce this prohibition.

Staff Recommendation:

Staff has no outstanding concerns with the adoption of this text amendment.

History:

- | | |
|------------------------|--|
| April 18, 2024. | Ordinances Committee agreed by consensus to forward the proposed text amendment to the full Commission for consideration. |
| April 30, 2024. | Placed on the Commission’s Work Session agenda for initial discussion. |
| May 3, 2024. | Commission voted 9-0-2 (Hunt, Staelin absent) to initiate consideration of the text amendment and to schedule public hearing for the June 7, 2024 Business Meeting. |
| June 7, 2024. | Placed on the Commission’s Business Meeting agenda and scheduled for public hearing. |

Ordinance Amendment Text (changes shown in bold italics with strikethroughs where necessary):

<i>HELICOPTER LANDING AREA</i>	
<i>Permitted Use</i>	<i>None</i>
<i>Accessory Use</i>	<i>None</i>
<i>Special Use</i>	<i>AOC, FOC</i>

Definition:

An area designated exclusively for the takeoff and landing of helicopters for the personal use by the property owner and their guests.

Use Regulations:

- 1. Helicopter landing areas shall be accessory to a residential use located on the same lot.***
- 2. The minimum lot size for a helicopter landing area is 50 acres. Minimum setback distances are as follows:***
 - From all property lines – 300 feet***
 - From overhead utility lines – 300 feet***
 - From structures on the same lot – 100 feet***
 - From residences on adjacent lots – 500 feet***
- 3. Helicopter landing areas shall not be used for commercial purposes. Helicopter landing areas do not include private or public airstrips or airports for aircraft other than helicopters as these are prohibited uses.***
- 4. Helicopter landing areas shall conform to all State and Federal regulations.***
- 5. Helicopter landing areas may be hard surfaced and at a minimum shall be stabilized with grass or gravel to prevent erosion. Improvements shall be limited only to markings, lighting, or other equipment required by State or Federal law. Any use of required lighting shall be limited to takeoffs and landings and all lights shall be turned off when the landing area is not in use.***

Required Review Processes:

- 1. Special Use Permit Review is required per Section 6.3.1.***

ZONING ORDINANCE TEXT AMENDMENT (TA-23-01)
Regulations for Permanent Campgrounds and Temporary Camping
June 7, 2024 Planning Commission Business Meeting – SCHEDULE PUBLIC HEARING
STAFF REPORT – Department of Planning

The purpose of this staff report is to provide information to the Planning Commission and Board of Supervisors to assist them in reviewing this proposed ordinance amendment. It may be useful to members of the general public interested in this proposed amendment.

Description:

Proposed text amendment to add a new permanent use, “primitive campground,” to Zoning Ordinance Section 5.2D (Recreation/Education/Assembly Uses), to add a new temporary use, “temporary camping,” to Section 5.4 (Uses, Definitions, and Use Regulations – Temporary Uses), and to delete “campground” and “summer camp” uses from Section 5.2D. The purpose is to limit permanent campgrounds operated as a business or by a non-profit or not-for-profit organization to primitive camping only -- overnight stays by patrons using their own tents and subject to use regulations – in order to mitigate impact on surrounding properties and the environment. The text amendment also establishes regulations for the maximum duration for camping activities, the long-term lease of a lot for camping, and temporary event camping. Primitive campgrounds would be allowed with a special use permit in the Agricultural-Open Space-Conservation (AOC) and Forestal-Open Space-Conservation (FOC) Districts. Temporary camping would be allowed by-right in the AOC, FOC, and Institutional (ITL) Districts subject to use regulations.

Requested Action:

Schedule public hearing on the modified text amendment for the July 12 Business Meeting.

Update:

This text amendment originally proposed to prohibit all new permanent campgrounds including those operated as a business or as summer camps by deleting the current uses, “campground” and “summer camp.” The text amendment established new regulations for temporary camping by landowners and their guests, the long-term lease of a lot for camping (typically “river lot” camping), and camping in conjunction with temporary events. The Planning Commission held a public hearing on June 2, 2023 and following a July work session discussion of the comments received at the public hearing, the Commission voted unanimously on September 1, 2023 to recommend adoption to the Board of Supervisors.

The Board held a public hearing on the text amendment on October 17, 2023 and discussed comments received at the public hearing on November 7, 2023. At their December 11, 2023 work session, the Board agreed by consensus to return the text amendment to the Commission with direction to develop regulations to allow permanent campgrounds on a limited scale by special use permit in the Agricultural-Open Space-Conservation (AOC) and Forestal-Open Space-Conservation (FOC) Districts subject to stringent use regulations. Other parameters provided by the Board included:

- Tent camping only – recreational vehicles (RVs) would not be allowed.
- Establish a maximum number of campsites (20 was mentioned).
- Require forested buffer areas of a certain width.
- Stringent minimum lot size (examples include Fauquier – 20 acres, Loudoun – 40 acres for up to 50 campsites)
- Requirement that the property owner or resident manager live onsite and be present during camping activities with campsites located in close proximity to the owner’s or manager’s residence.
- Compliance with all Virginia Department of Health (VDH) requirements.

The Commission assigned work on the text amendment modification to the Policy & Transportation Committee at their January 2, 2024 work session. Over the course of two meetings, the Committee developed the modification and sent it to the Commission for review in April which was then forwarded with the Commission’s endorsement to the Board for informal review. At their May 13 work session, the Board agreed by consensus to direct the Commission to incorporate the primitive campground modification into the text amendment and to hold a public hearing.

Summary of Text Amendment Modification:

The text amendment as modified would regulate the following forms of camping:

- Instead of prohibiting all permanent campgrounds, those operated as a business or as the permanent location for camping by non-profit or not-for-profit organizations would be allowed to operate as a “primitive campground” use consisting of overnight camping by patrons using their own tents. Primitive campgrounds are intended to be low-impact and use regulations are included to minimize adverse impacts to adjacent properties and natural resources. They would be allowed by special use permit in the AOC and FOC Districts.
- Separate regulations would be established for temporary or periodic camping activities under a new “temporary camping” temporary use. Temporary camping on a lot would be limited to a total of 30 days in any 60-day period and for not more than 14 consecutive days. This time limitation would allow 180 days of camping in a calendar year and establish a reasonable limit on the duration of a continuous camping activity.

Other rules proposed include a prohibition on temporary or permanent onsite connections for recreational vehicles to utilities, and no advertising of properties as being open to the public for camping. Public camping would only be allowed in conjunction with an approval for a primitive campground.

- New regulations are included to allow property owners to lease their lots on a long-term basis (minimum 30-day written lease) to tenants specifically for camping. These rules are proposed to recognize the long-standing practice of seasonal “river lot” rentals along the river and to ensure that these locations are not operated as commercial campgrounds. Lots leased for camping would also be limited to two campsites per lot of record including a maximum of one recreational vehicle per campsite. Under the current rules,

“river lot” rentals are limited to a maximum of two campsites – three or more campsites require approval of a special use permit (SUP) for a campground.

- Regulations are proposed for temporary camping in conjunction with a temporary event approved by special event permit (County Code Chapter 57), by agritourism activity zoning permit or other zoning approval, or ancillary to an event held at the Fairgrounds.

As with the original text amendment, the current “campground” and “summer camp” uses would be removed from the Zoning Ordinance. These forms of permanent camping would only be permissible if operated in accordance with the regulations for primitive campgrounds.

“Primitive Campground” use:

The “primitive campground” use would be classified as a new permanent use under Zoning Ordinance Section 5.2D (Recreation/Education/Assembly uses). The previously proposed “camping” temporary use would be renamed “temporary camping” to better distinguish it from the permanent primitive campground use. Primitive campgrounds would be allowed only by special use permit in the Agricultural-Open Space-Conservation (AOC) and Forestal-Open Space-Conservation (FOC) Districts. In lieu of a site development plan, a simplified “campground plan” would be required as described in use regulation 13 (see below).

The definition for primitive campground is proposed as follows:

The use of land as the permanent location for primitive camping by a business, by a non-profit organization, or by a not-for-profit organization. Primitive camping is a recreational activity consisting of overnight stays by patrons using their own tents.

Primitive campgrounds would be the only form of permanent campground allowed and would be subject to numerous use regulations. They could be operated as a business or by organizations with a non-profit or not-for-profit designation.

Use regulations

1. *Primitive camping limited to tents brought by customers and guests. Accommodations at a primitive campground are limited to tents owned by and brought to the site by customers and guests. Recreational vehicles such as travel trailers, fifth-wheel campers, motor homes, tent trailers, pop-up campers, and pickup campers are prohibited. Accommodations in any temporary or permanent structure provided by the owner of the primitive campground are also prohibited.*

Use regulation 1 ensures that only customer-provided tents are allowed at primitive campgrounds and that the owner/operator does not rent out or have tents or other structures available for use. The purpose is to be consistent with the concept that minimal amenities are to be provided at primitive campgrounds. Recreational vehicles of all types are prohibited.

2. *Onsite manager required. The owner or a designated manager shall reside onsite and be present at all times that customers, guests, and visitors are on the property.*

This use regulation is intended to ensure that guest and visitor activity is able to be monitored by the owner or operator during all times that the campground is in use.

3. *Occupancy limitations. A primitive campground shall be limited to a maximum of ten (10) campsites and fifty (50) customers, guests, and visitors on the property at any one time. Only one primitive campground is allowed per lot.*

A maximum occupancy limit of 10 campsites and 50 customers, guests, and visitors on the property at one time is proposed which averages out to 5 people per campsite. There is no occupancy limit per campsite so the owner or operator could host larger groups (up to 50 people) at the expense of renting out to other campers during that occupancy period. Only one primitive campground is allowed per lot. This rule is intended to prevent owners of large properties from applying for multiple special use permits as a means of increasing the number of campsites on the lot.

4. *Minimum lot size. The minimum lot size for a primitive campground is 40 acres.*

A minimum lot size of 40 acres is proposed which is comparable to but more stringent than Loudoun County's minimum lot size of 40 acres for up to 50 campsites.

5. *Minimum setback requirements.*
 - *For structures, campsites, and parking areas:*
 - *From property lines -- 300 feet*
 - *From dwellings on adjacent lots in existence at the time of approval – 500 feet*
 - *From perennial streams and the Shenandoah River – 100 feet*
 - *Walking trails from property lines -- 100 feet*

Setbacks may be reduced with an alternate siting plan approved in conjunction with the special use permit

A minimum setback of 300 feet from all property lines is proposed in addition to a 500 foot setback from dwellings on adjacent lots in existence at the time of zoning approval and a 100 foot setback for walking trails from property lines. These setbacks are designed to minimize impacts on neighbors. A setback of 100 feet from the Shenandoah River and perennial streams was added for safety in the event of flash floods and to discourage campers from washing items in the river or streams.

It should be noted that the minimum setback requirements are a baseline for primitive campgrounds and can be reduced or varied in conjunction with an “alternate siting plan.” This is described in detail under use regulation 14.

6. *Buffer requirements. A minimum 50 foot buffer containing mature trees shall exist and be maintained along all property lines. All buffer areas shall remain undisturbed and there shall be no removal of vegetation except for dead or diseased trees and plants and invasive species. In the absence of a compliant buffer, a planted buffer and/or greater*

setback distance may be substituted with an alternate siting plan approved in conjunction with the special use permit.

