



**Town Council
Regular Council Meeting Minutes
June 22, 2021**

The Town Council of Bedford, Virginia, held a regularly scheduled meeting on Tuesday, June 22, 2021 at 7:00 p.m. in the Council Chambers of the Town Municipal Building at 215 East Main Street, Bedford, Virginia.

Town Council members present:

Mayor Tim Black, Vice Mayor Steve Rush, Councilman Stacey Hailey, Councilman Bruce Hartwick, Councilman Bruce Johannessen, Councilman Darren Shoen, and Councilman C. G. Stanley

Town Council members absent:

None.

Town Staff present:

Town Manager Bart Warner; Assistant Town Manager Sonia Jammes; Town Attorney William W. Berry, IV; Chief of Police Todd Foreman; Electric Department Director John Wagner, Director of Public Works D. W. Lawhorne; Director of Planning and Community Development Mary Zirkle; Clerk of Council Debra B. Anderson; and Recording Secretary Julia Peters

Mayor Black opened the meeting and led all present in saying the Pledge of Allegiance to the Flag.

APPROVAL OF MINUTES

None.

REPORT OF TOWN MANAGER

Town Manager Barrett Warner reported:

- Congratulations to Mary Zirkle, the Redevelopment and Housing Authority, the development team and everyone else associated with the Town's award of a \$921,000 CDBG grant that will be used to rehabilitate housing within the Town limits.
- The annual community fireworks display sponsored by the Town and the County will commence at dusk on the evening of Saturday, July 3, 2021 and Town offices will be closed on Monday, July 5, 2021 in observance of the national Independence holiday.
- Many thanks to Will Berry for his service and accomplishments during his 37 year tenure as City and Town Attorney.

APPEARANCES BEFORE COUNCIL

Kari Hartwick, 418 West Franklin Street, Bedford, VA

Ms. Hartwick thanked Will Berry for everything he did for the Town, her son, and herself. She hoped he enjoyed his retirement and he would go on vacation now instead of waiting until the Fall because he deserved it.

Mayor Black said that with consensus from the other Council members, he would present Mr. Berry with a resolution. He read the resolution and gave it to Mr. Berry along with a small gift from Town Council and staff as a token of appreciation for his many years of service to the Town of Bedford. Attendees applauded Mr. Berry.

The resolution follows.

RESOLUTION OF THE TOWN OF BEDFORD HONORING WILL BERRY FOR HIS CONTRIBUTIONS TO THE TOWN

WHEREAS, William W. Berry, IV has served Bedford with distinction as first City and then Town Attorney since 1984; and

WHEREAS, Mr. Berry acquired valuable professional experience and knowledge prior to his employment in Bedford where he chose to practice for the direct benefit of his hometown; and

WHEREAS, throughout his tenure Mr. Berry was a leader in efforts to preserve historic properties contributing to the character of the community such as the Wharton property in a manner that promotes their ongoing vitality and function; and

WHEREAS, Mr. Berry has consistently acted as a promotor and conduit for several innovative best practices including Bedford's early development and implementation of digital cable infrastructure; and

WHEREAS, Mr. Berry was instrumental in the development, negotiation, and implementation of Bedford's change in constitutional status from City to Town; and

WHEREAS, Mr. Berry has been an active member of the community in numerous leadership roles with various civic groups as well as his active membership in Main Street United Methodist Church; and

WHEREAS, Mr. Berry has been industrious and diligent in his steadfast professional guidance and service to the community; and

WHEREAS, the members of Bedford Town Council and its staff, past and present, who have served in Mr. Berry's company wish to express their deep respect and pleasure at having an opportunity to serve and work with Mr. Berry; and

WHEREAS, Mr. Berry is considered to be a gentleman of unique character and dignity who leaves a legacy of professionalism and decorum; and

NOW THEREFORE, BE IT RESOLVED, that the Town of Bedford adopts this Resolution in honor of William W. Berry, IV this 22nd day of June, 2021. Likewise, the Council calls upon all citizens of the Town of Bedford to honor and thank Mr. Berry and his family for their tremendous effort and sacrifice toward the wellbeing of the entire community. May God bless him and his family in their future endeavors.

Mr. Berry thanked Council members and all the members he had worked with over the years. He has been pleased to work with a group of people who may not have agreed on everything but all have obviously agreed they wanted Bedford to be the world's best little town.

COUNCIL COMMENTS

Councilman Stanley said it has been an honor and a pleasure to work with Mr. Berry and he thanked him for it.

Councilman Shoen also thanked Mr. Berry and noted he would still see him occasionally.

Councilman Hailey thanked Mr. Berry for all he had done and the things he helped him with and he appreciated it.

Vice Mayor Rush said he never called Mr. Berry "Huck" because he knew he hated that name, but he recollected many others in his dad's office building and all of them had moved on, but Mr. Berry was still there. Now it is time for him to enjoy life and he knows he will.

Councilman Johannessen said he has known Mr. Berry since he came to town and he has been a wonderful asset to the community. He dealt with Mr. Berry many times on various projects around town and he has always given of his time and he appreciated him greatly. He wished him luck.

Councilman Hartwick thanked Mr. Berry for his many years of service, hard work, and dedication to the Town of Bedford. He also thanked him for helping him out once he was elected to Council. He was a good friend and he thanked him for all he has done. Now that he is retiring, it is time to go on vacation and lead a good life, he had earned it.

Mayor Black concurred with everyone else and he appreciated Mr. Berry's dedication and service to the community and knows it has been lifelong work. Through all the good things happening in the Town throughout the years, Mr. Berry put his thumbprint and provided Council with sound legal advice when they needed it. He wished him the best and hoped he would enjoy his retirement but he knew he was across the street and would find him if he needed him.

