



AGENDA
CLOSED SESSION AND REGULAR MEETING
FREDERICK COUNTY BOARD OF SUPERVISORS
WEDNESDAY, OCTOBER 12, 2016
6:00 P.M., 7:00 P.M.
BOARD ROOM, COUNTY ADMINISTRATION BUILDING
107 NORTH KENT STREET, WINCHESTER, VIRGINIA

6:00 P.M. - Closed Session:

There will be a Closed Session in Accordance with the Code of Virginia, 1950, as Amended, Section 2.2-3711, Subsection A, (3), for discussion or consideration of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body.

There will be a Closed Session in Accordance with the Code of Virginia, 1950, as Amended, Section 2.2-3711, Subsection (A) (7) for consultation with legal counsel and briefing by staff, regarding a dispute under a contract to which the County is a party, where such consultation or briefing in an open meeting would adversely affect the negotiating or litigating posture of the Board, and the matter requires the provision of legal advice by such counsel.

7:00 P.M. – Regular Meeting - Call To Order

Invocation

Pledge of Allegiance

Adoption of Agenda:

Pursuant to established procedures, the Board should adopt the Agenda for the meeting.

Consent Agenda:

(Tentative Agenda Items for Consent are Tabs: A, D, and E)

Citizen Comments (Agenda Items Only, That Are Not Subject to Public Hearing.)

Board of Supervisors Comments

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CLOSED SESSION AND REGULAR MEETING
FREDERICK COUNTY BOARD OF SUPERVISORS
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Minutes: (See Attached) ----- A

1. Closed Session and Regular Meeting, September 14, 2016.
2. Closed Session and Regular Meeting, September 28, 2016.

County Officials:

1. Committee Appointments. **(See Attached) ----- B**
2. Request from Commissioner of the Revenue for Refunds.
(See Attached) ----- C
3. Correspondence from Virginia Association of Counties (VACo) Re:
Voting Credentials for the Annual Business Meeting – Request to
Designate County Administrator to Vote. **(See Attached)----- D**

Committee Reports:

1. Information Technologies Committee. **(See Attached) ----- E**
2. Public Works Committee. **(See Attached)----- F**
3. Transportation Committee. **(See Attached)----- G**

Planning Commission Business:

1. Rezoning #08-16 – WWW LC – Proffer Amendment. **(See Attached)----- H**
2. Resolution Re: Rail Crossing Upgrade Funding. **(See Attached) ----- I**
3. Response to Questions from Planning Commission. **(See Attached) ----- J**

Board Liaison Reports (If Any)

Citizen Comments

Board of Supervisors Comments

Adjourn

CONSENT AGENDA

A

**FREDERICK COUNTY BOARD OF
SUPERVISORS' MINUTES**

**CLOSED SESSION
AND
REGULAR MEETING**

September 14, 2016

A Closed Session and Regular Meeting of the Frederick County Board of Supervisors were held on Wednesday, September 14, 2016 at 5:30 P.M., in the Board of Supervisors' Meeting Room, 107 North Kent Street, Winchester, VA.

PRESENT

Chairman Charles S. DeHaven, Jr.; Gene E. Fisher; Blaine P. Dunn; Robert A. Hess; Gary A. Lofton; Judith McCann-Slaughter; and Robert W. Wells.

CALL TO ORDER

Chairman DeHaven called the meeting to order.

CLOSED SESSION

Upon a motion by Vice-Chairman Fisher, seconded by Supervisor Lofton, the Board convened in closed session pursuant to Section 2.2-3711 A (3) of the Code of Virginia, 1950, as amended, for discussion or consideration of the acquisition of real property for a public purpose, and of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the Board.

The above motion was approved by the following recorded vote:

Charles S. DeHaven, Jr.	Aye
Blaine P. Dunn	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Judith McCann-Slaughter	Aye
Robert W. Wells	Aye

Upon a motion by Vice-Chairman Fisher, seconded by Supervisor Lofton, the Board came out of closed session and reconvened in open session.

The above motion was approved by the following recorded vote:

Charles S. DeHaven, Jr.	Aye
Blaine P. Dunn	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Judith McCann-Slaughter	Aye
Robert W. Wells	Aye

Upon a motion by Vice-Chairman Fisher, seconded by Supervisor Wells, the Board certified that to the best of each board member's knowledge only acquisition of real property for a public purpose pursuant to Section 2.2-3711 A (3) of the Code of Virginia, 1950, as amended, specifically discussion or consideration of the acquisition of real property for a public purpose, and of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the Board was discussed.

The above motion was approved by the following recorded vote:

Charles S. DeHaven, Jr.	Aye
Blaine P. Dunn	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Judith McCann-Slaughter	Aye
Robert W. Wells	Aye

RECESS

Chairman DeHaven recessed the meeting until 7:00 p.m.

REGULAR MEETING – CALL TO ORDER

Chairman DeHaven called the regular meeting to order.

INVOCATION

Pastor Don Den Hartog, Fellowship Bible Church, delivered the invocation.

PLEDGE OF ALLEGIANCE

Vice-Chairman Fisher led the Pledge of Allegiance.

ADOPTION OF AGENDA – APPROVED AS AMENDED

County Administrator Brenda Garton advised the outdoor festival permit application for the Top of Virginia Building Association would be removed from the agenda at the request of the applicant.

Upon a motion by Supervisor Hess, seconded by Supervisor Fisher, the Board approved the agenda as amended.

The above motion was approved by the following recorded vote:

Charles S. DeHaven, Jr.	Aye
Blaine P. Dunn	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Judith McCann-Slaughter	Aye
Robert W. Wells	Aye

CONSENT AGENDA - APPROVED

Upon a motion by Supervisor Lofton, seconded by Supervisor Fisher, the Board approved the following items under the consent agenda:

- Minutes from the August 10, 2016 Closed Session and Regular Meeting; and
- Parks and Recreation Commission Report.

Upon a motion by Supervisor Lofton, seconded by Supervisor Fisher, the Board approved the consent agenda by the following recorded vote:

Charles S. DeHaven, Jr.	Aye
Blaine P. Dunn	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Judith McCann-Slaughter	Aye
Robert W. Wells	Aye

INTRODUCTION OF CUB SCOUT TROOP

Chairman DeHaven recognized the members of Cub Scout Troop 63 and their leader Mr. Cliff Jones. The troop meets at the Greenwood Fire Hall.

CITIZEN COMMENTS

Alan Morrison, Gainesboro District, addressed the Board regarding the proposed legislative agenda, particularly the sanctity of life. He stated that we live in a society where life has taken a back seat to convenience. He went on to say the all human life was sacred and it was never intended to be taken by anyone other than God. We should never treat human life rashly.

Mr. Morrison then spoke about the work session prior to the meeting. He thought the presentation was well done and factual. He was concerned because it showed government must be in a state of perpetual debt. He concluded by saying we should look at ways other than debt such as wise or limited spending.

BOARD OF SUPERVISORS COMMENTS

Supervisor Dunn encouraged the scouts to continue in scouting and to work for their Eagle Scout badge.

MINUTES - APPROVED

Upon a motion by Supervisor Fisher, seconded by Supervisor Dunn, the Board approved the minutes from the July 27, 2016 Closed Session and Regular Meeting by the following recorded vote:

Charles S. DeHaven, Jr.	Aye
Blaine P. Dunn	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Judith McCann-Slaughter	Aye
Robert W. Wells	Aye

The minutes from the August 10, 2016 Closed Session and Regular Meeting were

approved under the consent agenda.

COUNTY OFFICIALS

COMMITTEE APPOINTMENTS

NOMINATION OF DWIGHT SHENK AS GAINESBORO DISTRICT REPRESENTATIVE TO THE BOARD OF ZONING APPEALS TO FILL THE UNEXPIRED TERM OF BRUCE CARPENTER - APPROVED

Upon a motion by Supervisor Hess, seconded by Supervisor Lofton, the Board nominated Dwight Shenk as Gainesboro District representative to the Board of Zoning Appeals to fill the unexpired term of Bruce Carpenter. Term expires December 31, 2019.

The above motion was approved by the following recorded vote:

Charles S. DeHaven, Jr.	Aye
Blaine P. Dunn	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Judith McCann-Slaughter	Aye
Robert W. Wells	Aye

NOMINATION OF MARK BARENKLAU TO THE LORD FAIRFAX EMERGENCY MEDICAL SERVICES COUNCIL- APPROVED

Upon a motion by Supervisor Lofton, seconded by Supervisor Wells, the Board nominated Mark E. Barenklau to the Lord Fairfax Emergency Medical Services Council.

The above motion was approved by the following recorded vote:

Charles S. DeHaven, Jr.	Aye
Blaine P. Dunn	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Judith McCann-Slaughter	Aye
Robert W. Wells	Aye

APPOINTMENT OF AMY KLINE STROSNIDER TO THE PARKS AND RECREATION COMMISSION AS MEMBER-AT-LARGE - APPROVED

Upon a motion by Supervisor Slaughter, seconded by Supervisor Hess, the Board appointed Amy Kline Strosnider as Member-At-Large to the Parks and Recreation Commission. This is a four year appointment. Term expires May 9, 2020.

The above motion was approved by the following recorded vote:

Charles S. DeHaven, Jr.	Aye
Blaine P. Dunn	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Judith McCann-Slaughter	Aye
Robert W. Wells	Aye

REAPPOINTMENT OF TODD B. LODDGE TO THE CONSERVATION EASEMENT AUTHORITY - APPROVED

Upon a motion by Supervisor Fisher, seconded by Supervisor Slaughter, the Board reappointed Todd B. Lodge to the Conservation Easement Authority. This is a three year appointment. Term expires August 24, 2019.

The above motion was approved by the following recorded vote:

Charles S. DeHaven, Jr.	Aye
Blaine P. Dunn	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Judith McCann-Slaughter	Aye
Robert W. Wells	Aye

REAPPOINTMENT OF ROBERT W. WELLS AS FREDERICK COUNTY REPRESENTATIVE TO THE REGIONAL JAIL AUTHORITY. - APPROVED

Upon a motion by Supervisor Lofton, seconded by Supervisor Fisher, the Board reappointed Robert W. Wells as Frederick County representative to the Regional Jail Authority. This is a four year appointment. Term expires October 13, 2020.

The above motion was approved by the following recorded vote:

Charles S. DeHaven, Jr.	Aye
Blaine P. Dunn	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Judith McCann-Slaughter	Aye
Robert W. Wells	Aye

REQUEST FROM COMMISSIONER OF THE REVENUE FOR REFUNDS - APPROVED

Administrator Garton advised this was a request from the Commissioner of the Revenue to authorize the Treasurer to refund Interstate Rescue the amount of \$9,267.20 for personal property taxes and penalties from 2013-2016. This refund resulted from an audit of the company on reported personal property filings that included non-taxable items.

Upon a motion by Supervisor Hess, seconded by Supervisor Wells, the Board approved the above refund request and supplemental appropriation.

The above motion was approved by the following recorded vote:

Charles S. DeHaven, Jr.	Aye
Blaine P. Dunn	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Judith McCann-Slaughter	Aye
Robert W. Wells	Aye

Administrator Garton advised this was a request from the Commissioner of the Revenue to authorize the Treasurer to refund Toyota Lease Trust the amount of \$3,477.21 for personal property taxes in 2016. This refund resulted from normal proration of vehicle taxes where vehicles financed by this company were either sold or moved from this locality.

Upon a motion by Supervisor Lofton, seconded by Supervisor Fisher, the Board approved the above refund and supplemental appropriation.

The above motion was approved by the following recorded vote:

Charles S. DeHaven, Jr.	Aye
Blaine P. Dunn	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Judith McCann-Slaughter	Aye
Robert W. Wells	Aye

PROPOSED 2017 LEGISLATIVE INITIATIVES – APPROVED AS MODIFIED

Administrator Garton advised that staff was seeking action from the Board regarding proposed legislative initiatives for 2017.

The Board reviewed the proposed 2017 legislative initiatives. Each new initiative was reviewed to see if it should be included in the final list, which would be transmitted to the County's delegation.

Funding for Transportation Improvements

This item remained on the list, but language was modified to be more general and to put an emphasis on local roads such as Route 37.

Death with Dignity Act

Supervisor Fisher advised this item was added at the request of a constituent. Chairman DeHaven and Supervisors Dunn, Hess, and Slaughter stated they could not support this proposal. The item was removed from the list of legislative priorities.

Definition of Meeting

Chairman DeHaven stated he opposed this proposal because he felt changing the definition of a meeting went against open government.

Supervisor Lofton agreed and stated the public could see it as less transparent. Supervisor Wells was uncomfortable with this proposed change.

Supervisor Fisher agreed.

This item was removed from the list of legislative priorities.

Presidential Primary

Supervisor Hess stated he was okay with including this proposal if the last paragraph of the language was removed.

Supervisor Dunn agreed with that modification.

This item remained on this list as modified.

Instant Run Offs or Alternative

Supervisor Hess noted the burden of this extra expense would fall to the localities and he had concerns about that.

Supervisor Wells stated he liked the current system.

Supervisor Slaughter stated she would like more information regarding the implications.

Supervisor Hess suggested removing it this year and possibly looking at it for inclusion next year, once more information was obtained.

Supervisor Fisher agreed.

Supervisor Dunn moved to include the instant run off proposal as part of the legislative agenda.

The motion died for lack of a second.

Upon a motion by Supervisor Lofton, seconded by Supervisor Fisher, the Board adopted the 2017 legislative initiatives, as modified.

1. **Medicaid coverage for jail inmates.** – Frederick County supports legislation to eliminate the ineligibility of incarcerated inmates to receive Medicaid benefits. Currently state law requires that incarcerated individuals lose their Medicaid coverage while they are in jail. This negatively impacts the locality's contribution to local or regional jail budgets, especially with the increasing numbers of chronically and mentally ill inmates on the rise. This proposed change would also allow state inmates to receive Medicaid benefits while incarcerated.
2. **Tax Incentives for Land Conservation** – Frederick County supports increasing the tax incentives in order to encourage landowners to participate in land conservation programs.

3. **Funding for Public Education** – Frederick County supports the use of state lottery funds exclusively for public education.
4. **Funding for transportation improvements** – Frederick County supports increased funding for local transportation improvements.
5. **Reconsideration of SB 549** – Frederick County encourages the General Assembly to reconsider the provisions of SB 549, which enacted § 15.2-2303.4 as an amendment to the Code of Virginia, so that localities might have the flexibility to better work with the development community in order to address the increased demand for public facilities and services (e.g. schools, roads, parks, and public safety services) caused by increased residential growth. At a minimum, the legislation needs to provide guidelines for localities to follow for implementation.
6. **Increased Funding for Revenue Sharing Projects** – Frederick County opposes the proposal to reduce the amount of funding available for revenue sharing projects. Frederick County supports increasing the amount money to be made available for revenue sharing projects.
7. **Local Approval for Wireless Communications Facilities** – Frederick County supports the continuance of local government authority to approve the locations and conditions for the placement of wireless communications facilities. Any attachment or co-location of communications infrastructure on local government buildings and facilities and the fees for such attachment should be determined by the locality.
8. **Commonwealth Opportunity Fund** – Frederick County supports maintaining existing funding levels the Commonwealth Opportunity Fund (COF). The COF has been the target of budget cuts over the past several years. Existing funding levels for the program must be, at a minimum, maintained.
9. **Economic Development Leadership** – Frederick County supports consistent leadership at the Virginia Economic Development Partnership because relationships are vital to economic development and maintaining those contacts over time is essential to a successful marketing program. Virginia's unique one-term gubernatorial term in the past led to a situation of frequent turnover of state economic development leadership. Consistency in leadership will maintain and enhance the business community's confidence as it makes decisions about investments in Virginia and will give Virginia's governors an experienced resource to accomplish their economic development goals and objectives.
10. **Career Technical and STEM Education** – Frederick County supports funding, access, and enhancements to Career Technical Education and Science, Technology, Engineering & Math (STEM) programs in order to enable employers to hire a quality workforce.
11. **Skill-Enhancing Non-Credit/Credentialing Courses** – Frederick County supports additional funding to increase opportunities for more non-credit credentialing courses provided through the Virginia Community College System in order to enhance the specific skills of workers needed by employers.

12. **Creating and Maintaining a Competitive Product** – Frederick County supports the Virginia Buildable Sites Initiative and other efforts to provide a more competitive product for those businesses looking to locate or expand in the Commonwealth. Site readiness is important to Virginia’s economic development efforts. Currently, Virginia has the lowest number of buildable/certified sites in the nation.

~~13. **Death with Dignity Act** – Frederick County encourages the General Assembly to consider and enact legislation to provide terminally ill residents the opportunity to end their life in a humane and dignified manner, similar to the Oregon Death with Dignity Act.~~

~~14. **Definition of Meeting** – Code 2.2-3701. Change the definition of meeting to be one less than a majority or a quorum if a quorum is less than a majority. Draft changes below.~~

~~*"Meeting" or "meetings" means the meetings including work sessions, when sitting physically, or through telephonic or video equipment pursuant to § 2.2-3708 or 2.2-3708.1, as a body or entity, or as an informal assemblage of (i) as many as three members one less than a majority or (ii) a quorum, if less than three if a quorum is less than a majority, of the constituent membership, wherever held, with or without minutes being taken, whether or not votes are cast, of any public body. . .*~~

~~This change allows supervisors to get the input of more than one supervisor at a time when discussion an issue while still preventing back room deals.~~

15. **Tax Returns Filed Electronically.** The Commonwealth states they would prefer electronic tax filings for simplicity and to expedite returns. Current law allows free tax filings for lower income earners and a fee for higher income earners. If the Commonwealth truly wants to encourage electronic filings for all taxpayers, change the law to have the same terms apply to all taxpayers.

16. **Presidential primary** - Current law requires that to qualify for placement on the presidential ballot for primary elections, the candidates must get 5000 registered voters signatures including 200 signatures from each of the 11 congressional districts. Change the law to eliminate the requirement that presidential candidates need to get signatures from each of the 11 congressional districts. All the states electoral votes go to the candidate who garners the most votes irrespective of which congressional district from which they were cast ; and / or

~~Provide an alternative to the signature requirement: Change the law to state that any declared presidential candidate who campaigns in the Commonwealth three times on three separate days at three separate locations shall have his/her name put on the ballot with just 100 signatures. This will encourage candidates to campaign in Virginia~~

~~so Virginians can hear their views without having to spend time and money gathering signatures.~~

- ~~17. **Instant Run Offs or Alternative.** Frederick County supports legislation to enact instant run offs or an alternative run off for elected offices if no candidate achieves a majority of votes.~~
18. **Tax Exemptions** – Frederick County supports reverting authority to the locality to continue existing tax exemptions previously granted by the General Assembly, prior to January 1, 2003.
19. **Equal Taxing Authority for Counties Eligible for City Status** – Frederick County supports legislation to provide equal taxing authority for Counties based on population density (i.e. Counties that already have the population density to be eligible for city status should also be recognized for needing additional taxing authority to address the impacts of urbanization and higher density, as currently defined in the State Code).
20. **Machinery and Tools/BPOL Taxes** – Frederick County opposes any efforts to restrict local government revenue sources. Machinery and Tools Tax (M&T) represents \$5.7 million for the County and Business and Professional License Tax (BPOL) generates \$6 million in revenues.
21. **Education Funding** – Frederick County calls upon the Governor and General Assembly to fully fund the Virginia Standards of Quality as recommended by the Board of Education and the Standards of Accreditation.
22. **Cost of Competing** – Frederick County supports full reinstatement of the COCA (Cost of Competing Adjustment) for teachers and support staff.
23. **Nutrient Waste Load Allocations** – Frederick County opposes any reallocation of existing State Water Control Board (SWCB) approved nutrient allocations.
24. **High Speed Internet Availability** - Frederick County supports efforts that would improve access to high speed Internet for its citizens and businesses.
25. **Changes to Legal Notices** – With limited readership of the legal notices published in area newspapers, localities should be allowed to provide notice electronically and not be required to subsidize newspapers.
26. **Unfunded Mandates** – Frederick County opposes the enactment of any new mandates on local governments or school systems unless state appropriations are made to fully fund those mandates.

27. **Funding for State Mandated Positions** - Frederick County believes the state should meet its full funding obligations for constitutional officers and other state mandated positions. Frederick County supports budget language that is clear and concise as it relates to any proposed pay increases for constitutional officers and other state mandated positions.
28. **Funding for Jails** – The state should fully fund any increased costs or operational issues faced by local or regional jails when a change to the definition of state-responsible prisoner or other term results in an increase.
29. **FOIA Rules** – Frederick County supports enactment of a FOIA provision to prohibit the release of home address, certification, and other personal information of law enforcement officers. Frederick County opposes the expansion of FOIA rules to provide for the release of County Administrator working papers and any requirement that the evaluation of the County Administrator and County Attorney take place in a public meeting.
30. **District Courts** – Frederick County supports legislation to increase the salaries and staffing of district courts in order to bring them on par with employees of circuit courts and other state agencies. This may include dividing the state into regional districts to account for the differences in housing and cost of living in different parts of the Commonwealth.
31. **Election Costs and Districts** – Frederick County supports legislation that would decrease the costs of elections and primaries to localities and the provision of adequate funding to localities for optical scan and other voting equipment and registrar costs. The County also supports legislation to minimize and/or eliminate split voting precincts. Frederick County supports legislation to for the General Assembly to fund 100% of the annual salaries of the General Registrars and Electoral Boards.
32. **Interest on Tax Refunds** – Frederick County supports legislation to eliminate the payment of interest on tax refunds resulting from taxpayer error.
33. **Alternative Septic System Inspections/Enforcement** – Frederick County requests the State provide adequate resources to local health departments to better enable them to track inspections and enforce inspection requirements for alternative septic systems to include additional funding in order to hire sufficient staff to conduct inspections of alternative systems and ensure local offices are able to impose appropriate penalties for noncompliance.

The above motion was approved by the following recorded vote:

Charles S. DeHaven, Jr.	Aye
Blaine P. Dunn	Aye

Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Judith McCann-Slaughter	Aye
Robert W. Wells	Aye

COMMITTEE REPORTS

PARKS AND RECREATION COMMISSION – APPROVED UNDER CONSENT AGENDA

The Parks and Recreation Commission met on August 9, 2016. Members present were: Patrick Anderson, Randy Carter, Natalie Gerometta, Gary Longerbeam, Ronald Madagan, Charles Sandy, Jr., and Blaine Dunn (Board of Supervisors’ Non-Voting Liaison). Members absent were Chris Fordney.

Items requiring Board of Supervisors Action:

None

Submitted for Board Information Only:

1. Public Relations Committee – July 4th Celebration – Mr. Anderson updated the full commission of the Public Relations Committee meeting regarding July 4 and a merger with the Middletown event.
2. Mr. Madagan moved not to accept the Town of Middletown’s request to combine our 4th of July events together and to keep both events separate with a caveat that our Public Relations Committee agrees to meet with Middletown’s representative at their request to discuss ways to enhance each other’s events that are acceptable and beneficial to both parties, second by Mr. Sandy, carried unanimously (6-0).

HUMAN RESOURCES COMMITTEE - APPROVED

The HR Committee met in the First Floor Conference Room at 107 North Kent Street at 8:00 a.m. on Friday, August 12, 2016. All HR Committee members were present. Others present were: Brenda Garton, County Administrator; Kris Tierney, Deputy County Administrator for Community Development; Jay Tibbs, Deputy County Administrator for Human Services; Melissa Rice, VW Program Manager; Lynsey Orndorff, HR Manager; Delsie Jobe, Administrative Services Manager, DSS; Sharon Kibler, Asst. Finance Director; Rod Williams, County Attorney; Gary Lofton, Board of Supervisors; Ashley Hicks, HR Recruiting Specialist; Jackie Jury, CSA Coordinator; and James Whitley, NRADC Superintendent.

*****Items Requiring Board Action*****

1. HR Policy Revisions; see attachments:

a. Section VI, §6.1 Probationary Period Policy. - **APPROVED**

The Committee reviewed the attached policy revision. Upon a motion by Blaine Dunn, seconded by Beth Lewin, the Committee recommended approval of the policy revision; the motion was approved unanimously.

Upon a motion by Supervisor Hess, seconded by Supervisor Slaughter, the Board

approved the above policy revision by the following recorded vote:

Charles S. DeHaven, Jr.	Aye
Blaine P. Dunn	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Judith McCann-Slaughter	Aye
Robert W. Wells	Aye

b. Section IX, Training & Tuition Assistance Policy. - **APPROVED**

The Committee reviewed the attached policy revision. Upon a motion by Beth Lewin, seconded by Robert Wells, the Committee recommended approval of the policy revision; the motion was approved unanimously.

Upon a motion by Supervisor Hess, seconded by Supervisor Wells, the Board approved

the above policy revision by the following recorded vote:

Charles S. DeHaven, Jr.	Aye
Blaine P. Dunn	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Judith McCann-Slaughter	Aye
Robert W. Wells	Aye

c. Section XVI, §16.2, Part-Time Employment. - **APPROVED**

The Committee reviewed the attached policy revision. Upon a motion by Beth Lewin, seconded by Don Butler, the Committee recommended approval of the policy revision; the motion was approved with one opposed.

Upon a motion by Supervisor Hess, seconded by Supervisor Lofton, the Board approved

the above policy revision by the following recorded vote:

Charles S. DeHaven, Jr.	Aye
Blaine P. Dunn	Aye
Gene E. Fisher	Aye

Robert A. Hess	Aye
Gary A. Lofton	Aye
Judith McCann-Slaughter	Aye
Robert W. Wells	Aye

2. Request from Commonwealth's Attorney's Office, Victim Witness Program Manager for an additional position allocation. - **APPROVED**
Upon a motion by Robert Wells, seconded by Don Butler, the Committee recommended approval of the position; the motion was approved unanimously.

Upon a motion by Supervisor Hess, seconded by Supervisor Wells, the Board approved

the above position request by the following recorded vote:

Charles S. DeHaven, Jr.	Aye
Blaine P. Dunn	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Judith McCann-Slaughter	Aye
Robert W. Wells	Aye

3. Request from the Deputy County Administrator, Children Services Act for an additional position allocation. - **APPROVED**
Upon a motion by Don Butler, seconded by Dorrie Greene, the Committee recommended approval of the position; the motion was approved unanimously.

Upon a motion by Supervisor Hess, seconded by Supervisor Lofton, the Board approved

the above position request by the following recorded vote:

Charles S. DeHaven, Jr.	Aye
Blaine P. Dunn	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Judith McCann-Slaughter	Aye
Robert W. Wells	Aye

*****Items Not Requiring Action*****

1. Bonus Ordinance: Discretionary Bonus Guidelines for Frederick County. The HR Committee will continue the discussion regarding the Bonus Ordinance.
2. The September 9th HR Committee meeting has been cancelled.

There being no further business, the meeting was adjourned.

PUBLIC SAFETY COMMITTEE- APPROVED

A meeting of the Public Safety Committee was held on Thursday August 18, 2016 at 8:30 a.m. at the Frederick County Public Safety Building, 1080 Coverstone Drive, Winchester, VA. Committee members present were: Committee Chairman Gene Fisher, Gary Lofton, Walter Cunningham, Blaine Dunn, Chuck Torpy, and Helen Lake. Also in attendance were County Attorney Rod Williams, Fire & Rescue Chief Denny Linaburg, Major Steve Hawkins, Communications Director LeeAnna Pyles, Deputy County Administrator for Human Services Jay Tibbs, Deputy Fire Chief Larry Oliver, Fire Marshall Jay Bauserman, Revenue Recovery Manager Chrissy Bauserman and Chief Chester Lauck. The following items were discussed:

*****Item Requiring Board Action*****

1. Review of Public Safety Committee Charter: - APPROVED

The Public Safety Committee unanimously recommended the verbiage under III Meetings: be changed to read: *“The Committee shall meet bi-monthly or more or less frequently as circumstances dictate.”*

Upon a motion by Supervisor Fisher, seconded by Supervisor Hess, the Board approved the above charter amendment by the following recorded vote:

Charles S. DeHaven, Jr.	Aye
Blaine P. Dunn	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Judith McCann-Slaughter	Aye
Robert W. Wells	Aye

*****Discussion Items*****

2. Fee for Service contract and MOU review (see attached):

Revenue Recovery Manager Chrissy Bauserman informed the Committee that the fee for service program has been running smoothly and they have been getting very positive feedback from citizens. Chairman Fisher and the Committee commended the department and staff on an outstanding effort in handling and running the fee for service program and making it very positive and successful. Helen Lake recommended a press release be done to draw attention to the success of the program and those involved. Chairman Fisher requested Jay Tibbs to meet the County's PIO to work on this release. It was also recommended that Mr. Lofton, Chief Lauck, Chief Linaburg and Ms. Lake meet to review the current MOU and bring changes, if any, back to the committee at its next meeting.

3. Proposed ordinance regarding the clearing of fire hydrants in inclement weather:

Supervisor Dunn brought up the issue of clearing fire hydrants during inclement weather and who bears the responsibility. Fire Marshall Jay Bauserman read the sections from the Fire Code that address this issue and mentioned that laws are also in place for blocking/obstructing of hydrants. It was discussed that the City has “antenna rods” on top of their hydrants to help locate them during large snowstorms. The Committee made a motion for a PR campaign to run before and during snowy conditions to remind citizens to clear the hydrants, shovel sidewalks, etc. in their areas as it is a public safety concern. The Committee also asked staff to look into the “antenna rod” idea. Funding could possibly be obtained through a grant. Further information will be brought back at the next meeting.

4. Other Business:

Major Hawkins advised the Committee that in July the Sheriff’s Department underwent an audit and has become accredited for 4 more years.

Chief Lauck mentioned that Chief Linaburg has recently been appointed to sit on the board of the State Fire Service Board.

Next Meeting: Date to be set for October 20, 2016 at 8:30 a.m.

Adjourn:

The meeting was adjourned at 9:40 a.m.

FINANCE COMMITTEE- APPROVED

A Finance Committee meeting was held in the First Floor Conference Room at 107 North Kent Street on Wednesday, August 17, 2016 at 8:00 a.m. Member Angela Rudolph and non-voting liaison C. William Orndoff, Jr. were absent. Items 8, 9, 12, 13, and 14 were approved under consent agenda.

Upon a motion by Supervisor Slaughter, seconded by Supervisor Wells, the Board approved the consent agenda by the following recorded vote:

Charles S. DeHaven, Jr.	Aye
Blaine P. Dunn	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Judith McCann-Slaughter	Aye
Robert W. Wells	Aye

1. The Parks and Recreation Director requests an FY17 General Fund supplemental appropriation in the amount of \$13,163. This amount represents a carry forward of unspent FY16 funds for the completion of phase one development at Rose Hill Park. See attached memo, p. 5. The committee recommends approval. - **APPROVED**

Upon a motion by Supervisor Slaughter, seconded by Supervisor Lofton, the Board approved the above request by the following recorded vote:

Charles S. DeHaven, Jr.	Aye
Blaine P. Dunn	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Judith McCann-Slaughter	Aye
Robert W. Wells	Aye

2. The Parks and Recreation Director requests an FY17 General Fund supplemental appropriation in the amount of \$4,111.71. This amount represents a carry forward of unspent FY16 funds for the completion of the Sherando Park Master Plan update. See attached memo, p. 6. The committee recommends approval. - **APPROVED**

Upon a motion by Supervisor Slaughter, seconded by Supervisor Hess, the Board approved the above request by the following recorded vote:

Charles S. DeHaven, Jr.	Aye
Blaine P. Dunn	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Judith McCann-Slaughter	Aye
Robert W. Wells	Aye

3. The NRADC Superintendent requests an FY17 NRADC Fund supplemental appropriation in the amount of \$105,475.42. This amount represents the first bond payment for the security system upgrades. See attached memo, p. 7. The committee recommends approval. - **APPROVED**

Upon a motion by Supervisor Slaughter, seconded by Supervisor Wells, the Board approved the above request by the following recorded vote:

Charles S. DeHaven, Jr.	Aye
Blaine P. Dunn	Aye
Gene E. Fisher	Aye

Robert A. Hess	Aye
Gary A. Lofton	Aye
Judith McCann-Slaughter	Aye
Robert W. Wells	Aye

4. The Winchester Regional Airport Executive Director requests an FY17 Airport Capital Fund supplemental appropriation in the amount of \$4,206,400 and an FY17 General Fund supplemental appropriation in the amount of \$157,333. These amounts represent the Airport Capital budget for FY17 and the local contribution. The Airport Capital request requires a public hearing. See attached information, p. 8 – 24. The committee recommends approval.
5. The IT Director requests an FY17 General Fund supplemental appropriation in the amount of \$108,032. This amount represents a carry forward of unspent FY16 funds for the data center refresh lease. See attached memo, p. 25. The committee recommends approval. - **APPROVED**

Upon a motion by Supervisor Slaughter, seconded by Supervisor Lofton, the Board

approved the above request by the following recorded vote:

Charles S. DeHaven, Jr.	Aye
Blaine P. Dunn	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Judith McCann-Slaughter	Aye
Robert W. Wells	Aye

6. The Public Works Director requests an FY17 Landfill Fund supplemental appropriation in the amount of \$15,000. This amount represents a carry forward of unspent FY16 funds for chiller repair on the landfill gas treatment skid. See attached memo, p. 26 – 27. The committee recommends approval. - **APPROVED**

Upon a motion by Supervisor Slaughter, seconded by Supervisor Wells, the Board

approved the above request by the following recorded vote:

Charles S. DeHaven, Jr.	Aye
Blaine P. Dunn	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Judith McCann-Slaughter	Aye
Robert W. Wells	Aye

7. The Public Works Director requests an FY17 General Fund supplemental appropriation in the amount of \$12,560. This amount represents funds for a scanner lease and software. See attached memo, p. 28 - 42. The committee recommends approval. – **REFERRED BACK TO COMMITTEE**

8. The Sheriff requests an FY17 General Fund supplemental appropriation in the amount of \$100. This amount represents a donation to the Honor Guard. No local funds required. See attached memo, p. 43. – **APPROVED UNDER CONSENT AGENDA**

9. The Sheriff requests an FY17 General Fund supplemental appropriation in the amount of \$300. This amount represents a donation to DARE. No local funds required. See attached memo, p. 44. – **APPROVED UNDER CONSENT AGENDA**

10. The Sheriff requests an FY17 General Fund supplemental appropriation in the amount of \$20,000. This amount represents career development funding that was inadvertently omitted from the FY17 budget request. Local funds are required. See attached memo, p. 45. The committee recommends the department transfer within current budget. No action required.

11. The Sheriff requests an FY17 General Fund supplemental appropriation in the amount of \$25,000. This amount represents funds to implement an electronic summons system. No local funds required. See attached memo, p. 46. The committee recommends approval. – **APPROVED**

Upon a motion by Supervisor Slaughter, seconded by Supervisor Lofton, the Board

approved the above request by the following recorded vote:

Charles S. DeHaven, Jr.	Aye
Blaine P. Dunn	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Judith McCann-Slaughter	Aye
Robert W. Wells	Aye

12. The Sheriff requests an FY17 General Fund supplemental appropriation in the amount of \$9,750.03. This amount represents an auto claim. No local funds required. See attached memo, p. 47. – **APPROVED UNDER CONSENT AGENDA**

13. The Sheriff requests an FY17 General Fund supplemental appropriation in the amount of \$514.08. This amount represents a carry forward of unspent FY16 Abbott grant funds. See attached memo, p. 48. – **APPROVED UNDER CONSENT AGENDA**

14. The Sheriff requests an FY17 General Fund supplemental appropriation in the amount of \$31. This amount represents a donation to the K-9 program. No local funds required. See attached memo, p. 49. – **APPROVED UNDER CONSENT AGENDA**
15. Per the Finance Committee’s request, information on County committee/commission pay is provided for discussion. See attached, p. 50. The committee requests the County Administrator present a recommendation at the September Finance Committee meeting. No action required.
16. Per the Finance Committee’s request, the County Transfer Policy is provided for discussion. See attached, p. 51. The committee made no recommendation. No action required.