As a baseline, a minimum 50 foot buffer area containing mature trees to be in existence along all property lines is proposed. Recognizing that not all properties have mature trees along the property lines, use regulation 6 also allows use of an alternate siting plan per use regulation 14 that proposes a planted buffer and/or greater setback distance. This would ideally allow campsites to be located in areas where the mature trees are located on a lot as opposed to a mandated location where a buffer may need to be planted and take time to grow into a proper buffer. Language is also included to ensure that buffer areas are to be left undisturbed except for removal of dead/diseased vegetation and invasive species.

7. *Campsites, parking areas, and walking trails.*

- A. *Campsites, parking areas, and walking trails shall be unimproved except for use of gravel, mulch, or similar material for soil stabilization purposes.*
- B. *All campsites shall be clearly delineated in a fixed location, identified by a number or other designation, and shown in the sketch plan required by use regulation 13.*
- C. *Campsites may be served with a water source and electricity. Accessories such as picnic tables and chairs may be provided.*

Use regulation 7A is included to ensure that the design of campsites, parking areas, and walking trails balances the need to keep the facility primitive with ensuring that soil erosion does not occur. Use regulation 7B requires campsites to be delineated in a fixed location which is essential to ensure that they are located with maximum screening and minimal impact to surrounding properties. If the owner or operator wants to change the approved campsite layout, a special use permit amendment would be required. Use regulation 7B also requires campsites to be identified with a number, name, or other designation – this is primarily to ensure that first responders can find each campsite in the event of an emergency.

Use regulation 7C describes the limits of amenities that can be provided at a campsite – water source, electricity, and accessories such as picnic tables and chairs. Water sources would be regulated by the Virginia Department of Health (VDH) campground permit process. Electrical connections would require approval of an electrical permit from the Building Department. Permanent structures and other permanent amenities such as owner/operator-provided lighting and paved or hard-surfaced pads would not be allowed.

8. *Location of campsites, parking areas, and accessory structures and uses.* *All campsites, parking areas, and accessory structures and uses shall be located within 300 feet of the owner's or resident manager's dwelling unless an alternate siting plan is approved in conjunction with the special use permit.*

The Board requested that campsites be located within close proximity to the owner or operator's residence – a maximum distance of 300 feet is proposed. Language is included to allow this requirement to be varied with an alternate siting plan as 300 feet from the residence may not provide optimal screening of campsites from adjoining properties.

9. *Limitations on retail activities.* Camp stores and onsite food sales shall be prohibited in conjunction with a primitive campground except for the limited sale of firewood, first aid supplies, and bottled water to customers unless other zoning approvals are obtained. Renting of camping and recreational equipment is also prohibited.

This regulation prohibits all retail sales and equipment rentals except for three essential items – firewood, first aid supplies, and bottled water. This is consistent with the concept of a primitive campground. The ability to conduct broader retail sales can be granted with approval of a separate special use permit and full site development plan for a retail business use.

10. *Camping duration.* No customer or guest may camp in a primitive campground for more than 7 consecutive days or for more than 14 days in a 30 day period. All tents, vehicles, and other belongings shall be removed from the primitive campground by the customer or guest at the end of the occupancy period.

A maximum duration for a stay at a primitive campground is established to prevent customers from residing at these facilities.

11. *Direct access to public road required.* A primitive campground shall have direct access to a public road and shall use such direct access as the means of public ingress and egress. Use of a shared driveway or private access easement shall not constitute direct access to a public road and shall not be used for public ingress and egress.

This regulation ensures that public ingress/egress will not impact adjoining and nearby property owners who share a private access easement or driveway with the primitive campground owner. The campground owner can use a private access easement or shared driveway for their own ingress/egress but direct access to a public road must be provided for customers, guests, and visitors.

12. *Parking requirements.* Parking for a minimum of 2 spaces per 5 customers and/or guests shall be provided in conjunction with each campsite, in a separate delineated parking area, or a combination of both. Parking areas are not required to be hard-surfaced.

Parking requirements are also developed to be consistent with the primitive campground concept. Parking spaces can be provided at each campsite or a separate parking area. There is also no requirement for parking areas to be hard surfaced but in accordance with use regulation 7A, parking areas must be stabilized to prevent erosion.

13. Campground plan required. In lieu of a site development plan per Section 6.2.2, a campground plan prepared by a professional engineer or licensed surveyor shall be provided in conjunction with the special use permit application containing the following elements:

- A boundary survey of the subject property including access easements, waterways, and any flood plain areas and floodways.
- A sketch plan showing the location and dimensions of required setback and buffer areas, access easements, existing and proposed structures including the owner's or resident manager's dwelling, campsites, restroom facilities, water supplies, parking areas, walking trails, and utility easements.
- An emergency action plan which includes the following items:
 - Processes and procedures to monitor all campsites effectively during occupancy periods
 - Methods for the owner or operator and customers to contact law enforcement, fire, and emergency medical services
 - Fire prevention and onsite suppression methods
 - Flood response (if located adjacent to a stream or river) including evacuation plans for flash flooding events
 - Access for first responders including fire, emergency medical services, and law enforcement personnel
 - Any other information deemed relevant by the zoning administrator

This use regulation describes the requirements for a “campground plan” which is required in lieu of a site development plan. Development of a primitive campground should be low impact and therefore should not require submission of a site development plan and compliance with all site development plan regulations. It should be noted that if the owner or operator proposes to conduct land disturbance of 10,000 square feet or greater, an erosion and sediment control plan is required.

The campground plan contains three required components – (1) a boundary survey, (2) a sketch plan, and (3) an emergency action plan. A boundary survey is required to ensure accuracy of the proposed setback distances and to identify any flood plain areas and floodways that could pose a risk to campers. The sketch plan is intended to capture all of the required elements referenced in the use regulations. The emergency action plan demonstrates how the owner or operator will monitor all customers, guests, and visitors while they are on the property during camping activities as well as plans and precautions for addressing a variety of hazards. A copy of an approved campground plan will be provided to emergency services personnel and the public safety communications center for reference.

Campground plans are required to be prepared by a professional engineer or licensed surveyor.

14. *Alternate siting plan.* An alternate siting plan may be approved in conjunction with the special use permit which allows for reduced property line setback and buffer requirements based on existing site conditions. In addition to the applicable special use permit review factors, requests to reduce setback and/or buffer requirements shall be evaluated considering the following factors:

- *Whether existing mature trees and/or topography in the proposed area would provide more effective screening than in a compliant location.*
- *Whether the proposed area provides less of an impact on adjacent properties and residences than in a compliant location.*
- *For requests to reduce the maximum setback distance from the owner's or resident manager's dwelling, whether the proposed location otherwise fully complies with property line setback and buffer requirements.*

Unless the subject property is predominantly forested on all sides and the primitive campground is proposed in an area that is fully compliant with all setback requirements, alternate siting plans will likely be necessary in most cases. This would be especially true on open AOC-zoned lots and properties along the river.

The alternate siting plan requirements are intended to provide flexibility for both the County and the applicant to locate campsites and other amenities in the least impactful areas possible – even if it results in reduced setback requirements. Rather than have specific regulations for alternate siting, a performance-based approach is proposed in which plans would be reviewed against three review factors similar to the review factors for special use permits generally:

- Whether existing mature trees and/or topography in the proposed area would provide more effective screening than in a compliant location.
- Whether the proposed area provides less of an impact on adjacent properties and residences than in a compliant location.
- For requests to reduce the maximum setback distance from the owner's or resident manager's dwelling, whether the proposed location otherwise fully complies with property line setback and buffer requirements. The applicant shall also demonstrate how campsites will be monitored effectively during occupancy periods.

The goal is to empower the Commission and Board to decide whether the alternate sites provide the best visual screening, noise abatement, environmental protection, and general insulation of the campground use from uses on adjacent properties. The alternate siting plan is not intended to be a tool for an applicant to claim a siting hardship or to locate campsites and amenities in their preferred locations or where they can maximize their profits. Hypothetically speaking, an alternate siting plan could be used to accomplish some of the following:

- Locate campsites on open properties in areas where mature tree coverage exists versus allowing planted buffers that take time to grow in.

- Locate campsites in areas closer to off-site amenities such as the Appalachian Trail, or closer to access roads to allow for better response from emergency services.
- Require supplementary planting in forested areas where there are mature trees that do not necessarily provide optimal screening.
- Avoid areas where camping activities could cause environmental impacts, such as on steep slopes.
- Take advantage of locating closer to adjacent properties that are already thickly forested, contain topography that is unlikely to allow for future development, or where the adjoining property owner is supportive of the proposed primitive campground.

15. *Limitations on outdoor burning. In addition to compliance with all State and County regulations regarding outdoor burning, all open-air fires shall be confined to a fire ring constructed of stone, metal, masonry, or similar fire-resistant materials and not to exceed three (3) feet in width. Fire rings shall be covered with a metal screen or other compliant device in accordance with State law when the 4PM Burning Law is in effect. Unconfined bonfires shall be prohibited. A water source and/or other materials for fire extinguishment and suppression shall be provided within 100 feet of all open-air fires.*

These strict regulations are intended to guard against possible wildfires from unattended or uncontrolled campfires and bonfires. County Chief Wayne Whetsell has reviewed and provided input on this use regulation.

16. *Solid waste disposal. Each campsite shall be provided with an enclosed trash receptacle and all solid waste shall be stored in an enclosed dumpster or similar container until properly disposed of off-site.*

This use regulation ensures that all garbage is stored in proper receptacles and does not end up on neighboring properties due to winds or animal activity.

17. *Amplified sound. No amplified sound shall be audible at or beyond the property lines of the subject property.*

This provision has been used recently in other zoning contexts and is applicable to primitive campgrounds. While it is not unreasonable to expect campers to use radios or Bluetooth speakers at their campsites, amplified music or other amplified sound should not be so loud as to be discernible on adjacent properties.

18. *Motorized and electric vehicles and equipment. With the exception of customer and guest passenger vehicles, use of motorized or electric vehicles such as all-terrain vehicles (ATVs), dirt bikes, drones, and golf carts or motorized equipment such as chainsaws and generators by customers and guests is prohibited. Such vehicles and equipment may be used by the owner or operator of the primitive campground for facility maintenance.*

This use regulation is also consistent with the intent to provide primitive camping opportunities with minimal amenities and impacts to surrounding properties. Passive walking trails for campers are consistent with a primitive camping experience but not trails for recreational use of ATVs, dirt bikes, golf carts, or drones. The reason for the prohibition on motorized equipment such as chainsaws and generators is twofold. First is the intent to avoid noise producing equipment in a natural setting such as use of a portable generator. Second is to prevent campers from using equipment such as chainsaws to cut firewood which could damage mature trees in required buffer areas. There is no such prohibition to the owner or operator if they are using these vehicles and equipment for property maintenance.

19. *Boat ramps and accesses. Construction or modification of any new or existing ramps, docks, stairs, or similar accesses into perennial streams and the Shenandoah River shall comply with the site and construction regulations found in Zoning Ordinance Section 4.2.3D (Permitted Uses and Structures in a Stream Buffer).*

Use regulation 19 specifically applies to primitive campgrounds along the river or large perennial streams like Opequon Creek. The intent is to ensure that owners and operators are aware that if they want to add boat ramps or accesses, they must comply with site and construction requirements found in the stream buffer regulations.

20. *Compliance with Virginia Department of Health (VDH) requirements. A campground approval from the Virginia Department of Health shall be obtained, if required, and maintained in good standing throughout the life of the primitive campground.*

VDH requires a campground permit for all campgrounds with 3 or more campsites however the regulations are less stringent if the campground is designated as “primitive” under their definition – having an absence of toilets, showers and lavatories, and electrical connections, or any combination thereof. VDH regulations do not require such campgrounds to have toilets but they must have either privies or portable toilets. Potable water is also not required but the owner or operator must publicize that campers must bring in their own potable water. If the campground does offer potable water, bathrooms, and/or shower facilities, they must be installed in accordance with VDH requirements.