Mayor Black said he had attended a meeting with Chief Foreman and on July 10, 2021, at 10:00 a.m., the police officers are doing a community service project and doing maintenance work at the Edmund Street Park and Greenwood Park. Any Council members who would like to join the police officers are welcome as well as any interested community members.

REPORT OF COUNCIL COMMITTEES

Mr. Stanley attended the Electric Committee meeting and noted that the Bedford Memorial Hospital is receiving a service upgrade. They are currently down several transformers at their location and will be going to independent transformers. They are in the process of figuring the cost estimate and timeframe and more is to come in the future.

Vice Mayor Rush said the Property Committee had a Closed Session meeting regarding the possible acquisition of property.

REVISIONS TO AGENDA

Mayor Black stated that a Closed Session would be added to the night's meeting to discuss a personnel matter.

PUBLIC HEARINGS

Mr. Warner read the following public hearing notice.

PUBLIC HEARING NOTICE

Notice is hereby given of a public hearing to be held by the Town Council at 7:00 p.m. on Tuesday, June 22, 2021, at the Town Municipal Building, Council Hall, 215 East Main Street for the purpose of hearing:

Consideration of a request for a conditional use permit for “an office building with additional parking” located at 706 Burks Hill Road, Bedford, VA (Tax Parcel 233-A-1 T) consisting of 2.719 acres. The property is zoned PRD/TNO, Planned Residential/Traditional Neighborhood Overlay Applied, and is owned by Sue N. Croft. The applicant is Sue N. Croft.

Information is on file in the office of Planning & Community Development at 215 East Main Street. Anyone who is in favor of or opposed to the request will have an opportunity to express his/her views at this hearing.

By the Authority of the Town of Bedford Town Council

Published: June 9, 2021
June 16, 2021

Mayor Black opened the public hearing at 7:11 p.m.

Sue Croft, 706 Burks Hill Road, Bedford, VA

Ms. Croft stated that her small business had grown quite a bit and needs to expand. She was granted a new opportunity to be an MGA, which is the top level of recruitment of offices. She will be recruiting 19 states for FMO's or SGA's to sell the Medicare Medical Savings Account. At this point, there is only one in the entire U.S. and it is quite an honor for it going forward in Bedford. Extra office space is needed for clerical staff and agents and those people working under her will be located in the 19 states. She will be training virtually, so there should not be additional traffic going in and out of her office site.

There being no one else coming forward, Mayor Black closed the public hearing at 7:15 p.m.

Mr. Warner read the following public hearing notice.

PUBLIC HEARING NOTICE

Notice is hereby given of a public hearing to be held by the Town Council at 7:00 p.m. on Tuesday, June 22, 2021, at the Town Municipal Building, Council Hall, 215 East Main Street for the purpose of hearing:

Consideration of a request for a conditional use permit for a multi-family development and a request for R-3 residential lot area, width, coverage and frontage for single-family lots located at the end of Crest Ridge Drive, Bedford, VA (Tax Parcels 251-A-1-T & 251-A-2-T) consisting of 44.25 acres. The request is for 143 multi-family and 70 single-family units. The property is zoned PRD and is owned by Ranbowellen, LLC. The applicant is White Engineering & Design.

Information is on file in the office of Planning & Community Development at 215 E. Main Street. Anyone who is in favor of or opposed to the request will have an opportunity to express his/her views at this hearing.

By the Authority of the Town of Bedford Town Council

Published: June 9, 2021
June 16, 2021

Mayor Black opened the public hearing at 7:17 p.m.

Jamey White, President of White Engineering and Design

Mr. White addressed Council members stating he had been before Town Council earlier in the year to try to acquire a Conditional Use Permit (CUP) on the two parcels. At that time, they wanted to do 100% multi-family units on the lots and after receiving feedback, tried to make accommodations where they could. Some alternatives for secondary access were looked at but ultimately their request was denied. They are now moving forward with a by-right development to do R-1. When surveying to stake the parcels on Emerald Crest Drive and Emerald View Court, the stakes were very close to the existing houses. In conversations with the developer, the stakes were splitting patios, swing sets, and the residents thought or were using the spaces as their yards. Some of the people in the neighborhood reached out to see if there was anything that could be done to mitigate any disturbance to their rear yards. He is bringing a new request with an alternate plan to do patio homes in portions and single-family detached homes, which is similar to the Phase 1 of Governor's Hill. Single-family detached homes would be on the lower side of the property with patio homes on the upper, high side of the property. The houses would be similar in style and size to existing homes. Traffic was a big issue previously and there was no feasible option for a secondary connection. He is asking Council to look at the development now as a mixed residential with two connection points to the adjoining neighborhood. After feedback from the Planning Commission, the developer spoke to existing residents, especially those with adjoining properties. In order to buffer or shield those homes in a permanent way, they looked at taking 40 foot minimum off the backs of the houses and isolate the areas as undisturbed by their development. He submitted 11 signed agreements in support of the new development with the condition of deeding over to the existing homeowners the undisturbed footage. Plats would be adjusted to transfer the property to the individuals along Emerald Crest Drive and Emerald View Court. One adjoining house at the bottom of Crest Ridge Drive cannot be given 40 feet but can have 20 feet of side yard, which is near the potential stormwater management pond. There is support from the adjoining neighbors to have an extension to their

rear yard where they have control over the space. By doing this, the entire property will not need to be clear cut and they will do select cutting and keep open space areas with mature woods.

He met with BRWA to discuss sewer capacity and BRWA does not think there are any issues with water capacity but they did mention some potential hotspots with sewer capacity, mostly from roots in lines, failing lines, flat lines, and undersized lines. After this meeting, if they get approval, they would survey the public sewer that leaves the development and follow it out so information can be submitted to BRWA for consideration in their water and sewer models. The plan is for 213 units maximum and obviously any development would need a sewer capacity check and they would not do anything that might overburden the existing system. This will be a multi-year project and will work with the BRWA to make sure all the lines will be adequate as they proceed with the development.