INFORMATION ONLY

1. The Finance Director provides a Fund 10 Transfer Report for July 2017. See attached, p. 52.
2. The Transportation Director provides an update on the Russell 150 project spending. See attached, p. 53.

TRANSPORTATION COMMITTEE - APPROVED

The Transportation Committee met on August 22, 2016 at 8:30 a.m.

Members Present

Gary Lofton (voting)
 Judith McCann-Slaughter (voting)
 James Racey (voting)
 Lewis Boyer (liaison Stephens City)
 Kevin Kenney (PC Liaison fill in)

Members Absent

Mark Davis (liaison Middletown)
 Gary Oates (liaison PC)
 Barry Schnoor (voting)
 Gene Fisher (voting)

*****Items Requiring Action*****

1. SmartScale (HB2) Applications - APPROVED

Attached, please find the map of proposed SmartScale applications for which we have begun the process as well as a draft prioritization of the projects. The committee considered this item and forwarded it to the Board for consideration. Please note, 2 of the projects shown (Exit 313 and Route 11 in the vicinity of Shawnee Drive) are MPO applications and are shown on this map for informational purposes only.

SmartScale (HB2) Draft Project Prioritization

1. Route 37 extension from Tasker Road to Route 522.

2. (Variation of Project 1) Route 37 extension from Tasker Road to Future Warrior Drive location combined with construction of Warrior Drive from that location to current terminus of Warrior Drive.
3. Exit 317 NB exit ramp relocation to location where Redbud Road currently ties into Route 11 North combined with the rerouting of Redbud Road to Snowden Bridge Boulevard.
4. Route 277 from Double Church Road to Warrior Drive, widening and access Management.
5. Route 11 North, widening from Snowden Bridge Boulevard to Old Charlestown Road.
6. Sulphur Springs Road, reconstruction and widening from Route 50 to the landfill.
7. Intersection of Senseny Road and Crestleigh Drive, turn lanes on Senseny.
8. Intersection of Route 277 and Warrior Drive, extend the eastbound right turn lane on Route 277 and pedestrian safety improvements along the southern part of Warrior Drive.
9. Intersection of Papermill Road and Route 522, extend right turn lane on eastbound Papermill Road.

Upon a motion by Supervisor Lofton, seconded by Supervisor Hess, the Board approved the prioritization of SmartScale (HB2) by the following recorded vote:

Charles S. DeHaven, Jr.	Aye
Blaine P. Dunn	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Judith McCann-Slaughter	Aye
Robert W. Wells	Aye

*****Items Not Requiring Action*****

2. County Project Updates

Snowden Bridge Boulevard:

Construction is underway and on schedule at this time. Expected completion is in approximately 2 months.

Tevis Street Extension/Airport Road/I-81 Bridge:

The revenue sharing agreement has been executed and design is once again underway on the bridge. In addition, the traffic impact analysis that will

determine the design specifics for the Airport Road is underway and a draft is expected shortly.

Renaissance Drive:

Transportation Partnership Opportunity Fund application has been submitted which could change the project from a grade to a bridge crossing. Staff is coordinating with CSX and VDOT to complete an MOU for the process of getting the crossing as well as determining unimproved rail crossings for upgrade.

Valley Mill Road Realignment:

Thirty percent design has been completed and the County's on call consultant is providing an updated cost estimate to complete design through 100%. Upon approval by the private party partner, the next phase of design will begin.

Coverstone Drive:

No activity at this time.

Jubal Early Drive Extension and Interchange with Route 37:

Initial meetings regarding a draft agreement and follow up application for additional revenue sharing funds has been held with the private partner team.

3. Other

PUBLIC HEARING

OUTDOOR FESTIVAL PERMIT REQUEST OF THE TOP OF VIRGINIA BUILDING ASSOCIATION – CHILI COOK-OFF. PURSUANT TO THE FREDERICK COUNTY CODE, CHAPTER 86, FESTIVALS; SECTION 86-3, PERMIT REQUIRED; APPLICATION; ISSUANCE OR DENIAL; FEE, FOR AN OUTDOOR FESTIVAL PERMIT. FESTIVAL TO BE HELD ON SATURDAY, OCTOBER 8, 2016, FROM 11:00 A.M. TO 6:00 P.M.; ON THE GROUNDS OF THE STONEWALL DISTRICT RURITAN CLUB, 136 RURITAN WAY, CLEAR BROOK, VIRGINIA. PROPERTY OWNED BY STONEWALL DISTRICT RURITAN. – WITHDRAWN AT THE REQUEST OF THE APPLICANT.

PROPOSED AMENDMENT TO THE FREDERICK COUNTY CODE, CHAPTER 158, VEHICLES AND TRAFFIC; ARTICLE V, SCHOOL BUSES; SECTION 158-19, PASSING STOPPED SCHOOL BUSES; PENALTY; PRIMA FACIE EVIDENCE; TO ADD THIS SECTION TO AUTHORIZE THE USE OF A VIDEO-MONITORING SYSTEM TO RECORD AND ENFORCE VIOLATIONS OF CODE OF VIRGINIA §46.2-859, PASSING A STOPPED SCHOOL BUS. - APPROVED

County Attorney Rod Williams advised this was a proposed ordinance to authorize

Frederick County Schools to install a camera monitoring system on the outside of school buses.

The proposed ordinance authorizes a violation procedure for drivers that pass stopped school buses. The violators will be served a summons.

Chairman DeHaven convened the public hearing.

There were no public comments.

Chairman DeHaven closed the public hearing.

Upon a motion by Supervisor Dunn, seconded by Supervisor Hess, the Board approved the ordinance amending Frederick County Code, Chapter 158, Vehicles and traffic, Article V School Buses, Section 158-19 Passing Stopped School Buses; Penalty; Prima Facie Evidence.

The Board of Supervisors of Frederick County, Virginia hereby ordains that Article V (School Buses) of Chapter 158 (Vehicles and Traffic) of the Code of Frederick County, Virginia be, and the same hereby is, enacted, as follows:

CHAPTER 158 VEHICLES AND TRAFFIC

Article V School Buses

§ 158-19 Passing stopped school buses; penalty; prima facie evidence.

A. Pursuant to the authority and provisions of § 46.2-844 of the Code of Virginia, 1950, as amended, the Frederick County school division is hereby authorized to install and operate a video-monitoring system in or on school buses operated by the school division or may contract with a private vendor to do so on behalf of the school division for the purpose of recording violations of subsection A of § 46.2-844 of the Code of Virginia, which provision of the Code of Virginia has been duly incorporated by reference in § 158-1 of this Code.

B. The driver of any motor vehicle who violates subsection A of § 46.2-844 of the Code of Virginia is subject to a civil penalty of \$250.00, collected by the District Court, which penalty, when collected, shall be paid to the Treasurer of Frederick County.

C. A summons, to appear in the District Court, for a violation of subsection A of §46.2-844 of the Code of Virginia may be executed by the Sheriff as provided in §19.2-76.2 of the Code of Virginia, based on information provided to the Sheriff regarding the violation, and, notwithstanding the provisions of § 19.2-76 of the Code of Virginia, the summons may be executed by mailing by first-class mail a copy thereof to the address of the owner of the vehicle contained in the records of the Department of Motor Vehicles, as determined by the Sheriff. Every such mailing shall include, in addition to the summons, a notice of (i) the summoned person's ability to rebut the presumption that he was the operator of the vehicle at the time of the alleged violation through the filing of an affidavit as provided in subsection A of § 46.2-844 of

the Code of Virginia and (ii) instructions for filing such an affidavit, including the address to which the affidavit is to be sent. If the summoned person fails to appear in the District Court on the date of return set out in the summons mailed pursuant to this section, the summons shall be executed by the Sheriff in the manner set out in § 19.2-76.3 of the Code of Virginia. No proceedings for contempt or arrest of a person summoned by mailing shall be instituted for failure to appear on the return date of the summons. Any summons executed for violation of this section shall provide to the person summoned at least 30 business days from the mailing of the summons to inspect information collected by a video-monitoring system in connection with the violation.

D. The term “video-monitoring system” shall have the meaning given it in subsection B of § 46.2-844 of the Code of Virginia.

Enacted this 14th day of September, 2016.

The above motion was approved by the following recorded vote:

Charles S. DeHaven, Jr.	Aye
Blaine P. Dunn	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Judith McCann-Slaughter	Aye
Robert W. Wells	Aye

Supervisor Dunn stated that he would encourage that some of the fees collected be allocated to the General District Court to relieve some of the additional costs.

Supervisor Hess echoed Supervisor Dunn’s comments.

AMENDMENT TO THE 2016-2017 FISCAL YEAR BUDGET – PURSUANT TO SECTION 15.2-2507 OF THE CODE OF VIRGINIA, 1950, AS AMENDED, THE BOARD OF SUPERVISORS WILL HOLD A PUBLIC HEARING TO AMEND THE FISCAL YEAR 2016-2017 BUDGET TO REFLECT: THE WINCHESTER REGIONAL AIRPORT EXECUTIVE DIRECTOR REQUESTS AN FY17 AIRPORT CAPITAL FUND SUPPLEMENTAL APPROPRIATION IN THE AMOUNT OF \$4,206,400. THIS AMOUNT REPRESENTS THE AIRPORT CAPITAL BUDGET FOR FY17. - APPROVED

Administrator Garton advised this was a budget amendment for a supplemental appropriation for the Airport Capital budget for FY17

Chairman DeHaven convened the public hearing.

There were no public comments.

Chairman DeHaven closed the public hearing.

Upon a motion by Supervisor Fisher, seconded by Supervisor Hess, the Board approved the budget amendment for the Airport Capital Budget for FY17.

WHEREAS, Pursuant to Section 15.2-2507 of the Code of Virginia, 1950, as Amended, the Frederick County Board of Supervisors, meeting in regular session and public hearing held on September 14, 2016, took the following action:

NOW, THEREFORE, BE IT RESOLVED, by the Board of Supervisors that the FY2016-2017 Budget be Amended to Reflect:

The Winchester Regional Airport Executive Director Requests an FY17 Airport Capital Fund Supplemental Appropriation in the Amount of \$4,206,400. This Amount Represents the Airport Capital Budget for FY17.

The above motion was approved by the following recorded vote:

Charles S. DeHaven, Jr.	Aye
Blaine P. Dunn	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Judith McCann-Slaughter	Aye
Robert W. Wells	Aye

Upon a motion by Supervisor Fisher, seconded by Supervisor Lofton, the Board approved an FY17 General Fund supplemental appropriation in the amount of \$157,333. This amount represents the local contribution to the Airport Capital budget for FY17.

The above motion was approved by the following recorded vote:

Charles S. DeHaven, Jr.	Aye
Blaine P. Dunn	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Judith McCann-Slaughter	Aye
Robert W. Wells	Aye

PLANNING COMMISSION BUSINESS:

PUBLIC HEARING:

CONDITIONAL USE PERMIT #06-16 FOR BORDEN REAL ESTATE, LLC, WHICH SUBMITTED FOR A PUBLIC GARAGE WITH BODY REPAIR. THE PROPERTY IS LOCATED AT 151 CONESTOGA LANE, STEPHENS CITY, VIRGINIA AND IS IDENTIFIED WITH PROPERTY IDENTIFICATION NUMBER 85-A-5 IN THE BACK CREEK MAGISTERIAL DISTRICT. - APPROVED

Zoning Administrator Mark Cheran appeared before the Board regarding this item. He advised this was a request for a conditional use permit for a public garage with body repair. The property is located at 151 Conestoga Lane and is zoned RA (Rural Areas) District. This application would amend an existing conditional use permit. Zoning Administrator Cheran noted the garage has not been in operation, but it does meet the requirements of the 1990 conditional use permit. He stated the Planning Commission recommended approval of this application with modified conditions and the applicant was amenable to the conditions.

Chairman DeHaven convened the public hearing.

There were no public comments.

Chairman DeHaven closed the public hearing.

Upon a motion by Supervisor Lofton, seconded by Supervisor Wells, the Board approved Conditional Use Permit #06-16.

WHEREAS, Conditional Use Permit #06-16 for Borden Real Estate, LLC, submitted by Borden Real Estate, LLC to update and amend Conditional Use Permit #001-90 for a Public Garage (with Body Repair) was considered. The Property is located at 151 Conestoga Lane, Stephens City, Virginia and is further identified with Property Identification Number 85-A-5, in the Back Creek District; and,

WHEREAS, the Frederick County Planning Commission held a public hearing on the Conditional Use Permit on August 3, 2016, and recommended approval of the Conditional Use Permit with conditions; and,

WHEREAS, the Frederick County Board of Supervisors held a public hearing on this Conditional Use Permit during their regular meeting on September 14, 2016; and,

WHEREAS, the Frederick County Board of Supervisors finds the approval of this Conditional Use Permit to be in the best interest of the public health, safety, welfare, and in conformance with the Comprehensive Policy Plan;

NOW, THEREFORE, BE IT ORDAINED by the Frederick County Board of Supervisors that Chapter 165 of the Frederick County Code, Zoning, is amended to revise the zoning map to reflect that Conditional Use Permit Application #06-16 for a Public Garage (with Body Repair) on the parcel identified by Property Identification Number 85-A-5 with the following conditions:

1. All review agency comments and requirements shall be complied with at all times.
2. All repair activities shall occur entirely within the enclosed structures.
3. All exterior storage of parts and equipment shall be screened from view of the surrounding properties by an opaque fence or screen at least six (6) feet in height.
4. Hours of operation shall be limited to 7:00 a.m. to 7:00 p.m. Monday through Saturday.
5. Not more than four (4) employees allowed.
6. No retailing or wholesaling of parts or vehicles on site.
7. No storage of inoperable vehicles on site.
8. No more than five (5) vehicles awaiting repair on site at any time.
9. An illustrative sketch plan shall be submitted to and approved by Frederick County, and all plan improvements shall be implemented prior to operating the business.
10. Any expansion or change of use will require a new Conditional Use Permit.
11. One business sign shall be allowed and shall conform to the Cottage Occupation sign requirements and shall not exceed four (4) square feet in size and five (5) feet in height.

Passed this 14th day of September, 2016 by the following recorded vote:

Charles S. DeHaven, Jr.	Aye
Blaine P. Dunn	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Judith McCann-Slaughter	Aye
Robert W. Wells	Aye

CONDITIONAL USE PERMIT #07-16 FOR GINGER TEETS, WHICH

SUBMITTED FOR A COTTAGE OCCUPATION FOR SALES OF ARCHERY SUPPLIES. THE PROPERTY IS LOCATED AT 3641 GREEN SPRING ROAD, WINCHESTER, VIRGINIA AND IS IDENTIFIED WITH PROPERTY IDENTIFICATION NUMBER 13-3-16 IN THE GAINESBORO MAGISTERIAL DISTRICT. - APPROVED

Planner Tyler Klein appeared before the Board regarding this item. He advised this was an application for a conditional use permit for a cottage occupation for sales of archery supplies. The property is located at 3641 Green Spring Road in the Gainesboro Magisterial and is zoned RA (Rural Areas) District. The proposed use will take place in an existing structure. Planner Klein advised the Planning Commission recommended approval of the conditional use permit.

Chairman DeHaven convened the public hearing.

There were no public comments.

Chairman DeHaven closed the public hearing.

Upon a motion by Supervisor Hess, seconded by Supervisor Lofton, the Board approved Conditional Use Permit #07-16 with a revised condition 3 that the hours of operation be 8:00 a.m. to 6:00 p.m., Monday through Saturday.

WHEREAS, Conditional Use Permit #07-16 of Ginger Teets, submitted by Ginger Teets for a cottage occupation for the sale of archery supplies and equipment in the RA (Rural Areas) Zoning District was considered. The Property is located at 3641 Green Spring Road, Winchester, Virginia and is further identified with Property Identification Number 13-3-16 in the Gainesboro District; and

WHEREAS, the Frederick County Planning Commission held a public hearing on the Conditional Use Permit on August 3, 2016, and recommended approval of the Conditional Use Permit with conditions: and,

WHEREAS, the Frederick County Board of Supervisors held a public hearing on this Conditional Use Permit during their regular meeting on September 14, 2016; and,

WHEREAS, the Frederick County Board of Supervisors finds the approval of this Conditional Use Permit to be in the best interest of the public health, safety, welfare, and in conformance with the Comprehensive Policy Plan;

NOW, THEREFORE, BE IT ORDAINED by the Frederick County Board of Supervisors that

Chapter 165 of the Frederick County Code, Zoning, is amended to revise the zoning map to reflect that Conditional Use Permit Application #07-16 for the sale of archery supplies and equipment on the parcel identified by Property Identification Number 13-3-16 with the following conditions:

1. All review agency comments and requirements shall be complied with at all times.
2. One small cottage occupation sign permitted with approval of the Conditional Use Permit.
3. Hours of operation shall be 8:00 a.m. to 6:00 p.m. Monday through Saturday. The business shall not operate on Sunday.
4. No more than twenty-five (25) customers per day.
5. No employees permitted, beyond those residing on the premises.
6. Any expansion or change of use shall require a new Conditional Use Permit.

Passed this 14th day of September, 2016 by the following recorded vote:

Charles S. DeHaven, Jr.	Aye
Blaine P. Dunn	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Judith McCann-Slaughter	Aye
Robert W. Wells	Aye

CONDITIONAL USE PERMIT #08-16 FOR CROSSROAD GROCERY, GREENWAY ENGINEERING, INC., SUBMITTED FOR A COUNTRY STORE ADDITION. THE PROPERTY IS LOCATED AT NORTHEAST INTERSECTION OF NORTH FREDERICK PIKE (ROUTE 522 NORTH) AND CEDAR GROVE ROAD (ROUTE 654) AND IS IDENTIFIED WITH PROPERTY IDENTIFICATION NUMBER 42-A-307 AND 42-A-309A IN THE GAINESBORO MAGISTERIAL DISTRICT. - APPROVED

Zoning Administrator Mark Cheran appeared before the Board regarding this item. He advised this was a request for a conditional use permit for a country general store with fuel sales. This proposal would expand an existing country store. The site is comprised of two parcels and is zoned RA (Rural Areas) District. This use is permitted in the RA (Rural Areas) District with an approved conditional use permit. The applicant is proposing a 15,000 square foot addition to

the store and a 3,000 square foot fuel canopy. The Planning commission recommended approval with conditions.

Evan Wyatt, Greenway Engineering, appeared before the Board to answer any questions. In response to the entrance on Cedar Grove Road, Mr. Wyatt advised this application would help provide some safety improvements by moving the new entrance farther away from Route 522. The existing entrance onto the site from Cedar Grove Road will be closed. The project will need to go through an access management exception plan.

Chairman DeHaven convened the public hearing.

Carolyn Anderson, Gainesboro District, expressed concerns about the impact of this development on adjacent property owners. She stated VDOT should do a traffic count to see the number of vehicles going to Route 522.

Bob Anderson, Gainesboro District, stated there was not enough room on the site for tractor trailers. He stated the applicant was trying to make this country store like a 7-11 or Sheetz, but there was not enough room on the site.

There being no further public comments, Chairman DeHaven closed the public hearing.

Chairman DeHaven asked Mr. Wyatt if he would like to respond to any of the comments or issues raised.

Mr. Wyatt declined.

Supervisor Hess stated this was a locally owned and family operated business and this proposal would improve the traffic flow into and out of the property. He suggested a removal of condition number 5 "No outdoor display of goods will be permitted", as he felt it was an unnecessary restriction.

Upon a motion by Supervisor Hess, seconded by Supervisor Fisher, the Board approved

Conditional Use Permit #08-16 with the following condition removed “no outdoor display of goods will be permitted”.

WHEREAS, Conditional Use Permit #08-16 for Crossroad Grocery, submitted by Greenway Engineering for a Country General Store with Fuel Sales was considered. The Properties are located at the intersection of North Frederick Pike (Route 522 North) and Cedar Grove Road (Route 654) and are further identified with Property Identification Numbers 42-A-307 and 42-A-309A, in the Gainesboro District; and,

WHEREAS, the Frederick County Planning Commission held a public hearing on the Conditional Use Permit on August 17, 2016, and recommended approval of the Conditional Use Permit with conditions; and,

WHEREAS, the Frederick County Board of Supervisors held a public hearing on this Conditional Use Permit during their regular meeting on September 14, 2016; and,

WHEREAS, the Frederick County Board of Supervisors finds the approval of this Conditional Use Permit to be in the best interest of the public health, safety, welfare, and in conformance with the Comprehensive Policy Plan;

NOW, THEREFORE, BE IT ORDAINED by the Frederick County Board of Supervisors that Chapter 165 of the Frederick County Code, Zoning, is amended to revise the zoning map to reflect that Conditional Use Permit Application #08-16 for a Country General Store with Fuel Sales on the parcels identified by Property Identification Numbers 42-A-307 and 42-A-309 with the following conditions:

1. All review agency comments and requirements shall be complied with at all times.
2. An engineered site plan shall be submitted to and approved by Frederick County, and site improved accordingly, prior to operating store activities on site. The project site will adhere to commercial parking and landscaping standards.
3. One (1) monument sign shall be allowed on the property; sign shall be limited to fifty (50) square feet in area. The sign shall not exceed ten (10) feet in height.
4. Store hours of operation shall be 5:00 a.m. to 11:00 p.m. Monday-Sunday. Gas canopy lighting shall only be permitted to occur during store hours of operation.
5. Fueling of commercial over the road trucks (tractor trailer) will not be permitted. Fueling for delivery trucks, automobiles, and farm vehicles shall be permitted. Final site development shall not allow for tractor trailer parking and diesel speed pump installation.
6. Any expansion or change of use will require a new Conditional Use Permit.

Passed this 14th day of September, 2016 by the following recorded vote:

Charles S. DeHaven, Jr.	Aye
Blaine P. Dunn	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Judith McCann-Slaughter	Aye
Robert W. Wells	Aye

REZONING #07-16 OF SENSENY ROAD RENTALS, LLC, SUBMITTED TO REZONE TWO ACRES FROM RP (RESIDENTIAL PERFORMANCE) DISTRICT TO RA (RURAL AREAS) DISTRICT. THE PROPERTY IS LOCATED ON SENSENY ROAD (ROUTE 657) APPROXIMATELY 350' WEST OF ASHLEY DRIVE AND IS IDENTIFIED BY PROPERTY IDENTIFICATION NUMBER 65-A-46 IN THE RED BUD MAGISTERIAL DISTRICT. - APPROVED

Assistant Director Candice Perkins appeared before the Board regarding this item. She advised this was a request to rezone 2 acres from RP (Residential Performance) District to RA (Rural Areas) District without proffers. The proposed rezoning would allow for the construction of one single family dwelling. The Planning Commission recommended approval with the stipulation that the applicant dedicate the right-of-way for the widening of Senseny Road.

Chairman DeHaven convened the public hearing.

There were no public comments.

Chairman DeHaven closed the public hearing.

Upon a motion by Supervisor Dunn, seconded by Supervisor Wells, the Board approved Rezoning #07-16 of Senseny Road Rentals, LLC.

WHEREAS, Rezoning #07-16 of Senseny Road Rentals, LLC, submitted by Senseny Road Rentals, LLC, to downzone 2 acres from the RP (Residential Performance) District with proffers to the RA (Rural Areas) District without proffers, was considered. This rezoning seeks to eliminate the proffers for Rezoning #07-06 to allow for the construction of one single-family dwelling. The property is located on Senseny Road (Route 657) approximately 350' west of Ashley Drive (Route 1145). The property is further identified with PIN 65-A-46 in the Red Bud Magisterial District; and

WHEREAS, the Planning Commission held a public hearing on this rezoning on August 3, 2016 and recommended approval; and

WHEREAS, the Board of Supervisors held a public hearing on this rezoning on September 14, 2016; and

WHEREAS, the Frederick County Board of Supervisors finds the approval of this rezoning to be in the best interest of the public health, safety, welfare, and in conformance with the Comprehensive Policy Plan;

NOW, THEREFORE, BE IT ORDAINED by the Frederick County Board of Supervisors, that Chapter 165 of the Frederick County Code, Zoning, is amended to revise the Zoning District Map to downzone 2 acres from the RP (Residential Performance) District with proffers to the RA (Rural Areas) District without proffers.

This ordinance shall be in effect on the date of adoption.

Passed this 14th day of September, 2016 by the following recorded vote:

Charles S. DeHaven, Jr.	Aye
Blaine P. Dunn	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Judith McCann-Slaughter	Aye
Robert W. Wells	Aye

REQUEST OF CUMBERLAND PROPERTIES IV, LLC, TO REMOVE PARCELS TOTALING 407.48 +/- ACRES FROM THE NORTH OPEQUON AGRICULTURAL AND FORESTAL DISTRICT. THESE PARCELS ARE IDENTIFIED AS PROPERTY IDENTIFICATION NUMBERS 45-A-10V, 45-A-10W, 45-A-30, 45-A-31, 45-A-32, AND 45-A-32A AND ARE LOCATED IN THE STONEWALL MAGISTERIAL DISTRICT. - APPROVED

Zoning Administrator Mark Cheran appeared before the Board regarding this item. He advised this was a request to remove 407.48 acres, more or less from the North Opequon Agricultural & Forestal District. The proposed removal would extinguish this district. Zoning Administrator Cheran noted the Agricultural District Advisory Committee and Planning Commission recommended approval.

Chairman DeHaven convened the public hearing.

There were no public comments.

Chairman DeHaven closed the public hearing.

Upon a motion by Supervisor Slaughter, seconded by Supervisor Lofton, the Board approved the removal of parcels totaling 407.48 acres, more or less, from the North Opequon Agricultural & Forestal District.

WHEREAS, a proposal to remove parcels from the North Opequon Agricultural & Forestal District by 407.48 acres, was considered. The property is located in the Stonewall Magisterial District along Old Charleston Road and is identified by Property Identification Numbers 45-A-10V, 45-A-10W, 45-A-30, 45-A-31, 45-A-32, and 45-A-32A.

WHEREAS, The Agricultural District Advisory Committee (ADAC) recommended approval of this proposal on July 26, 2016; and

WHEREAS, the Planning Commission held a public hearing and recommended approval on this proposal to removal parcels from the North Opequon Agricultural & Forestal District on August 17, 2016; and

WHEREAS, the Board of Supervisors held a public hearing on this proposal to remove parcels from the North Opequon Agricultural & Forestal District on September 14, 2016; and

WHEREAS, the Frederick County Board of Supervisors finds the removal of these parcels from the North Opequon Agricultural & Forestal District contributes to the conservation and preservation of agricultural and forestal land in Frederick County;

NOW, THEREFORE, BE IT ORDAINED by the Frederick County Board of Supervisors as follows:

The Frederick County Board of Supervisors hereby decreases the 2015-2020 North Opequon Agricultural & Forestal District by 407.48 acres, which extinguishes the District. This ordinance shall be in effect on the day of adoption.

Passed this 14th day of September, 2016 by the following recorded vote:

Charles S. DeHaven, Jr.	Aye
Blaine P. Dunn	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Judith McCann-Slaughter	Aye
Robert W. Wells	Aye

BOARD LIAISON REPORTS

There were no Board liaison reports.

CITIZEN COMMENTS

Ruth Perrine, Back Creek District and co-chair of the committee to preserve the Clowser House, advised that the committee would be making a presentation to the Public Works Committee at its September 27, 2016 meeting. She thanked Supervisors Wells and Lofton for meeting with her. She stated that the committee had received half of the money needed to fix the back wall of the house and Marsh & Legge had completed the survey. She went on to say Preservation of the Northern Shenandoah Valley was collecting donations and the committee was in the process of setting up the Clowser Foundation.

Wendy Johnson, Shawnee District, thanked the Transportation Committee for looking at the safety options for turning onto Crestleigh Drive. She hoped the committee would consider the unintended consequences of how difficult it is for residents to leave their neighborhood.

Chuck Basa, Shawnee District, advised that he had had two mailboxes hit by errant drivers. He noted he had a fence in the middle of his property that was also hit by a driver. He stated that traffic was a public safety issue for the residents in his neighborhood.

Matt Holben, Shawnee District advised the he had been working with the Sheriff's Department regarding the traffic issues in his neighborhood. He expressed some concerns with proposed turn lanes on Senseny Road. He noted that 1/3 of the traffic coming off of Senseny Road was pass through traffic to Route 50. He concluded by asking if the proposed turn lane was a "band aid for a gash".

BOARD OF SUPERVISORS COMMENTS

Supervisor Fisher advised the he would meet Mr. Basa to see the traffic issues. He hoped there was a way to get the traffic calming measures done.

Supervisor Wells complimented Ms. Perrine for her hard work on the Clowser House.

ADJOURN

**UPON A MOTION BY SUPERVISOR WELLS, SECONDED BY SUPERVISOR
SLAUGHTER, THERE BEING NO FURTHER BUSINESS TO COME BEFORE THIS
BOARD, THIS MEETING IS HEREBY ADJOURNED. (9:33 P.M.)**

**FREDERICK COUNTY BOARD OF
SUPERVISORS' MINUTES**

**CLOSED SESSION
AND
REGULAR MEETING**

September 28, 2016

A Closed Session and Regular Meeting of the Frederick County Board of Supervisors were held on Wednesday, September 28, 2016 at 6:00 P.M., in the Board of Supervisors' Meeting Room, 107 North Kent Street, Winchester, VA.

PRESENT

Chairman Charles S. DeHaven, Jr.; Gene E. Fisher; Blaine P. Dunn; Robert A. Hess; Gary A. Lofton; Judith McCann-Slaughter; and Robert W. Wells.

CALL TO ORDER

Chairman DeHaven called the meeting to order.

CLOSED SESSION

Upon a motion by Vice-Chairman Fisher, seconded by Supervisor Lofton, the Board in closed session pursuant to Section 2.2-3711 A (5) of the Code of Virginia, 1950, as Amended, for discussion concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business' or industry's interest in locating or expanding its facilities in the community; and pursuant to Section 2.2-3711, Subsection A, (3) of the Code of Virginia, 1950, as Amended, for Discussion or Consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body.

The above motion was approved by the following recorded vote:

Charles S. DeHaven, Jr.	Aye
Blaine P. Dunn	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Judith McCann-Slaughter	Aye
Robert W. Wells	Aye

Upon a motion by Vice-Chairman Fisher, seconded by Supervisor Lofton, the Board came out of closed session and reconvened in open session.

The above motion was approved by the following recorded vote:

Charles S. DeHaven, Jr.	Aye
Blaine P. Dunn	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Judith McCann-Slaughter	Aye
Robert W. Wells	Aye

Upon a motion by Vice-Chairman Fisher, seconded by Supervisor Wells, the Board certified that to the best of each board member's knowledge discussion concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business' or industry's interest in locating or expanding its facilities in the community pursuant to Section 2.2-3711 A (5) of the Code of Virginia, 1950, as amended, and

discussion or consideration of the acquisition of real property for a public purpose pursuant to Section 2.2-3711 A (3) of the Code of Virginia, 1950, as amended specifically discussion or consideration of the acquisition of real property for a public purpose, and of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the Board were discussed.

The above motion was approved by the following recorded vote:

Charles S. DeHaven, Jr.	Aye
Blaine P. Dunn	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Judith McCann-Slaughter	Aye
Robert W. Wells	Aye

RECESS

Chairman DeHaven recessed the meeting until 7:00 p.m.

REGULAR MEETING – CALL TO ORDER

Chairman DeHaven called the regular meeting to order.

INVOCATION

Supervisor Hess delivered the invocation.

PLEDGE OF ALLEGIANCE

Vice-Chairman Fisher led the Pledge of Allegiance.

ADOPTION OF AGENDA - APPROVED

Deputy County Administrator for Human Services Jay Tibbs advised there were no additions or changes to the agenda.

Upon a motion by Supervisor Lofton, seconded by Supervisor Wells, the Board approved the agenda by the following recorded vote:

Charles S. DeHaven, Jr.	Aye
Blaine P. Dunn	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Judith McCann-Slaughter	Aye
Robert W. Wells	Aye

CONSENT AGENDA - APPROVED

Upon a motion by Vice-Chairman Fisher, seconded by Supervisor Hess, the Board approved the following items under the consent agenda:

- Minutes – Joint Work Session with the Planning Commission, August 17, 2016 and Work Session with Financial Consultant, September 14, 2016; and
- Road Resolutions – Security Drive, Santa Maria Estates, and Mystical Rose Lane.

The above motion was approved by the following recorded vote:

Charles S. DeHaven, Jr.	Aye
Blaine P. Dunn	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Judith McCann-Slaughter	Aye
Robert W. Wells	Aye

CITIZEN COMMENTS

There were no citizen comments.

BOARD OF SUPERVISORS COMMENTS

There were no Board of Supervisors comments.

MINUTES – APPROVED UNDER CONSENT AGENDA

The minutes from the August 17, 2016 joint work session with the Planning Commission and the September 14, 2016 work session with the financial consultant were approved under the consent agenda.

COUNTY OFFICIALS

COMMITTEE APPOINTMENTS

REAPPOINTMENT OF JOHN R. MARKER TO THE CONSERVATION EASEMENT AUTHORITY - APPROVED

Upon a motion by Supervisor Fisher, seconded by Supervisor Lofton, the Board reappointed John R. Marker to the Conservation Easement Authority. This is a three year appointment. Term expires September 26, 2019.

The above motion was approved by the following recorded vote:

Charles S. DeHaven, Jr.	Aye
Blaine P. Dunn	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Judith McCann-Slaughter	Aye
Robert W. Wells	Aye

APPOINTMENT OF GUSS MORRISON AS SHAWNEE DISTRICT

**REPRESENTATIVE TO THE PARKS AND RECREATION COMMISSION -
APPROVED**

Upon a motion by Supervisor Fisher, seconded by Supervisor Hess, the Board appointed Guss Morrison as Shawnee District representative to the Parks and Recreation Commission.

This is a four year appointment. Term expires September 28, 2020.

The above motion was approved by the following recorded vote:

Charles S. DeHaven, Jr.	Aye
Blaine P. Dunn	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Judith McCann-Slaughter	Aye
Robert W. Wells	Aye

**REQUEST FROM COMMISSIONER OF THE REVENUE FOR REFUNDS -
APPROVED**

Deputy Administrator Tibbs advised this was a request to authorize the Treasurer to refund Plaza Pet Clinic the amount of \$3,909.61, for business license taxes for the first half of 2016. This refund resulted from the closing of this business and reopening under new ownership and reflected proration of gross receipts for the period unused. The new business would be responsible for taxes incurred subsequent to the closing of the old business.

Upon a motion by Supervisor Lofton, seconded by Supervisor Slaughter, the Board approved the above refund request and supplemental appropriation.

The above motion was approved by the following recorded vote:

Charles S. DeHaven, Jr.	Aye
Blaine P. Dunn	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Judith McCann-Slaughter	Aye
Robert W. Wells	Aye

Deputy Administrator Tibbs advised this was a request to authorize the Treasurer to refund Lake Holiday Country Club Inc. the amount of \$5,925.00 for real estate taxes and sanitary district fees in 2016. This refund resulted from lots absorbed by the homeowners association not identified in any other exoneration request.

Upon a motion by Supervisor Hess, seconded by Supervisor Slaughter, the Board approved the above refund request and supplemental appropriation.

The above motion was approved by the following recorded vote:

Charles S. DeHaven, Jr.	Aye
Blaine P. Dunn	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Judith McCann-Slaughter	Aye
Robert W. Wells	Aye

COMMITTEE REPORTS

FINANCE COMMITTEE - APPROVED

A Finance Committee meeting was held in the First Floor Conference Room at 107 North Kent Street on Wednesday, September 21, 2016 at 8:00 a.m. Non-voting liaison Ellen Murphy was absent. Items 5, 7, 8, and 9 were approved under consent agenda.

