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ORDINANCE  
\_\_\_\_\_, 2017

The Board of Supervisors of Frederick County, Virginia hereby ordains that Section 89-12 (Volunteer Fire Fighter and Rescue Members) of Article IV (Volunteer Membership) of Chapter 89 (Fire and Rescue Services) of the Code of Frederick County, Virginia be, and the same hereby is, amended as follows (additions are shown in **bold underline**):

**§ 89-12. Volunteer fire fighter and rescue members.**

**A.** Any person, 18 years of age or older, is eligible for membership in a company as a regular member. Persons must apply and be accepted by the company to which application is made according to its rules and regulations, the rules and regulations of the company, and state law. Participation by members must be in accordance with the company rules and regulations and state law.

**B.** **Applicants for membership shall be subject to a background check. Applications for membership shall require, for the background check, the submission of fingerprints and personal descriptive information, to be processed in accordance with the following:**

- 1. Any person who applies to be a volunteer with a company shall submit fingerprints and provide personal descriptive information to be sent directly by the Department to (i) the State Board of Health to be forwarded by Central Criminal Records Exchange to the Federal Bureau of Investigation or (ii) the Central Criminal Records Exchange to then be forwarded to the Federal Bureau of Investigation, in either case for the purpose of obtaining criminal history records information for the applicant, in accordance with Code of Virginia § 32.1-111.5.**
- 2. Upon receipt of the results of the state and national criminal history records search, the Department Chief, as designee of the County Administrator, shall notify the Office of Emergency Medical Services regarding the applicant's eligibility to serve as a volunteer.**
- 3. Information provided to the Office of Emergency Medical Services shall be limited to notification as to whether the applicant is eligible**

**to serve as a volunteer in accordance with requirements related to disqualifying offenses set forth in regulations of the State Board of Health, and shall not include information regarding whether the applicant has been found ineligible to serve as a volunteer due to any additional exclusionary criteria established by the County.**

**This section is in accordance with the Code of Virginia, 1950, as amended, §§ 15.2-1503.1, 19.2-389, and 32.1-111.5.**

Enacted this \_\_\_\_ day of \_\_\_\_\_, 2017.

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

A COPY ATTEST

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Kris C. Tierney  
County Administrator  
County of Frederick, Virginia



## COUNTY of FREDERICK

**Jay E. Tibbs**

Deputy County Administrator

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**TO:** Board of Supervisors  
**FROM:** Jay E. Tibbs., Deputy County Administrator  
**DATE:** August 29, 2017  
**RE:** Code and Ordinance Committee Report

The Code & Ordinance Committee met on Wednesday, August 23, 2017 at 3:00 P.M., in the First Floor Conference Room, County Administration Building, 107 North Kent Street, Winchester, Virginia. Code and Ordinance Committee members present were Blaine P. Dunn, Chairman; Bill M. Ewing, Robert W. Wells, Derek Aston, Stephen Butler, and James Drown. Also present were Interim County Administrator Kris C. Tierney, Deputy County Administrator Jay E. Tibbs, County Attorney Rod Williams, Fire Chief Dennis Linaburg, Treasurer C. William Orndoff, Jr., Commissioner of the Revenue Ellen Murphy, and Lorraine Mossburg, Administrative Assistant.

The committee submits the following:

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

- 1. Proposed Amendment to the Frederick County Code, Chapter 89 (Volunteer Membership), Section 89-12 (Volunteer Fire Fighter and Rescue Members) – Simplified Background Check Procedure. (See Attached.)**

County Attorney Rod Williams provided a brief overview. He advised this proposal was a technical amendment which would speed up the process for completing background checks necessary in order to approve volunteer fire and rescue members.

Upon a motion by Mr. Butler, seconded by Mr. Ewing, the Committee forwarded this proposed ordinance to the Board of Supervisors for public hearing with a recommendation of approval. The motion was unanimously approved.

- 2. Proposed Amendment to the Frederick County Code, Chapter 122 (Nuisances), Proposed Section 122-11 (Methamphetamine Lab Cleanup and Removal Responsibility for Costs; Determination of Amount). (See Attached.)**



County Attorney Rod Williams provided a brief overview. He advised this proposed ordinance would help ensure that all possible avenues are available for the County to recover any costs it might be forced to incur to protect the public health and safety, in those instances where no other means are available for the cleanup of methamphetamine labs.

Upon a motion by Mr. Butler, seconded by Mr. Drown, the Committee forwarded this proposed ordinance to the Board of Supervisors for public hearing with a recommendation of approval. The motion was unanimously approved.