Suzanne Schiefer, 1300 Emerald View Court, Bedford, VA

Ms. Schiefer lives in the home on the corner lot that the developer could not offer any footage in her backyard. She is representing other neighbors in the court and they appreciate the developer's offer to provide property for a buffer, but they strongly object to the traffic in the cul-de-sac. The main reason most of them bought homes there was because they were located on a cul-de-sac and did not think that it would become a thoroughfare where there was no stub road and nothing in the plan when they purchased their property. Their goal is to keep it as a cul-de-sac and not become a through road. All the morning and evening traffic with delivery and construction traffic will go through that small area at all times. Car lights will be in the houses on the back end of the cul-de-sac continuously during the dark times. It seems to her that an existing cul-de-sac should stay a cul-de-sac. She would like the Council to consider that if this project goes through and the cul-de-sac must be a thoroughfare, that traffic calming features be constructed from the very beginning and not waiting to implement them. She thanked the Council for their time and she appreciated what they do.

Louanne Doody, 1317 Emerald View Court, Bedford, VA

Ms. Doody said she has no objection to the housing development. Her concern and the concern of others is that they bought property on a cul-de-sac for a reason. It was expected that it would be quieter traffic-wise. If you look at studies, if a cul-de-sac becomes a main thoroughfare, the value of the homes goes down. She is retired and others in the neighborhood cannot afford for their homes to be devalued because of a thoroughfare being put on their cul-de-sac. She would like Council to think about this and the value of her home is needed if she were to have to move into assisted living sometime in the future. If her home value goes down, it could impact the type of facility she would need to move to. As was presented in earlier meetings, there are multiple vehicles and multiple trips each day with several adults living in the patio homes. She would like Council to take all this into consideration and would like to see if there is an alternative. Large trucks and emergency vehicles will have a very hard turn to make in the area.

Cindy Watson, 1265 Emerald Crest Drive, Bedford, VA

Ms. Watson spoke on behalf of the Governor's Hill Homeowners Association which covers the original 34 lots. They have several concerns. The planned time for this project is 12 years, which means 12 years of construction trucks coming through. She asked who is going to be responsible to see that the same problems don't arise that were found when building Section 2. No one takes responsibility for what goes on once the permits are awarded and someone needs to be responsible. Traffic will be a problem no matter how one looks at it. There is no overflow parking in this new section and she asked where are they going to overflow their parking. It is a lot of homes with no on-street parking or overflow parking. They are concerned about the loss of value to their homes and have had several homeowners saying they want out. They are getting ready to move because they don't like the situation. The Association believes the Town should require at least a minimum of a five-year bond that is required to stay in place five years after the construction completion that would cover damages to anything in the old sections because nothing was ever done about Section 2. One person or one company needs to be legally responsible for everything that happens. There should have been a homeowners association in Section 2 but there was none. Jimmy English made sure the original section was done right. There were rules in place, a detailed plan of how everything would be handled, how each house had to look, and what amenities had to be available. None of this was done for Section 2. She directed Council to look at the packet she gave each member where she included what Section 2 was supposed to look like and what Town Council voted on and approved. It shows what should have been done but it is not what is actually there. No one made sure it was done. Parsell & Ziegler came and brought pictures of what they would do and talked with the homeowners, asking about their concerns. The homeowners are getting nothing on this project, not even a paper with all the original houses drawn on it. It only shows the houses connecting to it at Crest Ridge which is very deceiving, to not show those missing houses. Preferential treatment should be given to the local businesses for a project this big to help local businesses survive. Homeowners have spent thousands of dollars cleaning up the problems from Section 2, but nothing was done to reimburse them or fix the problems yet. This needs to be addressed. Her final question to Council is who will be in charge and says what each house will have or not have, or will the developer be allowed to do whatever he wants. It cannot be doing whatever he wants because that is what happened in Section 2. A detailed plan needs to be followed. As far as the entrances and exits and traffic, the developer was offered another option that would have routed out the traffic onto the upper section of Industrial Avenue but they said it was too cost prohibitive. What about all the dirt they will have to move out when they go to build and moving it out that way to put a through route there to help eliminate some of the traffic. The police department came in and put in a stop sign at the end of Emerald Crest and people don't stop. A huge stop sign was posted and nobody stopped, she thanked the police department for putting in the stop sign but it does not work. In conclusion, she asked Council to take into consideration all the problems that have happened in the previous sections and it is not part of Governor's Hill, but they do not need all the trouble that will come with it.

Judy Straight, 1307 Emerald View Court, Bedford, VA

Ms. Straight said she moved to Bedford about three years ago when she bought a townhome off of Emerald Crest Drive and she was very happy with it being in a cul-de-sac. When she was in

West Virginia, she was on a public road, which was very busy and it is not pleasant to be in heavy traffic. She bought on a cul-de-sac and wants to see it remain so. No one has mentioned yet what the future residents of the development would have to be dealing with. She is concerned for them too and wants them to love Bedford as much as she does. It is imperative that the developer have a dedicated access and egress for that development, when you consider 200 homes. She thought the two proposed routes that they are planning are miniscule to what is going to be needed for that type of development.