Upon a motion by Supervisor Slaughter, seconded by Supervisor Lofton, the Board approved the consent agenda by the following recorded vote:

Charles S. DeHaven, Jr.	Aye
Blaine P. Dunn	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Judith McCann-Slaughter	Aye
Robert W. Wells	Aye

1. The FCPS Finance Director provides FY 2016 Year End financial information and is available for discussion. See attachment, p. 4 - 30. No action required.

2. The FCPS Assistant Director of Finance requests School Operating Fund and General Fund supplemental appropriations in the amount of \$211,634.10. This amount represents funds received during FY16 for designated projects. See attached memo, p. 31. The committee recommends approval. - **APPROVED**

Upon a motion by Supervisor Slaughter, seconded by Supervisor Lofton, the Board

approved the above request by the following recorded vote:

Charles S. DeHaven, Jr.	Aye
Blaine P. Dunn	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Judith McCann-Slaughter	Aye
Robert W. Wells	Aye

3. The FCPS Assistant Director of Finance requests School Operating Fund and General Fund supplemental appropriations in the amount of \$458,984.80. This amount represents unspent FY16 funds to be spent on high priority items in the transportation and facilities services departments. See attached memo, p. 31. The committee recommends approval. - **APPROVED**

Upon a motion by Supervisor Slaughter, seconded by Vice-Chairman Fisher, the Board

approved the above request by the following recorded vote:

Charles S. DeHaven, Jr.	Aye
Blaine P. Dunn	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Judith McCann-Slaughter	Aye
Robert W. Wells	Aye

4. The Finance Director presents FY 2016 Year End financial information. See attached, p. 32 - 48. No action required.
5. The Solid Waste Manager requests a General Fund supplemental appropriation in the amount of \$750. This amount represents a Keep Virginia Beautiful grant for the Walk Your Human initiative. No additional local funds are required as remaining program costs are available in the current budget. See attached memo and original grant application, p. 49 - 52. - **APPROVED UNDER CONSENT AGENDA**
6. The Deputy Public Works Director requests a Landfill Fund supplemental appropriation in the amount of \$200,000. This amount represents a carry forward of unspent FY16

funds for an ongoing project: the Partial Closure of Area1, Phase 1, CDD Landfill. See attached memo, p. 53. The committee recommends approval. - **APPROVED**

Upon a motion by Supervisor Slaughter, seconded by Supervisor Lofton, the Board

approved the above request by the following recorded vote:

Charles S. DeHaven, Jr.	Aye
Blaine P. Dunn	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Judith McCann-Slaughter	Aye
Robert W. Wells	Aye

7. The Sheriff requests a General Fund supplemental appropriation in the amount of \$300. This amount represents donations to the K-9 Program. No local funds required. See attached memo, p. 54 - 55. – **APPROVED UNDER CONSENT AGENDA**
8. The Sheriff requests a General Fund supplemental appropriation in the amount of \$50. This amount represents a donation to DARE. No local funds required. See attached memo, p. 56 - 57. – **APPROVED UNDER CONSENT AGENDA**
9. The Fire & Rescue Chief requests a General Fund supplemental appropriation in the amount of \$4,845.85. This amount represents an insurance reimbursement for an auto claim. No local funds required. See attached memo, p. 58. – **APPROVED UNDER CONSENT AGENDA**
10. The Deputy County Administrator requests a General Fund supplemental appropriation in the amount of \$31,202.77. This amount represents a carry forward of unspent FY16 funds for carpet replacement, which was started in FY16 but has been delayed. See attached memo, p. 59. The committee recommends approval. - **APPROVED**

Upon a motion by Supervisor Slaughter, seconded by Supervisor Hess, the Board

approved the above request by the following recorded vote:

Charles S. DeHaven, Jr.	Aye
Blaine P. Dunn	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Judith McCann-Slaughter	Aye
Robert W. Wells	Aye

11. The EDA Executive Director requests an EDA Fund supplemental appropriation in the amount of \$100,000. This amount represents the third installment under the performance agreement with Carmeuse Lime and Stone. See attached memo, p. 60. The committee recommends approval. - **APPROVED**

Upon a motion by Supervisor Slaughter, seconded by Supervisor Wells, the Board

approved the above request by the following recorded vote:

Charles S. DeHaven, Jr.	Aye
Blaine P. Dunn	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Judith McCann-Slaughter	Aye
Robert W. Wells	Aye

12. The EDA Executive Director requests an EDA Fund supplemental appropriation in the amount of \$100,000. This amount represents the final installment under the performance agreement with HP Hood. See attached memo, p. 61. The committee recommends approval. - **APPROVED**

Upon a motion by Supervisor Slaughter, seconded by Vice-Chairman Fisher, the Board

approved the above request by the following recorded vote:

Charles S. DeHaven, Jr.	Aye
Blaine P. Dunn	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Judith McCann-Slaughter	Aye
Robert W. Wells	Aye

13. The Finance/Audit Committee charter adopted by the Board of Supervisors requires an annual review and reassessment. See attached charter, p. 62 - 64. The committee recommends no changes. - **APPROVED**

Upon a motion by Supervisor Slaughter, seconded by Supervisor Lofton, the Board

approved the above request by the following recorded vote:

Charles S. DeHaven, Jr.	Aye
Blaine P. Dunn	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye

Gary A. Lofton Aye
Judith McCann-Slaughter Aye
Robert W. Wells Aye

INFORMATION ONLY

1. The Finance Director provides a Fund 10 Transfer Report for August 2017. See attached, p. 65.
2. The Finance Director provides financial statements for the month ending August 31, 2016. See attached, p. 66 - 76.
3. The Finance Director provides an FY 2017 Fund Balance Report ending September 15, 2016. See attached, p. 77.
4. The FY16 year-end open purchase orders have been provided by the County and the Schools. See attachments, p. 78 - 92.
5. The County Administrator's recommendation on County committee/commission pay will be provided in October.

PLANNING COMMISSION BUSINESS

PUBLIC HEARING

CONDITIONAL USE PERMIT #09-16 FOR CONNIE ANN MOSS, FOR A DOG KENNEL. THE PROPERTY IS LOCATED AT 4527 VALLEY PIKE, STEPHENS CITY, VIRGINIA AND IS IDENTIFIED WITH PROPERTY IDENTIFICATION NUMBER 75-A-28 IN THE BACK CREEK MAGISTERIAL DISTRICT. - APPROVED

Zoning Administrator Mark Cheran appeared before the Board regarding this item. He advised this was a request for a conditional use permit for a dog kennel. The property is located at 4527 Valley Pike in the Back Creek Magisterial District and is zoned RA (Rural Areas) District. He noted kennels were a permitted use in the RA with a conditional use permit. The applicant was proposing five kennels for boarding with up to two dogs per kennel. In addition, there would be indoor and outdoor dog training. The Planning Commission recommended approval with conditions.

Connie Ann Moss, applicant, appeared before the Board. She advised that her facility

would offer professional dog training and board in a low stress kennel. She noted the two dogs per kennel would be allowed only for dogs from the same household.

Supervisor Lofton asked if the sign listed in the conditions was adequate in size.

Mrs. Moss responded that she would like to have a larger sign, possibly a 4 feet by 6 feet sign.

Chairman DeHaven convened the public hearing.

Kat Eaton, Winchester resident, spoke in support of this application. She stated that she would utilize this service. She went on to say she was in desperate need of a facility like this for her dogs. She concluded by saying the Board would be doing this region a service by supporting this effort.

Joyce Beck, Gainesboro District, spoke in support of this application. She stated there were no facilities in the area where she would leave her dogs. She went on to say that she was currently driving to Strasburg to board her dogs. She concluded by saying this facility would be a great advantage to Frederick County.

There being no further comments, Chairman DeHaven closed the public hearing.

Upon a motion by Supervisor Lofton, seconded by Supervisor Hess, the Board approved conditional use permit #09-16 with the conditions modified to allow for a larger sign not to exceed 24 square feet.

WHEREAS, Conditional Use Permit #09-16 for Connie Ann Moss, submitted by Connie Ann Moss for a Dog Kennel was considered. The Property is located at 4527 Valley Pike, Stephens City, Virginia and is further identified with Property Identification Number 75-A-28, in the Back Creek District; and,

WHEREAS, the Frederick County Planning Commission held a public hearing on the Conditional Use Permit on September 7, 2016, and recommended approval of the Conditional Use Permit with conditions; and,

WHEREAS, the Frederick County Board of Supervisors held a public hearing on this

Conditional Use Permit during their regular meeting on September 28, 2016; and,

WHEREAS, the Frederick County Board of Supervisors finds the approval of this Conditional Use Permit to be in the best interest of the public health, safety, welfare, and in conformance with the Comprehensive Policy Plan;

NOW, THEREFORE, BE IT ORDAINED by the Frederick County Board of Supervisors that Chapter 165 of the Frederick County Code, Zoning, is amended to revise the zoning map to reflect that Conditional Use Permit Application #09-16 for a Dog Kennel on the parcel identified by Property Identification Number 75-A-28 with the following conditions:

1. All review agency comments shall be complied with at all times.
2. This CUP is solely to enable the boarding and training of dogs on this property.
3. No More than three (3) employees with this CUP.
4. All dogs must be confined indoors by 9:00 p.m. Dogs to be allowed outside and supervised on a leash after 9:00 p.m. as needed.
5. Any proposed business sign shall be a monument type sign and shall not exceed 24 square feet in size and five (5) feet in height.
6. Hours of operation shall be 8:00 a.m. to 9:00 p.m. Monday through Sunday.
7. Any expansion or modification of this use will require the approval of a new CUP.

Passed this 28th day of September, 2016 by the following recorded vote:

Charles S. DeHaven, Jr.	Aye
Blaine P. Dunn	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Judith McCann-Slaughter	Aye
Robert W. Wells	Aye

REZONING #09-16 FOR COMMONWEALTH BUSINESS CENTER LOT 5, SUBMITTED BY GREENWAY ENGINEERING, INC. TO REZONE 1.21 ACRES FROM THE B3 (INDUSTRIAL TRANSITION) DISTRICT TO THE B2 (GENERAL BUSINESS) DISTRICT, WITH PROFFERS. THE PROPERTY IS LOCATED ON THE NORTH SIDE OF COMMONWEALTH COURT (ROUTE 1167) APPROXIMATELY 500' EAST OF THE INTERSECTION WITH VALLEY PIKE (US ROUTE 11 SOUTH) AND IS IDENTIFIED WITH PROPERTY IDENTIFICATION NUMBER 75-A-91E IN THE BACK CREEK MAGISTERIAL DISTRICT. - APPROVED

Assistant Planning Director Candice Perkins appeared before the Board regarding this item. She advised this was a request to rezone 1.21 acres from B3 (Industrial Transition) District to B2 (General Business) District with proffers. The property is located on Commonwealth Court in the Back Creek Magisterial District. She noted the proposed B2 zoning was consistent with the Comprehensive Plan. The property is located in the sewer and water service area. The applicant has proffered land use restrictions, which prohibit general merchandise stores, commercial daycare facilities, and adult retail. In addition, the applicant has proffered to contribute \$500 for fire and rescue services. She concluded by saying the Planning Commission recommended approval.

Evan Wyatt, Greenway Engineering, appeared before the Board on behalf of the application. He advised that the church did not have a daycare or school component so they were okay proffering out those uses. He noted the proposed use would require additional parking; however, there was adequate space on site. He concluded by saying the applicant would provide a revised site plan.

Assistant Director Perkins stated that staff did not have any concerns if the Board wanted to strike any of the prohibited uses. She noted the property was never rezoned thus it was functioning under historic zoning.

Chairman DeHaven convened the public hearing.

There were no public comments.

Chairman DeHaven closed the public hearing.

Upon a motion by Supervisor Lofton, seconded by Supervisor Fisher, the Board approved Rezoning #09-16.

WHEREAS, Rezoning #09-16 of Commonwealth Business Center Lot 5, submitted by

Greenway Engineering, Inc., to rezone 1.21 acres from B3 (Industrial Transition) District to the B2 (General Business) District with proffers, final revision date of August 10, 2016 was considered. The Property is located on the north side of Commonwealth Court (Route 1167) approximately 500' east of the intersection with Valley Pike (US Route 11 South). The Property is further identified with PIN 75-A-91E in the Back Creek District; and

WHEREAS, the Planning Commission held a public hearing on this rezoning on September 7, 2016 and recommended approval; and

WHEREAS, the Board of Supervisors held a public hearing on this rezoning on September 28, 2016; and

WHEREAS, the Frederick County Board of Supervisors finds the approval of this rezoning to be in the best interest of the public health, safety, welfare, and in conformance with the Comprehensive Policy Plan;

NOW, THEREFORE, BE IT ORDAINED by the Frederick County Board of Supervisors, that Chapter 165 of the Frederick County Code, Zoning, is amended to revise the Zoning District Map to rezone 1.21 acres from B3 (Industrial Transition) District to the B2 (General Business) District with proffers, final revision date of August 10, 2016. The conditions voluntarily proffered in writing by the Applicant and the Property Owner are attached.

This ordinance shall be in effect on the date of adoption.

Passed this 28th day of September, 2016 by the following recorded vote:

Charles S. DeHaven, Jr.	Aye
Blaine P. Dunn	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Judith McCann-Slaughter	Aye
Robert W. Wells	Aye

OTHER PLANNING ITEMS

DISCUSSION – 2016 COMPREHENSIVE POLICY PLAN AMENDMENTS (CPPA):

Assistant Planning Director Candice Perkins appeared before the Board regarding this item. She advised, at the August 17, 2016 joint work session with the Planning Commission, there was support for further study of the Leonard property. She stated staff was seeking a consensus of the Board regarding which properties to study further.

a. **01-16 LEONARD PROPERTY – SENT FORWARD FOR FURTHER STUDY**

Upon a motion by Vice-Chairman Fisher, seconded by Supervisor Lofton, the Board approved sending CPPA #01-16 Leonard Property forward for further study.

The above motion was approved by the following recorded vote:

Charles S. DeHaven, Jr.	Aye
Blaine P. Dunn	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Judith McCann-Slaughter	Aye
Robert W. Wells	Aye

b. **02-16 RUSSELL & SMITH PROPERTIES – SENT FORWARD FOR FUTURE STUDY**

Upon a motion by Vice-Chairman Fisher, seconded by Supervisor Lofton, the Board approved sending CPPA #02-16 Russell & Smith Properties forward for further study.

Vice-Chairman Fisher stated he would not support any rezoning of this property until there was clarification to Senate Bill 549 regarding proffers. He also noted that this property has important infrastructure issues.

Supervisor Dunn stated was not comfortable with studying this property until the infrastructure issues were addressed.

Chairman DeHaven agreed

The above motion was approved by the following recorded vote:

Charles S. DeHaven, Jr.	Nay
Blaine P. Dunn	Nay
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Judith McCann-Slaughter	Aye
Robert W. Wells	Aye

c. 03-16 WOODS MILL RD (JRW/SEMPELES/ORNDORFF PROPERTIES) – SENT FORWARD FOR FURTHER STUDY

Upon a motion by Supervisor Slaughter, seconded by Supervisor Lofton, the Board approved sending the CPPA#03-16 Woods Mill Rd (JRW/Sempeles/Orndorff Properties) forward for further study.

Supervisor Dunn stated he could not support this application and he was concerned about the transportation issues.

Vice-Chairman Fisher stated studying the property did not hurt, but he could not approve an amendment to the Comprehensive Plan until Senate Bill 549 was addressed.

The above motion was approved by the following recorded vote:

Charles S. DeHaven, Jr.	Nay
Blaine P. Dunn	Nay
Gene E. Fisher	Aye
Robert A. Hess	Nay
Gary A. Lofton	Aye
Judith McCann-Slaughter	Aye
Robert W. Wells	Aye

d. 04-16 FRUIT HILL ORCHARD (SOLENERBERGER – REST CHURCH) – SENT FORWARD FOR FURTHER STUDY

Upon a motion by Supervisor Slaughter, seconded by Supervisor Wells, the Board approved sending CPPA #04-16 Fruit Hill Orchard (Solenberger – Rest Church) forward for further study.

Supervisor Dunn stated he would vote no due to transportation issues.

The above motion was approved by the following recorded vote:

Charles S. DeHaven, Jr.	Nay
Blaine P. Dunn	Nay
Gene E. Fisher	Nay
Robert A. Hess	Aye
Gary A. Lofton	Aye
Judith McCann-Slaughter	Aye

Robert W. Wells

Aye

MEMORANDUM RE: DEVELOPMENT IMPACT MODEL – SENATE BILL 549; THE NEW PROFFER LEGISLATION – APPROVED DISCONTINUANCE OF THE DEVELOPMENT IMPACT MODEL

Planning Director Michael Ruddy appeared before the Board regarding this item. He advised that, as a result of Senate Bill 549, which became law effective July 1, 2016, the ongoing use of the County's development impact model as a resource for evaluating residential rezoning applications was in question. He went on to say that staff recommended the discontinuance of the use of the model in order to better protect the County as we understand this new law.

Vice-Chairman Fisher stated he was really troubled with where "we are" with this bill and he would like to propose a moratorium on residential development.

Supervisor Hess stated the development impact model had served us well for some time and it was unfortunate that we were not able to use this tool.

Chairman DeHaven stated that Frederick County had worked hard to strike a balance with the development community, but those relationships were not quite the same in other parts of the Commonwealth.

Director Ruddy advised that staff had modified the rezoning application so each request would be evaluated on an individual basis.

Vice-Chairman Fisher stated he did not think the Board had any choice but to approve this request. He went on to say that any rezonings that come in would be looked at on a case by case basis.

Supervisor Wells stated that it was important for the residents to understand that this board and previous boards had worked hard to manage growth in the County, but the Board's hands were tied because of this new law. He concluded by saying the playing field had changed.

Supervisor Slaughter suggested asking the county attorney to look into the legal issues surrounding a moratorium.

Upon a motion by Supervisor Hess, seconded by Supervisor Slaughter, the Board approved the discontinuance of the development impact model.

The above motion was approved by the following recorded vote:

Charles S. DeHaven, Jr.	Aye
Blaine P. Dunn	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Judith McCann-Slaughter	Aye
Robert W. Wells	Aye

ROAD RESOLUTIONS:

a. SECURITY DRIVE – APPROVED UNDER CONSENT AGENDA

The Board of Supervisors of Frederick County, in regular meeting on the 28th day of September, 2016, adopted the following:

WHEREAS, the streets described on the attached Form AM-4.3, fully incorporated herein by reference, are shown on plats recorded in the Clerk’s Office of the Circuit Court of Frederick County; and

WHEREAS, the Resident Engineer of the Virginia Department of Transportation has advised this Board that the streets meet the requirements established by the Subdivision Street Requirements of the Virginia Department of Transportation; and

WHEREAS, the County and the Virginia Department of Transportation have entered into an agreement on June 9, 1993, for comprehensive stormwater detention which applies to this request for addition; and

WHEREAS, this Board assumes total responsibility for all cost and expense incurred to correct faulty workmanship or materials identified by VDOT and associated with the construction of one or more of the roads and/or related drainage facilities described on the attached AM-4.3 form for a period of one calendar year after the date of the legal acceptance of the referenced roads into the secondary system of state highways; and

NOW, THEREFORE, BE IT RESOLVED, this Board requests the Virginia Department of Transportation to add the streets described in the attached Form AM-4.3 to the secondary system of state highways, pursuant to 33.2-705, Code of Virginia, and the Department’s Subdivision

Street Requirements; and

BE IT FURTHER RESOLVED, this Board guarantees a clear and unrestricted right-of-way, as described, and any necessary easements for cuts, fills and drainage; and

BE IT FURTHER RESOLVED, that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.:

b. SANTA MARIA ESTATES, MYSTICAL ROSE LANE – APPROVED UNDER CONSENT AGENDA

The Board of Supervisors of Frederick County, in regular meeting on the 28th day of September, 2016, adopted the following:

WHEREAS, the streets described on the attached Form AM-4.3, fully incorporated herein by reference, are shown on plats recorded in the Clerk's Office of the Circuit Court of Frederick County; and

WHEREAS, the Resident Engineer of the Virginia Department of Transportation has advised this Board that the streets meet the requirements established by the Subdivision Street Requirements of the Virginia Department of Transportation; and

WHEREAS, the County and the Virginia Department of Transportation have entered into an agreement on June 9, 1993, for comprehensive stormwater detention which applies to this request for addition; and

NOW, THEREFORE, BE IT RESOLVED, this Board requests the Virginia Department of Transportation to add the streets described in the attached Form AM-4.3 to the secondary system of state highways, pursuant to 33.2-705, Code of Virginia, and the Department's Subdivision Street Requirements; and

BE IT FURTHER RESOLVED, this Board guarantees a clear and unrestricted right-of way, as described, and any necessary easements for cuts, fills and drainage; and

BE IT FURTHER RESOLVED, that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

BOARD LIAISON REPORTS

There were no board liaison reports.

CITIZEN COMMENTS

There were no citizen comments.

BOARD OF SUPERVISORS COMMENTS

Supervisor Dunn advised that he would be holding a town hall meeting in his district on Tuesday, October 11, 2016 beginning at 7:00 p.m. at the Greenwood Mill Elementary School.

In light of the heavy rains expected over the next several days, Vice-Chairman Fisher asked citizens not to drive through standing water in the roadways and put themselves at risk.

ADJOURN

UPON A MOTION BY SUPERVISOR FISHER, SECONDED BY SUPERVISOR SLAUGHTER, THERE BEING NO FURTHER BUSINESS TO COME BEFORE THIS BOARD, THIS MEETING IS HEREBY ADJOURNED. (8:23 P.M.)


B



Brenda G. Garton
County Administrator

540/665-6382
Fax 540/667-0370
E-mail: bgarton@fcva.us

MEMORANDUM

TO: Board of Supervisors
FROM: Brenda G. Garton, County Administrator 
DATE: October 6, 2016
RE: Committee Appointments

Listed below are the vacancies/appointments due through December, 2016. As a reminder, in order for everyone to have ample time to review applications, and so they can be included in the agenda, please remember to submit applications prior to Friday agenda preparation. Your assistance is greatly appreciated.

VACANCIES/OTHER

Northwestern Community Services Board

Tom Brubaker – County Representative
3407 Cedar Creek Grade
Winchester, VA 22602
Home: (540)539-0002
Term Expires: 12/31/18
Three year term

*(Staff has been advised that Mr. Brubaker has resigned. **There is a possible candidate that is being considered. Recommendation to the Board of Supervisors may be forthcoming at a future meeting.**)*

Historic Resources Advisory Board

Lauren Krempa Murphy – Member-At-Large
106 Dollie Mae Lane
Stephens City, VA 22655
Phone: (540)338-2304
Term Expires: 04/09/16
Four year term

(The Historic Resources Advisory Board is comprised of nine members, one member from each magisterial district and three members at large.)

AUGUST 2016

Shawneeland Sanitary District Advisory Committee

Jeff Stevens
114 Rappahannock Trail
Winchester, VA 22602
Home: (540)327-3112
Term Expires: 08/13/16
Two year term

(The ShawneeLand Sanitary District Advisory Committee is comprised of five members made up of resident property owners and serve a two year term.)

OCTOBER 2016

Shawneeland Sanitary District Advisory Committee

Michelle Landon
226 Graywolfe Trail
Winchester, VA 22602
Home: (540)877-1838
Term Expires: 10/08/16
Two year term

(The ShawneeLand Sanitary District Advisory Committee is comprised of five members made up of resident property owners and serve a two year term.)

NOVEMBER 2016

Economic Development Authority

John R. Riley, Jr. – Frederick County Representative
101 Barrel Way
Stephenson, VA 22656
Phone: (540)323-0642
Term Expires: 11/10/16
Four year term

Stan Crockett – Frederick County Representative
139 Panorama Drive
Winchester, VA 22603
Phone: (540)533-9581
Term Expires: 11/10/16
Four year term

(As the Board may recall, the Industrial Development Authority was renamed the Economic Development Authority via public hearing at the Board of Supervisors meeting of January 8, 2014 and reorganization of the authority was completed during 2014. There are seven members on the authority and they serve a four year term.)

Handley Regional Library Board

Tracy L. Drumheller – Frederick County Representative
147 Sterrett Lane
Clearbrook, VA 22624
Home: (540)667-9028
Term Expires: 11/30/16
Four year term

(Ms. Drumheller has served two full terms and is not eligible for reappointment.) *(The County has five seats on the Handley Regional Library Board. As stated in the library by-laws, members serve a four year term and are limited to two consecutive terms.)*

DECEMBER 2016

Board of Equalization

Rosalie Cornwell – Frederick County Representative
7995 Church Street
Middletown, VA 22645
Home: (540)869-1145
Term Expires: 12/31/16
Three year term

(Ms. Cornwell previously notified staff she did not want to be reappointed when her term expires.)

Ronald V. Shickle – Frederick County Representative
160 Upper Ridge Road
Winchester, VA 22603
Home: (540)667-8160
Term Expires: 12/31/16
Three year term

Luther O. Stiles – Frederick County Representative
114 Lane Street
Stephens City, VA 22655
Home: (540)869-2504
Term Expires: 12/31/16
Three year term

(Staff has been advised that Mr. Shickle and Mr. Stiles are willing to continue serving if it is the desire of the Board.) (Recommendation(s) for appointment/reappointment are made by the Board of Supervisors and submitted to the Judge of the Frederick County Circuit Court for final appointment.) *(The Board of Equalization is composed of five members. Members must be free holders in the county. In October 2010, the Board of Supervisors appointed the Board of Equalization as a “permanent” board for subsequent reassessments. The original five members were appointed for the following terms: one member for a one-year term; one member for a two-year term; and three members for a three-year term. Going forward, all future appointments shall be for a three-year term.)*

Board of Zoning Appeals

Eric F. Lowman – Red Bud District Representative
201 Heath Court
Winchester, VA 22602
Home: (540)678-1989
Term Expires: 12/31/16
Five year term

Dudley Rinker – Back Creek District Representative
1567 Marlboro Road
Stephens City, VA 22655
Home: (540)869-2263
Term Expires: 12/31/16
Five year term

Memorandum – Board of Supervisors
October 6, 2016
Page 5

Ronald Madagan – Member-At-Large Representative
120 West Street
Stephens City, VA 22655
Home: (540)869-4733
Term Expires: 12/31/16
Five year term

(Recommendations for appointment/reappointment are made by the Board of Supervisors and submitted to the Judge of the Frederick County Circuit Court for final appointment.) *(There are seven members on the Board of Zoning Appeals.)*

BGG/tjp

U:\TJP\committeeappointments\MmosLettrs\BoardCommitteeAppts(101216BdMtg).docx

C



COUNTY OF FREDERICK

Roderick B. Williams
County Attorney

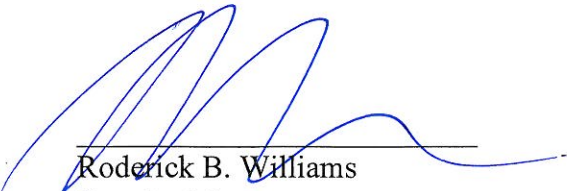
540/722-8383
Fax 540/667-0370
E-mail rwillia@fcva.us

MEMORANDUM

TO: Frederick County Board of Supervisors
CC: Brenda G. Garton, County Administrator
FROM: Roderick B. Williams, County Attorney
DATE: October 5, 2016
RE: Commissioner of Revenue Refund Requests

Attached, for the Board's review, are requests to authorize the Treasurer to credit the following entities:

1. Leda Enterprises t/a Home Instead Senior Care – \$7,379.00
2. Virginia 10 RSA Limited – \$13,202.81
3. Food Lion – \$19,326.31



Roderick B. Williams
County Attorney

Attachments



COUNTY OF FREDERICK

Roderick B. Williams
County Attorney

540/722-8383
Fax 540/667-0370
E-mail rwillia@fcva.us

MEMORANDUM

TO: Ellen E. Murphy, Commissioner of the Revenue
Frederick County Board of Supervisors

CC: Brenda G. Garton, County Administrator

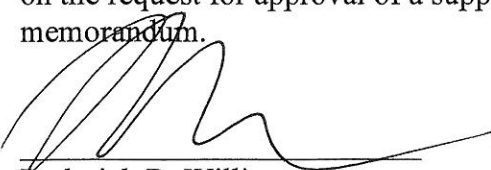
FROM: Roderick B. Williams, County Attorney

DATE: October 5, 2016

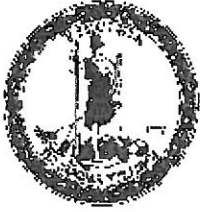
RE: Refund – Leda Enterprises t/a Home Instead Senior Care

I am in receipt of the Commissioner's request, dated September 20, 2016, to authorize the Treasurer to refund Home Instead Senior Care the amount of \$7,379.00, for business license taxes in 2016. This refund results from this business moving in to the city limits of Winchester in August.

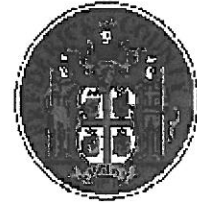
The Commissioner verified that documentation and details for this refund meet all requirements. Pursuant to the provisions of Section 58.1-3981(A) of the Code of Virginia (1950, as amended), I hereby note my consent to the proposed action. The Board of Supervisors will also need to act on the request for approval of a supplemental appropriation, as indicated in the Commissioner's memorandum.


Roderick B. Williams
County Attorney

Attachment



Frederick County, Virginia
Ellen E. Murphy
Commissioner of the Revenue
107 North Kent Street
Winchester, VA 22601
Phone 540-665-5681 Fax 540-667-6487
email: emurphy@co.frederick.va.us



September 20, 2016

TO: Rod Williams, County Attorney
Cheryl Shiffler, Finance Director
Frederick County Board of Supervisors
Jay Tibbs, Secretary to the Board
Brenda Garton, County Administrator

FROM: Ellen E. Murphy, Commissioner of the Revenue *E. Murphy*

RE: Exoneration – Leda Enterprises t/a Home Instead Senior Care

Please approve a refund of \$7,379.00 for Home Instead Senior Care for business license taxes for the balance of CY 2016. Business moved into the city limits of Winchester in August. This exoneration is for 2016 only.

To comply with requirements for the Treasurer to apply this refund board action is required.

The Commissioner's staff has verified all required data and the paperwork is in the care of the Commissioner of the Revenue.

Please also approve a supplemental appropriation for the Finance Director on this request.

Exoneration is \$7379.00.

Date: 10/04/16

Cash Register: COUNTY OF FREDERICK

Time: 11:49:49

Act# 17290 Customer Transactions:

Trans. Type: PAY Dept/Bill#: BL2016 / 00025930006

P/I Date: 10/04/2016

Business: HOME INSTEAD SENIOR CARE

Due Date: 4/01/2016

Address: 174 GARBER LN STE 3

Sts Codes:

WINCHESTER VA

Zip Code: 22602 - 4349

Applicant: LEDA ENTERPRISES INC

Address:

Fed ID#/SSN#:

174 GARBER LN

WINCHESTER VA

Zip Code: 22602

Original Bill: \$17,709.60 Payments: \$25,088.60 Setoff Claim #: 00000000

Penalty Paid: \$.00 Int Paid: \$.00 Last Date: 9/21/2016

Amount Owed: \$7,379.00- Other: \$.00

Total Owed: \$7,379.00- Penalty: \$.00 Interest: \$.00

Prin. being Paid: 7379.00- Pen Rate % Int Fact Dept Code

Penalty being Paid: Interest being Paid:

Total Amount Paid: 7379.00- Aging:

Promise to Pay Date: Supplement No: 02

F1=Amt Tender

F2=Next Ticket

F3=Exit

F10=Func Menu

Needs Board Approval



COUNTY OF FREDERICK

Roderick B. Williams
County Attorney

540/722-8383
Fax 540/667-0370
E-mail rwillia@fcva.us

MEMORANDUM

TO: Ellen E. Murphy, Commissioner of the Revenue
Frederick County Board of Supervisors

CC: Brenda G. Garton, County Administrator

FROM: Roderick B. Williams, County Attorney

DATE: October 5, 2016

RE: Refund – Virginia 10 RSA Limited

I am in receipt of the Commissioner's request, dated October 3, 2016, to authorize the Treasurer to refund Virginia 10 RSA Limited the amount of \$13,202.81, for public service taxes assessed based on public service filings received from the state in 2016. This refund results from this business no longer operating in our jurisdiction.

The Commissioner verified that documentation and details for this refund meet all requirements. Pursuant to the provisions of Section 58.1-3981(A) of the Code of Virginia (1950, as amended), I hereby note my consent to the proposed action. The Board of Supervisors will also need to act on the request for approval of a supplemental appropriation, as indicated in the Commissioner's memorandum.


Roderick B. Williams
County Attorney

Attachment



Frederick County, Virginia
Ellen E. Murphy
Commissioner of the Revenue
107 North Kent Street
Winchester, VA 22601
Phone 540-665-5681 Fax 540-667-6487
email: emurphy@co.frederick.va.us



October 3, 2016

TO: Rod Williams, County Attorney
Cheryl Shiffler, Finance Director
Frederick County Board of Supervisors
Jay Tibbs, Secretary to the Board
Brenda Garton, County Administrator

FROM: Ellen E. Murphy, Commissioner of the Revenue

RE: Exoneration – Virginia 10 RSA Limited

E. Murphy

Please approve a refund of \$13,202.81 for 2016 to Virginia 10 RSA Limited, for public service taxes assessed based on public service filings received from the state. We have been informed that this company is no longer operating in our jurisdiction.

To comply with requirements for the Treasurer to apply this refund board action is required.

The Commissioner's staff has verified all required data and the paperwork is in the care of the Commissioner of the Revenue.

Please also approve a supplemental appropriation for the Finance Director on this request.

Exoneration is \$13,202.81.

Date: 10/04/16
Time: 11:42:20

Cash Register: 001 COUNTY OF FREDERICK

LKH

Acct: 0006137 Transactions:
Trans. Type: PAY Dept#/Bill#: PS2016 00000430001 Half: 1 P/I Date: 10/04/2016
Name: VIRGINIA 10 RSA LIMITED Bill Date: 4/22/2016
Name2: Due Date: 6/06/2016
Addr: LUIS AGUIRRE TAX CONSULTANT StsCd: Post Date:
P O BOX 635
BASKING RIDGE, NJ Zip Cd: 07920 - 0000
Year: Make: R/E SSN1: SSN2:
Model: Title#: 00000000 Cus#1: Cus#2:
Type: Value: Class: 01 Months Taxed: 36
VID#: PPTRA: 0 InDt: OutDt:
Original Bill: \$13,202.81 Payments: \$13,202.81 Setoff Claim #: 00000000
Penalty Paid: \$.00 Int Paid: \$.00 Last Date: 9/27/2016
Amount Owed: \$13,202.81- Other: \$.00
Total Owed: \$13,202.81- Penalty: \$.00 Interest: \$.00
Principal Due: 13202.81- Pen Rate % Int Fact
Penalty Due: Interest Due:
Total Amount Due: 13202.81- Aging:

Promise to Pay Date: _____
OvrDpt: _____ ActCod: _____

Abatement Has Been Made Today!