**3. Proposed Amendment to the Frederick County Code, Chapter 155 (Taxation), Section 155-3 (Tax returns, failure to file). (See Attached.)**

County Attorney Rod Williams provided a brief overview. He advised the proposed amendments are technical amendments to the provision governing personal property return tax filings. The amendments clarify that the requirements apply for mobile homes and provide for annual filing of returns for mobile homes, irrespective of change ownership and/or tax situs. They also establish a uniform filing deadline of March 1 for personal property returns. For proratable personal property (non-business motor vehicles) for which there is a change of ownership and/or tax situs, the ordinance would still require the filing of a return within 60 days of the change.

Upon a motion by Mr. Ewing, seconded by Mr. Butler, the Committee forwarded this proposed ordinance to the Board of Supervisors for public hearing with a recommendation of approval. The motion was unanimously approved.

**\*\*\*Items Not Requiring Board Action\*\*\***

**1. Proposed Amendment to the Frederick County Code, Chapter 155 (Animals and Fowl), Section 48-23 (Specified noise unlawful), Section 48-24 (Enforcement), Section 48-25 (Violations and penalties) and Chapter 118 (Noise), Section 118-1 (Specified noise unlawful), Section 118-2 (Enforcement), Section 118-3 (Violations and penalties), Proposed Section 118-4 (Specific prohibitions), Proposed Section 118-5 (Exceptions). (See Attached.)**

County Attorney Rod Williams provided a brief overview. He advised this proposed amendment was an attempt to revise the existing noise ordinance to meet the constitutional standard for reasonableness. The proposal would bring the ordinance into compliance and provide necessary clarity.

The Committee discussed the proposed amendment and was not ready to move it forward.

Upon a motion by Mr. Butler, seconded by Mr. Ewing, the Committee postponed this item until its next meeting. The motion was approved unanimously.

**2. Other Business.**

Mr. Dunn raised an issue in his district where a property owner was discharging water onto a neighboring property. He stated he had contacted staff and was advised there was no prohibition under current local ordinances to address discharging water onto another person's property. He

stated he was seeking other perspectives.

Mr. Ewing advised that he was dealing with a similar situation in his district.

Interim County Administrator Tierney advised that he would confer with the Public Works Director to see what avenues were available and would let Mr. Dunn know what he finds.

There being no further business, the meeting adjourned at 3:45 p.m.

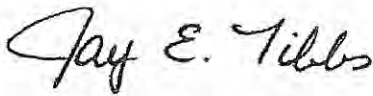
Respectfully Submitted,

**Code and Ordinance Committee**

Blaine P. Dunn, Chairman  
Robert W. Wells  
Derek Aston

Bill M. Ewing  
James Drown  
Stephen Butler

By:



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Jay E. Tibbs  
Deputy County Administrator

Attachments



COUNTY OF FREDERICK

**Roderick B. Williams**  
County Attorney

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**MEMORANDUM**

TO: Code & Ordinance Committee

FROM: Roderick B. Williams  
County Attorney

DATE: August 10, 2017

RE: Frederick County Code, Chapter 89 (Volunteer Membership), Section 89-12  
(Volunteer Fire Fighter and Rescue Members) – Simplified Background Check  
Procedure

Attached please find materials regarding the above proposed ordinance amendment. The Public Safety Committee, on June 15, 2017, approved forwarding this proposed ordinance to the Code & Ordinance Committee.

Attachments



COUNTY OF FREDERICK

**Roderick B. Williams**

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### MEMORANDUM

TO: Public Safety Committee

FROM: Roderick B. Williams  
County Attorney

DATE: June 9, 2017

RE: Frederick County Code, Chapter 89 (Volunteer Membership), Section 89-12  
(Volunteer Fire Fighter and Rescue Members) – Simplified Background Check  
Procedure

Attached please find a draft proposed ordinance amendment concerning Section 89-12 of the County Code. The proposed amendment would add a subsection to the existing language of the section. The amendment would serve the purpose of speeding up the process for background checks necessary in order to approve volunteer fire and rescue members. On July 1<sup>st</sup>, 2015, a new subsection, subsection (F), of Section 32.1-115.5 of the Code of Virginia (Certification and recertification of emergency medical services providers; appeals process) took effect. A copy of Section 32.1-115.5 and copies of related enabling legislation are attached, for reference. The General Assembly enacted this subsection to simplify the process previously in place under Section 32.1-115.5(E) of the Code of Virginia to approve volunteer fire and rescue members. Subsection (F) permits the County to submit background checks directly to the Central Criminal Records Exchange (instead of through the State Health Department, for forwarding then to the Central Criminal Records Exchange, a process that has sometimes resulted in delays by the state agencies), but requires a local ordinance to be adopted for the subsection to apply to the locality. This amendment would serve as the local ordinance.