Toni Orange, 1284 Emerald Crest Drive, Bedford, VA

Ms. Orange said that at the recent Planning Commission meeting, Mr. White noted he was maximizing his unit yield. She has been a cost accountant, a CPA, and now is a real estate agent so she knows a thing or two about maximizing unit yield. She understands making a profit and she wants people to make profits, that is why they are in business. She asked if the developers even live in the community. She asked Council at what cost are these 213 units going to be. When she moved to Emerald Crest, she moved to be in a quiet elderly community. When they built Section 2, it increased traffic. Many children play on the streets and many adults walk their pets on the streets, and it used to be safe to do so. Will the cost be one of the children that plays near the street getting killed? The homes only have a few feet in the front yard so will it be an elderly person walking their pet in the morning that is struck and killed? People have bought here thinking this is a quiet, safe neighborhood. From the end of Emerald Crest all the way down Woodhaven and down to Town and Country, there are no sidewalks. People funnel through Woodhaven to get to Route 460. This 213 unit build affects many streets, two subdivisions, and hundreds of homeowners. She has had two cars parked on the side of the street there at Emerald Crest and both of them have been hit. It is not a matter of if, but a matter of when. It also affects those getting off work at Cintas, Brown's Construction, and Schwanns. Between 3 p.m. and 5 p.m., traffic waiting to get onto Burks Hill is backed up. She asked what is their time worth or their lives worth. Many are fixing up their homes and selling. These are friends and good neighbors and they feel they have to move. It is a great time to sell, but a bad time to buy. Who will buy these homes if there are 600-800 cars per day passing by? Who wants to live in a noisy, dirty construction zone for the next eight to 12 years? What happens to the home values? She noted that the Section 2 has quality issues and no HOA, so she does not show homes there. Homes joined together are bound to have problems with no resolution board. She did show one home to an elderly lady who was downsizing and she had to tell her about the construction project and how that would affect her. As a real estate agent, she is bound by Virginia Code to disclose material facts in relation to the property that she is showing. The lady bypassed this neighborhood and bought a townhome elsewhere in Bedford. Ms. Orange asked Council would they vote for this project if it was in their own backyard. The homeowners look to Town Council to help protect their home values and their way of living. There is plenty of land for sale in and around Bedford that would have a better outlet for traffic than this, and there is another piece of property for sale that funnels out onto Burks Hill. She believed that if anyone on the Council would stand to profit or has a conflicting interest in any aspect of real estate, they should stand down from casting a vote.

Kelly Wietrzykowski, 1316 Emerald View Court, Bedford, VA

Ms. Wietrzykowski noted she bought here and did not know any of this was going on. No one told her about a road going in or a development planned until she saw a sign on the side yard. She has not been offered land or anything. She has a beautiful home, the neighbors are wonderful, there is a lot of wildlife and she does not want a road right next to her home. She was under the assumption that the side yard was part of their land and could use it for recreation. The realtor can confirm that they did not know any of this was happening. She thinks it is a terrible idea to put a road in the cul-de-sac and there are already problems with parking. It is not a big piece of land and fears they will lose part of the property and they paid extra for the end unit.

Anthony Arrigo, 1308 Emerald View Court, Bedford, VA

Mr. Arrigo stated that his backyard is literally in the project zone area. He is new to Bedford and has lived here for one and a half years. He is an Army veteran and career firefighter and he and his family specifically bought here because it is a quiet and safe place and after a 24 hour shift, he likes to be left alone. He has two children and dogs and got a call at work from his wife that their backyard was only ten feet long. He spoke to the developer and went over the plan in several conversations. He really needs the yard and feels the plan is much better than it originally was and he is extending his support for the plan

Andrea Trotter, 1262 Emerald Crest Drive, Bedford, VA

Ms. Trotter said she lives directly in front of the stop sign that was put in and thanked the Town for it. She has seen all the traffic increase, both when her section was built and also when Section 2 was built. Her grandkids ride their bikes on the streets and with construction up on top, many trucks come in and some get stuck in front of her house. With all that going on, she asked Council to keep everything intact for the sake of the safety of the children and the mindset of the neighborhood. The stop sign is not stopping people, but encourages them to look one way before they turn. Section 2 has some speed bumps but if someone misses that stop sign due to the level of traffic, the car will be in her house. She asked Council to consider another way to get into the proposed project.

Josh Turner, 1111 Emerald Crest Drive, Bedford, VA

Mr. Turner was approached by the developer regarding the extension to his yard and at this point, he knows they will build something whether approved or not, and if they don't do it, all the homeowners in the one stretch will lose any conceptions for additional yard. His household is giving support for the project so he will have a buffer and a choice of doing what he wishes with the backyard.

David Stone, 1252 Emerald Crest Drive, Bedford, VA

Mr. Stone said his main concern was about the children playing and his wife walking their dog. There are cars parked along the sides of the street and the kids have no place to play except the street. He feels someone is going to get hit. The roads are very narrow and it is not a good

situation now much less with what is coming. The developers have not turned over the extra backyard property yet and he is not sure if they will or not.

Dina Massie, 1101 Coolbrook Road, Bedford, VA

Ms. Massie stated that she does not live in Governor's Hill but is a concerned citizen of Town and Country subdivision with some of the residents on Coolbrook Road. The traffic through her area is extreme for a small community. She appreciates the stop signs, but they are really just yield signs as it is hard to come to a complete stop at them. A concern for herself and her neighbors is that there was no accountability when Phase 2 was built. The stormwater plan was minimal. She is at the bottom of the hill and she gets all the runoff from the entire development. She is having an inspection done on her property on Thursday through the County because they are taking it over and the homeowners are dealing with the ramifications of the poor planning processes of Section 2. She loves the Town and wants to see it grow and Bedford needs nice places for people to live, but at what sacrifice is the Town willing to make. If Council members would take the time to walk the neighborhood, they will see the dangers because of all the street parking and the amount of traffic. She questioned who would be responsible because no one was responsible in Section 2. If there was a separate right-of-way out to Route 122 off of Industrial, it would mitigate some of the traffic and divert it elsewhere. She thought it was shallow of the developer to offer ten to 12 homes, almost like bribery, to give them something if they go forward with the project. She asked Council to take into consideration what this project would mean not only for the two neighborhoods of Governor's Hill, but also Town and Country, which is part of the Town and also part of the County. Her home is the last home in the Town, living right on the Town/County line. If the developer has to stoop to the levels they are stooping to, by invading a cul-de-sac and dangling the backyard land like a carrot to homeowners, and if they don't get their way, taking it away; it shows very poor planning.