F1=Amt Tender F2=Next Ticket F3=Exit

F10=Func Menu F20=Attach

Needs Board Approval



COUNTY OF FREDERICK

Roderick B. Williams
County Attorney

540/722-8383
Fax 540/667-0370
E-mail rwillia@fcva.us

MEMORANDUM

TO: Ellen E. Murphy, Commissioner of the Revenue
Frederick County Board of Supervisors

CC: Brenda G. Garton, County Administrator

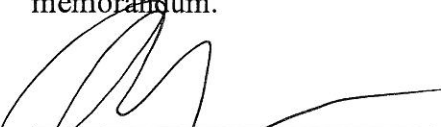
FROM: Roderick B. Williams, County Attorney

DATE: October 5, 2016

RE: Refund – Food Lion

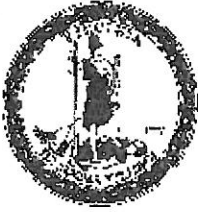
I am in receipt of the Commissioner's request, dated October 4, 2016, to authorize the Treasurer to refund Food Lion the amount of \$19,326.31, for business license taxes in 2016. This refund results from the closing of this business and a new corporation, Shop N Save opening in the same locations and reflects proration of gross receipts for the period unused. Shop N Save will be responsible for taxes incurred subsequent to the closing of the old business.

The Commissioner verified that documentation and details for this refund meet all requirements. Pursuant to the provisions of Section 58.1-3981(A) of the Code of Virginia (1950, as amended), I hereby note my consent to the proposed action. The Board of Supervisors will also need to act on the request for approval of a supplemental appropriation, as indicated in the Commissioner's memorandum.



Roderick B. Williams
County Attorney

Attachment



Frederick County, Virginia
Ellen E. Murphy
Commissioner of the Revenue
107 North Kent Street
Winchester, VA 22601
Phone 540-665-5681 Fax 540-667-6487
email: emurphy@co.frederick.va.us



October 4, 2016

TO: Rod Williams, County Attorney
Cheryl Shiffler, Finance Director
Frederick County Board of Supervisors
Jay Tibbs, Secretary to the Board
Brenda Garton, County Administrator

FROM: Ellen E. Murphy, Commissioner of the Revenue

RE: Exoneration – Food Lion

A handwritten signature in cursive script, reading "E. Murphy".

Please approve a refund of \$19,326.31 for 2016 to Food Lion, for business license taxes for 2016. Food Lion stores have closed and the locations are now operating under a different corporation called Shop N Save and revenue will now be received under that corporate name.

To comply with requirements for the Treasurer to apply this refund board action is required.

The Commissioner's staff has verified all required data and the paperwork is in the care of the Commissioner of the Revenue.

Please also approve a supplemental appropriation for the Finance Director on this request.

Exoneration is \$19,326.31.

Customer Name: FOOD LION #733

Total Transactions: 821
Customer Transactions: 5

Options: 2=Edit 4=Delete 5=View

Opt	Dept	Trans	Ticket No.	Tax Amount	Penalty/Int	Amount Paid
-	BL2016	1	00008600001	\$5,006.64-	\$.00	\$5,006.64-
-	BL2016	2	00008610001	\$5,433.08-	\$.00	\$5,433.08-
-	BL2016	3	00008620001	\$4,963.42-	\$.00	\$4,963.42-
-	BL2016	4	00008630001	\$3,903.17-	\$.00	\$3,903.17-
-	BL2016	5	00042930001	\$20.00-	\$.00	\$20.00-

F3=Exit

F14=Show Map#

Total Paid : \$19,326.31
F15=Show Balance

F18=Sort-Entered

F21=CmdLine
F20=Attach

Needs Board Approval

CONSENT AGENDA

D

Virginia Association of Counties

Connecting County Governments since 1934



President
Judy S. Lytle
Surry County

President-Elect
Mary W. Biggs
Montgomery County

First Vice President
William A. Robertson, Jr.
Prince George County

Second Vice President
Sherrin C. Alsop
King and Queen County

Secretary-Treasurer
Donald L. Hart, Jr.
Accomack County

Immediate Past President
Penelope A. Gross
Fairfax County

Executive Director
Dean A. Lynch, CAE

General Counsel
Phyllis A. Errico, Esq., CAE

TO: Chairs, County Board of Supervisors
County Chief Administrative Officers

FROM: Dean A. Lynch, Executive Director

RE: Voting Credentials for the Annual Business Meeting

DATE: September 27, 2016

Dean Lynch



The 2016 Annual Business Meeting of the Virginia Association of Counties will be held on Tuesday, November 15, at 11:00 a.m. at The Homestead in Bath County.

Article VI of the VACo ByLaws states that each county shall designate a representative of its board of supervisors to cast its vote(s) at the Annual Business Meeting. However, if a member of the board of supervisors cannot be present for this meeting, the Association's ByLaws allow a county to designate a non-elected official from your county or a member of a board of supervisors from another county to cast a proxy vote(s) for your county.

For your county to be certified to vote at the Annual Business Meeting, (1) your annual dues must be paid in full and (2) either a completed Voting Credentials Form or a Proxy Statement must be submitted to VACo by November 1, 2016. Alternatively, this information may be submitted to the Credentials Committee at its meeting on Monday, November 14, at 1:00 p.m. in the Monroe Room or to the conference registration desk before this meeting.

NOMINATING COMMITTEE

The Nominating Committee will meet at 5:00 p.m. in the Mt. Vernon Room on Monday, November 14th during VACo's Annual Conference at the Homestead. The committee is charged to nominate a candidate for President-Elect, First Vice President, Second Vice President, and Secretary-Treasurer to be elected at the Annual Business Meeting. Please send your expressions of interest and nominations to the Committee or to VACo's Executive Director.

REGIONAL DIRECTORS

Pursuant to VACo's By-Laws, "regional directors shall be selected at the Annual Meeting by the member counties located within the region which the director will represent." Regional caucuses will be scheduled during the Annual Meeting to select directors. Incumbent regional directors should chair the caucuses. Reports should be given to VACo's Executive Director by 6:00 p.m. on Monday, November 14th. The attached list shows the regional directors that must be selected.

Attachments

cc: VACo Board of Directors
Nominations Committee

1207 E. Main St., Suite 300
Richmond, Va. 23219-3627

Phone: 804.788.6652
Fax: 804.788.0083

E-mail: mail@vaco.org
Web site: www.vaco.org

**VACo 2016 Annual Meeting
Voting Credentials Form**
Form may be returned by mail, fax (804-788-0083), or by email to
vsteinruck@vaco.org

Voting Delegate:
(Supervisor)

Name _____

Title _____

Locality _____

Alternate Delegate:
(Supervisor)

Name _____

Title _____

Locality _____

Certified by:
(Clerk of the Board)

Name _____

Title _____

Locality _____

**VACo 2016 Annual Meeting
Proxy Statement**

Frederick County authorizes the following person to cast its vote at the 2016 Annual Meeting of the Virginia Association of Counties on November 15, 2016.

Brenda G. Garton, a non-elected official of this county.

-OR-

_____ a supervisor from _____ County.

This authorization is:

Uninstructed. The proxy may use his/her discretion to cast Frederick County's votes on any issue to come before the annual meeting.

Instructed. The proxy is limited in how he/she may cast _____ County's votes. The issues on which he/she may cast those votes and how he/she should vote are:
(List issues and instructions on the back of this form)

Certified by: Name _____

Title County Administrator

Locality Frederick County, Virginia

- Region 1.....John M. Seward (Surry County)
- Region 3.....Patricia S. O'Bannon* (Henrico County)
- Region 5.....Ann H. Mallek (Albemarle County)
- Region 6.....Barbara J. Byrd (Clarke County)
- Region 7.....Stephanie Koren (Louisa County)
- Region 8.....John Vihstadt (Arlington County)
- Region 8.....Daniel G. Storck (Fairfax County)
- Region 8.....Sharon S. Bulova* (Fairfax County)
- Region 8.....Phyllis J. Randall (Loudoun County)
- Region 10.....Sara E. Carter (Appomattox County)
- Region 11.....Bill Thomasson (Bedford County)
- Region 12.....Timothy A. Reeves, Sr. (Wythe County)

Past Presidents:

- Penelope A. Gross
- Harrison A. Moody

* ineligible for reappointment (term limit)
 VACo Bylaws: Article IX, Section 4

CONSENT AGENDA

E



County of Frederick

Information Technologies

Scott Varner

Director

(540) 655-5614

Fax: (540) 722-2169

svarner@fcva.us

To: Board of Supervisors
From: Scott Varner, IT Director
Date: October 5, 2016
Subject: Information Technologies Committee Report

The Information Technologies Committee met in the First Floor Conference Room at 107 N Kent Street at 8:15 a.m. on Wednesday October 5, 2016. Present were Gary Lofton, Board of Supervisors IT Chairman; Judith McCann-Slaughter, Board of Supervisors IT Member; Robert A. Hess, Board of Supervisors IT Member. Absent were Quaiser Absar, IT Citizen Member, Lorin Sutton, IT Citizen Member, and Todd Robertson, IT Citizen Member. Others present were: Brenda Garton, County Administrator; Scott Varner, IT Director, Patrick Fly, Deputy GIS Manager, Michelle Nugent, Network Operations Supervisor, Benny Tyson, MIS Director, and Alisa Scott, Administrative Assistant.

*****Items Not Requiring Action*****

1. Introduction of IT Director
2. Assessment of department and current projects
3. Reorganization ideas shared after initial IT staff assessment
4. Changes to IT Procurement Policy
5. New projects (Microsoft Office 365)
6. Strategic planning
7. Board of Supervisors to receive an update per month on IT project statuses and ideas.

Respectfully Submitted,

Information Technologies Committee

Gary Lofton, Chairman

Judith McCann-Slaughter

Robert A. Hess

Quaiser Absar

Lorin Sutton

Todd Robertson

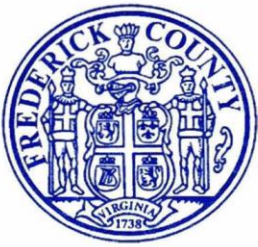
By: 

Scott Varner

IT Director

107 North Kent Street, Winchester, Virginia 22601

F



MEMORANDUM

TO: Board of Supervisors HES
FROM: Harvey E. Strawsnyder, Jr., P.E., Director of Public Works hco
SUBJECT: Public Works Committee Report for Meeting of September 27, 2016
DATE: September 30, 2016

The Public Works Committee met on Tuesday, September 27, 2016, at 8:00 a.m. All members were present except Whit Wagner and Jim Wilson. The following items were discussed:

Items Requiring Action

1. Disposition of Shawneeland Council House (Clowser House):

The committee reviewed a report dated September 21, 2016 (**Attachment 1**) prepared by a citizens' group attempting to preserve the existing Clowser House which has incurred structural damage. This report was prepared to answer specific questions posed by the Board of Supervisors during a meeting held on June 23, 2016. At that meeting the Board approved a 90 day grace period to allow the concerned citizens an opportunity to address specific questions.

The conclusions summarized in the report were presented by Mr. Robert Stieg, Jr., who was listed as the co-chairman of the Citizens Committee for the Preservation of the Clowser House. At the conclusion of his presentation, the committee entered into a discussion of the issues that had been adequately addressed and those items that needed further study. The items that were not adequately addressed include the following:

- a. Obtain written documentation from DCR that the intended use will not adversely affect the classification of the dam.
- b. Identify and procure funding necessary to structurally stabilize the existing building.

To allow sufficient time to achieve the above tasks, the committee unanimously endorsed a request from the citizens group for an additional 90 day study period. The committee also strongly urged the citizens' group to meet with the Shawneeland Advisory Committee to share the results of their current report as well as ascertain their willingness to donate property to the Clowser Foundation.

*****Items Not Requiring Action*****

1. Project Update:

- a. Snowden Bridge Boulevard Extension: The project is currently ahead of schedule. The bridge deck was placed last week and final grading is moving forward. The final asphalt surface mix shall be placed in the next couple of weeks and then final stripping. We anticipate that the project should be finished in late October or early November.
- b. Frederick County Regional Landfill – Partial Closure of CDD Landfill – Permit 591: The contractor is placing final soil covers and topsoil. The project should be completed by the end of October with final seeding and mulching.
- c. Roundhill Fire Station and Event Center: This project is nearing completion. Last week, we performed a final walk-over of the project with the contractor and have developed a final punch list and warranty items. We anticipate final completion at the end of October.

2. Miscellaneous Reports:

- a) Tonnage Report
(Attachment 2)
- b) Recycling Report
(Attachment 3)
- c) Animal Shelter Dog Report
(Attachment 4)
- d) Animal Shelter Cat Report
(Attachment 5)

3. Closed Session: A closed session was convened pursuant to Section 2.2-3711 A (1) of the Code of Virginia, 1950, as amended, for discussion of personnel matters, specifically, the resignation of specific public officers, appointees, or employees.

No action was taken after reconvening from the closed session.

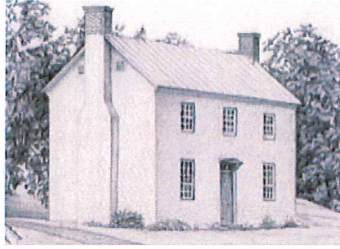
Respectfully submitted,
Public Works Committee

Gene E. Fisher, Chairman
Robert A. Hess
Robert W. Wells
David W. Ganse, AIA

By Harvey E. Strawsnyder, Jr.
Harvey E. Strawsnyder, Jr., P.E.
Public Works Director

HES/kco
Attachments: as stated
cc: file

CITIZENS' COMMITTEE TO PRESERVE THE CLOUSER HOUSE



Committee Co-Chairs

Ruth Perrine, northmtn@ymail.com
540-336-6173

Bob Stieg, bstieg@msn.com
540-460-6609

September 21, 2016

Members of the Public Works Committee:

The members of the Citizens' Committee are submitting the attached materials for your consideration at the September 27 meeting of the Public Works Committee. This consists of a four page **Initial Report and Proposal** Regarding the future and uses of the Clouser House in Shawneeland, plus seven documents representing the outcome of some of the work done by the Committee over the last 90 days.

Based on the Initial Proposal and the work completed, the Committee is requesting that the Public Works Committee make a recommendation to the Board of Supervisors that an additional 90 days of planning time be allowed to complete a final proposal to the PW Committee and Board.

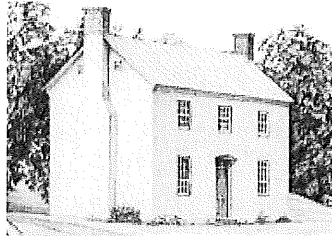
While the Committee has met every two weeks since May and accomplished a great deal towards the plan outlined in the Initial Proposal, three specific documents must still be obtained to complete the package. This includes the written opinion from DCR (one of the Board's criteria for this project) that the uses for the Clouser House as now proposed will not adversely impact the Hazard Rating of the Dam at Shawneeland. Ruckman Engineering estimates that this could take at least two months. It also includes the layout of a proposed lot (dependent on the surveys of the Dam Inundation Zone just completed) and the development of a proposed deed of transfer of that lot, both necessary for the PW Committee's and Board's consideration of a final proposal regarding the Clouser House.

We appreciate the support the Board and the Public Works Committee have given us in the form of the initial 90 days for obtaining data and formulating an overall plan. We hope that, given the initial data and plan, you will consider recommending an extension to obtain the last three elements for use in making a final recommendation and decision.

Bob Stieg, as Co-Chair of the Committee, and Larry Webb, member of the Committee (and Clouser descendant), will attend the September 27 meeting to present the material and answer your questions.

INITIAL REPORT AND PROPOSAL

From The Citizens Committee for the Preservation of the Clowser House



To the Frederick County Board of Supervisors

September 20, 2016

The Citizen's Committee (list on page 4) has been meeting bi-weekly since May to respond to the Frederick County Board of Supervisors' request for a specific plan which would preserve the Clowser House in lieu of its proposed demolition. The principal conditions stipulated by the BOS for such a plan included that: 1) any liability related to the structure be removed from the County; 2) any costs related to the structure's preservation not be borne by the County, and that 3) any plan for preservation and use not adversely impact the rating of the Shawneeland Dam (if in fact in the Dam Inundation Zone).

To prepare this Report the Committee, which includes representatives of experienced preservation organizations (Winchester-Frederick Historical Society, Preservation Historic Winchester, Kernstown Battlefield Association, Preservation Northern Shenandoah Valley, The Clermont Foundation, et al.), has:

- A. Analyzed potential uses and preservation strategies in relation to the stipulated conditions
- B. Met or talked with other County departments
- C. Raised funds to pay for planning work
- D. Commissioned a Survey to determine exactly the height of the House, and a Cross-Section at that point to determine the height of water (the Dam's Inundation Zone, or DIZ) in relation to the house.
- E. Consulted with professionals on options related to the possibility of the House being in the DIZ, including moving the house, raising the house, erecting a diversionary berm, alternative uses, etc.
- F. Analyzed archaeological surveys carried out at this site by the Archaeological Society of Virginia (ASV) in cooperation with the Virginia Department of Historic Resources (DHR), reviewed local ASV materials
- G. Reviewed previous engineering and historical studies of the House and site, consulted with experts
- H. Drafted the documents and is filing for incorporation of The Clowser Foundation

This work has resulted in two Conclusions and a specific Proposal for transfer and use.

1st Conclusion:

Whether or not the House is in the DIZ, it is worth saving and preserving as a key element in a valuable historic site related not only to Frederick County's earliest European settlement and history of national frontier conflict, but also to the site's 10,000 year pre-history as a Paleolithic camp and stone workshop site, as well as to its Civil War history with relics of both sides. This history is documented in state archaeological records (Clowser Farm, DHR ID 44FK0595; Clowser Camp/Workshop site, DHR ID 44FK0596, and DHR Architectural Record 034-1531, plus others), and with significant artifacts. The area immediately surrounding the House also includes the Clowser cemetery (a re-burial ground, containing the remains of some of the earliest settlers in Frederick County), the archaeological ruins of the earliest Clowser home and mill, and a spring which served the houses as well as earlier peoples.

Much of the historical attention (and heritage tourism promotion for economic development) in

Frederick County has been drawn to large plantations or Civil War sites, and less attention and promotion to Frederick County's – particularly western Frederick County's – important place for half a century as part of the leading edge of the American national frontier, the spirited defense of that frontier which cost the lives of many settlers (many of whose descendants still live in Frederick County), and the agricultural and other work it took to build that frontier community. The Clowser site is an outstanding example of that period in the founding of Frederick County, similar to Washington's Headquarters and the remains of Fort Loudoun in the City of Winchester, but earlier.

2nd Conclusion:

The House is within the Cherokee Dam Inundation Zone. A specific survey just completed by Marsh & Legge places the first floor of the house at 878.50 feet, and a cross-section by Ruckman Engineering of a state-defined worst case dam break places peak flow at 880.33, putting 1.83 feet of water in the first floor. Therefore, to avoid adversely impacting the Dam's Hazard Rating (Low/Significant/High; currently at Significant because of its threat to Rt. 600), only non-habitable uses could be considered.

PROPOSAL:

1. That Frederick County transfer ownership of an approximately three-acre parcel of the 149 acres it owns in Shawneeland, including the standing Clowser House, the Clowser cemetery, the archaeological remains of the original Clowser homestead, mill, paleolithic site, and spring,

2. To a non-profit Virginia corporation (The Clowser Foundation) to be established by Clowser descendants and community members,

3. For a consideration of \$1,

4. For use by the Foundation as described in its Articles of Incorporation and By-Laws:

4.1 To support research, education, and the promotion of public knowledge related a.) to the history of Frederick County, Virginia; b.) to the history of the Clowser and associated families and those they interacted with, and c.) to the history of the communities, sites, and activities with which these families were engaged; including limited public access (school tours, lectures, commemorations), and virtual access;

4.2 To support the preservation and conservation of historic and archaeological sites, including specifically the Clowser homestead site, as well as documents, research materials, and material culture items relating to a.) Frederick County, Virginia; b.) to the Clowser and related families; and c.) to their communities and activities, and, to maintain at the Clowser homestead site offices for the Foundation and related organizations, and exhibit, storage and archival facilities;

4.3 To support contemporary activities of the Clowser and related families connecting them to their history, through family reunions, public activities, electronic media, etc.;

4.4 To support and cooperate with other community institutions in the Clowser's Gap area of western Frederick County, Virginia, traditionally associated with the history of the Clowser and related families.

5. With a new office, meeting-display room, and bathroom building to be constructed on higher ground within the lot but outside the DIZ; and the specific uses of the standing Clowser House, permanently stabilized and fully maintained, to be limited (and with no bathroom) to non-habitable uses as listed:

- A. As one component of an historic site, to be viewed from the exterior
- B. Storage of materials needed on site, at very low frequency of access
- C. Access by appointment to interior for maintenance and inspection

6. With all responsibility for liability, preservation costs, costs of transfer (survey, etc.), maintenance of the buildings, etc. moved to the new "improved lot" owner, The Clowser Foundation. As such, the Foundation will pay the annual fee of a lot owner in the Shawneeland Sanitary District.

7. To help assure that the Clowser Foundation continues beyond its founding to have permanent support and advice from the representatives of local professional preservation organizations regarding the maintenance, enhancement, and other functions of the property, the By-Laws include a requirement for a Preservation Advisory Committee (Article X, Section 5).

Summary

The Citizens Committee believes that the proposal above accomplishes five goals:

- A. Meets the desire of the Frederick County BOS to eliminate its responsibility (and tax-payer funding) for any liability related to, or costs associated with, the preservation of the Clowser House, or changes to the rating of the Shawneeland Dam
- B. Preserves an unreplaceable historic/archaeological site critical to the early history of Frederick County
- C. Provides the basis for a permanent non-profit organization to be responsible for the liability and all future costs associated with the site, as well as supporting family, educational and research activities which enhance public knowledge of the County's founding historic period and people
- D. Eliminates the tax-payer funded cost of asbestos abatement and demolition of the site, costs complicated by the fact that the House stands on a state-registered archaeological site
- E. Creates an additional permanent tax-payer (improved lot owner) to the Shawneeland Sanitary District

CURRENT REQUEST TO FREDERICK COUNTY BOARD OF SUPERVISORS FROM THE COMMITTEE:

Based on the work completed over the last 90 days, and the Initial Proposal outlined above, ***that the Board of Supervisors provide an extension of 90 more days to allow the Committee to present a Final Proposal complete with the items below necessary for the Board's review and decision:***

- A. Obtain a written opinion from DCR re the impact of the defined proposed uses on the Dam Rating (Dan Hamric estimates 2 months or more), one of the Board's requests of the Committee, now that the location of the house in relation to the DIZ has been established by survey.
- B. Survey of a proposed lot containing the historical components and space for the new office/bathroom and drainfield.
- C. Preparation of a proposed deed of transfer, with the County Attorney.

The members of the Citizens' Committee thank the Public Works Committee and the Board of Supervisors for their support and consideration in this process.

List of Committee Members

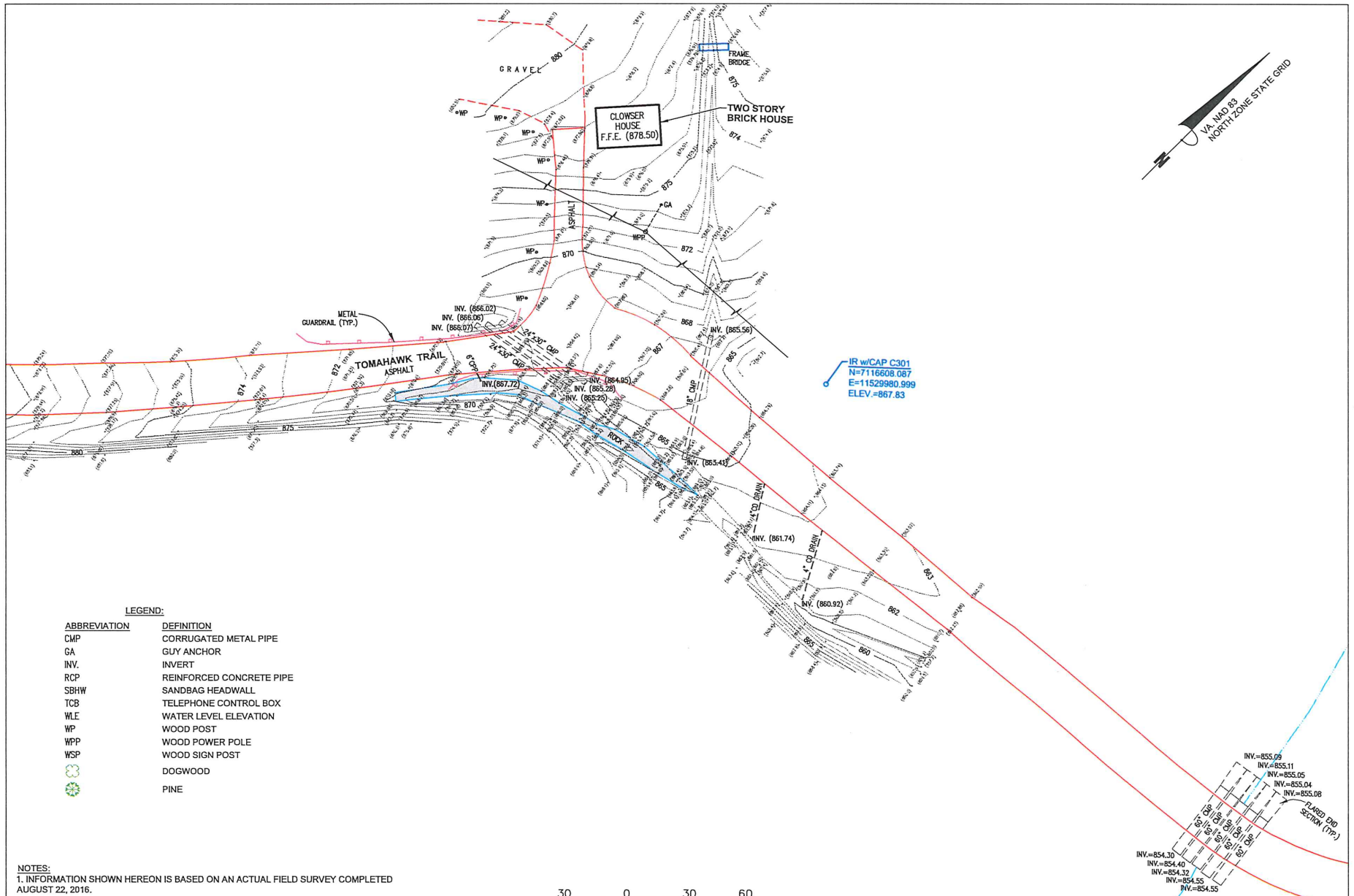
Ruth Perrine, Co-Chair, Shawneeland Resident
Robert Stieg, Co-Chair, The Clermont Foundation
Karen Burke, Recorder, Shawneeland Resident

Betsy Arnett, President, Preservation Northern Shenandoah Valley
Sandra Bosley, Director, Preservation Historic Winchester
Anna Campbell, Shawneeland Resident
Jeff Chamberlain, Clowser descendant
Jessica and Jamie Clowser, Clowser descendant
Judy Clowser-Yancey, Clowser descendant
Gary Crawford, President, Kernstown Battlefield Association
Patsy Gochenour, Local historian, teacher
Roger Lamborne, son of Shawneeland developer, history of Shawneeland
Tim Machado, AIA, Preservation of Historic Winchester
Jim Moyer, French and Indian War Foundation
George Schember, President, Winchester-Frederick Historical Society
Joe Stepongzi, Cultural anthropologist
Larry Webb, USPS, Clowser descendant



Blaine Dunn, FCBOS, Liaison
Bruce Downing, Harrison & Johnston, Registered Agent, The Clowser Foundation (in process)

ATTACHED:

1. Topographic Survey of Clowser House
2. Vicinity Map of Clowser House area
3. Cross-Section of Cherokee Dam Inundation Zone at Clowser House
4. Articles of Incorporation of The Clowser Foundation (a Virginia nonstock, non-profit corporation)
5. By-Laws of The Clowser Foundation
6. Statement from Committee on Proposed Uses of Clowser House submitted to DCR
7. Letter from DHR Confirming Eligibility of Clowser House for Nomination to State and National Historic Registers



LEGEND:

ABBREVIATION	DEFINITION
CMP	CORRUGATED METAL PIPE
GA	GUY ANCHOR
INV.	INVERT
RCP	REINFORCED CONCRETE PIPE
SBHW	SANDBAG HEADWALL
TCB	TELEPHONE CONTROL BOX
WLE	WATER LEVEL ELEVATION
WP	WOOD POST
WPP	WOOD POWER POLE
WSP	WOOD SIGN POST
	DOGWOOD
	PINE

NOTES:
 1. INFORMATION SHOWN HEREON IS BASED ON AN ACTUAL FIELD SURVEY COMPLETED AUGUST 22, 2016.

2. ANY UNDERGROUND UTILITIES SHOWN HAVE BEEN LOCATED FROM FIELD SURVEY INFORMATION AND EXISTING DRAWINGS. THE SURVEYOR MAKES NO GUARANTEES THAT THE UNDERGROUND UTILITIES SHOWN COMPRISE ALL SUCH UTILITIES IN THE AREA, EITHER IN SERVICE OR ABANDONED. THE SURVEYOR FURTHER DOES NOT WARRANT THAT THE UNDERGROUND UTILITIES SHOWN ARE IN THE EXACT LOCATION INDICATED ALTHOUGH HE DOES CERTIFY THAT THEY ARE LOCATED AS ACCURATELY AS POSSIBLE FROM INFORMATION AVAILABLE.

3. HORIZONTAL ORIENTATION IS BASED ON VA. NAD 83 NORTH ZONE STATE GRID ESTABLISHED USING GPS METHODS; VERTICAL DATUM IS BASED ON U.S.G.S. MONUMENT LL172 - ELEVATION 831.00



SCALE: 1" = 30'
 CONTOUR INTERVAL = 1'



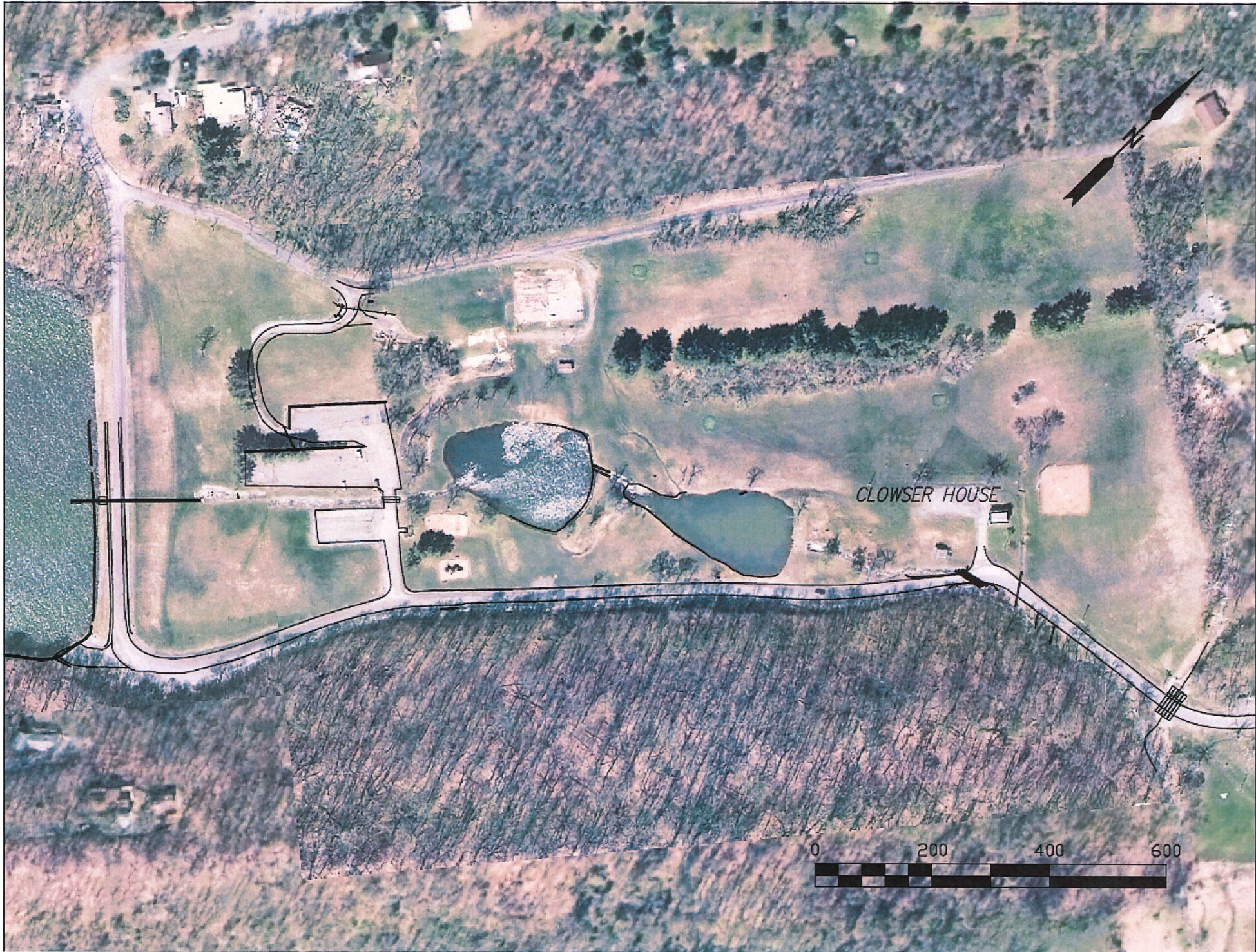
Marsh & Legge Land Surveyors, P.L.C.