“Temporary Camping” use:

The new “temporary camping” use would be defined as follows:

A recreational activity conducted on a lot of record involving overnight accommodations on a temporary or periodic basis. If temporary camping is operated in exchange for a fee or other compensation, the use shall only be conducted in accordance with the long-term lease of a lot described in use regulation 5 below.

This change would prohibit any temporary camping activity operated as a business except for the long-term lease of a campsite on a lot of record (described later in this report) or as a primitive campground permanent use.

Use Regulations

1. *The duration of all camping activities conducted on a lot of record shall not exceed a total of 30 days in any 60-day period and shall not be conducted for more than 14 consecutive days.*

These time limits would apply to all forms of temporary camping including camping on private property by the owner, their family members, and guests. The limits would allow property owners and/or their invited guests to camp for a generous 180 days in a calendar year and a maximum of 14 days in a row. The proposed time limits would also help distinguish between a legitimate recreational camping activity from individuals residing on a property in a recreational vehicle, tent, or other camping structure. The time limits would also enable property owners to allow invited groups (e.g., church congregations, scouts) to camp on their property without enabling the property to be established as the permanent location for an organization's camping activities. The use regulation calculates the duration of all camping activities conducted on a lot of record regardless of whether camping is taking place simultaneously on the lot in separate locations.

2. *Temporary camping shall be limited to recreational vehicles and temporary structures such as tents or yurts or similar forms of temporary shelter not permitted for permanent residential use. Temporary or permanent onsite connections for recreational vehicles to water, sewage disposal, electric power, or other utilities are prohibited.*

Temporary camping would be allowed only in recreational vehicles (e.g., motor homes, travel trailers, fifth wheels, truck campers) or in temporary structures including tents and yurts that can be easily removed from the property. Proposed "camping" in a legally permitted dwelling (single-family dwelling, tenant house, or minor dwelling) for compensation would be treated as a short-term residential rental.

This use regulation also prohibits the use of temporary or permanent onsite connections to utilities on a subject property for recreational vehicles in conjunction with a camping activity. This would include water, sewer, propane, and electrical hookups and would also include any connection to satellite dishes, cable television, or internet located on the property. The use regulation would not apply to the use of water, sewer, propane, electrical, satellite, or internet located on board or brought to the campsite with the recreational vehicle.

3. *Temporary camping shall not be publicized as being open to the public or as being the permanent campground for a non-profit or similar organization.*

This use regulation helps to prevent the establishment of permanent campground facilities and mitigate potential violations of the time limitation requirements. Evidence of such publication either through advertisements or permanent signage would be a clear violation of this proposed use regulation.

4. *A temporary campground approval from the Virginia Department of Health shall be obtained, if required, and maintained in good standing throughout the duration of the camping activity.*

Use regulation 4 requires temporary camping activities to comply with the Virginia Department of Health's (VDH) temporary campground permit process and to maintain their approval in good standing throughout the duration of the camping activity. VDH requires temporary campground permits for camping activities containing three or more campsites and a time limitation of 14 days in a 60-day period. Camping which exceeds this time frame would require a VDH permanent campground permit to be obtained, however it is unlikely that camping permitted by this text amendment would require such a permit. Temporary campground permits would most commonly be issued for camping in conjunction with temporary events such as those held at the Ruritan Fairgrounds or approved by special event permit. VDH staff indicated that some private camping events not associated with a temporary event could require a temporary campground permit depending on their size, scale, and duration.

5. *The long-term lease of a lot by the property owner to a lessee and their guests for a charge is permissible subject to the following requirements:*
 - A. *The minimum duration of a long-term lease shall be 30 days and shall be evidenced by a written agreement between the property owner and each lessee.*
 - B. *No more than two campsites shall be allowed per lot of record and each campsite shall be limited to no more than one recreational vehicle including but not limited to travel trailers, fifth-wheel campers, motor homes, and pickup campers. A campsite is an area designated in a lease for camping by the specified lessee.*

Use regulation 5 establishes regulations for the long-term lease of a lot or portion of a lot for camping activities, more commonly referred to in the county as "river lot" camping but applicable on any AOC or FOC zoned lot. In order to differentiate the leasing of a lot or portion of a lot for camping from a permanent campground operated as a business, the leasing arrangement must be for a minimum of 30 days and documented in a written lease. Any leasing situation for less than 30 days or without a written agreement in place would be considered a prohibited commercial campground unless approved by special use permit as a primitive campground.

The use regulation also limits leased lot camping to a maximum of two "campsites" per lot of record defined as "an area designated in a lease for camping by the specified lessee." This reflects the current regulation that leased lot camping of more than two campsites per lot requires SUP approval for a campground use. Each campsite would be allowed to have a maximum of one recreational vehicle so no more than two such vehicles could be located on the lot of record at one time.

The long-term leasing of a lot for camping traditionally is seasonal in nature as leases are issued for the warm months (May to September). The time limitation on camping would apply to long-term leasing as well but would not unreasonably impede a lessee's ability to maximize camping

during the season. Under the limitation of 30 days in any 60-day period with maximum of 14 consecutive camping days, a lessee with a 4 month lease could:

- Camp for consecutive three-day weekends throughout the lease period.
 - Camp for 14 days in a row and still have 16 camping days available for use over the remaining 46 days in the 60-day period.
 - Use the campsite during the day for recreational purposes without staying overnight without having the day count towards the total number of camping days used.
6. *Temporary camping may be permitted in conjunction with a temporary event held in accordance with an approved agritourism activity zoning permit, a special event permit issued per County Code Chapter 57, an ancillary activity to a temporary event held at a fairgrounds, or as specifically approved by other zoning action. Such camping shall be subject to the following requirements:*
- A. *Temporary event camping shall require approval of a zoning permit unless approved in conjunction with an agritourism activity zoning permit.*
 - B. *A temporary campground approval from the Virginia Department of Health shall be obtained, if required, and maintained in good standing throughout the duration of the event.*
 - C. *Camping activities shall be limited to the duration of the temporary event or as set forth in the approved agritourism activity zoning permit or special event permit.*
 - D. *A camping plan shall be provided with the zoning permit application which delineates the area reserved for campsites, all facilities required in conjunction with the VDH temporary campground permit, and any other pertinent information required by the zoning administrator.*

This is the only form of temporary camping that would require approval of a zoning permit or zoning approval through other process (e.g., agritourism activity zoning permit). The zoning administrator would be the approval authority and applicants would be required to submit a camping plan that shows where the campsites would be located and any other pertinent information required by the zoning administrator. The zoning permit review would be coordinated with VDH's temporary campground process – VDH approval would be a prerequisite to approval of the zoning permit and the applicant would be required to show all facilities required by VDH on the camping plan.

Impact on Current Uses:

If this text amendment is adopted, any existing campgrounds or summer camps with previous County approvals would be allowed to continue as nonconforming uses (e.g., Watermelon Park,

Northern Virginia Lions Youth Camp). Any campground which was not previously approved by the County through a zoning process would be required to comply with these regulations.

Public Comments:

The Planning Commission held a public hearing on this proposed text amendment at the June 2, 2023 Business Meeting. In his public hearing comments and written handout provided to the Commission, Lowell Smith said that the proposed text amendment should take into account the possible future need for public camping facilities along the Appalachian Trail (AT). He proposed that new camping facilities be allowed, either by-right or by special use permit, on lots that meet the following requirements:

- Such lot must be adjacent to the AT corridor land owned by the National Park Service and be owned by, or if under lease be operated by, an entity/entities that are IRS-qualified charitable 501(C)(3) organizations (possibly in conservation easement)
- The principle mission of such entity/entities shall be the maintenance and protection of the Appalachian National Scenic Trail
- The entity/entities have an established record of serving the public interest in providing access to and maintenance of the AT including its campground operations

Mr. Smith noted that while dispersed camping is allowed on Federal lands, increased usage of the AT and impacts to it in the future could result in prohibition of dispersed camping. Currently, the only other camping facilities for hikers are a trail shelter on National Park Service property and the Bears Den Trail Center facility which includes the lodge and its existing primitive campground containing two campsites.

In response to Mr. Smith's comments, the Commission deferred discussion of the text amendment to the July 5 Work Session and continued the public hearing to the September 1 Business Meeting. The Commission discussed Mr. Smith's concerns at the July 5 Work Session but chose to make no changes to the proposed text amendment at that time.

The Board of Supervisors held a public hearing on October 17, 2023 and received the following comments:

- Diane Harrison (Berryville) spoke in opposition to the text amendment noting that it does not make sense from an economic development and tourism perspective. She suggested establishing rules similar to those for state and national parks to control impacts on neighboring properties.
- Amy Keeler (Frederick County) spoke in favor of the text amendment and noted that it would prevent her neighbor in Clarke County from expanding his campground to more than two campsites.

Planning Commission Recommendation:

Following a duly advertised public hearing on June 2, 2023 and a continued public hearing on September 1, 2023, the Commission voted unanimously to recommend adoption of the text amendment as originally proposed. The Commission supports the addition of the primitive campground modification and agreed by consensus at their April 5, 2024 meeting to send it to the Board of Supervisors for consideration.

Staff Recommendation:

Staff has no outstanding concerns with the adoption of this text amendment and recommends the Commission schedule public hearing for the July 12, 2024 Business Meeting.

History:

- | | |
|----------------------------|--|
| March 22, 2023. | Policy & Transportation Committee voted 4-0-1 (Dunning absent) to forward the proposed text amendment to the full Commission for consideration. |
| April 4, 2023. | Placed on the Commission’s Work Session agenda for initial discussion. |
| May 2, 2023. | Placed on the Commission’s Work Session agenda for continued discussion. |
| May 5, 2023. | Placed on the Commission’s Business Meeting agenda to consider scheduling public hearing. |
| June 2, 2023. | Commission voted 8-0-3 (Glover, Ohrstrom, Staelin absent) to defer consideration to the July 5, 2023 Work Session and to continue the public hearing to the September 1, 2023 Business Meeting. |
| July 5, 2023. | Commission discussion of citizen concerns with the proposed text amendment. |
| September 1, 2023. | Commission voted unanimously to recommend adoption of the proposed text amendment. |
| September 19, 2023. | Board of Supervisors voted unanimously to schedule public hearing for the October 17, 2023 meeting. |
| October 17, 2023. | Board voted unanimously to defer action on the text amendment to the December 17, 2023 meeting and to discuss the matter at the November 7, 2023 work session. |
| November 7, 2023. | Board agreed by consensus to continue discussion on the text amendment at the December 11, 2023 work session. |

- December 11, 2023.** Board agreed by consensus to direct the Planning Commission to modify the text amendment to allow limited permanent campgrounds to include use regulations as stipulated by the Board.
- January 2, 2024.** Commission assigned the text amendment modification request to the Policy & Transportation Committee.
- February 2, 2024.** Policy & Transportation Committee met to discuss development of the Board’s requested text amendment modification.
- March 1, 2024.** Policy & Transportation Committee agreed by consensus to send “primitive campground” text amendment modification to the Commission for consideration.
- April 2, 2024.** Commission discussed the Policy & Transportation Committee’s primitive campground text amendment modification.
- April 5, 2024.** Commission agreed by consensus to send the primitive campground text amendment modification to the Board for consideration.
- May 13, 2024.** Board agreed by consensus to direct the Commission to schedule public hearing on the text amendment as modified to include
- June 7, 2024.** Placed on the Commission’s Business Meeting agenda to schedule public hearing.