Mr. White responded that tying the cul-de-sac with a full access entrance was in the original plan. A second access point into the development is needed to meet fire marshal requirements. They are willing to take the cul-de-sac entrance out as a full access entrance but were responding to the feedback they received when they brought this before Council. He has extended cul-de-sacs at least ten times in the last five years because cul-de-sacs are built now at the end of every road connection that is built with any connectivity point with any future development. That is a requirement that VDOT now mandates. They cannot just put in stub roads anymore but must provide a cul-de-sac that would be removed at a later date if needed. VDOT has approved a similar situation in Campbell County. The developer for this Bedford project owns the lots and built the patio homes and therefore they have control of the lots and whether to sell them or not. The developer gave up two additional patio homes for this secondary access point for future connectivity. They are happy to have a discussion about making that entrance emergency access only. He understands stop signs don't always work and the concern regarding the traffic. There are some traffic calming measures such as speed humps that can be added as a condition to tie into the cul-de-sac. In the previous construction of Section 2, there should have been additional measures that captured storm water. Regulations have changed for storm water management and there will be a thorough review at the County level for storm water control, which their development will need to meet all the requirements. The developer does have to post bonds for

storm water, road construction, and utilities, and the bonds are released once the work is completed and approved or a timeframe thereafter as a guarantee the systems are working properly. There will always be some level of control due to the new regulations and the review process which should satisfy some of the issues that happened in Phase 2. Any new development nowadays must have a homeowner's association created. It would be a separate association that has the responsibility of upkeep of on-site amenities and open spaces; including maintenance, repairs, and upkeep of any storm water management pond constructed. They have looked at the feasibility of another connection point but it would require a 40 foot fill section over top of the creek. It is not only about the cost, but also the impacts to the streams and wells potentially at the bottom of the creek. The current roads by VDOT standards can handle up to 4,000 vehicles per day. Even with the addition of the proposed development, the roads are not getting up to that 4,000 trips per day. He understands there are growing pains for any locality but the transition does not need to be a difficult one. With the existing stub road, future development of the property was already part of the original plat and he thinks the option of this project is better. Concessions have been offered to those homeowners that have reached out to the developer. The developer owns that property and did not take anything away from the homeowners, he just identified what is his. They did not reach out to 1316, 1318 and 1320, but they would offer the same conditions to those three lot owners as well.

There being no one else coming forward, Mayor Black closed the public hearing at 8:15 p.m.

Mr. Warner read the following public hearing notice.

PUBLIC HEARING NOTICE

Notice is hereby given of a public hearing to be held by the Town Council at 7:00 p.m. of Tuesday, June 22, 2021 at the Town Municipal Building, Council Hall, 215 East Main Street for the purpose of hearing comment on proposed Zoning Ordinance changes. Several sections of the Zoning Ordinance are proposed to change to add a new use, modify existing uses and standards, and amend provisions for permit applications as follows:

1. Create a new use "Open Air Market" with definition, zoning district placement, requirements and permit process.
2. Amend existing use "Amphitheater" for the B-2 zoning district and requirements.
3. Amend existing use "Mini-storage / Mini-warehouse" requirements in the B-2, CLI and M-1 zoning districts.
4. Amend existing use standards for automotive repair garage in the B-2 and M-1 zoning districts.
5. Amend provisions for application procedures for permitted uses to clarify requirements for site plans.

Information is on file in the office of Planning and Community Development at 215 East Main Street, Bedford. Anyone who is in favor of or opposed to the proposed request will have an opportunity to express his/her views at this hearing.

Published: June 9, 2021
June 16, 2021

Mayor Black opened the public hearing at 8:16 p.m.

There being no one coming forward, Mayor Black closed the public hearing at 8:16 p.m.

CONSENT AGENDA

None.

OLD BUSINESS

None.

NEW BUSINESS

Resolution – Permitting an Office and Parking Area by Conditional Use Permit in PRD/TNO Zoning District

The subject property located at 706 Burks Hill Road (identified as Tax Parcel 233-A-1-T) is zoned Planned Residential Development (PRD) and Traditional Neighborhood Overlay Applied (TNO). Croft Senior Services, Inc. was issued a Conditional Use Permit (CUP) in 2008 to establish an insurance office on the property, establishing the TNO “Applied” designation. The former residence that was converted to the office, a freestanding office building, a three-car garage, two carports, and a paved parking lot in the rear are on the property now. The applicant is requesting a 32-foot by 42-foot building in the rear yard and a parking area with four spaces.

The Office use can be permitted in the TNO with a conditional use permit. The Burks Hill Road Master Plan (2005) is part of the Comprehensive Plan. Both PRD and TNO require setbacks to be determined with a CUP.

The Commission held a public hearing on June 3, 2021. The applicant spoke. One Councilman spoke in the hearing. The Commission discussed how many agents would be in the new office to assess that there would not be an increase in traffic. They also asked about the safety of the two entrances for entering / exiting to Burks Hill Road. The applicant discussed reducing the slope at the left entrance where this affects sight distance. The applicant also asked for assistance in enforcing the speed limit in the area.