560 NORTH LOUDOUN STREET ~ WINCHESTER, VIRGINIA 22601
 PHONE (540) 667-0468 ~ FAX (540) 667-0469 ~ EMAIL office@marshandlegge.com

EXHIBIT DRAWING
CLOSSER HOUSE
SHAWNEELAND
 LAKE CHEROKEE DAM MODIFICATION
 BACK CREEK MAGISTERIAL DISTRICT
 FREDERICK COUNTY, VIRGINIA

DRAWING NO.
D7338
 DATE:
 AUGUST 31, 2016
 197338_8-2016 FloodStudy

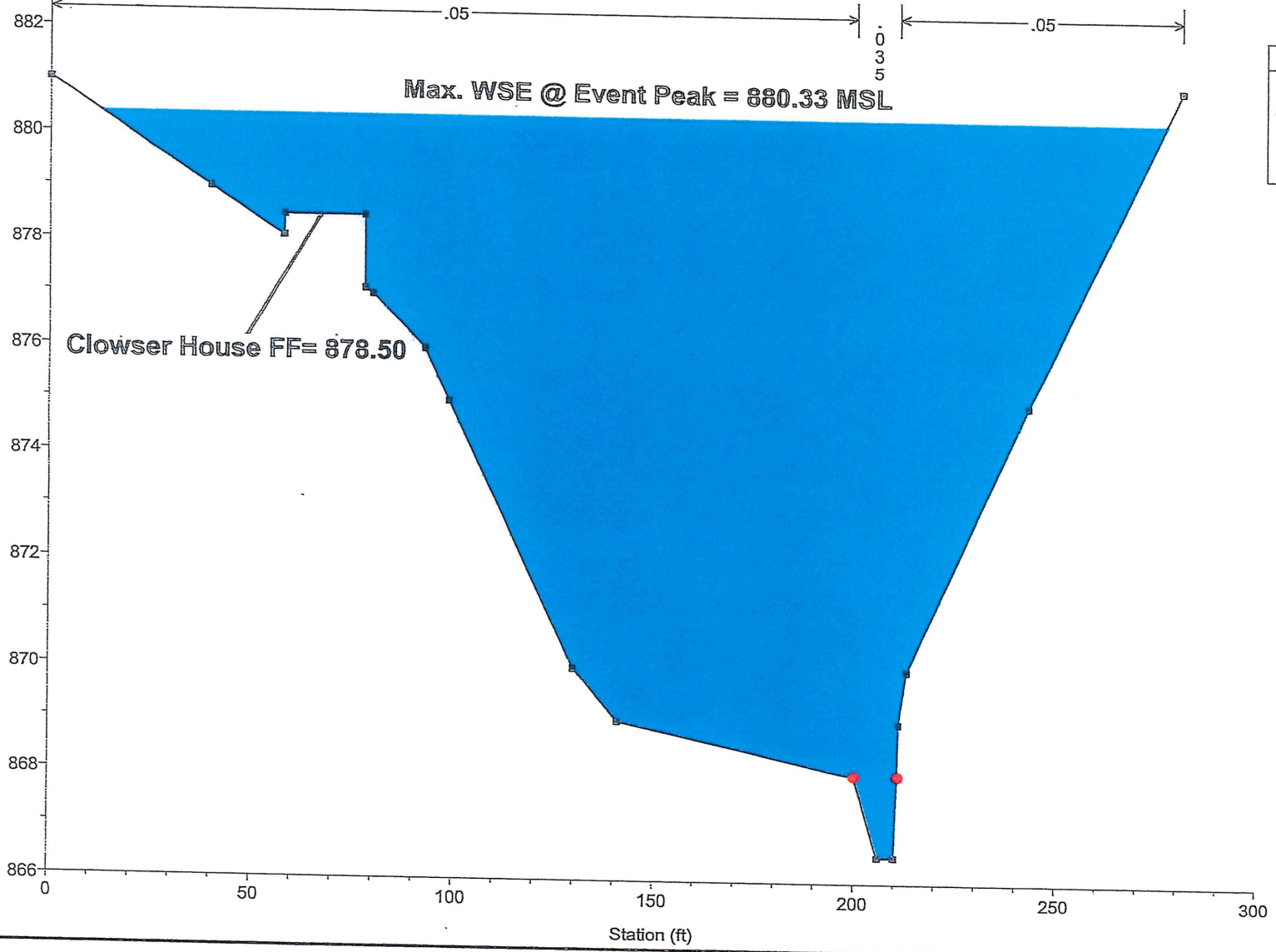
SHEET
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 OF 1



CLOUSER HOUSE

0 200 400 600

Cherokee Dam Plan: PMP w Breach 9/12/2016
X-1CH

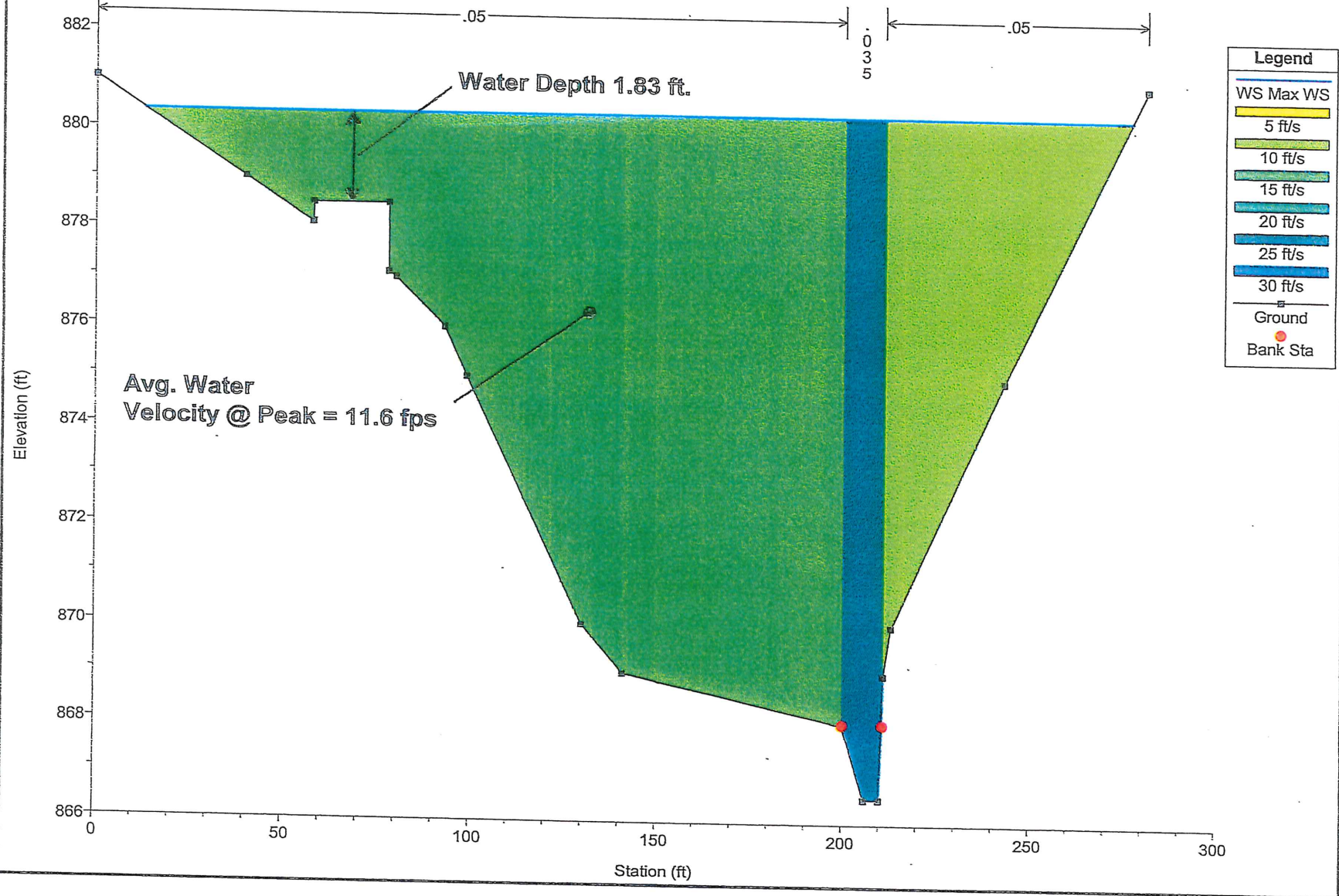


Legend	
WS Max WS	—
Ground	—
Bank Sta	●

Max. WSE @ Event Peak = 880.33 MSL

Clowser House FF= 878.50

Cherokee Dam Plan: PMP w Breach 9/12/2016
X-1CH



Legend	
WS Max WS	
5 ft/s	
10 ft/s	
15 ft/s	
20 ft/s	
25 ft/s	
30 ft/s	
Ground	
Bank Sta	

Avg. Water Velocity @ Peak = 11.6 fps

Water Depth 1.83 ft.

Elevation (ft)

Station (ft)

**ARTICLES OF INCORPORATION
OF
THE CLOWSER FOUNDATION
8-31-16 v4**

The undersigned sets forth the following for the purpose of forming a non-stock corporation under the provisions of Chapter 10 of Title 13.1 of the Code of Virginia:

1. **NAME.** The name of the corporation is:

The Clowser Foundation

2. **PURPOSES.** The corporation is organized for the following purposes:

A. The corporation is organized exclusively for charitable and educational purposes as defined in Section 501(c)(3) of the Internal Revenue Code. Within the scope of the foregoing, the corporation is specifically organized:

B. To support research, education, and the promotion of public knowledge related a.) to the history of Frederick County, Virginia; b.) to the history of the Clowser and associated families and those they interacted with, and c.) to the history of the communities, sites, and activities with which these families were engaged; including limited public access (school tours, lectures, commemorations, etc.), and virtual access;

C. To support the preservation and conservation of historic and archaeological sites, specifically including the Clowser homestead site, as well as documents, research materials, and material culture items relating to a.) Frederick County, Virginia; b.) to the Clowser and related families; and c.) to their communities and activities, and, to maintain at the Clowser homestead site offices for the Foundation and related organizations, and exhibit, storage and archival facilities;

D. To support contemporary activities of the Clowser and related families connecting them to their history, through family reunions, public activities, electronic media, etc.;

E. To support and cooperate with other community institutions in the Clowser's Gap area of western Frederick County, Virginia, traditionally associated with the history of the Clowser and related families.

3. **TAX LAW RESTRICTIONS.** The corporation shall operate under the following tax law restrictions:

A. No part of the net earnings of the corporation shall inure to the benefit of any trustee of the corporation, officer of the corporation, or any private

individual. However, reasonable compensation may be paid for services rendered to or for the corporation affecting one or more of its purposes. No trustee, officer or any private individual shall be entitled to share in the distribution of any of the corporate assets on dissolution of the corporation. No substantial part of the activities of the corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation. The corporation shall not participate or intervene in any political campaign on behalf of any candidate for public office, including the publication or distribution of statements.

B. The corporation shall not conduct or carry on any activities not permitted to be conducted or carried on by an organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code and its regulations as they now exist or as they may be amended, or by an organization, contributions to which are deductible under 170(c)(2) of the Internal Revenue Code and regulations as they now exist or as they may be amended.

C. The corporation shall have perpetual existence unless terminated sooner in accordance with the laws of the Commonwealth of Virginia. Upon dissolution of the corporation or the winding up of its affairs, the assets of the corporation shall be distributed exclusively to charitable organizations which would then qualify under the provisions of Section 501(c)(3) of the Internal Revenue Code of 1986 and its regulations as they now exist or as they may be amended.

D. The corporation is organized pursuant to the Virginia Nonstock Corporation Act and does not contemplate pecuniary gain or profits and is organized for nonprofit purposes.

4. **MEMBERS.** The corporation shall have no members.

5. **DIRECTORS.** The governing body of the corporation shall be designated as the Board of Directors and shall have full, exclusive, and continuing authority to make management decisions for the corporation. The members of the Board of Directors shall be designated as Directors. The initial number of directors shall be six (6). The number may be increased to up to twelve (12) directors by annual action of a simple majority of the board in acting upon the annual Nominating Report which will state the total number of board members as well as the names of those to voted upon. The election of the directors and terms of directors shall be as follows:

A. The directors shall be elected by the Board of Directors.

B. The initial directors shall serve terms as follows: Two (2) directors shall serve an initial term of one (1) year. Two (2) directors shall serve an initial term of two (2) years. Two (2) directors shall serve an initial term of three (3) years.

C. Thereafter, each director shall serve a term of three (3) years.

- 6. REGISTERED AGENT AND OFFICE.** The address of the initial registered office is 21 S. Loudoun Street, Winchester, Virginia, 22611. The name of the initial registered agent is Bruce Downing, who is a resident of Virginia and who is a member of the Virginia State Bar and whose business address is the same as the initial registered office of the corporation.
- 7. POWERS.** The corporation shall have all the powers available under Virginia law. Notwithstanding any other provision, no power or authority shall be exercised by the directors in any manner or for any purpose which may jeopardize the status of the corporation as an exempt organization under Section 501(c)(3) of the Internal Revenue Code and its regulations as they now exist or as they may be amended.
- 8. INDEMNIFICATION OF DIRECTORS AND OFFICERS.** Each director and each officer or former director or officer of the corporation shall be indemnified and be advanced reasonable expenses by the corporation against liabilities imposed upon him and expenses reasonably incurred by him in connection with any claim against him, or any action, suit or proceeding to which he may be a party by reason of being, or having been, a director or officer and against such as an independent counsel selected by the directors shall deem reasonable payment made in settlement of any such claim, action, suit or proceeding primarily with the view of avoiding expenses of litigation.
- The indemnification shall be made only if the corporation shall be advised, in case none of the persons involved shall be or have been a director, by the directors of the corporation, and otherwise by independent counsel to be appointed by the directors, that in its or his opinion such director or officer was not guilty of gross negligence or willful misconduct in the performance of his duty, and in the event of a settlement, that such settlement was or is in the best interest of the corporation. If the determination is to be made by the directors, they may rely as to all questions of law on the advice of independent counsel.
- Indemnification will be made only if the director conducted himself in good faith and that he believed, in the case of conduct in his official capacity with the corporation, that his conduct was in the best interests of the corporation, and that in all other cases, he believed that his conduct was at least not opposed to the best interests of the corporation. In the case of any criminal proceeding, indemnification will be made only if the director had no reasonable cause to believe that his conduct was unlawful. However, no director or officer shall be indemnified:
- A. With respect to matters as to which he shall be adjudged in such action, suit or proceeding to be liable for negligence or misconduct in performance of duty.

B. With respect to any matters which shall be settled by the payment of sums which independent counsel selected by the directors shall not deem reasonable payment made primarily with a view to avoiding expense of litigation.

C. With respect to matters for which such indemnification would be against public policy.

D. With respect to a proceeding by or on behalf of the corporation in which the director was adjudged liable to the corporation.

E. With respect to any other proceeding charging improper personal benefit to him, whether or not involving action in his official capacity, in which he was adjudged liable on the basis that personal benefit was improperly received by him.

These rights of indemnification shall be in addition to any other rights to which directors or officers may be entitled under any by-law, agreement, corporate resolution, vote of directors, or otherwise. The corporation shall have the power to purchase or maintain at its cost and expense insurance on behalf of the such persons to the fullest extent permitted by applicable Virginia law. In no event shall any provision be construed as providing indemnification not otherwise permitted by law for a director or officer of a Virginia nonstock corporation.

IN WITNESS WHEREOF, the undersigned has hereunto set his hand and seal

this _____ day of _____, 2016.

(SEAL)

Bruce Downing, Incorporator

**BY-LAWS
OF
THE CLOWSER FOUNDATION**
(A Virginia nonstock, non-profit corporation)
8-31-16 v4

**ARTICLE I
NAME**

SECTION 1 - Name and Governance: The name of the corporation is The Clowser Foundation (“Foundation”). The Foundation has no members, and shall be governed by a Board of Directors (“Board”). The members of the Board are designated “directors”.

**ARTICLE II
PURPOSE AND STATUS**

SECTION 1 – Purpose: The Foundation is organized exclusively for charitable and educational purposes as defined in Section 501(c)(3) of the Internal Revenue Code. Within the scope of the foregoing, the corporation is specifically organized:

1.1 To support research, education, and the promotion of public knowledge related a.) to the history of Frederick County, Virginia; b.) to the history of the Clowser and associated families and those they interacted with, and c.) to the history of the communities, sites, and activities with which these families were engaged; including limited public access (school tours, lectures, commemorations, etc.), and virtual access;

1.2 To support the preservation and conservation of historic and archaeological sites, specifically including the Clowser homestead site, as well as documents, research materials, and material culture items relating to a.) Frederick County, Virginia; b.) to the Clowser and related families; and c.) to their communities and activities, and, to maintain at the Clowser homestead site offices for the Foundation and related organizations, and exhibit, storage and archival facilities;

1.3 To support contemporary activities of the Clowser and related families connecting them to their history, through family reunions, public activities, electronic media, etc.;

1.4 To support and cooperate with other community institutions in the Clowser’s Gap area of western Frederick County, Virginia, traditionally associated with the history of the Clowser and related families.

SECTION 2 – Status: The Foundation is organized exclusively for charitable and educational purposes as defined in Section 501(c)(3) of the Internal Revenue Code of 1954. The Foundation shall not conduct or carry on any activities not permitted to be conducted or carried on by an organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code and its regulations as they now exist or as they may be amended, or by an organization, contributions to which are deductible under 170(c)(2) of the Internal Revenue Code and regulations as they now exist or as they may be amended. The corporation shall have perpetual existence unless terminated sooner in accordance with the laws of the Commonwealth of Virginia.

ARTICLE III BOARD OF DIRECTORS

SECTION 1 – Number: The Board of Directors shall have six (6) to twelve (12) members, as embodied annually in the report of the Nominating Committee for the following year, and as that report is adopted or amended by the Board.

SECTION 2 - Qualifications: Directors shall be at least eighteen (18) years of age. The Board shall make a reasonable effort in electing directors to have on the Board directors from diverse backgrounds and representing Clowser family interests, historical and preservation interests, and community interests, capable of overseeing activities based on the described purposes of the corporation.

SECTION 3 – Election and Term: Except for the directors of the initial Board who shall serve staggered terms to inaugurate a regular rotation of one-third of the board's members each year, each director, except ex-officio directors, shall serve a term of three (3) years. Terms shall commence in January. The directors shall be elected by the Board at the annual meeting or at any special meeting held in lieu thereof. Nominations for directors may be submitted by the nominating committee or by individual directors. A director may only serve three consecutive terms, but may be considered for membership again after a one-year absence from the Board.

SECTION 4 – Resignation, Removal, and Vacancies:

4.1 Resignation: A director may resign at any time by delivering a written or email notice of resignation to the President. A resignation is effective when the notice is delivered, unless the notice specifies a later effective date.

4.2 Removal: Any director may be removed, with or without cause, by a majority vote of the Board, whenever in the Board's judgment the best interests of the Foundation would be served thereby. A director may be removed only at a meeting called for the purpose of removing the

director. The meeting notice shall state that the purpose or one of the purposes of the meeting is the removal of a director.

4.3 Vacancies: Any vacancy occurring among the members of the Board shall be filled by the remaining directors. A director elected to fill a vacancy shall be elected for the unexpired term of the predecessor, in order to maintain the regular annual one-third board membership rotation.

SECTION 5 – Quorum and Manner of Acting: A majority of the directors shall constitute a quorum for the transaction of business at any meeting of the Board. Directors may not vote by proxy. A majority vote of directors present at a meeting at which a quorum is present shall be the act of the Board, unless the act of a greater number is required by statute or these by-laws.

SECTION 6 – Compensation: No director shall receive, directly or indirectly, any compensation for his/her services as director. No director shall be eligible for paid employment by the Foundation. The Board may provide for the reimbursement of actual travel, lodging, and reasonable Foundation-related, out-of-pocket expenses incurred in the performance of the duties of a director.

SECTION 7 – Duties of Directors:

7.1 Standard for Performance of Duties: The directors shall act in accordance with their duties as members of the governing board of a Virginia nonstock, non-profit corporation, and shall adhere to the following principles:

(a) The duty of Care: a director shall discharge his or her duties in accordance with his or her good faith judgment of the best interests of the Foundation, and manage the Foundation's assets as a prudent investor, by exercising reasonable care, skill, and caution.

(b) The duty of Loyalty: a director shall guard the interests of the Foundation and should exercise extreme caution with regard to transactions that may present a conflict of interest (defined as any situation in which a director may acquire a personal advantage or make a profit in connection with a transaction involving the Foundation). Any possible conflict of interest on the part of a director shall be disclosed to the Board. Such director shall not vote or use personal influence on the matter, and shall not be counted in the quorum for a meeting at which Board action is to be taken on the matter. In any such event, the Board shall take special care to evaluate whether or not such a transaction would be fair and reasonable to the Foundation.

(c) The duty of Obedience: a director of the Foundation, a non-profit organization (which are organized under state and federal law to accomplish a specific charitable mission, rather than a profit for stockholders) shall be faithful to the Foundation's purpose, as set forth in the Articles of Incorporation and these By-Laws.

7.2 Required Activities: The Board shall adopt the mission of the Foundation, a long-range plan, policies and procedures, and an annual budget as necessary to implement the plan.

7.3 Attendance: Directors are expected to attend meetings regularly. If any trustee shall neglect or refuse to attend three (3) successive regular meetings of the Board, unless detained by sickness or other reason accepted by the Board, the remaining board members may, by majority vote, declare the seat vacant and proceed to fill it in accordance with the by-laws.

ARTICLE IV OFFICERS

SECTION 1 – Number and Qualifications: The officers of the Foundation shall consist of a President, Vice-President, Secretary, Treasurer, and such other officers as the Board may from time to time appoint, all of whom shall be members of the Board.

SECTION 2 – Election and Term of Office: The officers of the Foundation shall be elected annually by the Board of Directors immediately following the election of directors, at the annual meeting. Vacancies may be filled at any meeting of the Board of Directors. Each officer shall hold office for one year or until a successor shall have been elected. Any officer may be removed, with or without cause, at any time by a vote of a majority of the Board at a meeting called for that purpose.

SECTION 3 - Duties: The officers of the Foundation shall have such duties as generally pertain to their respective offices, as well as such powers and duties as from time to time may be delegated to them by the Board.

ARTICLE V COMMITTEES

SECTION 1 – Committees: The President may appoint the members and designate the chair of standing and other committees, as necessary, for a term lasting from one annual meeting to the next. A majority of the membership of a committee shall constitute a quorum, and the act of a majority of the members present at a meeting at which a quorum is present shall be the action of the committee. Committees shall serve at the pleasure of the Board under such rules and descriptions of duties as the Board may establish. Committee members may include persons who are not members of the Board, but the chairperson of any committee must be a member of the Board.

SECTION 2 – Executive Committee: The Board may create an Executive Committee, composed of the officers of the Board. The Executive Committee shall

act with the full authority of the Board between regular Board meetings, but its decisions may be reviewed by and changed or nullified by the full Board. The Executive Committee shall be responsible for making recommendations to the Board on planning, annual and long term; personnel; and compensation for any employees.

SECTION 3 – Standing Committees: The Board may create permanent standing committees for specific functions such as Finance.

SECTION 4 – Other Committees: The Board may create Ad Hoc committees for specific short-term issues, or additional committees as needed, and shall periodically review the functions of its committees.

ARTICLE VI MEETINGS

SECTION 1 – Annual Meeting of the Foundation: The annual meeting of the Foundation shall be held in the fourth quarter of each year at such time, date, and place as the Board shall determine. In general, the annual meeting shall be held in the last quarter prior to the beginning of the fiscal year of the Foundation.

SECTION 2 – Regular Meetings of the Board: Regular meetings of the Board will be held at least four times per year, preferably distributed quarterly, and may be held more frequently. Meetings shall be held at such time, date, and place, as the Board may determine.

SECTION 3 – Executive Committee Meetings: The Executive Committee will meet, as needed to advance the business of the Board between regular meetings, at the call of the President or any two officers.

SECTION 4 – Committee Meetings: Committee meetings will be held as necessary at the determination of the chair of the committee.

SECTION 5 – Special Meetings: Special meetings of the Board of Directors may be held at the request of the President or any two directors whenever there is business that must be acted upon before the next regularly scheduled meeting. Notice of special meetings shall be given to the Board no less than three (3) days before the meeting. All other requirements of regular meetings shall be in effect for special meetings. No business may be transacted at a special meeting that was not contained in the notice of such meeting.

SECTION 6 – Notice of Meetings:

- a) **Notice of the Annual Meeting:** Notice of annual meeting shall be given to the directors not less than ten (10) days before the meeting.

b) Notice of Regular Meetings: Notice of regular meetings shall be given to the directors a minimum of seven (7) days prior to the meeting. A schedule of regular meetings may be adopted annually by the Board and if communicated to all Board members shall constitute adequate notice of all meetings so listed.

c) Waiver of Notice: The notice requirements contained in these by-laws may be waived in writing by any director, either before or after the meeting. All waivers shall be made part of the minutes of the meeting. Attendance of a director at a meeting constitutes a waiver of notice of such meeting and waiver of any and all objections to the place, time, manner of calling or convening, except when a director states any objection promptly at the beginning of the meeting.

d) Action by Directors Without Meeting: Nothing herein contained shall be construed to prohibit the taking of action by the Board without a meeting, as provided in Virginia Code § 13.1-685.

SECTION 7 - Presumption of Assent: A director who is present at a meeting of the Board when corporate action is taken is presumed to have assented to the action unless such director votes against it or expressly abstains from voting on the action taken, or objects at the beginning of the meeting to the holding of the meeting or transacting specific business at the meeting.

SECTION 8 - Meetings Held in Whole or Part Through Telecommunications: Any one or more directors or members of a committee may participate in a meeting of the Board or committee by means of a conference telephone or other telecommunications device which allows all persons participating in the meeting to hear each other or to see in written form the words of the others, and such participation in a meeting shall be deemed presence in person at such meeting.

ARTICLE VII ANNUAL REPORTING AND BUDGET

SECTION 1 – Annual Report to Board of Trustees and Public: The President may annually present a brief written report to the Board on the Foundation’s activities and finances for the previous fiscal year. Such report shall be available to the public on request.

SECTION 2 – Financial Report: Within one hundred twenty (120) days of the close of each fiscal year of the Foundation, the Treasurer shall present to the Board a financial report, showing in appropriate detail the assets and liabilities, and revenues and expenses of the Foundation, which shall then be filed with the minutes of the meeting of the Board.

SECTION 3 – Budget: Each year the Board shall approve a budget for the following fiscal year. The Board may amend such budgets from time to time.

SECTION 4 - State and Federal Filings: Each year the Board shall assure the prompt filing of State Corporation Commission reports and fees required to maintain the corporation, as well as the publicly-available IRS non-profit tax filings required to maintain the corporation's tax-exempt status, as appropriate.

SECTION 5 – Fiscal Year: The fiscal year of the Foundation shall be the calendar year.

ARTICLE VIII DISSOLUTION

SECTION 1 – Dissolution of Foundation: Upon the dissolution of the Foundation the assets of the Foundation shall be distributed exclusively to the Winchester-Frederick County Historical Society, to be placed in a specific fund dedicated to similar purposes as described in Article II, provided the Association is at that time a qualified exempt organization under Section 501(c)(3) of the Internal Revenue Code. However, if the Winchester-Frederick County Historical Society is not then in existence or no longer qualified, or is unwilling or unable to accept the distribution, then the assets of this Foundation shall be distributed exclusively to charitable organizations with related purposes which would then qualify under the provisions of Section 501(c)(3) of the Internal Revenue Code and its regulations as they now exist or as they may be amended.

ARTICLE IX AMENDMENT TO BY-LAWS

SECTION 1 - These by-laws may be amended at any time by a majority vote of the Board. No amendment of the by-laws shall be adopted unless written notice of the proposed amendment shall have been given to the directors at least ten (10) days prior to the meeting.

ARTICLE X MISCELLANEOUS

SECTION 1 – Rules: Robert's Rules of Order (in its most recent edition at the date of its use) shall be the parliamentary authority for all matters of procedure not specifically covered by these by-laws or by other specific rules of procedure adopted by the Board.

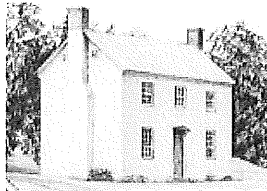
SECTION 2 – Offices: The Foundation may maintain such offices and places of business within and without the Commonwealth of Virginia as the Board may determine.

SECTION 3 – Depositories and Signature Authority: The funds of the Foundation shall be deposited in such banks or other depositories as determined by the Board, and checks drawn against such funds shall be signed by such officers, trustees, or other agents as the Board shall establish from time to time by resolution.

SECTION 4 - Executive Director: The Board may hire an Executive Director. The compensation for the CEO/ED shall be determined by the Board, based upon comparison to market. The job performance of a CEO/ED shall be reviewed annually by the Board, and the Board shall approve compensation increases based upon job performance and comparison to market.

SECTION 5 - Preservation Advisory Committee: The Corporation shall establish and maintain a Preservation Advisory Committee, without governing power or authority, to serve as a resource at the direction and pleasure of the Board. The purpose of the Committee is to provide advice, assistance, expertise, communication to other networks of people, and support to the Board for the advancement and promotion of the purposes of the Foundation. The Board shall appoint five (5) to ten (10) persons to the Preservation Advisory Committee, and shall annually appoint or reappoint the members of this Committee at the annual meeting, as part of the Nominating Committee's election slate. The Nominating Committee's annual slate will designate one of the Committee's members as Chair of the Committee. Members may be nominated to any number of annual terms. Committee membership should represent diverse historical and archaeological disciplines and assure representation of relevant local professional and preservation organizations.

CITIZENS' COMMITTEE TO PRESERVE THE CLOWSER HOUSE



137 Red Fox Trail, Winchester, VA 22601

Ruth Perrine, northmtn@ymail.com Bob Stieg, bstieg@msn.com

Statement from the Committee Regarding the Proposed Future and Uses of the Clowser House and its Site 9-19-16

The Committee is working with the Board of Supervisors of Frederick County to save from proposed demolition the 18th century Clowser House in Shawneeland. The proposal for preservation must meet three BOS criteria: 1) that all liability be removed from the County; 2) that no costs related to preservation be borne by the County, and 3) that if found to be in the Inundation Zone of Cherokee Dam (DIZ) by specific survey, the Dam's Hazard Rating not be adversely impacted by any potential uses.

To meet criteria 1) and 2), the proposal would involve the transfer of a lot out of the 149 acres Frederick County owns in Shawneeland, including the Clowser house site. The lot would go to a permanent non-profit institutional owner, the Clowser Foundation, with a principal mission to preserve the site's components. The site includes the 18th century standing house, a cemetery with the remains of some of the earliest settlers of Frederick County, the probable site of the original Clowser home from the 1730's, a walled spring, and a 10,000 year old paleolithic camp and stone workshop site.

To make the necessary determination *re* criterion 3) a specific topographical survey of the house and cross-section of the stream flow was done under a "Probable Maximum Precipitation Event Failure" assumption. The standing Clowser House is in fact within the edge of the DIZ and would have 1.83 feet of water in its first floor (878.50 feet) at a maximum flow height of 880.33 feet.

To meet criterion 3) therefore, the Committee is planning to make one change in its proposal to preserve these structures. Rather than using the historic house as inhabited space (permanent office and visitor center), it will be stabilized and fully maintained as an archaeological component of the site. The house will be viewed from the exterior as part of a set of historic components, including the earlier homestead, the enclosed spring, the cemetery, the paleolithic camp site, etc., and the house will continue to be viewed from the public road as part of the historic viewshed on the main entrance to Shawneeland. To provide habitable office space for the Clowser Foundation, a meeting/exhibits room, and a bathroom, a small house-like building will be constructed to meet these needs on higher ground within the lot, outside the DIZ, similar to other historic sites with a modern office.

The specific non-habitable uses of the historic Clowser House therefore will be:

1. As one component of an historic archaeological site, to be viewed from the exterior. No bathroom.
2. Storage of materials needed on site, at very low frequency of access (2 times per month)
3. Access by appointment to interior for maintenance and inspection (9-10 per year).

The BOS has required that DCR's opinion be obtained as to whether these uses, similar to current ones, would impact the Dam's rating ("significant", based primarily on its potential impact on Rt. 600).



March 24, 2014

John Riley, Jr., County Administrator
Frederick County Virginia
107 Kent Street
Winchester, VA 22601

Re: Clowser House/ Council House, Frederick County

Dear Mr. Riley:

We are pleased to inform you that at its **March 20, 2014**, meeting, the State Review Board concurred with the Department of Historic Resources (DHR) that the **Clowser House/ Council House** is recommended eligible for nomination to the national and state registers, assuming that a more substantially documented nomination fully supports the arguments presented in the PIF and/or raised in the staff and board discussions. Approval at the Preliminary Information Form level is not the formal listing stage and not a guarantee that the nomination will succeed if the documentation and argument made in the final formal nomination do not fully support the property's eligibility.

We caution you that if the staff or boards do not feel that a sufficient argument has been made for a resource, we may ask for more information or make the recommendation that the resource no longer appears to meet the criteria for eligibility. We strongly encourage you to work closely with the DHR staff as you work through the nomination process. Please feel free to contact the **Northern Region Preservation Office** at 540-868-7029 for any assistance.

The recommendation of eligibility is also subject to re-evaluation if the architectural and/or archaeological resource is significantly altered, remodeled, or partially demolished, or if further research reveals that the resource is less significant than originally proposed.

Before making a final recommendation on the resource, the DHR staff, the State Review Board, and the Historic Resources Board will need to see a fully developed nomination. The National Register of Historic Places form is used for nominating resources both to the Virginia Landmarks Register and the National Register. You may prepare the nomination yourself or hire a consultant.

Should the preparation of a nomination go forward, you will be notified prior to any formal action by the Department. Thank you for your interest in the register program.

Sincerely,

Julie Langan
Director

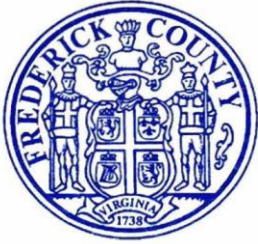
Administrative Services
10 Courthouse Ave.
Petersburg, VA 23803
Tel: (804) 862-6408
Fax: (804) 862-6196

Capital Region Office
2801 Kensington Avenue
Richmond, VA 23221
Tel: (804) 367-2323
Fax: (804) 367-2391

Tidewater Region Office
1441 1/2 Old Courthouse Way
2nd Floor
Newport News, VA 23608
Tel: (757) 886-2818
Fax: (757) 886-2808

Western Region Office
962 King Lane
Safern, VA 24133
Tel: (540) 387-5443
Fax: (540) 387-5446

Northern Region Office
5357 Main Street
P.O. Box 519
Stephens City, VA 22655
Tel: (540) 868-7029
Fax: (540) 868-7033



MEMORANDUM

TO: Public Works Committee HES
FROM: Harvey E. Strawsnyder, Jr., P.E., Director of Public Works Jico
SUBJECT: Monthly Tonnage Report - Fiscal Year 14/15
DATE: September 22, 2016

The following is the tonnage for the months of July 2015, through June 2016, and the average monthly tonnage for fiscal years 03/04 through 16/17.