Ordinance Amendment Text (changes shown in bold italics with strikethroughs where necessary):

<i>PRIMITIVE CAMPGROUND</i>	
Permitted Use	None
Accessory Use	None
Special Use	AOC, FOC

Definition:
The use of land as the permanent location for primitive camping by a business, by a non-profit organization, or by a not-for-profit organization. Primitive camping is a recreational activity consisting of overnight stays by patrons using their own tents.

Use Regulations:

1. Primitive camping limited to tents brought by customers and guests. Accommodations at a primitive campground are limited to tents owned by and brought to the site by customers and guests. Recreational vehicles such as travel trailers, fifth-wheel campers, motor homes, tent trailers, pop-up campers, and pickup campers are prohibited. Accommodations in any temporary or permanent structure provided by the owner of the primitive campground are also prohibited.
2. Onsite manager required. The owner or a designated manager shall reside onsite and be present at all times that customers, guests, and visitors are on the property.
3. Occupancy limitations. A primitive campground shall be limited to a maximum of ten (10) campsites and fifty (50) customers, guests, and visitors on the property at any one time. Only one primitive campground is allowed per lot.
4. Minimum lot size. The minimum lot size for a primitive campground is 40 acres.
5. Minimum setback requirements.
 - For structures, campsites, and parking areas:
 - From property lines -- 300 feet
 - From dwellings on adjacent lots in existence at the time of approval – 500 feet
 - From perennial streams and the Shenandoah River – 100 feet
 - Walking trails from property lines -- 100 feet

Setbacks may be reduced with an alternate siting plan approved in conjunction with the special use permit
6. Buffer requirements. A minimum 50 foot buffer containing mature trees shall exist and be maintained along all property lines. All buffer areas shall remain undisturbed and there shall be no removal of vegetation except for dead or diseased trees and plants and invasive species. In the absence of a compliant buffer, a planted buffer and/or greater setback distance may be substituted with an alternate siting plan approved in conjunction with the special use permit.
7. Campsites, parking areas, and walking trails.
 - A. Campsites, parking areas, and walking trails shall be unimproved except for use of gravel, mulch, or similar material for soil stabilization purposes.
 - B. All campsites shall be clearly delineated in a fixed location, identified by a number or other designation, and shown in the sketch plan required by use regulation 13.

- C. *Campsites may be served with a water source and electricity. Accessories such as picnic tables and chairs may be provided.*
8. *Location of campsites, parking areas, and accessory structures and uses. All campsites, parking areas, and accessory structures and uses shall be located within 300 feet of the owner's or resident manager's dwelling unless an alternate siting plan is approved in conjunction with the special use permit.*
9. *Limitations on retail activities. Camp stores and onsite food sales shall be prohibited in conjunction with a primitive campground except for the limited sale of firewood, first aid supplies, and bottled water to customers unless other zoning approvals are obtained. Renting of camping and recreational equipment is also prohibited.*
10. *Camping duration. No customer or guest may camp in a primitive campground for more than 7 consecutive days or for more than 14 days in a 30 day period. All tents, vehicles, and other belongings shall be removed from the primitive campground by the customer or guest at the end of the occupancy period.*
11. *Direct access to public road required. A primitive campground shall have direct access to a public road and shall use such direct access as the means of public ingress and egress. Use of a shared driveway or private access easement shall not constitute direct access to a public road and shall not be used for public ingress and egress.*
12. *Parking requirements. Parking for a minimum of 2 spaces per 5 customers and/or guests shall be provided in conjunction with each campsite, in a separate delineated parking area, or a combination of both. Parking areas are not required to be hard-surfaced.*
13. *Campground plan required. In lieu of a site development plan per Section 6.2.2, a campground plan prepared by a professional engineer or licensed surveyor shall be provided in conjunction with the special use permit application containing the following elements:*
- *A boundary survey of the subject property including access easements, waterways, and any flood plain areas and floodways.*
 - *A sketch plan showing the location and dimensions of required setback and buffer areas, access easements, existing and proposed structures including the owner's or resident manager's dwelling, campsites, restroom facilities, water supplies, parking areas, walking trails, and utility easements.*
 - *An emergency action plan which includes the following items:*
 - *Processes and procedures to monitor all campsites effectively during occupancy periods*
 - *Methods for the owner or operator and customers to contact law enforcement, fire, and emergency medical services*

- *Fire prevention and onsite suppression methods*
- *Flood response (if located adjacent to a stream or river) including evacuation plans for flash flooding events*
- *Access for first responders including fire, emergency medical services, and law enforcement personnel*
- *Any other information deemed relevant by the zoning administrator*

14. *Alternate siting plan.* *An alternate siting plan may be approved in conjunction with the special use permit which allows for reduced property line setback and buffer requirements based on existing site conditions. In addition to the applicable special use permit review factors, requests to reduce setback and/or buffer requirements shall be evaluated considering the following factors:*

- *Whether existing mature trees and/or topography in the proposed area would provide more effective screening than in a compliant location.*
- *Whether the proposed area provides less of an impact on adjacent properties and residences than in a compliant location.*
- *For requests to reduce the maximum setback distance from the owner's or resident manager's dwelling, whether the proposed location otherwise fully complies with property line setback and buffer requirements.*

15. *Limitations on outdoor burning.* *In addition to compliance with all State and County regulations regarding outdoor burning, all open-air fires shall be confined to a fire ring constructed of stone, metal, masonry, or similar fire-resistant materials and not to exceed three (3) feet in width. Fire rings shall be covered with a metal screen or other compliant device in accordance with State law when the 4PM Burning Law is in effect. Unconfined bonfires shall be prohibited. A water source and/or other materials for fire extinguishment and suppression shall be provided within 100 feet of all open-air fires.*

16. *Solid waste disposal.* *Each campsite shall be provided with an enclosed trash receptacle and all solid waste shall be stored in an enclosed dumpster or similar container until properly disposed of off-site.*

17. *Amplified sound.* *No amplified sound shall be audible at or beyond the property lines of the subject property.*

18. *Motorized and electric vehicles and equipment.* *With the exception of customer and guest passenger vehicles, use of motorized or electric vehicles such as all-terrain vehicles (ATVs), dirt bikes, drones, and golf carts or motorized equipment such as chainsaws and generators by customers and guests is prohibited. Such vehicles and equipment may be used by the owner or operator of the primitive campground for facility maintenance.*

19. *Boat ramps and accesses.* *Construction or modification of any new or existing ramps, docks, stairs, or similar accesses into perennial streams and the Shenandoah River*

shall comply with the site and construction regulations found in Zoning Ordinance Section 4.2.3D (Permitted Uses and Structures in a Stream Buffer).

- 20. Compliance with Virginia Department of Health (VDH) requirements. A campground approval from the Virginia Department of Health shall be obtained, if required, and maintained in good standing throughout the life of the primitive campground.*

TEMPORARY CAMPING	
Permitted Use	<i>AOC, FOC, ITL (fairgrounds only)</i>
Accessory Use	<i>None</i>
Special Use	<i>None</i>

Definition:

A recreational activity conducted on a lot of record involving overnight accommodations on a temporary or periodic basis. If temporary camping is operated in exchange for a fee or other compensation, the use shall only be conducted in accordance with the long-term lease of a lot described in use regulation 5 below.

Use Regulations:

- 1. The duration of all camping activities conducted on a lot of record shall not exceed a total of 30 days in any 60-day period and shall not be conducted for more than 14 consecutive days.*
- 2. Temporary camping shall be limited to recreational vehicles and temporary structures such as tents or yurts or similar forms of temporary shelter not permitted for permanent residential use. Temporary or permanent onsite connections for recreational vehicles to water, sewage disposal, electric power, or other utilities are prohibited.*
- 3. Temporary camping shall not be publicized as being open to the public or as being the permanent campground for a non-profit or similar organization.*
- 4. A temporary campground approval from the Virginia Department of Health shall be obtained, if required, and maintained in good standing throughout the duration of the camping activity.*
- 5. The long-term lease of a lot for temporary camping by the property owner to a lessee and their guests for a charge is permissible subject to the following requirements:*
 - A. The minimum duration of a long-term lease shall be 30 days and shall be evidenced by a written agreement between the property owner and each lessee.*
 - B. No more than two campsites shall be allowed per lot of record and each campsite shall be limited to no more than one recreational vehicle including but*

not limited to travel trailers, fifth-wheel campers, motor homes, and pickup campers. A campsite is an area designated in a lease for camping by the specified lessee.

6. *Temporary camping may be permitted in conjunction with a temporary event held in accordance with an approved agritourism activity zoning permit, a special event permit issued per County Code Chapter 57, an ancillary activity to a temporary event held at a fairgrounds, or as specifically approved by other zoning action. Such camping shall be subject to the following requirements:*
 - A. *Temporary event camping shall require approval of a zoning permit unless approved in conjunction with an agritourism activity zoning permit.*
 - B. *A temporary campground approval from the Virginia Department of Health shall be obtained, if required, and maintained in good standing throughout the duration of the event.*
 - C. *Camping activities shall be limited to the duration of the temporary event or as set forth in the approved agritourism activity zoning permit or special event permit.*
 - D. *A camping plan shall be provided with the zoning permit application which delineates the area reserved for campsites, all facilities required in conjunction with the VDH temporary campground permit, and any other pertinent information required by the zoning administrator.*

Required Review Processes:

A Zoning Permit per Section 6.2.1 is required for camping in conjunction with a temporary event as described above.

CAMPGROUND	
Permitted Use	None
Accessory Use	None
Special Use	AOC, FOC

Definition:

Any area, place, or lot, by whatever name called, on which three or more campsites are occupied or intended for occupancy, or facilities are established or maintained, wholly or in part, for the accommodation of camping units for periods of overnight or longer, whether the use of the campsites and facilities is granted gratuitously, or by rental fee, lease, or conditional sale, or by covenants, restrictions, and easements, including any travel trailer camp, recreation camp, family campground, camping resort, or camping community. "Campground" does not mean a summer camp, migrant labor camp, or park for mobile homes as defined in Code of Virginia, or a construction camp, storage area for unoccupied camping units, or property upon which the individual owner may choose to camp and not be prohibited or encumbered by covenants, restrictions, and conditions from providing his sanitary facilities within his property lines.

Use Regulations:

1. ~~Additional terms.~~ For the purposes of this section, the term “camping unit” shall mean a tent, tent trailer, travel trailer, camping trailer, pickup camper, motor home, and any other vehicular type structure for use as temporary living quarters or shelter during periods of recreation, vacation, leisure time, or travel. The term “campsite” shall mean any delineated area within a campground used or intended for occupation by the camping unit.
2. ~~Duration of accommodations.~~ A campground shall be for the temporary accommodation of a camping unit for not more than 15 days in any 30-day period.

Required Review Processes:

1. ~~Special Use Permit Review is required per [Section 6.3.1](#).~~
2. ~~Site Development Plan Review is required per [Section 6.2.2](#).~~

SUMMER CAMP	
Permitted Use	None
Accessory Use	None
Special Use	AOC, FOC

Definition:

Any building, tent, or, vehicle, or group of buildings, tents or vehicles, if operated as one place or establishment, or any other place or establishment, public or private, together with the land and waters adjacent thereto, which is operated or used in the Commonwealth from the Saturday immediately preceding Memorial Day through Labor Day for the entertainment, education, recreation, religion instruction or activities, physical education, or health of persons under eighteen years of age who are not related to the operator of such place or establishment by blood or marriage within the third degree of consanguinity or affinity, if twelve or more such person at any one time are accommodated, gratuitously or for compensation, overnight and during any portion of more than two consecutive days.