As part of its deliberations, the Planning Commission discussed the need to confirm the building setbacks. The plan did not show a setback on the left side. The Commissioners agreed 40 feet would be sufficient on the left adjacent to the other parcel owned by the applicant. A 55-foot side

setback was shown on the right side. There was well over 100 feet shown on both the front and rear setbacks.

The Commission voted 6-0 to recommend approval of the CUP with the setbacks shown on the plan and a minimum setback of 40 feet on the left side.

ACTION REQUESTED:

Town Council is requested to consider a resolution issuing a Conditional Use Permit for the plan presented as recommended for approval by the Planning Commission with setbacks recommended. The Council may deny the request or approve the request with or without conditions. They may also require additional conditions or amend those presented.

Mr. Hartwick moved, seconded by Mr. Hailey to adopt the Conditional Use Permit for the plan presented as recommended for approval by the Planning Commission with setbacks recommended.

Director of Planning and Community Development Mary Zirkle answered clarifying questions regarding the setbacks and entrance/exit paths for traffic.

Voted upon and carried by a roll call vote. Roll call as follows:

Councilman Hailey	aye
Councilman Hartwick	aye
Councilman Johannessen	aye
Vice Mayor Rush	aye
Councilman Shoen	aye
Councilman Stanley	aye
Mayor Black	aye

The motion carried with seven members voting aye.

The resolution follows.

RESOLUTION

**PERMITTING AN OFFICE AND PARKING AREA BY
CONDITIONAL USE PERMIT IN PRD/TNO ZONING DISTRICT**

WHEREAS, the Planning Commission of the Town of Bedford held a public hearing on June 3, 2021; and

WHEREAS, the Town Council has held a public hearing after notice was given in the *Bedford Bulletin* once a week for two successive weeks as required by Virginia Code 15.2-2204; and

WHEREAS, Sections 617.04. and 617.07.d. of the Land Development Regulations allow an office use to be permitted with a Conditional Use Permit in the PRD/TNO zoning district; and

WHEREAS, the Town Council finds as a fact that the proposed use is consistent with the intent of the land development ordinance and the land use plan, and is in the public interest; and

NOW, THEREFORE, BE IT Resolved BY THE TOWN COUNCIL OF THE TOWN OF BEDFORD, VIRGINIA that a Conditional Use Permit is granted to Sue N. Croft for the property located at 706 Burks Hill Road (identified as tax parcel 233-A-1-T) to allow an office and parking area with the following conditions:

1. The setbacks as drawn on the schematic plan by Slusher Surveying, Inc. dated 04-01-21 shall apply, including a side setback on the left side (adjacent to tax map 233-A-2-T) being a minimum of 40 feet.
2. The applicant shall improve the sight distance for the entrances as much as possible for safety at Burks Hill Road.

Resolution – Permitting a Multifamily Residential Development and R-3 Single-Family Development Standards by Conditional Use Permit in a PRD Zoning District

The subject property located at Crest Ridge Drive and Emerald View Court (identified as Tax Parcels 251-A-1-T and 251-A-2-T) is zoned Planned Residential Development District (PRD) and is vacant of an improved use. The applicant is represented by White Engineering and Design, which proposes to construct 143 multifamily residential dwellings and 70 by-right single-family dwellings using smaller R-3 development standards. The PRD zoning district allows the multifamily use and R-3 standards with a Conditional Use Permit in Section 606. The developer will need to study whether the public sewer system can accommodate the number of proposed units for approval by the Bedford Regional Water Authority.

The Planning Commission held a public hearing for the proposed multifamily and single-family development use on June 3, 2021. After hearing comments from nine members of the public that spoke in opposition to the request, Commissioners expressed concerns about traffic, the lack of diverse housing mix, and the lack of connection to other streets to provide another way in and out of the proposed development.

Commissioners were also concerned that the developer had not provided conditions in writing shared verbally in the hearing by White Engineering that are related to the promised landscape buffer depth and the additional land that had been offered to the existing property owners adjacent to the proposed new dwelling units. Any private agreements between the developer and property owners in the existing development are civil matters that cannot be enforced by conditions imposed by the Town. The Town may still request assurance that these matters have been addressed with written private agreements as part of their deliberations and decision.

The Commission voted to not recommend approval for the plan as presented to Council by a vote of 6-0. The Commission advised the developer to talk with the owners of existing properties to work out the development design.

ACTION REQUESTED:

Town Council is requested to consider a Resolution as to whether to issue a Conditional Use Permit for the plan presented with conditions offered by the applicant. As part of a Resolution approving the application for a Conditional Use Permit, Council may also require additional conditions or amend those presented. If Council does not pass the Resolution, then the Conditional Use Permit is not approved and the zoning permit will not be issued for the request.

Vice Mayor Rush moved, seconded by Councilman Hartwick to approve a resolution permitting a multi-family residential development and R-3 single-family development by Conditional Use Permit in a PRD Zoning District and meeting all other conditions listed in the resolution.