FY 03-04:	AVERAGE PER MONTH:	16,348 TONS (UP 1,164 TONS)
FY 04-05:	AVERAGE PER MONTH:	17,029 TONS (UP 681 TONS)
FY 05-06:	AVERAGE PER MONTH:	17,785 TONS (UP 756 TONS)
FY 06-07:	AVERAGE PER MONTH:	16,705 TONS (DOWN 1,080 TONS)
FY 07-08:	AVERAGE PER MONTH:	13,904 TONS (DOWN 2,801 TONS)
FY 08-09:	AVERAGE PER MONTH:	13,316 TONS (DOWN 588 TONS)
FY 09-10:	AVERAGE PER MONTH:	12,219 TONS (DOWN 1,097 TONS)
FY 10-11:	AVERAGE PER MONTH:	12,184 TONS (DOWN 35 TONS)
FY 11-12:	AVERAGE PER MONTH:	12,013 TONS (DOWN 171 TONS)
FY 12-13:	AVERAGE PER MONTH:	12,065 TONS (UP 52 TONS)
FY 13-14:	AVERAGE PER MONTH:	12,468 TONS (UP 403 TONS)
FY 14-15:	AVERAGE PER MONTH:	13,133 TONS (UP 665 TONS)
FY 15-16:	AVERAGE PER MONTH:	13,984 TONS (UP 851 TONS)
FY 16-17:	AVERAGE PER MONTH:	14,558 TONS (UP 574 TONS)

MONTH	FY 2015-2016	FY 2016-2017
JULY	15,019	13,391
AUGUST	13,853	15,724
SEPTEMBER	14,103	
OCTOBER	14,095	
NOVEMBER	13,053	
DECEMBER	13,589	
JANUARY	11,191	
FEBRUARY	12,240	
MARCH	15,058	
APRIL	14,563	
MAY	15,198	
JUNE	15,845	

RECYCLING REPORT - FY 15/16

<u>MONTH</u>	<u>GLASS</u>	<u>PLAST</u>	<u>AL</u> <u>CANS</u>	<u>STEEL</u> <u>CANS</u>	<u>PAPER</u>	<u>OCC</u>	<u>SHOES</u>	<u>TEXTILE</u>	<u>ELEC</u>	<u>SCRAP</u>	<u>TOTAL</u>
JUL	75,280	37,691	3,685	6,490	72,900	84,815			37,140	243,960	561,961
AUG	78,080	40,680	3,715	7,505	96,280	85,400			71,580	263,440	646,680
SEP											0
OCT											0
NOV											0
DEC											0
JAN											0
FEB											0
MAR											0
APR											0
MAY											0
JUN											0
TOTAL	153,360	78,371	7,400	13,995	169,180	170,215	0	0	108,720	507,400	1,208,641
FY 15-16	919,540	428,300	52,077	97,252	1,275,060	974,493	17,220	31,600	480,400	2,376,344	6,652,286
FY 14-15	895,600	407,703	40,060	97,515	1,272,660	893,380	25,900	23,540	532,283	1,890,729	6,079,370
FY 13-14	904,780	417,090	39,399	99,177	1,281,105	902,701	15,230	22,650	611,580	1,639,225	5,932,937
FY 12-13	913,530	410,338	45,086	102,875	1,508,029	878,450	15,020	24,680	502,680	1,321,938	5,722,626
FY 11-12	865,380	398,320	43,884	99,846	1,492,826	840,717	8,200	29,720	484,600	1,432,678	5,696,171
FY 10-11	949,185	378,452	42,120	98,474	1,404,806	824,873	18,420	23,280	467,920	1,220,107	5,427,637
FY 09-10	1,123,671	370,386	42,844	96,666	1,235,624	671,669	21,160		435,680	1,348,398	5,346,098
FY 08-09	762,810	322,928	23,473	55,246	1,708,302	564,957	28,780		404,760	1,097,151	4,968,407
FY 07-08	794,932	284,220	15,783	40,544	1,971,883	545,692	0		498,110	1,172,880	5,324,044
FY 06-07	600,464	200,720	11,834	29,285	1,684,711	441,321	0		382,574	550,070	3,900,979
FY 05-06	558,367	190,611	12,478	28,526	1,523,162				381,469	204,220	2,898,833
FY 04-05	549,527	193,224	11,415	27,525	1,552,111				273,707	25,080	2,632,589
FY 03-04	541,896	174,256	11,437	31,112	1,443,461				156,870	336,230	2,695,262
FY 02-03	413,627	146,770	9,840	23,148	1,381,195				62,840	171,680	2,209,100
FY 01-02	450,280	181,040	10,565	25,553	1,401,206				54,061	58,140	2,180,845
FY 00-01	436,615	198,519	10,367	24,988	1,759,731					9,620	2,439,840
FY 99-00	422,447	177,260	10,177	22,847	1,686,587					44,180	2,363,498
FY 98-99	402,192	184,405	9,564	22,905	1,411,950					48,810	2,079,826
FY 97-98	485,294	136,110	13,307	29,775	1,830,000						2,494,486
FY 96-97	373,106	211,105	23,584	46,625	1,690,000						2,344,420
FY 95-96	511,978	167,486	28,441	44,995	1,553,060						2,305,960
TO DATE	14,028,581	5,657,614	515,135	1,158,874	32,236,649	7,708,468	149,930	155,470	5,838,254	15,454,880	82,903,855

FREDERICK COUNTY ESTHER BOYD ANIMAL SHELTER FY 2016-2017

DOG REPORT

MONTH	ON HAND AT FIRST OF MONTH	RECEIVED AT KENNEL	BROUGHT IN BY ACO	BITE CASES	BORN AT KENNEL	ADOPTED	RECLAIMED	DISPOSED	DIED AT KENNEL	ESCAPED/ STOLEN	CARRIED OVER NEXT MONTH
JULY	42	30	50	2	0	39	34	7	1	0	43
AUG	43	49	26	1	0	27	35	5	0	0	52
SEP											
OCT											
NOV											
DEC											
JAN											
FEB											
MAR											
APR											
MAY											
JUN											
TOTAL	85	79	76	3	0	66	69	12	1	0	95

In the month of August - 119 dogs in and out of kennel. 2 dogs transferred to SPCA, 1 dog transferred to rescue.

FREDERICK COUNTY ESTHER BOYD ANIMAL SHELTER FY 2016-2017

CAT REPORT

MONTH	ON HAND AT FIRST OF MONTH	RECEIVED AT KENNEL	BROUGHT IN BY ACO	BITE CASES	BORN AT KENNEL	ADOPTED	RECLAIMED	DISPOSED	DIED AT KENNEL	ESCAPED/ STOLEN	CARRIED TO NEXT MONTH
JULY	80	161	11	3	10	35	7	144	2	0	77
AUG	77	130	26	4	6	20	3	123	6	0	91
SEP											
OCT											
NOV											
DEC											
JAN											
FEB											
MAR											
APR											
MAY											
JUN											
TOTAL	157	291	37	7	16	55	10	267	8	0	168

In the month of August - 243 cats in and out of shelter.

G



MEMORANDUM

TO: Board of Supervisors
FROM: John A. Bishop, AICP, Assistant Director - Transportation *JB*
RE: Transportation Committee Report for Meeting of September 26, 2016
DATE: October 4, 2016

The Transportation Committee met on September 26, 2016 at 8:30 a.m.

Members Present

Gary Lofton (voting)
Judith McCann-Slaughter (voting)
Barry Schnoor(voting)
Lewis Boyer (liaison Stephens City)
Gary Oates (liaison PC)
Gene Fisher(voting)

Members Absent

Mark Davis (liaison Middletown)
James Racey (voting)

*****Items Requiring Action*****

8. Other

Mrs. McCann-Slaughter noted that she felt that funding for the I-81 corridor should be added to the Board's Federal Legislative Agenda in addition to the State Legislative Agenda.

MOTION

A motion was made by Mrs. McCann-Slaughter to recommend that the Board of Supervisors add funding for the I-81 corridor to their Federal Legislative Agenda. The motion was seconded by Mr. Fisher and passed unanimously.

*****Items Not Requiring Action*****

1. Gainesboro School Entrance Improvements

Mr. Wayne Lee offered the schools schematic for Route 522 improvements and the justification for it. He noted the expected cost is approximately \$600,000. Mr. Fisher noted that he believes a combination of a signal with the extended turn lane as well as flashers downstream noting when there is a red ahead as he has observed in localities elsewhere in the state. Ed Carter of VDOT noted that the signalization work would likely approach \$400,000 and that the Commonwealth Transportation Board is really holding the line on introduction of signals to primary thoroughfares. It was also noted that this entrance only meets one of VDOT's signal warrants which is below the current threshold. Mr. Lee noted that the dry run they conducted of the proposed traffic plan was successful. The Sheriff also noted that they are currently collecting speed data in that area. Mrs. McCann-Slaughter noted that at JWMS in the past there were officers who staffed the location at key times and would stop traffic to clear the bus traffic and asked if the School Board had considered this. Mr. Lee noted that this was the practice in the past. Mr. Oates noted that he feels the school's proposal is a good compromise but noted that speeds are a concern out there and that the school zone should possibly be extended even further. Mr. Hess asked if this is seen as permanent or temporary. He noted access to Gainesboro Road may be part of the solution. Mr. Lee noted that while this has been discussed there are issues with spacing for the most direct route and that the secondary route along the edge of the Adams farm that was considered did not gain support though he did not recall why. Mrs. McCann-Slaughter and Mr. Hess noted that this would be a potentially good long term solution. Mr. Lofton asked whether there is still time to investigate additional alternatives. Mrs. McCann-Slaughter asked about what we did at Armel since that is a similar situation. Mr. Lee noted it is not as easy of a solution because of greater volumes and significant grades. The entrance also does not meet warrants and a 'superstreet' solution is not feasible due to topographical issues. He noted that the best option there is to bring it to Macedonia Church Road. Mr. Fisher noted that he feels we need to keep pushing for the signal at Armel and that he is willing to support the School Board in this discussion with VDOT.

The Committee, by consensus, has requested that the school continue to investigate alternative access via the Adams farm. Mr. Oates also noted that an entrance on Gainesboro Road would reduce the number of buses coming onto Route 522.

2. Upcoming Commonwealth Transportation Board Meeting

As noted on the attached correspondence, on October 25, 2016 the Commonwealth Transportation Board and Secretary of Transportation will be holding an open house followed by a town hall meeting format. While the invitation notes there will be no formal public comment, this is an opportunity to have direct interaction with our CTB representatives, Secretary of Transportation, and VDOT Staff and inform them of Frederick County's key priorities.

Staff noted that they are available to drive anyone from the Transportation Committee or Board of Supervisors to the meeting who may wish to attend and noted that Staff will also be attending. In addition, Staff provided the following key points for discussion.

In addition to appreciation for recent funding approvals such as Route 277 from Exit 307 to Double Church Road, key points of discussion at this time would include the following:

Frederick County's Current Applications for SmartScale (formerly HB2)

1. Route 37 extension from Tasker Road to Route 522
2. (Variation of Project 1) Route 37 extension from Tasker Road to Future Warrior Drive location combined with construction of Warrior Drive from that location to current terminus of Warrior Drive
3. Exit 317 northbound exit ramp relocation to location where Redbud Road currently ties into Route 11 North combined with the rerouting of Redbud Road to Snowden Bridge Boulevard
4. Route 277 from Double Church Road to Warrior Drive, widening and access management
5. Route 11 North, widening from Snowden Bridge Blvd to Old Charlestown Road
6. Sulphur Springs Road, reconstruction and widening from Route 50 to the landfill
7. Intersection of Senseny Road and Crestleigh Drive, turn lanes onto Senseny Road
8. Intersection of Route 277 and Warrior Drive, extend the eastbound right turn lane on Route 277 and pedestrian safety improvements along the southern part of Warrior Drive
9. Intersection of Papermill Road and Route 522, extend right turn lane on eastbound Papermill Road

Established Priorities from the County Interstate and Primary Plans

1. Route 37, completion of Route 37 through the eastern portion of the County and around Stonewall Industrial Park
2. Route 11, north and south widening and access management improvements to address growth and congestion

3. Route 277, widening and access management from Double Church Road to Route 522, key 'next critical' areas are the vicinity of Sherando High School and Sherando Park
4. Route 50 and Route 7 widenings
5. Renewal of planning and progress on I-81 long term solutions

Revenue Sharing

Continue opposition to the plan to reduce revenue sharing funds available to localities.

3. 2016 Virginia Appropriation Act

Please see the attached correspondence from VDOT regarding the 2016 Virginia Appropriation Act. Mr. Ed Carter of VDOT was on hand to discuss the program with the Committee and noted that no action is required on the part of the County at this time. This particular policy will impact approximately \$39,000.00 of Frederick County's secondary funds and VDOT is working on recommendations of where to move those funds to preserve them. At such time as VDOT has finished their part of the process, those recommendations will be forwarded to the County.

4. Revenue Sharing Applications

Staff made the following recommendations to the Committee regarding the upcoming revenue sharing cycle.

The next round of VDOT Revenue Sharing Applications will be due on November 1, 2016. Staff is seeking approval from the Committee to begin preparation of the following applications for the Board of Supervisors consideration and approval.

1. Remaining funding for Jubal Early Drive extension and interchange with Route 37

This project was first put forth for revenue sharing funding during last year's application cycle and received \$5,890,895.00 in revenue sharing funds toward a total project cost of \$18,660,500.00. Staff would like to apply for an additional \$3,439,355.00 to get the revenue sharing portion of project funding up to the full 50% that the program allows.

2. Tevis Street Extension

This project was previously awarded \$700,000.00 for potential gap funding on the former CDA. Since that time the CDA has failed and significant construction funding has been awarded to the Bridge over I-81 and the Airport Road Extension and round-a-bout. A portion of the \$700,000.00 has been used for design of the Tevis Street Extension and Bridge. Staff is seeking to apply for additional revenue sharing funds to address right-of-way and construction of this section in the amount of \$2,193,145.00.

These two potential applications total \$5,632,500.00.

Staff noted that the maximum annual revenue sharing request is \$10,000,000 and that if other opportunities present themselves that the County still has room for additional applications. By consensus the Committee authorized Staff to begin working on the applications.

This item will come before the Board separately at a future meeting for final approval and resolution adoption.

5. Fall/Winter Transportation Forum

Based on previously noted desire by the Committee to repeat last year's fall transportation forum. Staff sought input regarding the format and/or theme for this year's forum.

Key items discussed for the public outreach and advertisement process included I-81, unpaved roads, transportation funding, and public safety. Staff was instructed to begin outreach to our state and federal elected officials to try and find a date when most could participate and to begin formulating materials for public outreach.

6. Draft LFCC Public Transit Feasibility Study

Staff provided copies and a brief overview of the study to the Committee. No action was taken.

7. County Projects Update

Snowden Bridge Boulevard:

Construction is underway and on schedule at this time. Expected completion in approximately one (1) month.

Tevis Street Extension/Airport Road/I-81 Bridge:

The revenue sharing agreement has been executed and design is once again underway on the bridge. In addition, the traffic impact analysis that will

determine the design specifics for the Airport Road is underway and a draft is expected shortly.

Renaissance Drive:

Transportation Partnership Opportunity Fund application has been submitted which could change the project from a grade to a bridge crossing. Staff is coordinating with CSX and VDOT to complete an MOU for the process of getting the crossing as well as determining unimproved rail crossings for upgrade. Following a meeting with local stakeholders, Staff is also proceeding to the Finance Committee to seek approval to begin design work on the surface street while the current grant application for the bridge is pending.

Valley Mill Road Realignment:

Thirty percent design has been completed and the County's on call consultant is providing an updated cost estimate to complete design through 100%. Upon approval by the private party partner, the next phase of design will begin.

Coverstone Drive:

No activity at this time.

Jubal Early Drive Extension and Interchange with Route 37:

Initial meetings regarding a draft agreement and follow up application for additional revenue sharing funds has been held with the private partner team.

JAB/pd



COMMONWEALTH of VIRGINIA

DEPARTMENT OF TRANSPORTATION
1401 EAST BROAD STREET
RICHMOND VIRGINIA 23219 2000

Charles A. Kilpatrick, P.E.
Commissioner

September 1, 2016

To: County Administrators/City and Town Managers

Subject: 2016 Virginia Appropriation Act
Item 436 C.2 – Consolidation of Formula Funds

Over the past several years, the distribution of transportation dollars has transformed. Fiscal Year 2010 was the last year in which available funds were distributed through the original construction formula, 40% to the Primary System, 30% to the Secondary System, and 30% to the Urban System. Since then, the formula structure has been changed twice and the referenced original formula has been eliminated. Even though it has been seven years since funds have been provided in this manner, many localities have unspent and/or uncommitted formula funds.

The 2016 Appropriation Act included language pertaining to the balance of funds provided by the previous Primary, Secondary, and Urban construction formulas. The language provides an opportunity for localities and the Virginia Department of Transportation (VDOT) to work together to use these dormant funds to advance priority transportation projects within the respective district or locality.

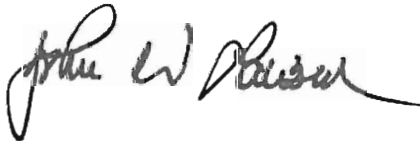
We are asking for your assistance to review your projects currently funded with such formula funds in the Six-Year Improvement Program (SYIP) and identify ways to consolidate dormant amounts. The consolidation effort needs to occur now and be incorporated in the FY 2018 update of the SYIP. Any remaining formula funds as of January 1, 2018 will be transferred to the new State of Good Repair program unless those funds are allocated to a fully funded and active project. Specific details of this language can be found in the adopted 2016 Appropriation Act available at: <https://budget.lis.virginia.gov/item/2016/1/HB30/Chapter/1/436/>.

Detailed guidance will be provided by VDOT staff outlining potentially impacted projects, eligible uses for dormant formula funds, and other recommended actions over the next several months. Please work with your local VDOT points of contact to complete an initial review of impacted projects and dormant funding no later than **December 1, 2016** so that we may assist in

re-programming resources as a part of the FY 2018 SYIP update beginning in early 2017. We will continue to provide ongoing coordination to identify additional opportunities for consolidation as they arise between now and January 1, 2018.

If you have any questions or concerns, please contact your local VDOT point of contact or visit our website at <http://www.virginiadot.org/projects/syp-default.asp> for a list of frequently asked questions related to this effort.

Sincerely,

A handwritten signature in black ink, appearing to read "John W. Lawson". The signature is fluid and cursive, with a long horizontal stroke at the end.

John W. Lawson
Chief Financial Officer

CC: Charles A. Kilpatrick, P.E.
Quintin D. Elliott
Kimberly Pryor, AICP
Julie R. Brown
VDOT District Engineers

H



REZONING APPLICATION #08-16

WWW, LC

Staff Report for the Board of Supervisors

Prepared: October 3, 2016

Staff Contact: John A. Bishop, AICP Assistant Director-Transportation

	<u>Reviewed</u>	<u>Action</u>
Planning Commission:	08/17/16	Public Meeting Held: Recommended Approval
Board of Supervisors:	10/12/16	Pending; Public Meeting

PROPOSAL: To revise proffers associated with Rezoning #03-03. Specifically this action impacts the implementation of Petticoat Gap Lane and the extension of Retail Boulevard.

LOCATION: The site is located at the northwest quadrant of Northwestern Pike (US Rt. 50 West) and Retail Boulevard intersection.

EXECUTIVE SUMMARY & PLANNING COMMISSION RECOMMENDATION FOR THE 10/12/16 BOARD OF SUPERVISORS MEETING:

Rezoning #03-03 rezoned nearly 71 acres to B2 (General Business) along the north side of Route 50 West and Route 37. This is where businesses such as Walmart, Applebee's, Sonic, and the Bank of Clarke County are now located. That rezoning encompassed numerous transportation proffers such as improvements to Route 50 and the interchange of Route 50 and Route 37. In addition, that rezoning called for the construction of a major collector roadway behind where the Walmart is now located to connect Route 50 and Botanical Boulevard. This roadway network is depicted in Master Development Plan #07-04 which is also referenced in the proffers. Through the development process there were alterations to the layout that was envisioned at that time and the first section of that major collector roadway was constructed as Retail Boulevard which, along with an additional access point along Route 50, has provided the access to the retail area that is now anchored by Walmart.

The Applicant is now proposing to modify the proffers related to the implementation of the final portions of the proffered collector roadway. The request is to delay the design and construction of Petticoat Gap Lane and the undeveloped portion of Retail Boulevard and to allow up to 50,000 square feet of additional commercial development on the property before the road construction. As ownership has changed on significant portions of the original rezoning, the Applicant is seeking the proffer modification on their remaining 28.17 acres contained in parcel 52-A-B.

Please note that VDOT has provided comments regarding concerns they have. Regarding proffer B2, VDOT notes that some additional undeveloped parcels from the original rezoning should be included in the square footage requirement that is being proposed to trigger the roadway. The Applicant has addressed the other agency or staff outstanding comments and those of the County Attorney in their final October 3, 2016 proffer statement.

The Planning Commission was supportive of this request for a minor proffer modification to the road phasing and construction and recommended approval.

Following the public meeting, a decision regarding this rezoning application by the Board of Supervisors would be appropriate. The Applicant should be prepared to adequately address all concerns raised by the Board of Supervisors.

This report is prepared by the Frederick County Planning Staff to provide information to the Planning Commission and the Board of Supervisors to assist them in making a decision on this application. It may also be useful to others interested in this zoning matter. Unresolved issues concerning this application are noted by staff where relevant throughout this staff report.

	<u>Reviewed</u>	<u>Action</u>
Planning Commission:	08/17/16	Public Meeting Held; Recommended Approval
Board of Supervisors:	10/12/16	Pending; Public Meeting

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LOCATION: The site is located at the northwest quadrant of Northwestern Pike (US Rt. 50 West) and Retail Boulevard intersection.

MAGISTERIAL DISTRICT: Gainesboro

PROPERTY ID NUMBERS: 52-A-B

PROPERTY ZONING: B2 (General Business)

PRESENT USE: Agricultural

ADJOINING PROPERTY ZONING & PRESENT USE:

North:	RA (Rural Areas)	Use: Agricultural
South:	B2 (General Business) B3 (Industrial Transition)	Use: VDOT/Vacant
East:	B2 (General Business)	Use: Vacant/Bank
West:	B2 (General Business)	Use: Vacant

REVIEW EVALUATIONS:

Virginia Dept. of Transportation: *Please see emails dated 4/14/16 and 10/30/15 from Matthew Smith P.E, Area Land Use Engineer.*

County Attorney: *Please see letter dated March 10, 2016 from County Attorney Roderick B. Williams.*

Planning & Zoning:

1) **Site History**

The original Frederick County zoning map (U.S.G.S. Winchester Quadrangle) identifies the subject parcel as being zoned A-2 (Agricultural General). The County's agricultural zoning districts were combined to form the RA (Rural Areas) District upon adoption of an amendment to the Frederick County Zoning Ordinance on May 10, 1989. The corresponding revision of the zoning map resulted in the re-mapping of the subject property and all other A-1 and A-2 zoned land to the RA District. In 1995 parcel 52-A-B was subdivided and sold at auction to WWW L.C. In 2003 the property was rezoned, with proffers, to the B2 Zoning District.

2) **Comprehensive Policy Plan**

The WWW, LC site is located within the Round Hill Community Land Use Plan. The site is located wholly within the Sewer and Water Service Area (SWSA). The Round Hill Community Land Use Plan envisions the development of business/office land uses subject to the availability of central sewer and water facilities.

The Round Hill Community Plan recognizes two distinct yet connected areas of development. There is the core rural community center area centered around Round Hill Road and the more commercial areas located along Route 50. This rezoning is located within the Route 50 Commercial area.

The Round Hill Community Plan recommends the employment of design techniques to ensure the contextual compatibility of new commercial development in the Round Hill Community. Such techniques are intended to preclude the visual disruption of the Route 50 corridor while also promoting development whose configuration and appearance reflects the established character of the Round Hill Community. It is also noted that strip commercial development is explicitly discouraged within the Round Hill Community.

3) **Proffer Statement**

Proffered Street Improvements

The Applicant is proffering the following:

1. Dedicate the right-of-way for the Retail Boulevard extension and Petticoat Gap Lane within 180 days of the Conditional Zoning Amendment approval by the Board of Supervisors.
2. The owner shall limit site development to 50,000 square feet before completion of the construction or bonding of the Retail Boulevard extension and Petticoat Gap Lane.
3. The owner shall prepare a public improvement plan for the construction of the above mentioned

- roadways concurrent with the first site plan that exceeds 50,000 square feet of structural area.
4. The Applicant must bond the above noted roadways prior to the issuance of the Certificate of Occupancy Permit for the site plan which exceeds 50,000 square feet.
 5. The Applicant is performing VDOT punch list and taking the actions necessary to get the existing portion of Retail Blvd. adopted into the system.
 6. The combined trip generation for the parcels identified in Master Development Plan #07-04 shall not exceed 15,000 trips per day without further approval from the County. When the total for existing traffic and the ITE trip generation report projected traffic exceeds 15,000 the Applicant must perform an updated TIA. Additional site plans will not be approved until the County is satisfied that adequate and manageable levels of service will exist on state or internal site roadways.

PLANNING COMMISSION SUMMARY AND ACTION FROM THE 08/17/16 MEETING:

Staff reported this rezoning is a minor proffer amendment regarding the phasing; specifically the transportation improvements and more specifically the extension of Retail Boulevard and the completion of Petticoat Gap Lane. Staff presented an aerial graphic of the site. Mr. Bishop explained the property is located on the Northwest quadrant of the intersection of Route 50 and Retail Boulevard. Staff continued by presenting a brief history of the site. Staff reported the site consists of 28.17 acres. Mr. Bishop continued this property was originally rezoned in 2003 and was nearly 71 acres along the north side of Route 50 and west of Route 37 where businesses such as Walmart, Applebee's, and the Bank of Clarke County are located. Staff explained that particular rezoning encompassed numerous transportation proffers such as improvements to Route 50 and the interchange of Route 50 and Route 37. Staff noted in addition, that rezoning called for the construction of a major collector roadway behind the Walmart to connect Route 50 and Botanical Boulevard. Mr. Bishop continued through the development process with alternations to the layout that was envisioned at that time; the first section of the major collector road was constructed as Retail Boulevard, which has provided the access to the retail area that surrounds Walmart.

Staff reported the Applicant is now proposing to modify the proffers related to the final portions of the proffered collector roadway. Staff presented the proposed phasing triggers:

- Submit right-of-way dedication plat for the remaining section of Retail Boulevard and Petticoat Gap Lane within 180 days of conditional zoning amendment approval by the Board of Supervisors.
- Prior to exceeding 50,000 square feet of site development the Applicant will design and construct or bond the remainder of Retail Boulevard and Petticoat Gap Lane.
- Construction must occur on or before the completion of the Phase 2 Lutheran Boulevard Transportation Program.

Mr. Bishop reported some items to note as this application is considered would be that VDOT and the County Attorney have provided comments regarding concerns they have. Staff explained regarding proffer B2, VDOT notes that some additional undeveloped parcels from the original rezoning should be included in the square footage requirement that is being proposed to trigger the roadway and the County Attorney notes concerns with the fact that the right-of-way is under a different LLC entity and that the contract to construct in proffer B4 does not represent an actual guarantee to construct the roadway but merely an obligation to a third party.

Mr. Evan Wyatt representing the Applicant came forward. Mr. Wyatt reported when this property was originally rezoned the area was not largely commercialized. Mr. Wyatt continued now there are several

Rezoning #08-16 WWW, LC.

October 3, 2016

Page 4

businesses at the location and the road configuration has changed. Mr. Wyatt highlighted the important question when is the right time to build Petticoat Gap Lane. Mr. Wyatt noted the Applicant has gone through several scenarios with VDOT and the most comfortable approach for VDOT appears to be to limit the 28 acres to 50,000 square ft.

Mr. Wyatt continued regarding the comment sent forth by the County Attorney, he explained in 2004 this parcel was deeded by WWW L.C. to Petticoat Gap L.L.C. and the conditions on the dedication were reserved for public street purposes. He continued the Applicant has 180 days to perform and the Applicant has proposed to add to proffer B1. It currently states the owner shall prepare and submit a right-of-way dedication plat for Petticoat Gap Lane and the undeveloped portion of Retail Boulevard to the County within 180 days of conditional zoning amendment approval by the Frederick County Board of Supervisors. Mr. Wyatt noted the Applicant would like to add the following to this proffer; "and prior to any development activity on the property".

A Commission Member commented it may have been simpler to add Petticoat Gap L.L.C. as a party to the proffers if there is a good relationship. Mr. Wyatt this could have been done however he feels with the addition to B1 it will result in the same.

A motion was made, seconded, and unanimously recommended approval of REZ #08-16 with the addition of "and prior to any development activity on the property" to proffer B1.

Absent: Thomas

EXECUTIVE SUMMARY & PLANNING COMMISSION RECOMMENDATION FOR THE 10/12/16 BOARD OF SUPERVISORS MEETING:

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Rezoning #08-16 WWW, LC.

October 3, 2016

Page 4

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The Planning Commission was supportive of this request for a minor proffer modification to the road phasing and construction and recommended approval.

Following the public meeting, a decision regarding this rezoning application by the Board of Supervisors would be appropriate. The Applicant should be prepared to adequately address all concerns raised by the Board of Supervisors.

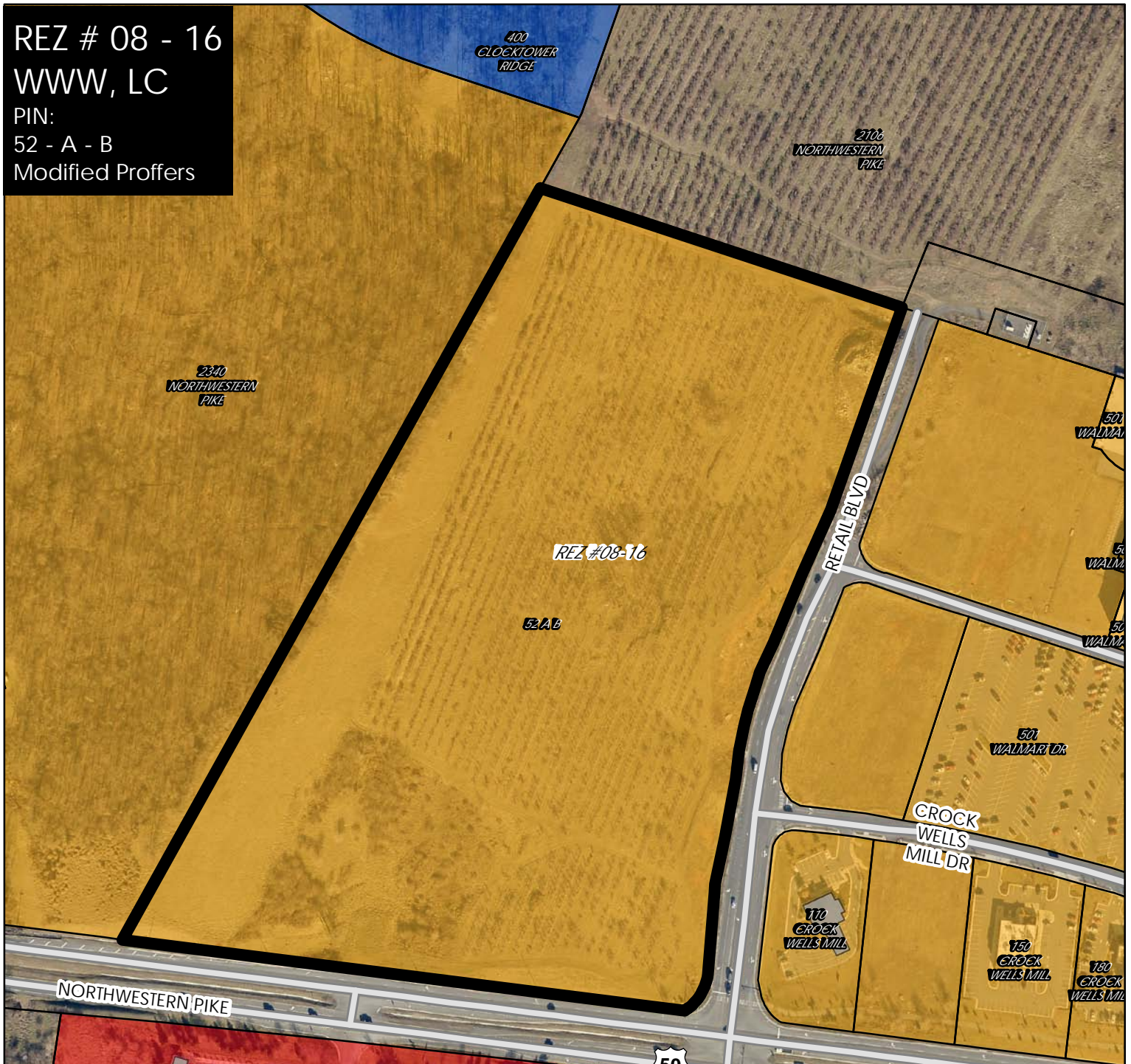
REZ # 08 - 16

WWW, LC

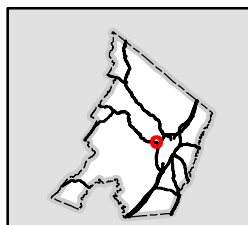
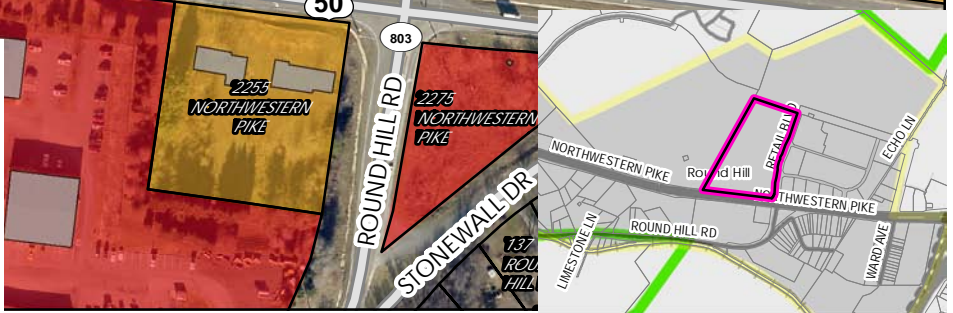
PIN:

52 - A - B

Modified Proffers



- Applications
- Parcels
- Sewer and Water Service Area
- Building Footprints
- B1 (Business, Neighborhood District)
- B2 (Business, General District)
- B3 (Business, Industrial Transition District)
- EM (Extractive Manufacturing District)
- HE (Higher Education District)
- M1 (Industrial, Light District)
- M2 (Industrial, General District)
- MH1 (Mobile Home Community District)
- MS (Medical Support District)
- OM (Office - Manufacturing Park)
- R4 (Residential Planned Community District)
- R5 (Residential Recreational Community District)
- RA (Rural Area District)
- RP (Residential Performance District)



REZ # 08 - 16

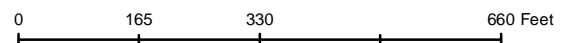
WWW, LC

PIN:

52 - A - B

Modified Proffers

Note:
 Frederick County Dept of
 Planning & Development
 107 N Kent St
 Suite 202
 Winchester, VA 22601
 540 - 665 - 5651
 Map Created: July 14, 2016
 Staff: jbishop



REZ # 08 - 16





WWW, LC

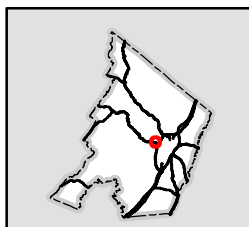
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Modified Proffers



-  Applications
-  Parcels
-  Sewer and Water Service Area
-  Building Footprints



REZ # 08 - 16

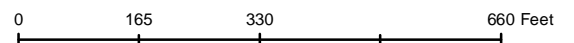
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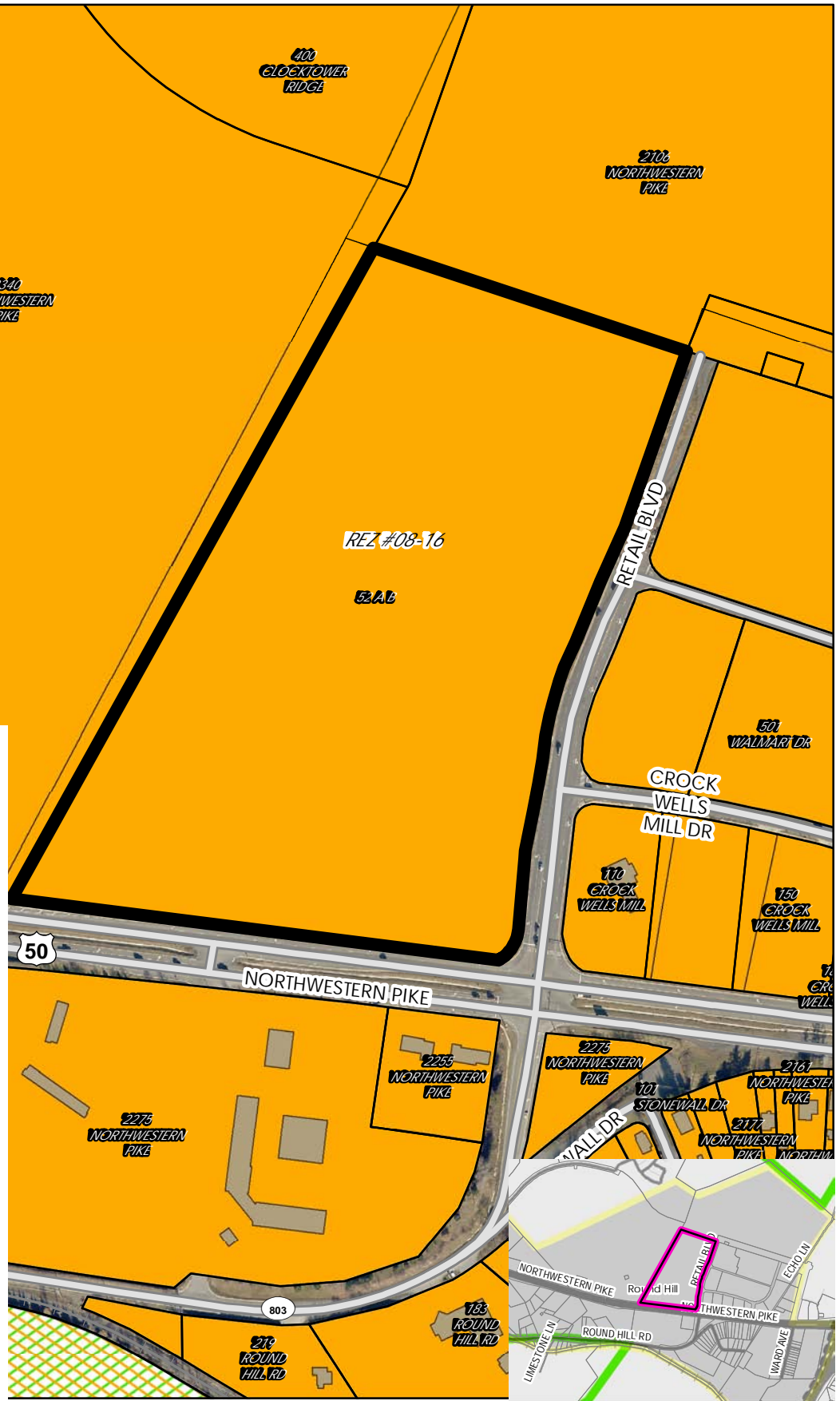
REZ # 08 - 16

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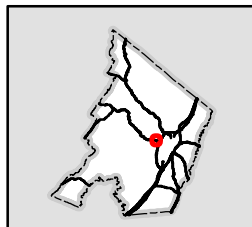
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52 - A - B

Modified Proffers



- Applications
- Parcels
- Sewer and Water Service Area
- Building Footprints
- Long Range Land Use**
- Residential
- Neighborhood Village
- Urban Center
- Mobile Home Community
- Business
- Highway Commercial
- Mixed-Use
- Mixed Use Commercial/Office
- Mixed Use Industrial/Office
- Industrial
- Warehouse
- Heavy Industrial
- Extractive Mining
- Commercial Rec
- Rural Community Center
- Fire & Rescue
- Historic
- Institutional
- Planned Unit Development
- Park
- Recreation
- School
- Employment
- Airport Support Area
- B2 / B3
- Residential, 4 u/a
- High-Density Residential, 6 u/a
- High-Density Residential, 12-16 u/a
- Rural Area
- Interstate Buffer
- Landfill Support Area
- Natural Resources & Recreation
- Environmental & Recreational Resources



REZ # 08 - 16

WWW, LC

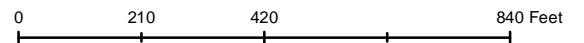
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Modified Proffers

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Frederick County Dept of
 Planning & Development
 107 N Kent St
 Suite 202
 Winchester, VA 22601
 540 - 665 - 5651
 Map Created: July 14, 2016
 Staff: jbishop



WWW, LC - PROFFER STATEMENT

REZONING: RZ# 08-16 Conditional Zoning Amendment
Business General (B2) with Proffers
to Business General (B2) with Revised Proffers

PROPERTY: Tax Parcel 52-A-B; 28.17+/- acres (here-in after the “**Property**”)

RECORD OWNER: Winchester Warehousing, Inc. & Silver Lake, LLC

APPLICANT: Winchester Warehousing, Inc. & Silver Lake, LLC (here-in after
“**Owner**”)

PROJECT NAME: WWW, LC

ORIGINAL DATE
OF PROFFERS: April 2, 2015

REVISION DATE: October 3, 2016

Preliminary Matters

Pursuant to Section 15.2-2296 Et. Seq. of the Code of Virginia, 1950, as amended, and the provisions of the Frederick County Zoning Ordinance with respect to conditional zoning, the undersigned Owner hereby proffers that in the event the Board of Supervisors of Frederick County, Virginia, shall approve conditional zoning amendments pertaining to Rezoning Application #08-16 for the 28.17±-acres Property from the B2, Business General District with approved proffers to the B2, Business General District with revised proffers, development of the Property shall be done in conformity with the terms and conditions set forth herein, except to the extent that such terms and conditions may be subsequently amended or revised by the Owner and such be approved by the Frederick County Board of Supervisors in accordance with the said Code and Zoning Ordinance. In the event that such rezoning is not granted, then these proffers shall be deemed withdrawn and have no effect whatsoever. These proffers shall be binding upon the Owner and any legal successors, heirs, or assigns.