Use Regulations:

1. The minimum lot size for a summer camp is three acres.
2. Applicants for such uses shall demonstrate that all applicable regulations of the Department of Health and Commonwealth of Virginia (specifically including [Title 35.1, Code of Virginia](#)), have been met.

Required Review Processes:

1. Special Use Permit Review is required per [Section 6.3.1](#).
2. Site Development Plan Review is required per [Section 6.2.2](#).

ZONING ORDINANCE TEXT AMENDMENT (TA-24-04)

Temporary Use of Major Recreational Equipment

June 7, 2024 Planning Commission Business Meeting – SCHEDULE PUBLIC HEARING

STAFF REPORT – Department of Planning

The purpose of this staff report is to provide information to the Planning Commission and Board of Supervisors to assist them in reviewing this proposed ordinance amendment. It may be useful to members of the general public interested in this proposed amendment.

Description:

Proposed text amendment to amend “temporary use of major recreational equipment” per Zoning Ordinance Section 5.4 (Uses, Definitions, and Use Regulations – Temporary Uses and Structures). The purpose is to clarify that use of major recreational equipment for camping or sleeping is prohibited in the RR, OSR, DR-1, DR-2, and DR-4 zoning districts, and is allowed in the AOC and FOC zoning districts only in accordance with the “temporary camping” temporary use or other zoning approval. The text amendment also clarifies that major recreational equipment may not be used for residential purposes in these zoning districts except in accordance with the “temporary dwelling” use.

Requested Action:

Schedule public hearing for the July 12, 2024 Business Meeting.

Staff Analysis:

“Major recreational equipment” is defined as:

A boat, boat trailer, travel trailer, pick-up truck camper or cap, motor coach, motorized dwelling, tent trailer, or similar recreational vehicle or equipment, as well as any cases, boxes, or towing trailers used for transporting recreational equipment, whether or not occupied by such equipment.

Use regulation 1 for the temporary use, “Temporary Use of Major Recreational Equipment,” states that “no major recreational equipment shall be used for living, sleeping, or other occupancy on lots zoned RR, OSR, DR-1, DR-2, and DR-4 except as a temporary dwelling use.” The intent of this language is to prevent people from camping or residing in major recreational equipment in these zoning districts. This section does not reference any limitations on usage of major recreational equipment in the AOC and FOC Districts with the intent being that they can be used for temporary camping by the property owner, family, and guests in these districts. The absence of language to address AOC and FOC District usage could be interpreted by some as allowing major recreational equipment to be used for residential purposes in these districts.

New language is added to use regulation 2 to clarify that camping or sleeping in major recreational equipment is prohibited in the aforementioned residential zoning districts, and is allowed in the AOC and FOC zoning districts only in accordance with the “temporary camping” temporary use (proposed in text amendment TA-23-01, Regulations for Permanent Campgrounds and Temporary Camping) or in conjunction with other County zoning approval.

Language is also added to use regulation 2 to clarify that use of major recreational equipment for residential purposes is only allowed with zoning permit approval as a “temporary dwelling” use during construction of a permanent residence or in hardship instances when the applicant’s residence on the same lot has been destroyed by natural causes.

For parking or storage of major recreational equipment that is six feet or more in height and not located within a garage, carport, or other building, use regulation 3 prohibits that equipment from being parked or stored in any required front or side yard in all zoning districts. New language is added to allow a minor exception to this prohibition – such equipment may be parked temporarily in a front or side yard for a period not to exceed 24 hours for loading and unloading only.

The proposed text amendment language is included at the end of this report. All proposed changes added since the Commission’s April 30 review of the text amendment are shown in blue bold italics.

Staff Recommendation:

Staff recommends that the Commission schedule public hearing on the text amendment for the July 12 Business Meeting.

History:

- | | |
|------------------------|---|
| April 18, 2024. | Policy & Transportation Committee agreed by consensus to forward the proposed text amendment to the full Commission for consideration. |
| April 30, 2024. | Placed on the Commission’s Work Session agenda for initial discussion. |
| May 3, 2024. | Commission voted 9-0-2 (Hunt, Staelin absent) to initiate consideration of the text amendment. |
| June 7, 2024. | Placed on the Commission’s Business Meeting agenda to schedule public hearing. |

Ordinance Amendment Text (changes shown in bold italics with strikethroughs where necessary):

TEMPORARY USE OF MAJOR RECREATIONAL EQUIPMENT	
Permitted Use	None
Accessory Use	AOC, FOC, RR, OSR, DR-1, DR-2, DR-4
Special Use	None

Definition:

The temporary parking, storage, or non-residential use of major recreational equipment on a lot.

Use Regulations:

The following regulations shall apply to the temporary use of major recreational equipment which includes parking and storage.

1. ***Usage in residential zoning districts. Use of major recreational equipment for camping or sleeping is prohibited on lots zoned RR, OSR, DR-1, DR-2, and DR-4. Major recreational equipment shall only be used for residential purposes in accordance with the “temporary dwelling” use.***

2. ***Usage in the AOC and FOC Districts. Use of major recreational equipment for camping or sleeping shall only be allowed in accordance with the “temporary camping” temporary use, or in conjunction with other zoning approval. Major recreational equipment shall only be used for residential purposes in accordance with the “temporary dwelling” use.***

~~No major recreational equipment shall be used for living, sleeping, or other occupancy on lots zoned RR, OSR, DR-1, DR-2, and DR-4 except as a temporary dwelling use.~~

3. Major recreational equipment six feet or more in average height, *that is* not parked or stored in a garage, carport, or other building, shall not be located in any required front or side yard, *provided however that such equipment may be temporarily parked in a required front or side yard for a period not to exceed 24 hours for loading and unloading. Major recreational equipment six feet or more in average height that is stored outside of a garage, carport, or other building* ~~and~~ shall be located at least three feet from all buildings.

4. Major recreational equipment that is not in operating condition shall not be parked outdoors and shall be stored in a garage, carport, or other building.

Required Review Processes: **None**

MINOR SUBDIVISION (MS-24-03)

June 7, 2024 Planning Commission Meeting
STAFF REPORT -- Department of Planning

The purpose of this staff report is to provide information to the Planning Commission to assist them in reviewing this proposed minor subdivision request. It may also be useful information for the public.

CASE SUMMARY:

Applicant/Owner:

Charles S. McIntosh & Shirley M. McIntosh

Location:

- Tax Map Parcel #26-A-2 (and 26-A-11A - to be vacated)
- The subject property is located on the east side of Retreat Road (Route 643) across the street from the intersection with Timber Lane.
- Buckmarsh Election District (Commissioners King and Reed)
- FOC (Forestal-Open Space-Conservation) Zoning District

Original Lots:

81.583 acres (26-A-2) – 1 dwl., 0 DURs
7.0901 acres (26-A-11A) – 0 dwl., 2 DURs

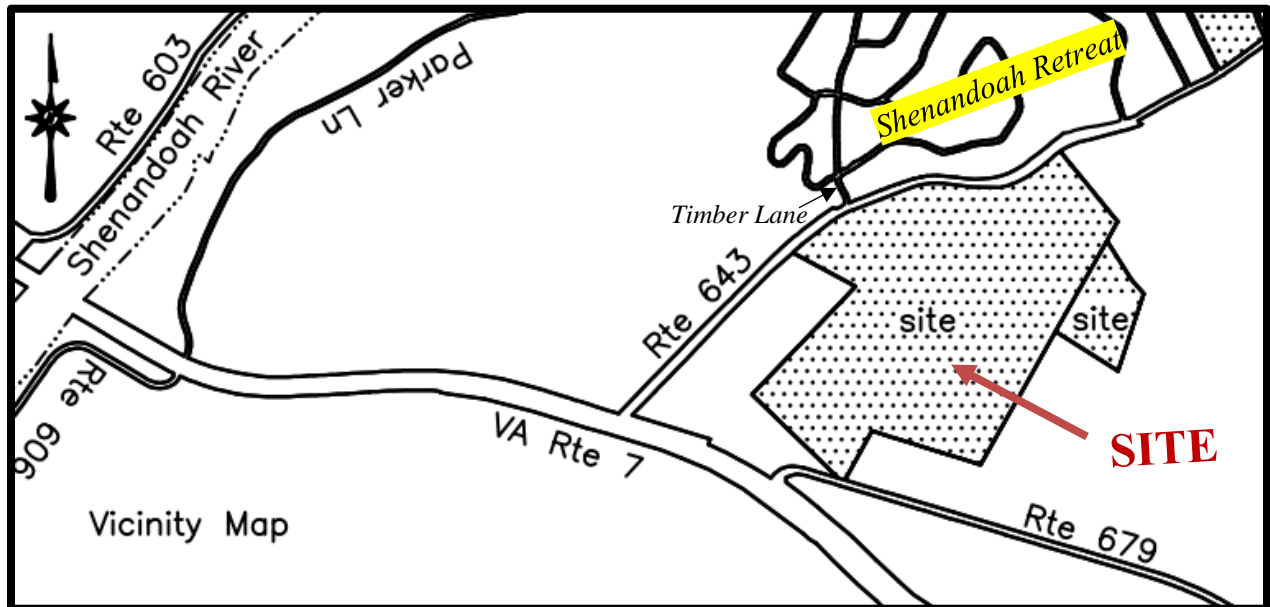
88.6731 acres

Proposed Lots:

85.6731 acres (Residue) – 1 dwl., 1 DUR
3.00 acres (Lot 1) – 0 dwl., 1 DUR

88.6731 acres

Vicinity Map:



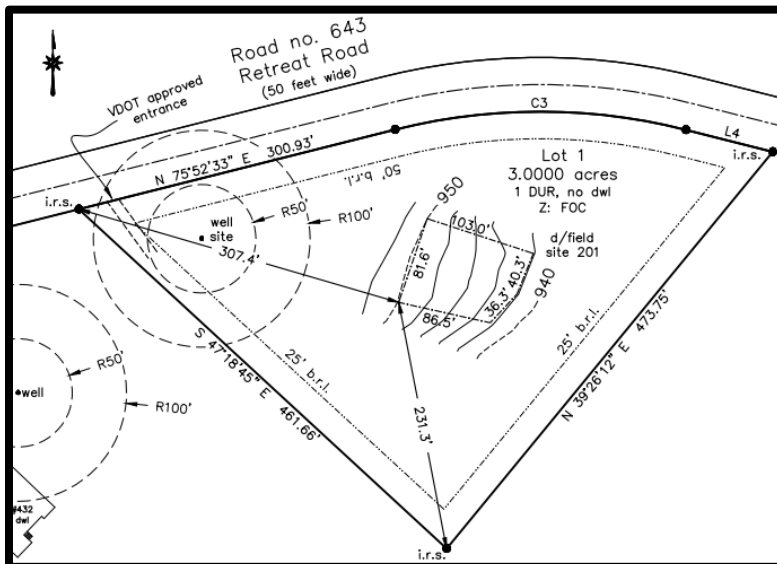
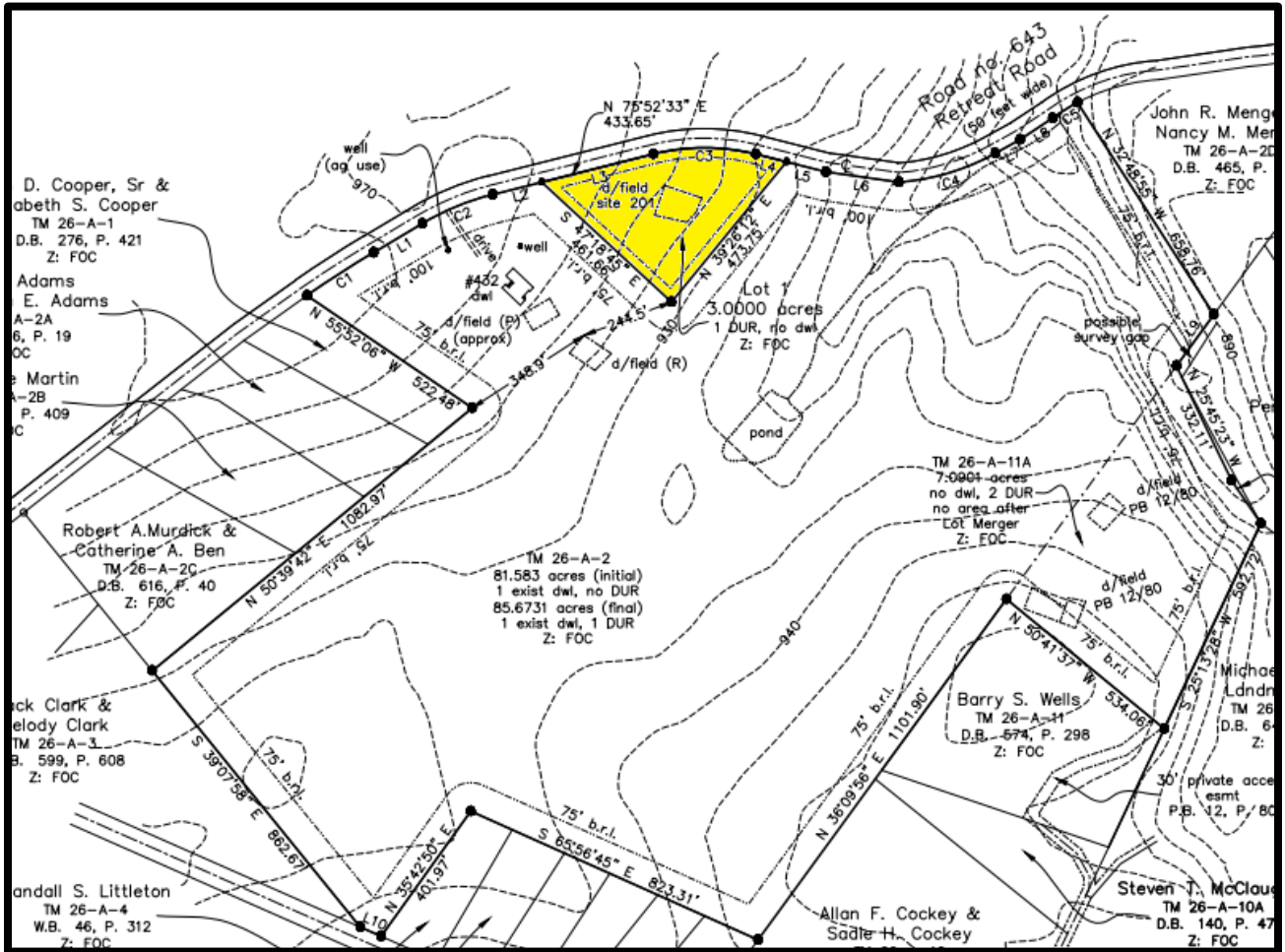
Request:

The application proposes to merge Tax Map 26-A-2 with Tax Map 26-A-11A, and create a new lot with frontage on Retreat Road, resulting in a residue lot of approximately 85 acres and a new lot of 3 acres. The resultant residue lot would retain 1 DUR.

AERIAL ILLUSTRATION



PLAT ILLUSTRATIONS



Staff Discussion/Analysis:

Merger:

The applicant owns Tax Map 26-A-2, consisting of approximately 81 acres, and Tax Map 26-A-11A, consisting of approximately 7 acres. The 7-acre lot was created as part of a subdivision in 2017. The subdivision plat documents conditions that the private access easement (a part of Village Lane) must be extended and improved to meet the design requirements of Clarke County, and the requirements of VDOT for the entrance off of Pine Grove Road, prior to issuance of a building permit for the lot. The applicant stated to Staff that he is looking for a house site for his son. The applicant decided to merge the 7-acre lot with his 81-acre lot rather than having to reconstruct and extend the private access easement. This merger would vacate Tax Map 26-A-2. The 2 DURs would be added to the 81 acre lot. The merger of the 2 DURs is in compliance with the maximum number of DURs allowed per acre, as specified under Section 3.2 of the Clarke County Zoning Ordinance.

Access:

Access to the new lot (Lot 1) is proposed via Retreat Road (Route 643). The plat shows a location of a VDOT approved entrance.

VDOT provided comments on May 29, 2024 and noted no objections and that a VDOT Land Use Permit is required for the entrance (see attached email).

Water and Sewage Disposal:

The plat identifies a new drainfield with a 100% reserve, and a new well, on Lot 1. It also shows the existing drainfield, a new reserve area, and the existing wells on the Residue Lot that has an existing dwelling (432 Retreat Road).

VDH provided review comments on May 9, 2024. Their comments were as follows:

- 1) The project OSE located a new drainfield site with a 100% reserve area on proposed Lot 1 (3.0000 acres) to serve a future 3 bedroom dwelling. The proposed design is a conventional primary area with a TL-3 shallow trench reserve area. The site and soils were field reviewed by this office on April 16, 2024 and appeared to be suitable for the proposed design. The applicant has not yet applied for a certification letter for proposed Lot 1 (3.0000 acres) as required.
- 2) There is an existing dwelling (#432) on the residue lot (85.6731 acres) with an existing sewage disposal system. There is a construction permit and record of inspection on file for this system dated September 7, 1973, and it was rated for a three bedroom system with 6 maximum occupants. The system is a conventional septic drainfield that was constructed to meet the standards of the time.
- 3) There are two wells near dwelling #432 on the residue lot (85.6731 acres), only one is shown on the plat.
- 4) A 100% reserve area was located for dwelling #432 by the health department in 2016, but was never finalized by certification letter. A denial letter was sent to the property owner on August 22, 2016 notifying them of the reason for denial (the proposed area must be survey located and shown on a plat prior to issuance of a certification letter).

The applicant's surveyor submitted a revised plat on May 23, 2024 that identified the reserve area and agricultural well that VDH noted in their review comments as being needed.

Karst Plan / Resistivity Test:

No karst soils are located on the property. Resistivity testing not required.

Conclusions:

The proposed subdivision meets the requirements of Section 4.1.1 (Minor Subdivision) of the Clarke County Subdivision Ordinance and the FOC District regulations found under Section 4.1.2 of the Clarke County Zoning Ordinance.

The merger that is proposed as part of the minor subdivision plat meets the requirements of Section 4.2.3 of the Clarke County Zoning Ordinance and Section 3.8 of the Clarke County Zoning Ordinance that requires mergers to comply with the DUR allocation table found under Section 3.2 of the Clarke County Zoning Ordinance.

VDH and VDOT review comments have been adequately addressed at this time.

Staff identified with the applicant that there remains a possibility after the vacation of the 7-acre lot (TM 26-A-11A) that a new use could use the adjacent private access easement (Village Lane). Furthermore, with the vacation of the 7-acre lot the conditions established in 2017 to comply with the County's private access easement regulations would be void. To ensure that the private access easement regulations are complied with under such circumstances the applicant has agreed to add a note to the plat that states the following:

Village Lane shall be extended and improved from Pine Grove Road to the residue lot prior to the issuance of a zoning permit for any use that would use the existing private access easement. In such a circumstance, Construction Plans shall be submitted for review and approval by Clarke County in accordance with the Section 4.5.3 of the Clarke County Subdivision Ordinance as it pertains to Major Access Easements, as well as any requirements of the Virginia Department of Transportation related to the intersection with Pine Grove Road.

The applicant amended the plat on May 30, 2024 to include the above note. It is found on the plat under note #12.

Recommendation:

Staff recommends approval of this application for a minor subdivision (MS-24-03) submitted by Charles S. McIntosh & Shirley M. McIntosh for the posed merger and one new 3-acre lot, based on the revised plat dated May 30, 2024.

History:

May 2, 2024	Application submitted. Complete Application.
May 6, 2024	Submitted to VDH and VDOT.
May 9, 2024	VDH review comments received.
May 14, 2024	VDOT comments transmitted to the applicant with Planning Staff comments.
May 23, 2024	Revised plat submitted to address review comments sent to the applicant on May 14 th .
May 29, 2024	VDOT comment received.
May 30, 2024	Revised plat submitted with note #12.
June 4, 2024	Scheduled date for Planning Commission Worksession.
June 7, 2024	Scheduled date for Planning Commission Business Meeting.



Lord Fairfax Health District

Clarke County Health Department
100 North Buckmarsh Street
Berryville, Virginia 22611
Tel. (540) 955-1033 ~ Fax (540) 955-4094
www.vdh.virginia.gov



May 9, 2024

Jeremy Camp, Senior Planner/Zoning Administrator
101 Chalmers Ct
Berryville, Virginia 22611

RE: MINOR SUBDIVISION PRELIMINARY REVIEW COMMENTS

Health Department I.D. #: 043-24-093
Subdivision Name: McIntosh
Tax Map #: 26-A-2
Proposed Lots: 2 New Lots

Dear Mr. Camp,

Pursuant to your request, we have evaluated the aforementioned minor subdivision proposal, and offer the following comments at this point in the review process.

OWNER/APPLICANT ITEMS:

1. The project OSE located a new drainfield site with a 100% reserve area on proposed Lot 1 (3.0000 acres) to serve a future 3 bedroom dwelling. The proposed design is a conventional primary area with a TL-3 shallow trench reserve area. The site and soils were field reviewed by this office on April 16, 2024 and appeared to be suitable for the proposed design. The applicant has not yet applied for a certification letter for proposed Lot 1 (3.0000 acres) as required.
2. There is an existing dwelling (#432) on the residue lot (85.6731 acres) with an existing sewage disposal system. There is a construction permit and record of inspection on file for this system dated September 7, 1973, and it was rated for a three bedroom system with 6 maximum occupants. The system is a conventional septic drainfield that was constructed to meet the standards of the time.
3. There are two wells near dwelling #432 on the residue lot (85.6731 acres), only one is shown on the plat.
4. A 100% reserve area was located for dwelling #432 by the health department in 2016, but was never finalized by certification letter. A denial letter was sent to the property owner on August 22, 2016 notifying them of the reason for denial (the proposed area must be survey located and shown on a plat prior to issuance of a certification letter).