Discussion followed. Mr. Stanley noted he was not comfortable voting on the project until the public sewer issue is resolved with BRWA. Mr. White said a sewer study would need to be done and they would wait to see how many units were approved so they could target areas of impact. His request is to build the maximum of 213 units with the ratio mix presented but if the number of units must be reduced due to sewer capacity, then the number of units would be reduced based on the ratio that was proposed. BRWA would not approve the site plans for work until they are provided with adequate information that justifies the existing sewer capacities. Improvements to the sewer system would be a combined effort between BRWA and the developer. Mr. Shoen said Council has no assurance that the developer can finish the project as presented tonight. Mr. White said once Council approves, then the project would be surveyed and they will work with BRWA to determine what the study limits will be and what flow can be handled, which will then determine what can be built at that point without improvements or if improvements will be needed to move to the next phase. Mr. White's guesstimate for the study period would be possibly two months. Mr. Shoen said he interprets this as Council is to pass it and then they are to hope the developer does it. Mr. White responded that it is the same sewer issue whichever way they go and the sewer study will have to be done and they can only improve it as long as the sewer has the capacity. Mr. Shoen thought the developer needs to acquire an attorney to help them put this plan together instead of coming before Council and having them do all the leg work and lay out all the conditions to make it happen. And there is no way of knowing that the developer will hold up to its agreement with the 11 people. Mr. Stanley thinks this sewer issue needs to be resolved before Council moves forward. Mr. White said that to get any site plans approved, some level of water and sewer capacity must be determined. He and his client are asking for the maximum density of 213 at the ratio they have set. They may be able to build the first phase before there is a need to do sewer improvements. Even if Council approves this today, there is no assurance that all 213 units will be built because of the economy and other factors. They see it as a technical requirement to meet the maximum density they are asking for. If BRWA tells them they have the capacity to add 100 units before improvements are needed, they will build up to the 100 units and then make repairs and/or improvements downstream to get to the maximum that they are asking in the CUP. Mr. Rush said if they don't meet the conditions of the CUP, the project won't fly. So, if the capacity is 100, they can only build 100. Mayor Black

replied that there is no condition in the resolution dealing with the sewer capacity. Town Attorney Berry advised that a site plan including a sewer study could be made as a condition of the CUP but there is a motion on the floor. The motion could be amended or voted upon. Discussion continued between Mr. White and Council members regarding various conditions that could be imposed. Mr. White said that a site plan requirement has never been a condition he has seen for a rezoning. It is an astronomical expense and a huge risk to the developer. Site plans would have to go through a series of review processes between multiple agencies and would take several months. He asked Council to keep in mind that they cannot stick a shovel into the ground to build anything until they receive approval from all of the review agencies to make sure what they are building meets road, utility, lot size, etc. requirements. Mayor Black emphasized that storm water management and EMS are responsibilities of the County, not the Town. Mr. Hailey said Mr. White came before Council before and this time there are still issues that need to be overcome or resolved before Council moves forward with the project. Mr. Stanley asked Mr. White why it was so hard to have a Town meeting and invite all that have concerns and maybe a win/win situation could be accomplished. Mr. White suggested additional possibilities that would accommodate some of the homeowners. Mr. Berry noted that the public hearing was over and it was time for discussion among the Council members unless they wanted to reconvene the public hearing and reminded them that a motion was on the table. Mr. Warner stated he was not hearing questions but mostly comments and reactions, which is not proper procedure. Mayor Black said he had additional conditions that needed to be included. Mr. Berry said that a motion to amend the existing motion that is before Council would be necessary. Mr. Shoen noted that the traffic volume would be at least the same if single-family units were built, so the traffic issue to him has not been addressed. Mayor Black said that if the traffic count was the same regardless, and Council turns down the CUP and the developer builds single-family homes, all the traffic would come out of the one road. Whether it ends up one or two roads, there are going to be traffic problems. Mr. Shoen thought that if the developer had hired an attorney that would work with the Town attorney to negotiate, it would have helped. The issue of traffic calming must also be addressed and noted the motion on the table was for "as written". The motion needed to be changed to add any other conditions. Mr. Berry advised Council they have options of voting on the existing motion, amending the motion, or postponing the motion. Mr. Hartwick said regardless of what happens tonight, there will be new homes developed in this location and traffic and careless drivers can impact an area whether there are ten homes or 100 homes. They want to make a decision that keeps people safe but allows the Town to grow at the same time.

Mr. Hailey moved to table the motion on the floor, seconded by Mr. Johannessen.

Voted upon and carried by a roll call vote. Roll call as follows:

Councilman Hartwick	aye
Councilman Johannessen	aye
Vice Mayor Rush	nay
Councilman Shoen	nay
Councilman Stanley	nay
Councilman Hailey	aye
Mayor Black	aye

The motion carried with four members voting aye and three members voting nay.

Ordinance – Proposed Zoning Ordinance Changes

The Planning Commission and Town Council directed staff to research the need for zoning ordinance text amendments that could be undertaken prior to an anticipated full zoning ordinance rewrite. The Commission had been approached by a property owner in October 2020 that wished to have an occasional flea market and staff was approached by a business that wanted to have an amphitheater. The Commission was also interested in clarifying regulations for mini-warehouse units based on permit requests it had recently reviewed. In October 2020, Town Council requested staff review a way to simplify site plan requirements in the ordinance.

The Commission discussed ordinance amendments at its meetings in November and December 2020, and January 2021. They held a work session at the February 2021 meeting using the zoning map. At the March meeting they requested the changes to be put in an ordinance form for discussion in May. At the May meeting the Commission formally initiated the ordinance change.

The Commission held a public hearing on June 3, 2021. One citizen spoke to ask about the process but did not express an opinion.

The Commission voted 6-0 to recommend amendments to Town Council.

ACTION REQUESTED:

Town Council is requested to consider adopting the Ordinance as recommended for approval by the Planning Commission.

Mr. Hartwick moved, seconded by Mr. Shoen, to adopt the Ordinance as recommended for approval by the Planning Commission.

Discussion followed. Mr. Shoen said that they revised the zoning ordinance over a few Planning Commission meetings and that a citizen who was violating the Town Code but wanted to do things right brought it to their attention. The Commission looked into it and tried to craft something with requirements and restrictions to reflect a non-permanent open air market. With the help of Ms. Zirkle and Mr. Berry, they composed the presented ordinance. He also noted that there will be new zoning regulations anyway in a year or year and a half and this is a temporary fix. Mr. Warner clarified that an open air market would also be permitted in the M-1 district. Questions by Council members were clarified by staff.