The Property, identified as WWW, LC is more particularly identified as “Residue Winchester Warehousing, Inc., and Silver Lake, LLC, P/O Tax Map Parcel 52-A-B” on the Final Subdivision Plat of the Property of Winchester Warehousing, Inc. and Silver Lake, LLC, June 5, 2004, by Gilbert W. Clifford & Associates, recorded as Instrument Number 040017251.

WWW, LC - PROFFER STATEMENT

A. Master Development Plan

The development of the Property shall be consistent with Master Development Plan #07-04 approved by Frederick County on June 30, 2004, except for the narrative pertaining to Petticoat Gap Phasing. The requirements for Petticoat Gap Lane are specified within the Street Improvements Section of this Proffer Statement.

B. Street Improvements

The Owner shall design and construct all roads adjoining the subject property consistent with the County's adopted Round Hill Land Use Plan for the area as provided in these proffers and as illustrated on Master Development Plan #07-04.

1. Petticoat Gap Lane and Retail Boulevard are identified on Master Development #07-04 as 80' right-of-ways. The Owner shall prepare and submit a right-of-way dedication plat for Petticoat Gap Lane and the undeveloped portion of Retail Boulevard to the County within 180 days of Conditional Zoning Amendment approval by the Frederick County Board of Supervisors and prior to any development activity on the Property.
2. The Owner shall limit development on the Property to 50,000 square feet of structural area before construction of the undeveloped portion of Retail Boulevard and Petticoat Gap Lane.
3. The Owner shall prepare a Public Improvement Plan for the undeveloped portion of Retail Boulevard along the eastern boundary of the Property and for Petticoat Gap Lane throughout the limits of the dedicated right-of-way area identified in Section B1 of the Proffer Statement. The Public Improvement Plan shall be prepared and submitted for review by VDOT and the County concurrent with the first Site Plan which exceeds 50,000 square feet of structural area on the Property. The undeveloped portion of Retail Boulevard shall be designed consistent with the constructed section and Petticoat Gap Lane shall be designed as a two-lane street section with a center left turn lane sufficient to provide for left turn movements at Retail Boulevard and the intersection immediately east of Wal-Mart (Tax Map Parcel 52-A-D).
4. The Owner shall have the option of constructing or bonding the undeveloped portion of Retail Boulevard and Petticoat Gap Lane sections consistent with the approved Public Improvement Plan. The Owner shall provide the County with bonding for construction prior to the issuance of a Certificate of

Occupancy Permit for the Site Plan which exceeds 50,000 square feet of structural area on the Property. Construction of the undeveloped portion of Retail Boulevard shall occur on or before the completion of the Phase 2 Lutheran Boulevard Transportation Program identified in the approved Proffer Statement for RZ #01-09.

5. The Owner shall complete improvements to the constructed portion of Retail Boulevard consistent with the Retail Boulevard Punch List Items identified in the September 21, 2016 correspondence from the Virginia Department of Transportation (VDOT). Completion of the Retail Boulevard Punch List Items shall occur within 180 days of Conditional Zoning Amendment approval by the Frederick County Board of Supervisors and prior to any development activity on the Property. Completion of the Retail Boulevard Punch List Items identified in the September 21, 2016 correspondence from VDOT shall fulfill the Owner's requirement for the constructed portion of Retail Boulevard.

6. The combined trip generation (ADT) for the parcels identified in Master Development Plan #07-04 shall not exceed 15,000 TPD (average weekday volume) without further approval by the County. The trip generation from the project may be measured by the Owner from data collected from actual traffic counts and from ITE generation counts. The combined traffic impact from the overall site identified in Master Development Plan #07-04 is not to exceed 15,000 TPD (average weekday volume) when actual counts and ITE generation counts are added for cumulative total. If the total for any site causes the cumulative total for the overall site identified in Master Development Plan #07-04 to exceed 15,000 TPD, then it is agreed that the applicant shall not file additional site plan applications until the County is satisfied that adequate and manageable levels of service will exist on state or internal site roadways. The applicant shall perform an updated TIA of the project intersections on U.S. Route 50 and of the Route 50/Route 37 interchange when traffic generation from the site identified in Master Development Plan #07-04 reaches 15,000 TPD (average weekday volume). The County may revise this 15,000 TPD limit upward, without modification of this proffer agreement, should results of the TIA show that additional loading is appropriate.

C. Property Design Features

Development of the Property shall include the following landscape design features identified on Master Development Plan #07-04 approved by Frederick County on June 30, 2004.

1. A fifty foot (50') landscaped green strip along the U.S. Route 50 West frontage of the Property including an 8' hiker/biker trail. Internal parking, travel ways and commercial structures shall be setback a minimum of 50' from U.S. Route 50 West. The landscaped green strip and hiker/biker trail shall be developed in conjunction with approved Site Plans that front along U.S. Route 50 West.
2. Individual sites developed on the Property shall be designed with inter-parcel connections where practical based on topographic constraints of the Property.
3. Metal exteriors shall be prohibited for all buildings constructed on the Property.
4. The Owner shall establish a Property Owners Association for the Property that will be governed by a Board of Directors that will be responsible for review of all plans of development to ensure conformity to all requirements identified in Master Development Plan #07-04 and all requirements associated with private deed and covenant restrictions.

OWNER NOTARIZED SIGNATURES ON FOLLOWING PAGES

Owner Signature

The conditions proffered above shall be binding upon the heirs, executors, administrators, assigns and successors in the interest of the Owner. In the event the Frederick County Board of Supervisors grants this rezoning and accepts the conditions, the proffered conditions shall apply to the land rezoned in addition to other requirements set forth in the Frederick County Code.

Respectfully Submitted:

By: Deane Kearns
Winchester Warehousing, Inc.
PRESIDENT

10/3/16
Date

Commonwealth of Virginia,

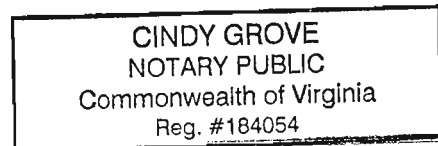
City/County of Winchester To Wit:

The foregoing instrument was acknowledged before me this 3rd day of October

20 16 by Deane Kearns, President

Cindy Grove
Notary Public

My Commission Expires Nov 30, 2018



Owner Signature

The conditions proffered above shall be binding upon the heirs, executors, administrators, assigns and successors in the interest of the Owner. In the event the Frederick County Board of Supervisors grants this rezoning and accepts the conditions, the proffered conditions shall apply to the land rezoned in addition to other requirements set forth in the Frederick County Code.

Respectfully Submitted:

By: *James R. Wilkins, III* *10/3/16*
Silver Lake, LLC *manager* Date

Commonwealth of Virginia,

City/County of *Winchester* To Wit:

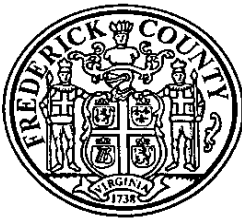
The foregoing instrument was acknowledged before me this *3rd* day of *October*

2016 by *James R. Wilkins, III - Manager*

Cindy Grove
Notary Public

My Commission Expires *Nov. 30, 2018*

CINDY GROVE
NOTARY PUBLIC
Commonwealth of Virginia
Reg. #184054



AMENDMENT

Action:

PLANNING COMMISSION: August 17, 2016 - Recommended Approval

BOARD OF SUPERVISORS: October 12, 2016 APPROVED DENIED

AN ORDINANCE AMENDING

THE ZONING DISTRICT MAP

REZONING #08-16 WWW, LC

WHEREAS, Rezoning #08-16 of WWW, LC submitted by Greenway Engineering, Inc., to revise proffers associated with Rezoning #03-03. Specifically this action delays the implementation of Petticoat Gap Lane and the extension of Retail Boulevard, was considered. The proffer revision proffer statement dated April 2, 2015 with a final revision date of October 3, 2016. The Property is located at the northwest quadrant of Northwestern Pike (US Rt. 50 West) and Retail Boulevard intersection, the Property is further identified with PIN 52-A-B in the Gainesboro Magisterial District; and

WHEREAS, the Planning Commission held a public hearing on this rezoning on August 17, 2016 and recommended approval; and

WHEREAS, the Board of Supervisors held a public hearing on this rezoning on October 12, 2016; and

WHEREAS, the Frederick County Board of Supervisors finds the approval of this rezoning to be in the best interest of the public health, safety, welfare, and in conformance with the Comprehensive Policy Plan;

NOW, THEREFORE, BE IT ORDAINED by the Frederick County Board of Supervisors, that Chapter 165 of the Frederick County Code, Zoning, is amended to revise the Zoning District Map modifying proffers related to the final portions of the proffered collector roadway.

This ordinance shall be in effect on the date of adoption.

Passed this 12th day of October, 2016 by the following recorded vote:

Charles S. DeHaven, Jr., Chairman	_____	Gary A. Lofton	_____
Robert A. Hess	_____	Robert W. Wells	_____
Gene E. Fisher	_____	Judith McCann-Slaughter	_____
Blaine P. Dunn	_____		

A COPY ATTEST

Brenda G. Garton
Frederick County Administrator

WWW, LC - PROFFER STATEMENT

REZONING: RZ# 08-16 Conditional Zoning Amendment
Business General (B2) with Proffers
to Business General (B2) with Revised Proffers

PROPERTY: Tax Parcel 52-A-B; 28.17+/- acres (here-in after the **“Property”**)

RECORD OWNER: Winchester Warehousing, Inc. & Silver Lake, LLC

APPLICANT: Winchester Warehousing, Inc. & Silver Lake, LLC (here-in after **“Owner”**)

PROJECT NAME: WWW, LC

ORIGINAL DATE
OF PROFFERS: April 2, 2015

REVISION DATE: ~~September 27, 2016~~ **October 3, 2016**

Preliminary Matters

Pursuant to Section 15.2-2296 Et. Seq. of the Code of Virginia, 1950, as amended, and the provisions of the Frederick County Zoning Ordinance with respect to conditional zoning, the undersigned Owner hereby proffers that in the event the Board of Supervisors of Frederick County, Virginia, shall approve conditional zoning amendments pertaining to Rezoning Application #08-16 for the 28.17±-acres Property from the B2, Business General District with approved proffers to the B2, Business General District with revised proffers, development of the Property shall be done in conformity with the terms and conditions set forth herein, except to the extent that such terms and conditions may be subsequently amended or revised by the Owner and such be approved by the Frederick County Board of Supervisors in accordance with the said Code and Zoning Ordinance. In the event that such rezoning is not granted, then these proffers shall be deemed withdrawn and have no effect whatsoever. These proffers shall be binding upon the Owner and any legal successors, heirs, or assigns.

The Property, identified as WWW, LC is more particularly identified as “Residue Winchester Warehousing, Inc., and Silver Lake, LLC, P/O Tax Map Parcel 52-A-B” on the Final Subdivision Plat of the Property of Winchester Warehousing, Inc. and Silver Lake, LLC, June 5, 2004, by Gilbert W. Clifford & Associates, recorded as Instrument Number 040017251.

WWW, LC - PROFFER STATEMENT

A. Master Development Plan

The development of the Property shall be consistent with Master Development Plan #07-04 approved by Frederick County on June 30, 2004, except for the narrative pertaining to Petticoat Gap Phasing. The requirements for Petticoat Gap Lane are specified within the Street Improvements Section of this Proffer Statement.

B. Street Improvements

The Owner shall design and construct all roads adjoining the subject property consistent with the County's adopted Round Hill Land Use Plan for the area as provided in these proffers and as illustrated on Master Development Plan #07-04.

1. Petticoat Gap Lane and Retail Boulevard are identified on Master Development #07-04 as 80' right-of-ways. The Owner shall prepare and submit a right-of-way dedication plat for Petticoat Gap Lane and the undeveloped portion of Retail Boulevard to the County within 180 days of Conditional Zoning Amendment approval by the Frederick County Board of Supervisors and prior to any development activity on the Property.
2. The Owner shall limit development on the Property to 50,000 square feet of structural area before construction of the undeveloped portion of Retail Boulevard and Petticoat Gap Lane.
3. The Owner shall prepare a Public Improvement Plan for the undeveloped portion of Retail Boulevard along the eastern boundary of the Property and for Petticoat Gap Lane throughout the limits of the dedicated right-of-way area identified in Section B1 of the Proffer Statement. The Public Improvement Plan shall be prepared and submitted for review by VDOT and the County concurrent with the first Site Plan which exceeds 50,000 square feet of structural area on the Property. The undeveloped portion of Retail Boulevard shall be designed consistent with the constructed section and Petticoat Gap Lane shall be designed as a two-lane street section with a center left turn lane sufficient to provide for left turn movements at Retail Boulevard and the intersection immediately east of Wal-Mart (Tax Map Parcel 52-A-D).
4. The Owner shall have the option of constructing or bonding the undeveloped portion of Retail Boulevard and Petticoat Gap Lane sections consistent with the approved Public Improvement Plan. The Owner shall provide the County with bonding for construction prior to the issuance of a Certificate of

Occupancy Permit for the Site Plan which exceeds 50,000 square feet of structural area on the Property. ~~If the Owner provides bonding for the completion of the Retail Boulevard and Petticoat Gap Lane sections consistent with the approved Public Improvement Plan, construction~~ **Construction** of these road improvements **the undeveloped portion of Retail Boulevard** shall occur on or before the completion of the Phase 2 Lutheran Boulevard Transportation Program identified in the approved Proffer Statement for RZ #01-09.

5. The Owner shall complete improvements to the constructed portion of Retail Boulevard consistent with the Retail Boulevard Punch List Items identified in the September 21, 2016 correspondence from the Virginia Department of Transportation (VDOT). Completion of the Retail Boulevard Punch List Items shall occur within 180 days of Conditional Zoning Amendment approval by the Frederick County Board of Supervisors **and prior to any development activity on the Property**. Completion of the Retail Boulevard Punch List Items identified in the September 21, 2016 correspondence from VDOT shall fulfill the Owner's requirement for the constructed portion of Retail Boulevard.
6. The combined trip generation (ADT) for the parcels identified in Master Development Plan #07-04 shall not exceed 15,000 TPD (average weekday volume) without further approval by the County. The trip generation from the project may be measured by the Owner from data collected from actual traffic counts and from ITE generation counts. The combined traffic impact from the overall site identified in Master Development Plan #07-04 is not to exceed 15,000 TPD (average weekday volume) when actual counts and ITE generation counts are added for cumulative total. If the total for any site causes the cumulative total for the overall site identified in Master Development Plan #07-04 to exceed 15,000 TPD, then it is agreed that the applicant shall not file additional site plan applications until the County is satisfied that adequate and manageable levels of service will exist on state or internal site roadways. The applicant shall perform an updated TIA of the project intersections on U.S. Route 50 and of the Route 50/Route 37 interchange when traffic generation from the site identified in Master Development Plan #07-04 reaches 15,000 TPD (average weekday volume). The County may revise this 15,000 TPD limit upward, without modification of this proffer agreement, should results of the TIA show that additional loading is appropriate.

C. Property Design Features

Development of the Property shall include the following landscape design features identified on Master Development Plan #07-04 approved by Frederick County on June 30, 2004.

1. A fifty foot (50') landscaped green strip along the U.S. Route 50 West frontage of the Property including an 8' hiker/biker trail. Internal parking, travel ways and commercial structures shall be setback a minimum of 50' from U.S. Route 50 West. The landscaped green strip and hiker/biker trail shall be developed in conjunction with approved Site Plans that front along U.S. Route 50 West.
2. Individual sites developed on the Property shall be designed with inter-parcel connections where practical based on topographic constraints of the Property.
3. Metal exteriors shall be prohibited for all buildings constructed on the Property.
4. The Owner shall establish a Property Owners Association for the Property that will be governed by a Board of Directors that will be responsible for review of all plans of development to ensure conformity to all requirements identified in Master Development Plan #07-04 and all requirements associated with private deed and covenant restrictions.

OWNER NOTARIZED SIGNATURES ON FOLLOWING PAGES

Owner Signature

The conditions proffered above shall be binding upon the heirs, executors, administrators, assigns and successors in the interest of the Owner. In the event the Frederick County Board of Supervisors grants this rezoning and accepts the conditions, the proffered conditions shall apply to the land rezoned in addition to other requirements set forth in the Frederick County Code.

Respectfully Submitted:

By: _____
Winchester Warehousing, Inc. _____
Date

Commonwealth of Virginia,

City/County of _____ To Wit:

The foregoing instrument was acknowledged before me this _____ day of _____

20____ by _____

Notary Public

My Commission Expires _____

Owner Signature

The conditions proffered above shall be binding upon the heirs, executors, administrators, assigns and successors in the interest of the Owner. In the event the Frederick County Board of Supervisors grants this rezoning and accepts the conditions, the proffered conditions shall apply to the land rezoned in addition to other requirements set forth in the Frederick County Code.

Respectfully Submitted:

By: _____
Silver Lake, LLC

Date

Commonwealth of Virginia,

City/County of _____ To Wit:

The foregoing instrument was acknowledged before me this _____ day of _____

20____ by _____

Notary Public

My Commission Expires _____

WWW, LC - PROFFER STATEMENT

REZONING: RZ# _____ Conditional Zoning Amendment
Business General (B2) with Proffers
to Business General (B2) with Revised Proffers

PROPERTY: Tax Parcel 52-A-B; 28.17+/- acres (here-in after the “Property”)

RECORD OWNER: Winchester Warehousing, Inc. & Silver Lake, LLC

APPLICANT: Winchester Warehousing, Inc. & Silver Lake, LLC (here-in after
“Owner”)

PROJECT NAME: WWW, LC

ORIGINAL DATE
OF PROFFERS: April 2, 2015

REVISION DATE: February 8, 2016

Preliminary Matters

Pursuant to Section 15.2-2296 Et. Seq. of the Code of Virginia, 1950, as amended, and the provisions of the Frederick County Zoning Ordinance with respect to conditional zoning, the undersigned Owner hereby proffers that in the event the Board of Supervisors of Frederick County, Virginia, shall approve conditional zoning amendments pertaining to Rezoning Application # _____ for the 28.17±-acres Property from the B2, Business General District with approved proffers to the B2, Business General District with revised proffers, development of the Property shall be done in conformity with the terms and conditions set forth herein, except to the extent that such terms and conditions may be subsequently amended or revised by the Owner and such be approved by the Frederick County Board of Supervisors in accordance with the said Code and Zoning Ordinance. In the event that such rezoning is not granted, then these proffers shall be deemed withdrawn and have no effect whatsoever. These proffers shall be binding upon the Owner and any legal successors, heirs, or assigns.

The Property, identified as WWW, LC is more particularly identified as “Residue Winchester Warehousing, Inc., and Silver Lake, LLC, P/O Tax Map Parcel 52-A-B” on the Final Subdivision Plat of the Property of Winchester Warehousing, Inc. and Silver Lake, LLC, June 5, 2004, by Gilbert W. Clifford & Associates, recorded as Instrument Number 040017251.

WWW, LC - PROFFER STATEMENT

A. Master Development Plan

The development of the Property shall be consistent with Master Development Plan #07-04 approved by Frederick County on June 30, 2004, except for the narrative pertaining to Petticoat Gap Phasing. The requirements for Petticoat Gap Lane are specified within the Street Improvements Section of this Proffer Statement.

B. Street Improvements

The Owner shall design and construct all roads adjoining the subject property consistent with the County's adopted Round Hill Land Use Plan for the area as provided in these proffers and as illustrated on Master Development Plan #07-04.

1. Petticoat Gap Lane and Retail Boulevard are identified on Master Development #07-04 as 80' right-of-ways. The Owner shall prepare and submit a right-of-way dedication plat for Petticoat Gap Lane and the undeveloped portion of Retail Boulevard to the County within 180 days of Conditional Zoning Amendment approval by the Frederick County Board of Supervisors.
2. The Owner shall limit development on the Property to 50,000 square feet of structural area before construction of the undeveloped portion of Retail Boulevard and Petticoat Gap Lane.
3. The Owner shall prepare a Public Improvement Plan for the undeveloped portion of Retail Boulevard along the eastern boundary of the Property and for Petticoat Gap Lane throughout the limits of the dedicated right-of-way area identified in Section B1 of the Proffer Statement. The Public Improvement Plan shall be prepared and submitted for review by VDOT and the County concurrent with the first Site Plan which exceeds 50,000 square feet of structural area on the Property. The undeveloped portion of Retail Boulevard shall be designed consistent with the constructed section and Petticoat Gap Lane shall be designed as a two-lane street section with a center left turn lane sufficient to provide for left turn movements at Retail Boulevard and the intersection immediately east of Wal-Mart (Tax Map Parcel 52-A-D).
4. The Owner shall have the option of constructing or bonding the Retail Boulevard and Petticoat Gap Lane sections consistent with the approved Public Improvement Plan. The Owner shall provide the County with bonding or evidence of an executed contract for construction prior to the issuance of a Certificate of Occupancy Permit for the Site Plan which exceeds 50,000

square feet of structural area on the Property. If the Owner provides bonding for the completion of the Retail Boulevard and Petticoat Gap Lane sections consistent with the approved Public Improvement Plan, construction of these road improvements shall occur on or before the completion of the Phase 2 Lutheran Boulevard Transportation Program identified in the approved Proffer Statement for RZ #01-09.

5. The combined trip generation (ADT) for the parcels identified in Master Development Plan #07-04 shall not exceed 15,000 TPD (average weekday volume) without further approval by the County. The trip generation from the project may be measured by the Owner from data collected from actual traffic counts and from ITE generation counts. The combined traffic impact from the overall site identified in Master Development Plan #07-04 is not to exceed 15,000 TPD (average weekday volume) when actual counts and ITE generation counts are added for cumulative total. If the total for any site causes the cumulative total for the overall site identified in Master Development Plan #07-04 to exceed 15,000 TPD, then it is agreed that the applicant shall not file additional site plan applications until the County is satisfied that adequate and manageable levels of service will exist on state or internal site roadways. The applicant shall perform an updated TIA of the project intersections on U.S. Route 50 and of the Route 50/Route 37 interchange when traffic generation from the site identified in Master Development Plan #07-04 reaches 15,000 TPD (average weekday volume). The County may revise this 15,000 TPD limit upward, without modification of this proffer agreement, should results of the TIA show that additional loading is appropriate.

C. Property Design Features

Development of the Property shall include the following landscape design features identified on Master Development Plan #07-04 approved by Frederick County on June 30, 2004.

1. A fifty foot (50') landscaped green strip along the U.S. Route 50 West frontage of the Property including an 8' hiker/biker trail. Internal parking, travel ways and commercial structures shall be setback a minimum of 50' from U.S. Route 50 West. The landscaped green strip and hiker/biker trail shall be developed in conjunction with approved Site Plans that front along U.S. Route 50 West.
2. Individual sites developed on the Property shall be designed with inter-parcel connections where practical based on topographic constraints of the Property.
3. Metal exteriors shall be prohibited for all buildings constructed on the Property.

4. The Owner shall establish a Property Owners Association for the Property that will be governed by a Board of Directors that will be responsible for review of all plans of development to ensure conformity to all requirements identified in Master Development Plan #07-04 and all requirements associated with private deed and covenant restrictions.

OWNER NOTARIZED SIGNATURES ON FOLLOWING PAGES

Owner Signature

The conditions proffered above shall be binding upon the heirs, executors, administrators, assigns and successors in the interest of the Owner. In the event the Frederick County Board of Supervisors grants this rezoning and accepts the conditions, the proffered conditions shall apply to the land rezoned in addition to other requirements set forth in the Frederick County Code.

Respectfully Submitted:

By: *Diare Kearns*
Winchester Warehousing, Inc.

6/29/16
Date

Commonwealth of Virginia,

City/County of *Winchester* To Wit:

The foregoing instrument was acknowledged before me this *29th* day of *June*

2016 by *Diare Kearns*

Cindy Grove
Notary Public

My Commission Expires *Nov. 30, 2018*

CINDY GROVE
NOTARY PUBLIC
Commonwealth of Virginia
Reg. #184054

Owner Signature

The conditions proffered above shall be binding upon the heirs, executors, administrators, assigns and successors in the interest of the Owner. In the event the Frederick County Board of Supervisors grants this rezoning and accepts the conditions, the proffered conditions shall apply to the land rezoned in addition to other requirements set forth in the Frederick County Code.

Respectfully Submitted:

By: 
Silver Lake, LLC

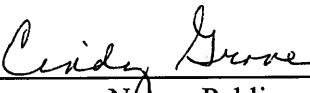
6/28/16
Date

Commonwealth of Virginia,

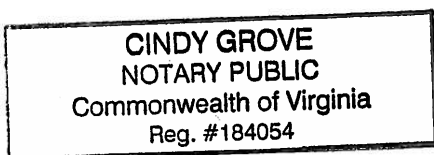
City/County of Winchester To Wit:

The foregoing instrument was acknowledged before me this 28th day of June

20 16 by James R. Watkins, III


Notary Public

My Commission Expires Nov. 30, 2018



AMENDMENT

Action:

PLANNING COMMISSION: June 18, 2003 - Recommended Approval

BOARD OF SUPERVISORS: July 9, 2003 - APPROVED DENIED

AN ORDINANCE AMENDING

THE ZONING DISTRICT MAP

REZONING #03-03 FOR WWW, L.C. PROPERTY

WHEREAS, Rezoning #03-03 of the WWW, L.C. Property, was submitted by G. W. Clifford & Associates, Inc., to rezone 70.9065 acres from RA (Rural Areas) to B2 (Business General) with revised proffers. This property is located north and adjacent to Route 50, approximately 1700 feet west of the Route 37 Interchange, and identified with Property Identification Numbers 52-A-B and 53-A-79 in the Gainesboro Magisterial District; and

WHEREAS, the Planning Commission held a public hearing on this rezoning on June 18, 2003; and

WHEREAS, the Board of Supervisors held a public hearing on this rezoning on July 9, 2003; and

WHEREAS, the Frederick County Board of Supervisors finds the approval of this rezoning to be in the best interest of the public health, safety, welfare, and in conformance with the Comprehensive Policy Plan;

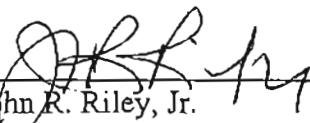
NOW, THEREFORE, BE IT ORDAINED by the Frederick County Board of Supervisors that Chapter 165 of the Frederick County Code, Zoning, is amended to revise the Zoning District Map to change 70.9065 acres from RA (Rural Areas) to B2 (Business General) with revised proffers as described by the application and plat submitted, subject to the attached conditions voluntarily proffered in writing by the applicant and the property owner.

This ordinance shall be in effect on the date of adoption.

Passed this 9th day of July 2003 by the following recorded vote:

Richard C. Shickle, Chairman	<u>Aye</u>	Sidney A. Reyes	<u>Nay</u>
Gina A. Forrester	<u>Nay</u>	Margaret B. Douglas	<u>Absent</u>
W. Harrington Smith, Jr.	<u>Absent</u>	Robert M. Sager	<u>Aye</u>
Lynda J. Tyler	<u>Aye</u>		

A COPY ATTEST



John R. Riley, Jr.
Frederick County Administrator

REZONING REQUEST PROFFER
Property Identification Number 52-A-B and 53-A-79
Gainesboro Magisterial District

WWW, L.C.

Preliminary Matters

Pursuant to Section 15.1 - 491.1 et. seq., of the code of Virginia, 1950, as amended, and the provisions of the Frederick County Zoning Ordinance with respect to conditional zoning, the undersigned applicant hereby proffers that in the event the Board of Supervisors of Frederick County, Virginia, shall approve Rezoning Application #03-03 for the rezoning of 70.9065 acres from Rural Area (RA) Zoning District to the Highway Commercial (B-2) Zoning District, development of the subject property shall be done in conformity with the terms and conditions set forth herein, except to the extent that such terms and conditions may be subsequently amended or revised by the applicant and such be approved by the Frederick County Board of Supervisors in accordance with Virginia law. Should this petition for rezoning not be approved by the Board of Supervisors then these proffers shall be deemed withdrawn and of no effect whatsoever. These proffers shall be binding upon the applicant and their legal successor or assigns.

General Development Plan

The development of the subject property, and the submission of any Master Development Plan shall be in conformance with all pertinent County regulations and shall be in substantial conformity with the Generalized Development Plan, dated June 20, 2003, sheet 5 of 5, which is attached hereto and incorporated herein by reference.

Street Improvements

The Applicant shall design and construct all roads on the subject property consistent with the County's adopted Round Hill Land Use Plan for the area, and according to uniform standards established by the Virginia Department of Transportation (VDOT), and as may be provided in these proffers as illustrated on the Generalized Development Plan which is attached hereto and incorporated herein by reference.

1. On U.S. Route 50 a new intersection shall be created to allow the relocation of VA Route 803 and to allow the intersection with a major collector road serving the WWW site. Work involved with this item to include left turn lanes on U.S. Route 50 westbound lane and eastbound lane within the median and right turn lanes onto Route 803 (EBL) and the major collector (WBL). The intersection to be stoplight controlled. The design for Route 803 relocation to be provided by owner. It is anticipated that the Route 803 relocation will be supplied by VDOT funding. The applicant will be responsible to insure that funding is in place at the time of the initial site development phase of the project since the Route 803 relocation is a requirement for initial operation of the commercial center. See item (1).
2. On U.S. Route 50, a new travel lane to be constructed on the north side of the westbound lane from the termination of the WMC (deGrange) proffer to the western limits of the WWW, L.C. site. See item (2).

3. Two unsignalized intersections with U.S. Route 50 to be constructed at existing crossover points as shown. This includes all work necessary to upgrade the crossovers to VDOT standards. See item (3).
4. A major collector road with 5 lane connection to U.S. Route 50 and extending approximately 2900' to connection with the major collector to be constructed by the Winchester Medical Center. The time and phasing sequence of this road will be determined at the time of Master Development Plan approval. See item (4).
5. On VA Route 37 an additional travel lane with transition shall be added to the northbound on ramp, in order to accommodate the dual lane left turn on U.S. Route 50, eastbound lane constructed by WMC.

Transportation items 1, 2, 3 and 5 shall be constructed during the initial site development phase of the project and shall be either complete or bonded for completion prior to issuance of the first occupancy permit. In the event the Winchester Medical Center has not constructed items 1 through 6 contained in their proffer of April 3, 2003 (as approved by the Frederick County Board of Supervisors) then WWW, L.C. will cause this construction to proceed simultaneously with items 1, 2, 3 and 5 above so that all Route 50 and Route 37 improvements contemplated by both of the proffers will be completed prior to issuance of the first occupancy permit at WWW, L.C.

The applicant shall limit entrance connections onto U.S. Route 50 to three points as shown on GDP.

The applicant shall prepare a traffic generation estimate for uses established by the Site Development Plan to be submitted for initial construction approval to the County. The combined trip generation (ADT) shall not exceed 15,000 TPD (average weekday volume) without further approval by the County. The actual trip generation from the project shall be measured by the WWW, L.C. Management annually, from data collected in May and with results due on July 1 of each year, and be available for review as individual site plans and subdivisions for future uses are submitted for review by VDOT and the County. The combined traffic impact from the 70 acre site is not to exceed 15,000 TPD (average weekday volume) when current actual counts and proposed counts are added for cumulative total. If the cumulative total for any site plan at WWW causes the total to exceed 15,000 TPD then it is agreed that the applicant shall not file additional site plan applications until the County is satisfied that adequate and manageable levels of service will exist on state or internal site roadways. The SIC code system and the ITE shall be utilized for the subject projections. The applicant shall perform an updated TIA of the project intersections on U.S. Route 50 and of the Route 50/Route 37 interchange when traffic generation from the 70 acre site reaches 15,000 TPD (average weekday volume). The County may revise this 15,000 TPD limit upward, without modification of this proffer agreement, should results of the TIA show that additional loading is appropriate.