This letter does not serve as an approval of the proposed subdivision, or its parts. If you have any questions, please contact me at 540.955.1033

Sincerely,

Carter Neiswander, EHS

Zimbra

jcamp@clarkecounty.gov

Clarke- Rte 643 & 679- Subdivision TM#26-A-2 - Charles & Shirley McIntosh

From : Boyce, Arthur (VDOT) <bobby.boyce@vdot.virginia.gov> Wed, May 29, 2024 09:41 AM
Subject : Clarke- Rte 643 & 679- Subdivision TM#26-A-2 - Charles & Shirley McIntosh 2 attachments
To : Jeremy Camp (jcamp@clarkecounty.gov) <jcamp@clarkecounty.gov>
Cc : Funkhouser, Rhonda (VDOT) <Rhonda.Funkhouser@VDOT.Virginia.gov>, Johnson, Joseph (VDOT) <JosephW.Johnson@vdot.virginia.gov>, Stuart Dunn (dunnland1@verizon.net) <dunnland1@verizon.net>

Dear Mr. Camp:

We have reviewed the above referenced subdivision plat dated May 2, 2024 by Dunn Land Surveys for impacts to the local roadway system and we have no objections to this subdivision. However, a VDOT Land Use Permit is required for any work within the VDOT right-of-way including entrance permits. This permit is issued by this office and requires a fee and surety bond. The owner or agent may apply for the private entrance permits online at the following link. [Land Use Permit Application](#)

We appreciate the County's efforts to include VDOT in the early planning stages for development and the opportunity to provide comments on this subdivision. We ask that you include a copy of this official public record in file for the subdivision. If you have any questions or need further information, please do not hesitate to give me a call.

Sincerely,



Bobby Boyce
*Land Development Engineer /
 Edinburg Residency*
 Virginia Department of Transportation
 540-534-3211
 bobby.boyce@VDOT.Virginia.gov

From: Jeremy Camp <jcamp@clarkecounty.gov>
Sent: Monday, May 6, 2024 1:22 PM
To: Neiswander, Carter (VDH) <carter.neiswander@vdh.virginia.gov>; Boyce, Arthur (VDOT) <bobby.boyce@vdot.virginia.gov>
Cc: Funkhouser, Rhonda (VDOT) <rhonda.funkhouser@vdot.virginia.gov>
Subject: New Minor Subdivision Application - TM#26-A-2 - Charles & SHirley McIntosh

Hello Carter/Bobby,

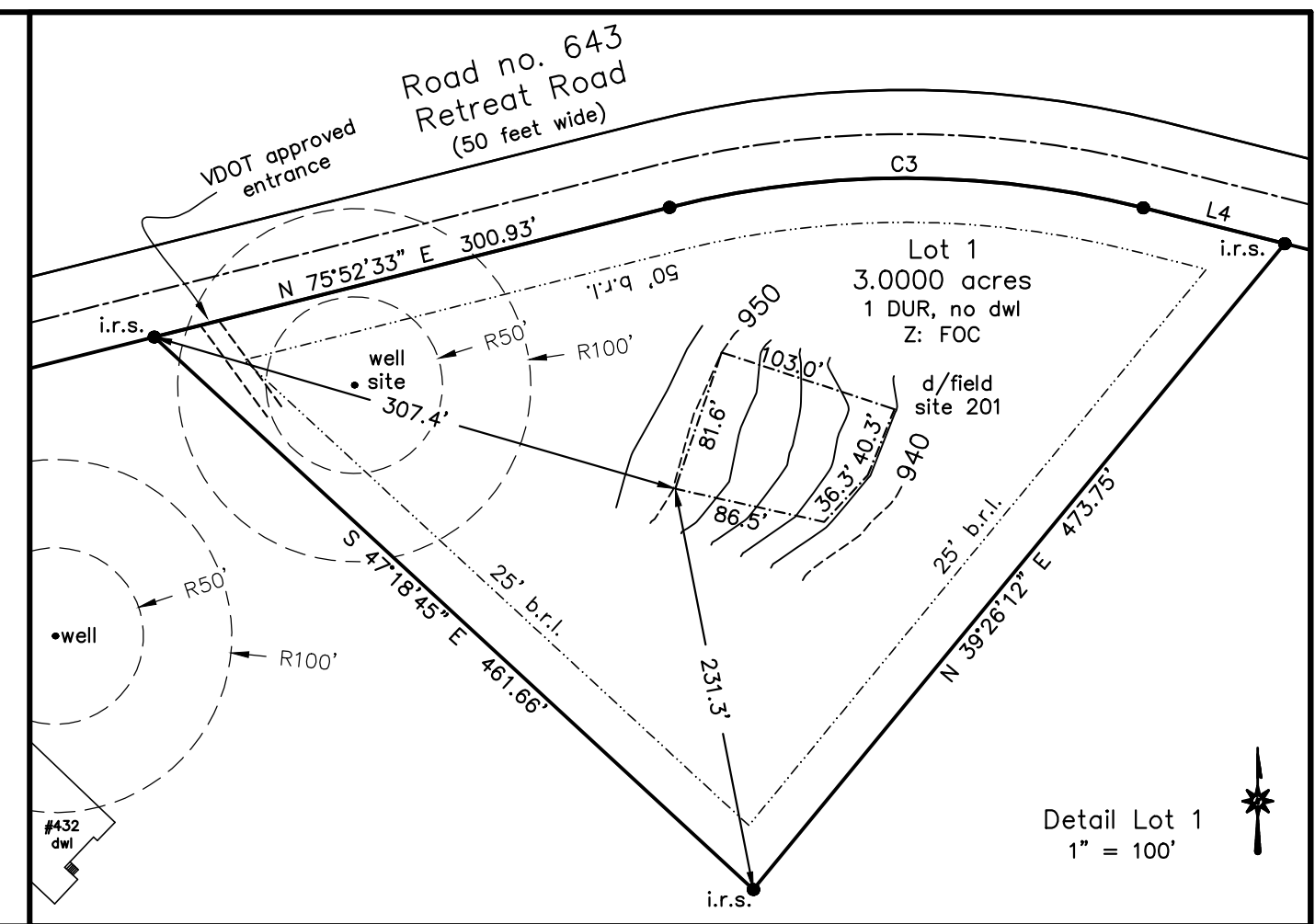
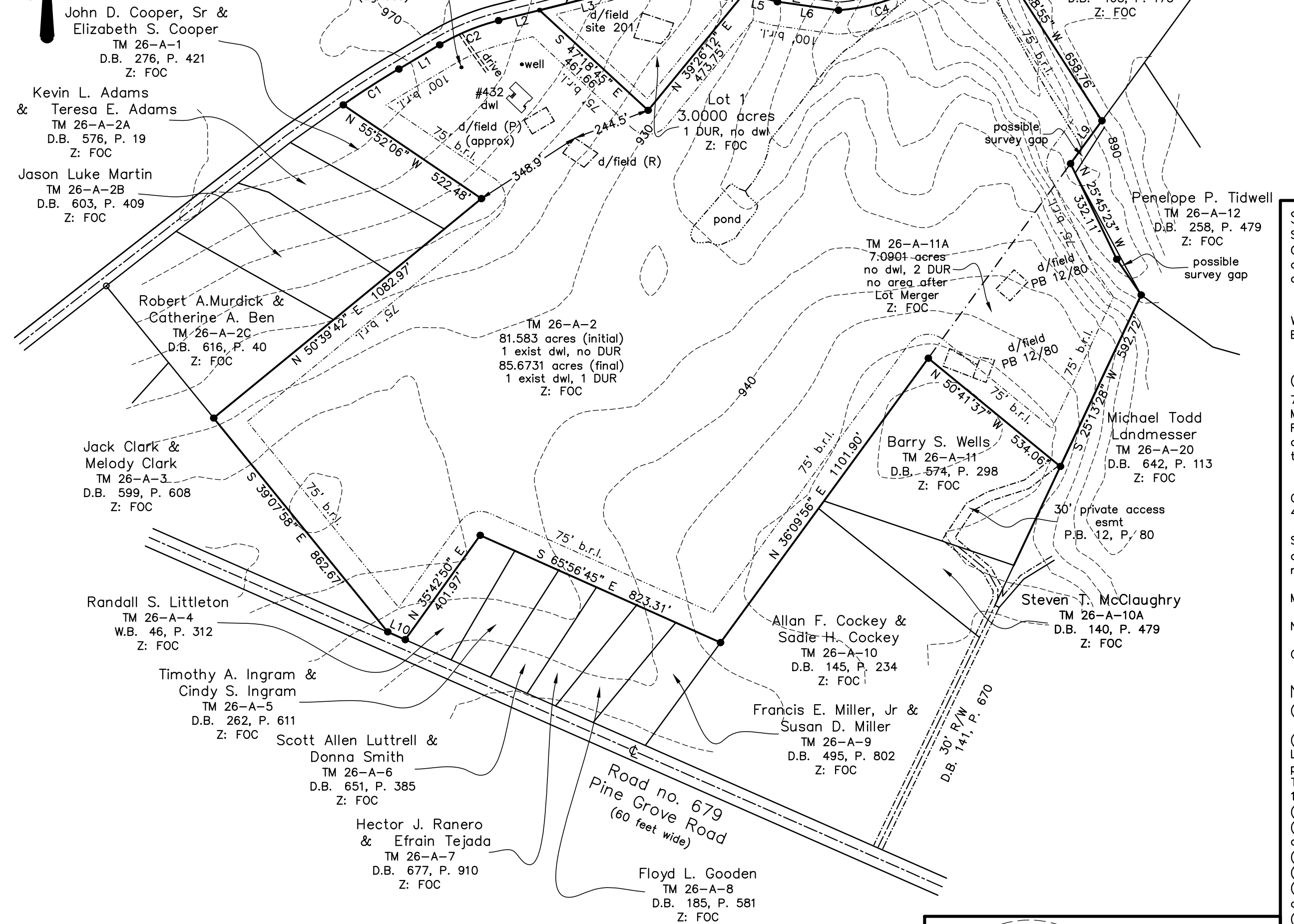
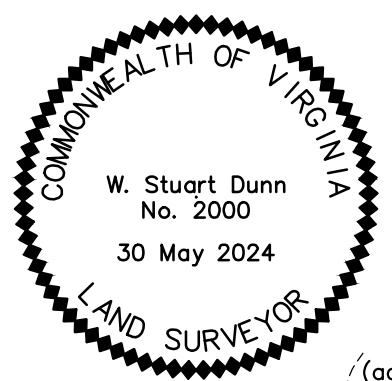
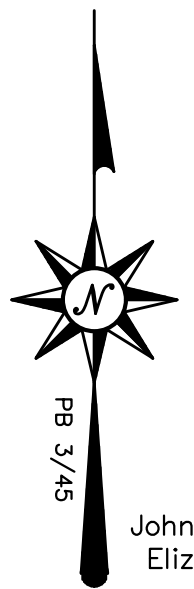
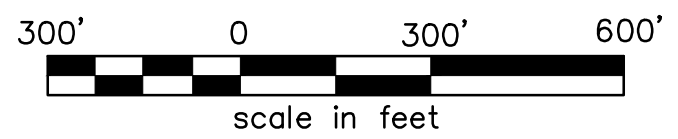
Attached is a new application for minor subdivision received in Clarke County. They are proposing a lot merger accompanying a subdivision that creates one new lot off of Retreat Road (Route 643).

The residue is showing an existing drainfield for #432 (See note #8 regarding it).

The plat shows a VDOT approved entrance for the new lot.

Please review and provide comments for consideration by the Planning Commission.