Voted upon and carried by a roll call vote. Roll call as follows:

Councilman Johannessen	aye
Vice Mayor Rush	aye
Councilman Shoen	aye
Councilman Stanley	aye

Section 608.03.d. Open Air Market as permitted in section 908.

Section 610.03.c. Open Air Market as permitted in section 908.

Section 908 – Open Air Market

Section 908.01 *Site Requirements*:

- a. All parking for sellers and customers must be contained on site unless there is existing, designated public parking defined at or adjacent to the site (in the case of the downtown area). The owner must maintain clean access to the site if the site is not paved to prevent tracking mud onto the road.
- b. There is no minimum size parcel required for the use, however, the site size must accommodate on-site parking and vendor spaces. To determine the maximum number of allowable vendors, applicants must use a minimum measurement of 20 feet by 20 feet per vendor.
- c. No activities associated with the market shall be conducted within 500 feet of a residential use.

Section 908.02 *Special Requirements*. Open Air markets, where permitted, must meet the following special requirements:

- a. Days of operation may be Friday, Saturday and Sunday during daylight hours as determined in the conditional use process.
- b. Restrooms must be provided on site per Virginia Department of Health regulations.
- c. No structures, buildings or facilities, such as portable toilets, related to the market use shall remain on the site when the market is not open, unless the market is open two days in a row such as on a weekend, or unless the structure is one that contains restrooms that serve another existing, shared use on the site.
- d. All refuse must be contained on site and disposed of by the organizer as commercial waste at the end of each market day.

Section 2. Amend use “Amphitheater” to be permitted by conditional use permit in the B-2 district with minimum site requirements and special requirements –

Section 609.03.h. *Amphitheater* provided:

- (i.) All parking must be contained on site unless there is a plan for a shuttle service submitted with the conditional use permit application. The owner or applicant must maintain clean access to the site if the site is not paved to prevent tracking mud onto the road. Traffic control must be provided by the applicant.
- (ii.) The minimum size parcel is 20 acres.
- (iii.) Restrooms must be provided on site per Virginia Department of Health regulations.
- (iv.) All refuse must be contained on site and disposed of by the organizer as commercial waste at the end of an event.

- (v.) A conceptual site plan may be provided for the conditional use permit application. However, prior to zoning permit issuance, a full site plan meeting the standards of Section 1002.02 shall be provided and approved.

Section 3. Amend use “Mini-warehouse / mini-storage” with additional minimum requirements in the B-2, CLI, WCD, and CNW zoning districts to include setbacks and brick, and in M-1 zoning districts to include setbacks –

Section 609.03a. provided... (ii) the front setback shall be 25 feet with required landscaping, (iii) side and rear setbacks shall be 20 feet, (iv) brick shall be required on all sides of units that will be visible from the public right-of-way of streets.

Section 610.02.j. provided (i) the front setback shall be 25 feet with required landscaping, (ii) side and rear setbacks shall be 20 feet, (iii) brick shall be required on all sides of units that will be visible from the public right-of-way of streets.

Section 611.02.m. provided (i) the front setback shall be 25 feet with required landscaping, (ii) side and rear setbacks shall be 20 feet.

Section 4. Amend use “automotive, bus, and truck mechanical and body repair garage” to clarify towing is allowed as a secondary use in the B-2 and M-1 zoning districts, not a primary use –

Section 609.03.c. provided...(vi) any towing may only be ancillary to the garage.

Section 611.02.a. Any towing may only be ancillary to the garage.

Section 5. Amend site plan requirements to provide flexibility for plan content and to provide additional information to assist in reviewing use requests [new text underlined]:

1002.02. *Application procedures for permitted uses.* Applications for a zoning permit shall be submitted to the zoning administrator according to the following provisions:

a. For all uses other than single-family or two-family dwellings, an application for a zoning permit for a permitted use shall be accompanied by two copies of an acceptable site plan drawn at a scale of no more than one inch to 100 feet, with such reasonable information shown thereon as shall be required by the zoning administrator. The zoning administrator may waive the requirement that the plan be prepared by a surveyor or engineer based on the nature of the permitted use request. Such site plan shall include but not be limited to the following information:...

a. 8. Visual representation of proposed buildings, site improvements or landscaping may be required to assist the zoning administrator or the commission and council in determining the effect of the request.

Section 6. This ordinance is effective upon enactment.

Mayor Black read Closed Session pursuant to Section 2.2-3711(a)(1) of the Code of Virginia of 1950, as amended, to discuss personnel matters.

Councilman Hailey moved, seconded by Vice Mayor Rush, to enter into Closed Session.

Voted upon and carried by the following roll call vote:

Vice Mayor Rush	aye
Councilman Shoen	aye
Councilman Stanley	aye
Councilman Hailey	aye
Councilman Hartwick	aye
Councilman Johannessen	aye
Mayor Black	aye

The motion carried with seven members voting aye.

Council adjourned into Closed Session at 9:25 p.m.

Non-Council members present: None

Council reconvened into Open Session at 9:39 p.m.

The Recording Secretary read aloud the following resolution.

BE IT RESOLVED that the Council of the Town of Bedford hereby certifies that (1) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (2) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Council.

On a motion by Councilman Hailey, seconded by Councilman Hartwick, voted upon and carried by a roll call vote, Council adopted the resolution. Roll call vote follows.

Councilman Shoen	aye
Councilman Stanley	aye
Councilman Hailey	aye
Councilman Hartwick	aye
Councilman Johannessen	aye
Vice Mayor Rush	aye
Mayor Black	aye

The motion carried with seven members voting aye.

ADJOURNMENT

9:40 p.m.

Tim Black, Mayor

Debra Anderson, Clerk of the Council