Historic Preservation

- The existing home (#469) to be characterized by historical report prior to removal.

Landscape Design Features

The development of the subject property, and the submission of any Master Development Plan shall include the following landscape design feature provided in these proffers and as illustrated on the Generalized Development Plan dated June 20, 2003 which is attached hereto and incorporated herein by reference.

- A fifty foot (50') landscaped green strip along the US Route 50 frontage portion of the site including an 8' hiker/biker trail. Internal parking, travelways and commercial structures shall not extend closer than 50' to front right of way line on U.S. Route 50. Inset of the GDP (sheet 5 of 5) is an illustrative detail shown for the purpose of establishing a standard of quality to be implemented upon final design.
- A ten foot (10') landscaped buffer area along the northern property line landscaped with white pine evergreen trees or an equal plant species, with white pines to be a minimum of four feet (4') in height when planted and planted at ten foot (10') intervals. (#6)

On Site Development

All structures shall be designed to meet the following standards:

1. Materials utilized for the facades of the buildings shall include but not be limited to concrete masonry units (CMU) brick, architectural block, dryvit, or other simulated stucco (EFIS), real or simulated wood and/or glass.
2. All buildings within the development on the property shall be constructed using compatible architectural style and materials, and signage for such buildings shall be of a similar style and materials.
3. All buildings within the property shall be developed as a cohesive entity, ensuring that building placement, architectural treatment, parking lot lighting, landscaping, trash disposal, vehicular and pedestrian circulation and other development elements work together functionally and aesthetically.
4. A single monument type sign shall be utilized near each project entrance (total of 3) to describe internal features. Sign height shall be limited to 20' within the 50' landscape area along U.S. Route 50. Individual signs to be allowed per ordinance requirements to announce individual uses. On building signage to be the preferred sign type for individual uses. No other signs shall be located within the 50' buffer area.

The Applicant shall record and include in each deed as well as provide Frederick County with a complete set of Covenants and Restrictions pursuant to site design developed and approved by Frederick County at the time of master plan. The Applicant shall appoint an Architectural Control Committee with responsibility for insuring strict adherence to the approved Master Development Plan, covenants and restrictions.

Property owners shall be notified of conditions relating to adjoining active agricultural operations.

Geotechnical Study

The Applicant shall prepare a site geotechnical analysis and study for this site, as appropriate for the proper siting and design of improvements, prior to beginning construction of site improvements and buildings.

Monetary Contribution to Offset Impact of Development

The undersigned, who owns the above described property hereby voluntarily proffers that if the Board of Supervisors for the County of Frederick, Virginia approves the rezoning for the 70.9065 acres, lying on the north side of U.S. Route 50 in the Gainesboro Magisterial District of Frederick County, Virginia from RA to B2, the undersigned will pay to Frederick County for the Round Hill Fire and Rescue Company the sum of \$25,000.00, the Sheriff's Office the sum of \$5,000.00 and the Administration Building the sum of \$5,000.00 for a total payment of \$35,000.00, at the time issuance of the first building permit of the subject property.

The conditions proffered above shall be binding upon the heirs, executors, administrators, assigns and successors in interest of the Applicant and Owner. In the event the Frederick County Board of Supervisors grant said rezoning and accepts these conditions, the proffered conditions shall apply to the land rezoned in addition to other requirements set forth in the Frederick County Code.

Respectfully submitted,

PROPERTY OWNER

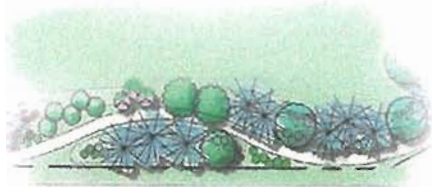
By: James R. Wilkins, Jr. By: C. Robert Solenberger
James R. Wilkins, Jr. C. Robert Solenberger

Date: 6/27/03 Date: 6/27/03

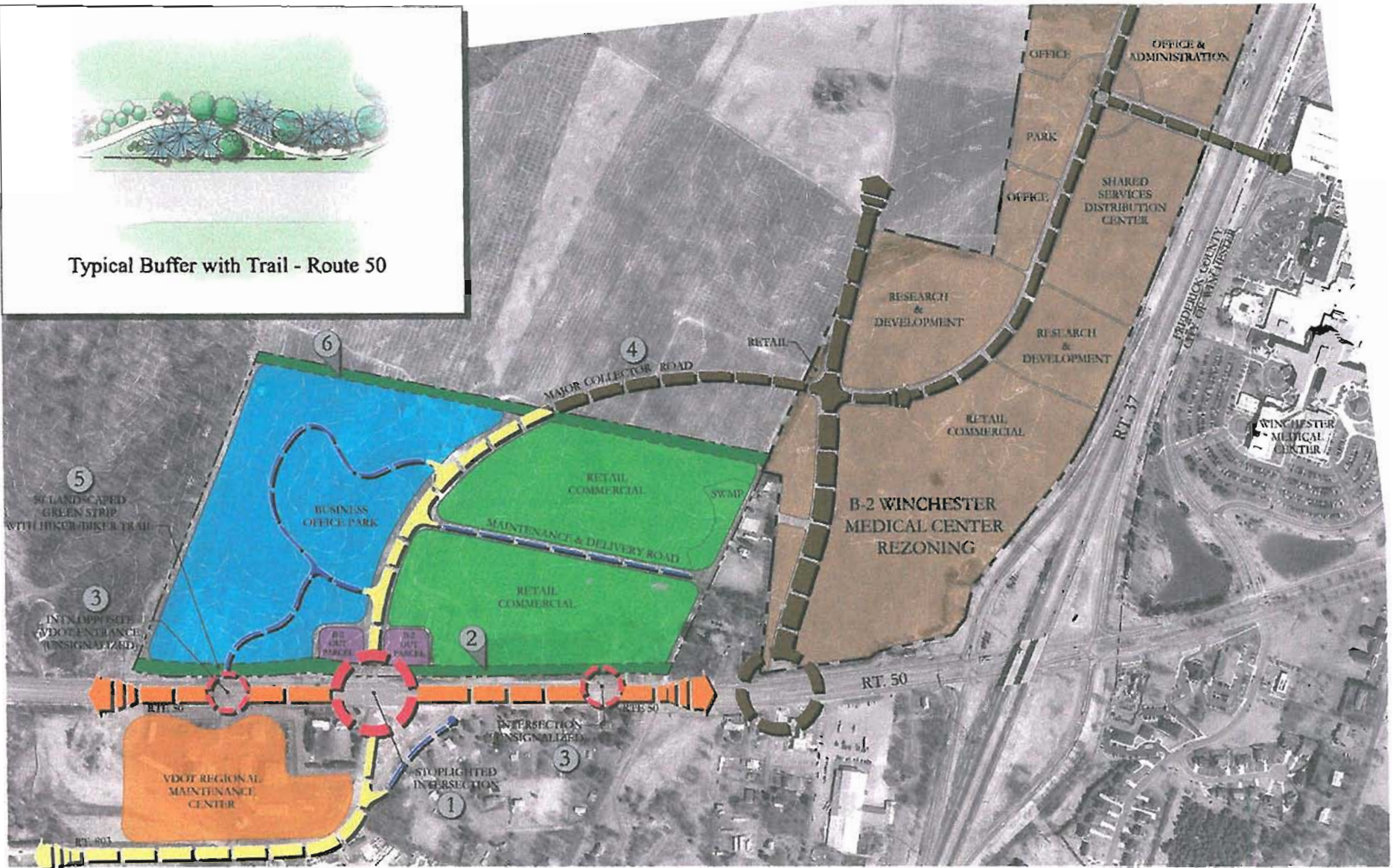
STATE OF VIRGINIA, AT LARGE
FREDERICK COUNTY, To-wit:

The foregoing instrument was acknowledged before me this 27th day of June, 2003, by James R. Wilkins, Jr. and C. Robert Solenberger

My commission expires November 30, 2006.
Notary Public Cindy Grove



Typical Buffer with Trail - Route 50



Gilbert W. Clifford & Associates, Inc.
 Engineers • Land Planners • Water Quality

WWW PROPERTY
 Generalized Development Plan
 County of Frederick, Virginia



JUNE 20, 2003

SHEET 5 of 5



Possible Future Petticoat Gap Lane Extension

POSSIBLE FUTURE (Public) PETTICOAT GAP LANE

80' Right-of-Way

PERENNIAL DRIVE (Private Street)

Phase 2
20.36 Acres
MIXED BUSINESS & RETAIL

ROUND HILL CROSSING BOULEVARD (Public)
PROPOSED MAJOR COLLECTOR
2.72 Ac (80' Right-of-Way)

4.95 Acres
MIXED BUSINESS & RETAIL

2.75 Acres
MIXED BUSINESS & RETAIL

23.30 Acres
LARGE RETAIL
Phase 1

3.17 AC
CONVENIENCE COMMERCIAL
RETAIL & RESTAURANT
USES

BOTANICAL BOULEVARD

PARISH'S SPRING ROAD (Private)

LITTLE NORTH MOUNTAIN ROAD (Private)

5.81
CONVENIENCE COMMERCIAL
RETAIL & RESTAURANT USES

7.83
CONVENIENCE COMMERCIAL
RETAIL & RESTAURANT USES

35 MPH SPEED LIMIT (R/W VARIES)

U.S. ROUTE 50

NORTHWESTERN PIKE

WWW Proffer No. 2
Third Lane (West Bound)
U.S. Route 50

WWW Proffer No. 3
Intersection
(Unsignalized)

Proffer No. 5
Landscape Buffer
Low Screen

Stormwater Management Pond

25' ACTIVE BUFFER (OPEN SPACE)

25' INACTIVE BUFFER (OPEN SPACE)

REMOVE CONNECTION TO ECHO LANE

Former Limbuck Exchange

Evan Wyatt

From: Funkhouser, Rhonda (VDOT) <Rhonda.Funkhouser@VDOT.Virginia.gov> on behalf of Smith, Matthew, P.E. (VDOT) <Matthew.Smith@vdot.virginia.gov>
Sent: Thursday, April 14, 2016 10:23 AM
To: Evan Wyatt
Cc: jbishop@fcva.us; Smith, Matthew, P.E. (VDOT); Campbell, Adam (VDOT); Short, Terry (VDOT); Ingram, Lloyd (VDOT)
Subject: WWW, LC Revised Proffer Statement - VDOT Comments

COMMONWEALTH of VIRGINIA

DEPARTMENT OF TRANSPORTATION

Staunton/Edinburg Land Development

14031 Old Valley Pike

Edinburg, VA 22824

We have completed the VDOT review of the Revised Proffer Statement for WWW, LC. Please find our review comment below:

- The proffer should be updated to specify the additional 50,000 SF development trigger includes all vacant parcels associated with the original rezoning not just Parcel 52-A-B, but to also include Parcels 52-A-D,E,F,H, & M. We also recommend the “50,000 SF of structural area” be updated to “50,000 SF of gross floor area” in Proffer B.2.

Should you have any questions, do not hesitate to call.

Matthew B. Smith, P.E. | Area Land Use Engineer
Virginia Department of Transportation
Clarke, Frederick, Shenandoah & Warren Counties
14031 Old Valley Pike
Edinburg, VA 22824
voice: 540/984-5615
fax: 540/984-5607
e-mail: Matthew.Smith@vdot.virginia.gov

Evan Wyatt

From: Funkhouser, Rhonda (VDOT) <Rhonda.Funkhouser@VDOT.Virginia.gov> on behalf of Smith, Matthew, P.E. (VDOT) <Matthew.Smith@vdot.virginia.gov>
Sent: Friday, October 30, 2015 1:38 PM
To: Evan Wyatt
Cc: John Bishop; Campbell, Adam (VDOT); Short, Terry (VDOT); Lineberry, Jeff, PE (VDOT); Smith, Matthew, P.E. (VDOT); Ingram, Lloyd (VDOT)
Subject: WWW Proffer Revisions - VDOT Comments 10.30.15

Evan,

District Planning has reviewed the submitted proffers on the WWW LLC property. Our comments are as follows:

- Proffer 2 provides three external triggers (which are actually non-enforceable) for requiring the owner to complete Retail Boulevard and a half-section of Petticoat Gap Lane. The Lutheran Boulevard trigger should be revised to state “upon extension of Lutheran Boulevard to the shared property line between the WWW LLC property and RZ #01-09” instead of the “completion” of the road to Retail Boulevard. The “public street system” in the Trumpet Interchange trigger should be clarified.
- The proffer also provides an internal trigger, that the road improvements will be constructed by the owner (assuming the external triggers have not been met) prior to the approval of the final site plan on the WWW LLC property. This trigger may create a scenario where a small pad site on the property is left undeveloped for years and the internal road network is not completed by the owner. We recommend that the proffer should be updated to have the owner responsible for the completion of Retail Boulevard and a half section of Petticoat Gap Lane from Retail Blvd to Botanical Blvd prior to the issuance of an occupancy permit that adds 50,000 S.F. of additional development to the site (cumulatively or as a single permit). The full section of Petticoat Gap Lane should be constructed by the owner prior to the approval of the final site plan on the WWW LLC property.

Should you have any questions regarding these comments, do not hesitate to contact this office.

Matthew B. Smith, P.E. | Area Land Use Engineer
Virginia Department of Transportation
Clarke, Frederick, Shenandoah & Warren Counties
14031 Old Valley Pike
Edinburg, VA 22824
voice: 540/984-5615
fax: 540/984-5607
e-mail: Matthew.Smith@vdot.virginia.gov



COUNTY of FREDERICK

Roderick B. Williams
County Attorney

540/722-8383

Fax 540/667-0370

E-mail:

rwillia@co.frederick.va.us

March 10, 2016

VIA E-MAIL AND REGULAR MAIL

Mr. Evan Wyatt
Greenway Engineering
151 Windy Hill Lane
Winchester VA 22602

Re: Rezoning Application – WWW, LC Rezoning
Proffer Statement dated April 2, 2015, revision date February 8, 2016

Dear Evan:

You have submitted to Frederick County for review the above-referenced proffer statement (the “Proffer Statement”) for the proposed rezoning of Tax Parcel Number 52-A-B (the “Property”), 28.17± acres, more or less, in the Gainesboro Magisterial District, from the B2 General Business District, with proffers, to the B2 General Business District, with revised proffers. I have now reviewed the Proffer Statement and it is my opinion that the Proffer Statement would be in a form to meet the requirements of the Frederick County Zoning Ordinance and the Code of Virginia, and would be legally sufficient as a proffer statement, subject to the following comments:

- Proffer B1– Street Improvements – Will the indicated portions of Petticoat Gap Lane and Retail Boulevard actually be on the adjoining parcels (53-A-A and 53-A-A1)? If so, staff should be aware that the proffer is dependent upon the dedication of rights-of-way by entities that are legally separate from the owners of the Property.
- Proffer B4 – Street Improvements – The option to provide either bonding or evidence of an executed contract does not ensure actual completion of the improvement. An executed contract represents only a financial obligation of the owners to a third party contractor and that obligation could be significantly impaired were the owner to encounter financial distress. A bond, on the other hand, is a guarantee by a third party whose financial wherewithal meets certain standards, so that, in the event of a default by the owners, the bond surety could

provide the necessary funds to accomplish completion of the proffered improvement.

- Proffer C4 – Property Design Features – The proffer proposes a “Board of Directors for the Property”. A “board of directors” is not an actual legal entity. It would appear that the proper means to accomplish the proffer would be the creation of a property owners’ association (which itself would be governed by a board of directors).

I have not reviewed the substance of the proffers as to whether the proffers are suitable and appropriate for this specific development, as my understanding is that review will be done by staff and the Planning Commission.

Sincerely,

A handwritten signature in black ink, appearing to read 'Roderick B. Williams', with a long horizontal flourish extending to the right.

Roderick B. Williams
County Attorney

cc: John Bishop, Deputy Director of Planning & Development, Frederick County (via e-mail)

Evan Wyatt

From: John Bishop <jbishop@fcva.us>
Sent: Tuesday, May 10, 2016 1:45 PM
To: Evan Wyatt
Subject: www

Evan;

I have gone over WWW and reviewed VDOT's comments. I have no additional comments to add.

Thank you

John

**REZONING APPLICATION FORM
FREDERICK COUNTY, VIRGINIA**

To be completed by Planning Staff:

Zoning Amendment Number	<u>08-16</u>	Fee Amount Paid	<u>\$ 1,000.⁰⁰</u>
PC Hearing Date	<u>8/17/16</u>	Date Received	<u>7/6/16</u>
		BOS Hearing Date	<u>9/14/16</u>

The following information shall be provided by the applicant:

All parcel identification numbers, deed book and page numbers may be obtained from the **Office of the Commissioner of Revenue, Real Estate Division, 107 North Kent Street, Winchester.**

1. Applicant:

Name: Greenway Engineering, Inc. Telephone: 540-662-4185
Address: 151 Windy Hill Lane
Winchester, VA 22602

2. Property Owner (if different than above):

Name: Silver Lake, LLC & Winchester Warehousing, Inc Telephone: 540-662-7215
Address: 13 South Loudoun Street
Winchester, VA 22601

3. Contact person if other than above:

Name: Evan Wyatt Telephone: 540-662-4185

4. Property Information:

- a. Property Identification Number(s): 52-A-B
- b. Total acreage to be rezoned: N/A - Conditional Zoning Amendment
- c. Total acreage of the parcel(s) to be rezoned (if the entirety of the parcel(s) is not being rezoned): N/A - Conditional Zoning Amendment
- d. Current zoning designation(s) and acreage(s) in each designation: B2 District
28.17+/- acres with approved proffers
- e. Proposed zoning designation(s) and acreage(s) in each designation: B2 District
28.17+/- acres with modified proffers
- f. Magisterial District(s): Gainesboro District

5. Checklist: Check the following items that have been included with this application.

Location map	<input checked="" type="checkbox"/>	Agency Comments	<input checked="" type="checkbox"/>
Plat	<input checked="" type="checkbox"/>	Fees	<input checked="" type="checkbox"/>
Deed to property	<input checked="" type="checkbox"/>	Impact Analysis Statement	<input type="checkbox"/>
Verification of taxes paid	<input checked="" type="checkbox"/>	Proffer Statement	<input checked="" type="checkbox"/>
Plat depicting exact meets and bounds for the proposed zoning district	<input type="checkbox"/>		<input type="checkbox"/>
Digital copies (pdf's) of all submitted documents, maps and exhibits	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>

6. The Code of Virginia allows us to request full disclosure of ownership in relation to rezoning applications.

Please list below all owners or parties in interest of the land to be rezoned:

Silver Lake, LLC - James R. Wilkins, Jr. & James R. "Richie" Wilkins, III

Winchester Warehousing, Inc. - Robert Solenberger & Diane Kearns

7. Adjoining Property:

<u>PARCEL ID NUMBER</u>	<u>USE</u>	<u>ZONING</u>
N/A - Conditional Zoning Amendment	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

8. Location: The property is located at (give exact location based on nearest road and distance from nearest intersection, using road names and route numbers):

The WWW, LC property is located at the northwest side of the Northwestern Pike (US Rt. 50 West) and Retail Boulevard intersection.

9. The following information should be provided according to the type of rezoning proposed:

Number of Units Proposed

Single Family homes: _____ Townhome: _____ Multi-Family: _____
 Non-Residential Lots: _____ Mobile Home: _____ Hotel Rooms: _____

Square Footage of Proposed Uses

Office: _____ Service Station: _____
 Retail: _____ Manufacturing: _____
 Restaurant: _____ Warehouse: _____
 Commercial: _____ Other: _____

10. Signature:

I (we), the undersigned, do hereby respectfully make application and petition the Frederick County Board of Supervisors to amend the zoning ordinance and to change the zoning map of Frederick County, Virginia. I (we) authorize Frederick County officials to enter the property for site inspection purposes.

I (we) understand that the sign issued when this application is submitted must be placed at the front property line at least seven days prior to the Planning Commission public hearing and the Board of Supervisors public hearing and maintained so as to be visible from the road right-of-way until the hearing.

I (we) hereby certify that this application and its accompanying materials are true and accurate to the best of my (our) knowledge.

Applicant(s): Erin A. Wyatt Date: 6/27/16
 _____ Date: _____

Owner(s): James J. Miller ^{manager} _{Silver Lake LLC} Date: 6/28/16
Casey Krane WINCHESTER WAREHOUSING Date: 6/29/16



Special Limited Power of Attorney
County of Frederick, Virginia
 Frederick Planning Website: www.co.frederick.va.us

Department of Planning & Development, County of Frederick, Virginia
107 North Kent Street, Winchester, Virginia 22601
Phone (540) 665-5651 Facsimile (540) 665-6395

Know All Men By These Presents: That I (We)

(Name) Silver Lake, LLC (Phone) (540) 662-7215

(Address) 13 South Loudoun Street Winchester, VA 22601

the owner(s) of all those tracts or parcels of land ("Property") conveyed to me (us), by deed recorded in the Clerk's Office of the Circuit Court of the County of Frederick, Virginia, by

Instrument No. 030016328 on Page 0497, and is described as

Parcel: 52 Lot: A Block: B Section: _____ Subdivision: _____
 do hereby make, constitute and appoint:

(Name) Greenway Engineering, Inc. (Phone) (540) 662-4185

(Address) 151 Windy Hill Lane Winchester, VA 22602

To act as my true and lawful attorney-in-fact for and in my (our) name, place and stead with full power and authority I (we) would have if acting personally to file planning applications for my (our) above described Property, including:

- Rezoning (including proffers)**
- Conditional Use Permit**
- Master Development Plan (Preliminary and Final)**
- Subdivision**
- Site Plan**
- Variance or Appeal**

My attorney-in-fact shall have the authority to offer proffered conditions and to make amendments to previously approved proffered conditions except as follows:

 This authorization shall expire one year from the day it is signed, or until it is otherwise rescinded or modified.

In witness thereof, I (we) have hereto set my (our) hand and seal this 28th day of June, 2016.

Signature(s) *[Handwritten Signature]*

State of Virginia, City/County of Winchester, To-wit:

I, *Cindy Grove*, a Notary Public in and for the jurisdiction aforesaid, certify that the person(s) who signed to the foregoing instrument personally appeared before me and has acknowledged the same before me in the jurisdiction aforesaid this 28th day of June, 2016.

Cindy Grove My Commission Expires: Nov. 30, 2018
 Notary Public

CINDY GROVE
NOTARY PUBLIC
 Commonwealth of Virginia
 Reg. #184054



Special Limited Power of Attorney
County of Frederick, Virginia
Frederick Planning Website: www.co.frederick.va.us

Department of Planning & Development, County of Frederick, Virginia
107 North Kent Street, Winchester, Virginia 22601
Phone (540) 665-5651 Facsimile (540) 665-6395

Know All Men By These Presents: That I (We)

(Name) Winchester Warehousing, Inc. (Phone) (540) 667-3390

(Address) 13 South Loudoun Street Winchester, VA 22601

the owner(s) of all those tracts or parcels of land ("Property") conveyed to me (us), by deed recorded in the Clerk's Office of the Circuit Court of the County of Frederick, Virginia, by

Instrument No. 030016328 on Page 0497, and is described as

Parcel: 52 Lot: A Block: B Section: _____ Subdivision: _____

do hereby make, constitute and appoint:

(Name) Greenway Engineering, Inc. (Phone) (540) 662-4185

(Address) 151 Windy Hill Lane Winchester, VA 22602

To act as my true and lawful attorney-in-fact for and in my (our) name, place and stead with full power and authority I (we) would have if acting personally to file planning applications for my (our) above described Property, including:

- Rezoning (including proffers)**
- Conditional Use Permit**
- Master Development Plan (Preliminary and Final)**
- Subdivision**
- Site Plan**
- Variance or Appeal**

My attorney-in-fact shall have the authority to offer proffered conditions and to make amendments to previously approved proffered conditions except as follows:

 This authorization shall expire one year from the day it is signed, or until it is otherwise rescinded or modified.

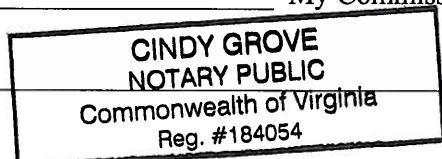
In witness thereof, I (we) have hereto set my (our) hand and seal this 29th day of JUNE, 2016,

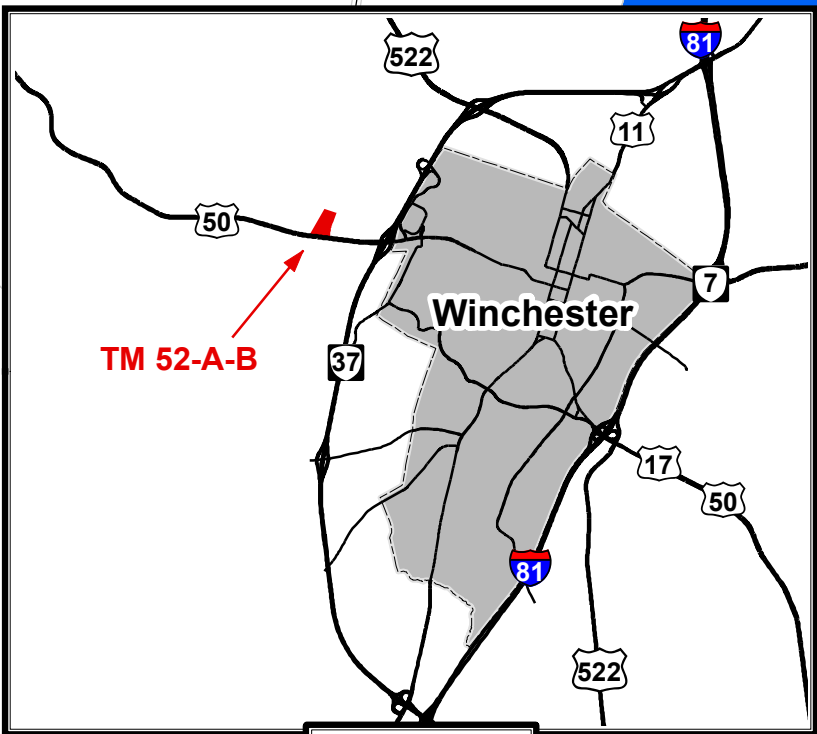
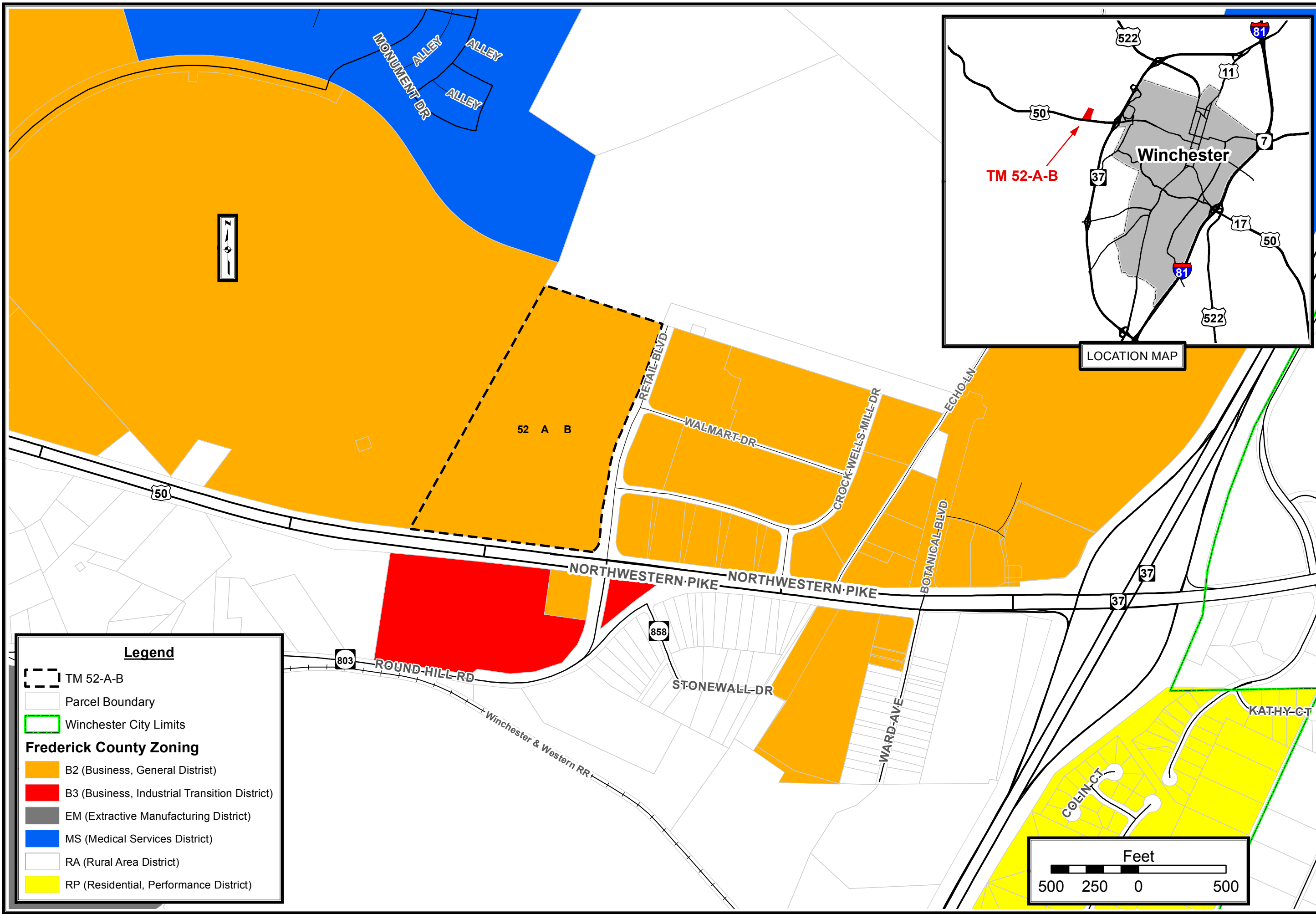
Signature(s) Claire Grans

State of Virginia, City/County of Winchester, To-wit:

I, Cindy Grove, a Notary Public in and for the jurisdiction aforesaid, certify that the person(s) who signed to the foregoing instrument personally appeared before me and has acknowledged the same before me in the jurisdiction aforesaid this 29th day of June, 2016.

Cindy Grove My Commission Expires: Nov. 30, 2018
 Notary Public





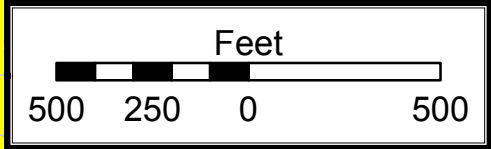
LOCATION MAP

Legend

- TM 52-A-B
- Parcel Boundary
- Winchester City Limits

Frederick County Zoning

- B2 (Business, General District)
- B3 (Business, Industrial Transition District)
- EM (Extractive Manufacturing District)
- MS (Medical Services District)
- RA (Rural Area District)
- RP (Residential, Performance District)



ZONING AND LOCATION EXHIBIT
2016 WWW PROFFER AMENDMENT

ZONING AND LOCATION EXHIBIT
2016 WWW PROFFER AMENDMENT
GAINESBORO MAGISTERIAL DISTRICT
FREDERICK COUNTY, VIRGINIA
DATE: 2016-07-06 PROJECT ID: 49285 DESIGNED BY: DWE
SCALE: 1 Inch = 500 Feet

I



MEMORANDUM

TO: Board of Supervisors

FROM: John A. Bishop AICP, Assistant Director - Transportation *JAB*

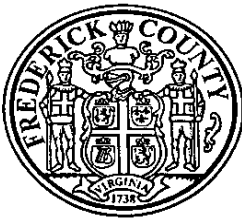
RE: Rail Crossing Upgrade Funding Request

DATE: October 3, 2016

Attached, please find a resolution to request Federal Section 130 Funding to upgrade CSX rail crossings at Marlboro Road and Vacluse Road (graphics attached). In the event that the Board were to determine that an at grade crossing were desired at Renaissance Drive, these improvements would be credited toward the approval of that request. However, at a minimum, the upgrade of the currently ungated crossings will represent a safety upgrade.

JAB/pd

Attachments



Action:

BOARD OF SUPERVISORS: October 12, 2016 APPROVED DENIED

**PROJECT PROGRAMMING RESOLUTION
RAIL/HIGHWAY GRADE CROSSING PROJECT**

WHEREAS, in accordance with Virginia Department of Transportation procedures, it is necessary that a request by a Board resolution be made in order that the Department Program Federal Section 130 Funds for upgrades to “passive” rail crossings in the County; and

WHEREAS, the County has worked in cooperation with VDOT and CSX Railroad to identify the crossings of Marlboro Road and Vacluse Road to be candidates for crossing upgrades that would be eligible for these funds;

NOW, THEREFORE, BE IT RESOLVED that the Frederick County Board of Supervisors hereby requests that VDOT Program Federal Section 130 Funding for the upgrades of the CSX crossings at Marlboro and Vacluse Roads with any potential matching funds to be supplied by other VDOT funds allocated to Frederick County.

ADOPTED, this 12th day of October 2016.

This resolution was approved by the following recorded vote:

Charles S. DeHaven, Jr., Chairman	_____	Gary A. Lofton	_____
Robert A. Hess	_____	Robert W. Wells	_____
Gene E. Fisher	_____	Judith McCann-Slaughter	_____
Blaine P. Dunn	_____		



A COPY ATTEST


Brenda G. Garton
Frederick County Administrator

Crossing Upgrade 1

CSX and Marlboro Road

Legend

-  139-462E, MP BAD 39.34
-  Feature 1



 139-462E, MP BAD 39.34




Crossing Upgrade 2

CSX and Vaucluse Road

Legend

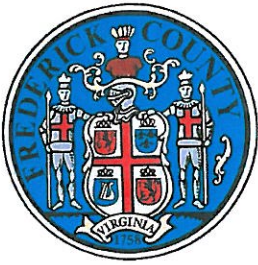
-  139-462E, MP BAD 39.34
-  Feature 1

Vaucluse Rd

 139-465A, MP - BAD 41.68




J



MEMORANDUM

TO: Brenda Garton, County Administrator

FROM: Michael T. Ruddy, AICP, Planning Director
mruddy@fcva.us 

RE: **2016 CPPA's - Planning Commission request to the Board of Supervisors.**

DATE: October 6, 2016

At their October 5, 2016 meeting, the Planning Commission made a formal request to the Board of Supervisors regarding the 2016 Comprehensive Plan Policy Amendments (CPPA's). The Planning Commission asked the Board to provide them with additional guidance as to the level of study the Board would like the Planning Commission, and the Comprehensive Plans and Programs Committee (CPPC), to undertake. This memo is provided to communicate the request of the Planning Commission to the Board.

Background.

- Four CPPA's were submitted to the County.
- The 2016 CPPA's were presented to Board of Supervisors for discussion at the August 17, 2016 work session with the Planning Commission and again to the Board at their September 28, 2016 meeting.
- The Board of Supervisors provided direction that all four CPPA's warranted further study and consideration.
 - CPPA #01-16, Leonard Property Sewer and Water Service Area (SWSA) Inclusion Request
 - CPPA #02-16, Russell & Smith Properties, Urban Development Area (UDA) and Sewer and Water Service Area (SWSA) Inclusion Request
 - CPPA #03-16, Woods Mill Road Properties, Northeast Frederick Land Use Plan Modification, Urban Development Area (UDA) and Sewer and Water Service Area (SWSA) Inclusion Request
 - CPPA #04-16, Fruit Hill Orchard (The Interstate Orchard, Inc.) Sewer and Water Service Area (SWSA) Inclusion Request

Please feel free to contact me with any questions.

MTR/dlw