LINE	BEARING	DISTANCE	CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
L1	S 59°18'48" W	148.40'	C1	2839.73'	207.29'	207.25'	N 57°13'20" E	4°10'57"
L6	N 82°03'04" W	193.18'	C2	691.18'	199.80'	199.11'	S 67°35'41" W	16°33'47"
L7	N 61°11'16" E	74.27'	C3	547.94'	271.12'	268.36'	S 89°56'57" E	28°20'58"
L8	S 56°40'20" W	101.73'	C4	607.96'	265.27'	263.17'	N 73°18'50" E	24°59'59"
L9	N 36°09'56" E	166.19'	C5	527.96'	76.98'	76.91'	N 58°01'56" E	8°21'14"
L10	N 66°13'21" W	59.79'						



Approval:

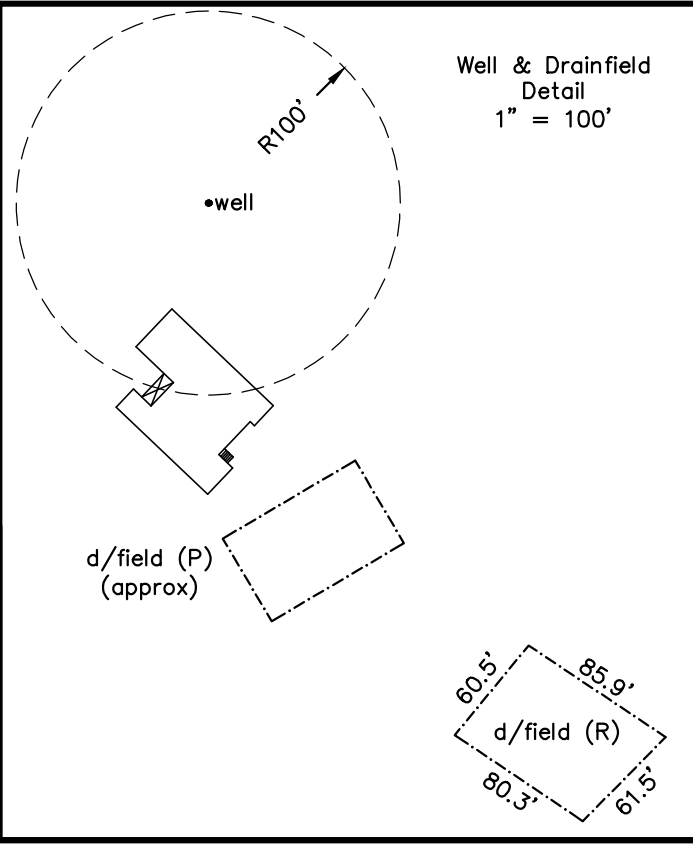
Clarke County Zoning Administrator date:

Chairman of Planning Commission date:

Clarke County Health Department date:

Area Tabulation:

81.583 acres	area of TM 26-A-2	(1 dwl, no DUR)
+ 7.0901 acres	area of TM 26-A-11A	(no dwl, 2 DUR)
88.6731 acres	new area of TM 26-A-2	(1 dwl, 2 DUR)
- 3.0000 acres	area of Lot 1	(no dwl, 1 DUR)
85.6731 acres	final area of TM 26-A-2	(1 dwl, 1 DUR)
0.0000 acres	area dedicated for public use	



Surveyor's Certificate: I, W. Stuart Dunn, a duly authorized Land Surveyor, do hereby certify that this plat of Lot Merger and Minor Subdivision is of the lands standing in the name of Charles S. McIntosh and Shirley M. McIntosh and were acquired by them as stated in the Owners' Certificate. I further certify that these tracts are properly and accurately described and are within the boundaries of the original tracts and are referenced to the meridian established in Plat Book 3, Page 45. I further certify that the monuments designated hereon have been set in accordance with the Subdivision Ordinance of Clarke County, Virginia.

Owners' Certificate: The undersigned fee simple owners hereby certify that the foregoing Lot Merger of 81.583 acres (TM 26-A-2) and 7.0901 acres (TM 26-A-11A) and Minor Subdivision of 3.0000 acres of the lands recorded in the name of Charles S. McIntosh and Shirley M. McIntosh in deeds recorded in Deed Book 600, Page 168, and Deed Book 720, Page 862, located on the Southeast side of Road no. 643, Retreat Road, about 5 miles East of Berryville, and situate in Battletown Magisterial District, Clarke County, Virginia, is made with the free consent and in accordance with the desires of the undersigned owners of said lands and the same is hereby confirmed and submitted for record in the Office of the Clerk of the Circuit Court of Clarke County, Virginia.

W. Stuart Dunn, CLS #2000
Berryville, Virginia

Charles S. McIntosh
432 Retreat Road, Bluemont, VA 20135

Shirley M. McIntosh

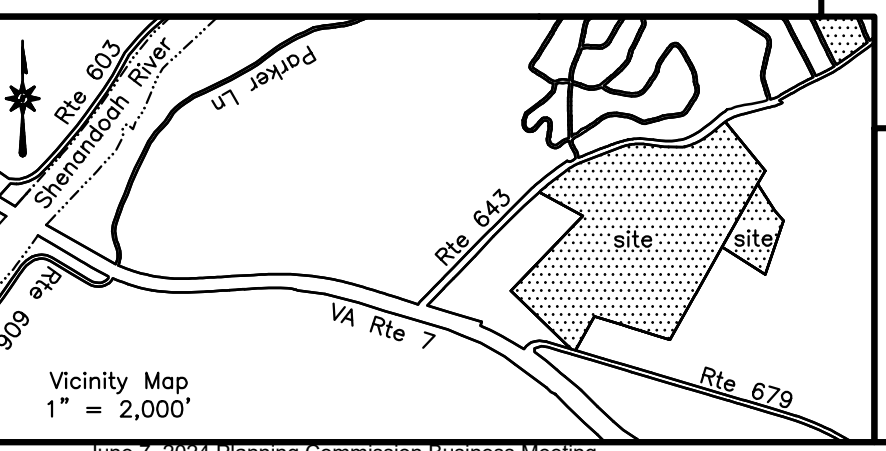
State of Virginia, County of Clarke, to wit: I, _____, a Notary Public for said County of Clarke, in the State of Virginia, do hereby certify that Charles S. McIntosh and Shirley M. McIntosh, whose names are signed in the Owners' Certificate have acknowledged the same before me.

My commission expires: _____

Notary Public: _____

Given under my hand this _____ day of _____ 2024

- Notes:**
- Lot 1 has no existing dwelling and 1 DUR. TM 26-A-2 has 1 existing dwelling and 1 remaining DUR.
 - Setbacks as follows:
Lot 1: 50 feet from the center line of Route no. 643, 25 feet from all property lines, 50 feet from any intermittent stream, 100 feet from any perennial stream, spring or sinkhole
TM 26-A-2: 100 feet from the center line of Routes no. 643 and no. 679, 75 feet from all property lines, 50 feet from any intermittent stream, 100 feet from any perennial stream, spring or sinkhole
 - Lots are in FOC zoning district (forestal - open space - conservation).
 - i.r.s. = iron rod set; i.r.f. = iron rod found; i.p.f. = iron pipe found; b.r.l. = building restriction line; c.m. = concrete monument; DUR = dwelling unit right; TM = tax map and parcel number
 - These lands are in Flood Zone X, established from FIRM Community Panel no. 51043C, effective September 28, 2007.
 - The boundaries shown hereon of TM 26-A-11A is based on a survey by Lee A. Ebert recorded in Deed Book 161, Page 752.
 - The drainfield site shown on Lot 1 is approved for a 3 bedroom dwelling with a maximum occupancy of 6 people and 450 gpd. The primary drainfield will be a conventional system with an alternative reserve (gravity trench).
 - The location of the existing primary and reserve drainfields on TM 26-A-2 was established on site by Battletown Environmental Services. The fields have a capacity for 3 bedrooms, 6 occupants and 450 gpd based on Deed Book 613, Page 18.
 - Existing woody vegetation shall be retained within 25 feet of all property lines on lots of 4 acres or more except for clearing activities listed in Section 7.4.2 of the CCZO. Lots with a dwelling constructed on or before of 18 February 2003 shall be exempt of this provision. Specific requirements for vegetated property buffers are set forth in Section 7.4.2.
 - On lots of 4 acres or more, existing woody vegetation shall be retained within 50 feet of the edge of public rights-of-way and within 25 feet of the edge of private access easements, private roads and private lanes except for clearing activities listed in Section 7.4.2 of the CCZO. Lots with a dwelling constructed on or before of 21 June 2005 shall be exempt of this provision. Specific requirements for vegetated property buffers are set forth in Section 7.4.2.
 - Existing woody vegetation shall be retained on all lots in accordance with Section 7.4.2 of the CCZO except for clearing activities permitted by that Section.
 - Village Lane shall be extended and improved from Pine Grove Road to the residue lot prior to the issuance of a zoning permit for any use that would use the existing private access easement. In such a circumstance, Construction Plans shall be submitted for review and approval by Clarke County in accordance with Section 4.5.3. of the Clarke County Subdivision Ordinance as it pertains to Major Access Easements, as well as any requirement of the Virginia Department of Transportation related to the intersection with Pine Grove Road.



Plat of Lot Merger and Minor Subdivision of the Lands of
Charles S. McIntosh and Shirley M. McIntosh
Deed Book 600, Page 168 Tax Map 26-A-2
Deed Book 720, Page 862 Tax Map 26-A-11A
Battletown Magisterial District, Clarke County, Virginia

Dunn Land Surveys, Inc.
106 North Church Street
Berryville, Virginia 22611
Tel: 540-955-3388
2 May 2024
rev 23 May 2024
rev 30 May 2024

Survey no. 862

**PROJECTED UPCOMING AGENDA ITEMS, JUNE – SEPTEMBER
(6/7/2024 Business Meeting)**

JUNE

<u>COMMITTEE MEETINGS</u>
No committee meetings currently scheduled.

JULY

<u>JULY 9 WORK SESSION</u>
<ul style="list-style-type: none">• Mid-year review of 2024 Project Priorities
<u>JULY 12 BUSINESS MEETING</u>
Continued Public Hearing: <ul style="list-style-type: none">• <u>SUP-23-03/SP-23-04</u>, Harry Z. Isaacs % Long Branch Farm
Schedule Public Hearings: <ul style="list-style-type: none">• <u>SUP-23-01/SP-23-01</u>, Blake & Tamara Bullard (Berryville Berries)• <u>SUP-23-02/SP-23-02</u>, John U. Miller (Watermelon Park)
Public Hearings: <ul style="list-style-type: none">• <u>TA-23-01</u>, Regulations for Permanent Campgrounds and Temporary Camping• <u>TA-24-04</u>, Temporary Use of Major Recreational Equipment
Minor Subdivisions: <ul style="list-style-type: none">• <u>MS-23-08</u>, Regan Partnership, LP• <u>MS-23-12/MLSE-23-05</u>, Suromi, LLC
<u>COMMITTEE MEETINGS</u>
Comprehensive Plan Committee: <ul style="list-style-type: none">• <u>Tuesday, July 2 at 2:00PM</u> -- Rural Lands Plan, continued work on plan development• <u>Tuesday, July 23 at 2:00PM</u> -- Rural Lands Plan, continued work on plan development

AUGUST

**** NO PLANNING COMMISSION MEETINGS IN AUGUST****

COMMITTEE MEETINGS

Comprehensive Plan Committee (to be scheduled, late August):

- Rural Lands Plan – Continued work on plan development, prepare for issues discussion with Planning Commission

SEPTEMBER

SEPTEMBER 3 WORK SESSION

- Update and discussion of Rural Lands Plan issues

SEPTEMBER 6 BUSINESS MEETING

Public Hearings:

- SUP-23-01/SP-23-01, Blake & Tamara Bullard (Berryville Berries)
- SUP-23-02/SP-23-02, John U. Miller (Watermelon Park)

COMMITTEE MEETINGS

Comprehensive Plan Committee (to be scheduled, mid-late September):

- Rural Lands Plan – Follow-up from Commission discussion, public outreach planning