The Committee previously considered this ordinance at its meeting on July 18, 2015, and favorably considered the ordinance, except that it requested the ordinance include an option for the Fire and Rescue Department to send requests either to the State Board of Health or to Central Criminal Records Exchange, either of which option is permitted under the state law. This option would allow the Department to pursue whichever process is then providing faster responses. The



attached ordinance reflects the inclusion of that option. If the Committee recommends adoption of the ordinance, it would be forwarded to the Code & Ordinance Committee.

**Attachments**

cc: Dennis D. Linaburg, Chief, Fire and Rescue Department

## § 32.1-111.5. Certification and recertification of emergency medical services providers; appeals process

- A. The Board shall prescribe by regulation the qualifications required for certification of emergency medical services providers, including those qualifications necessary for authorization to follow Do Not Resuscitate Orders pursuant to § 54.1-2987.1. Such regulations shall include criteria for determining whether an applicant's relevant practical experience and didactic and clinical components of education and training completed during his service as a member of any branch of the armed forces of the United States may be accepted by the Commissioner as evidence of satisfaction of the requirements for certification.
- B. Each person desiring certification as an emergency medical services provider shall apply to the Commissioner upon a form prescribed by the Board. Upon receipt of such application, the Commissioner shall cause the applicant to be examined or otherwise determined to be qualified for certification. When determining whether an applicant is qualified for certification, the Commissioner shall consider and may accept relevant practical experience and didactic and clinical components of education and training completed by an applicant during his service as a member of any branch of the armed forces of the United States as evidence of satisfaction of the requirements for certification. If the Commissioner determines that the applicant meets the requirements for certification as an emergency medical services provider, he shall issue a certificate to the applicant. An emergency medical services provider certificate so issued shall be valid for a period required by law or prescribed by the Board. Any certificate so issued may be suspended at any time that the Commissioner determines that the holder no longer meets the qualifications prescribed for such emergency medical services provider. The Commissioner may temporarily suspend any certificate without notice, pending a hearing or informal fact-finding conference, if the Commissioner finds that there is a substantial danger to public health or safety. When the Commissioner has temporarily suspended a certificate pending a hearing, the Commissioner shall seek an expedited hearing in accordance with the Administrative Process Act (§ 2.2-4000 et seq.).
- C. The Board shall prescribe by regulation procedures and the qualifications required for the recertification of emergency medical services providers.
- D. The Commissioner may issue a temporary certificate when he finds that it is in the public interest. A temporary certificate shall be valid for a period not exceeding 90 days.
- E. The Board shall require each person who, on or after July 1, 2013, applies to be a volunteer with or employee of an emergency medical services agency to submit fingerprints and provide personal descriptive information to be forwarded along with his fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation, for the purpose of obtaining his criminal history record information. The Central Criminal Records Exchange shall forward the results of the state and national records search to the Commissioner or his designee, who shall be a governmental entity. If an applicant is denied employment or service as a volunteer because of information appearing on his criminal history record and the applicant disputes the information upon which the denial was based, the Central Criminal Records Exchange shall, upon written



request, furnish to the applicant the procedures for obtaining a copy of the criminal history record from the Federal Bureau of Investigation.

F. Notwithstanding the provisions of subsection E, an emergency medical services agency located in a locality having a local ordinance adopted in accordance with §§ 15.2-1503.1 and 19.2-389 shall require an applicant for employment or to serve as a volunteer to submit fingerprints and provide personal descriptive information to be provided directly to the Central Criminal Records Exchange to be forwarded to the Federal Bureau of Investigation for the purpose of obtaining criminal history records information for the applicant. The Central Criminal Records Exchange shall, upon receipt of an applicant's records or notification that no records exists, forward the results of the state and national records search to the county, city or town manager or chief law-enforcement officer for the locality in which the agency is located, or his designee, who shall be associated with a governmental entity. Upon receipt of the results of the state and national criminal history records search, the county, city or town manager or chief law-enforcement officer for the locality, or his designee, shall notify the Office of Emergency Medical Services regarding the applicant's eligibility for employment or to serve as a volunteer. Information provided to the Office of Emergency Medical Services shall be limited to notification as to whether the applicant is eligible for employment or to serve as a volunteer in accordance with requirements related to disqualifying offenses set forth in regulations of the Board and shall not include information regarding whether the applicant has been found ineligible for employment or to serve as a volunteer due to additional exclusionary criteria established by the locality. Whenever fingerprints are submitted to both authorities and it is deemed feasible and practical by the Central Criminal Records Exchange it shall forward the results of the fingerprint based state and national records search to the county, city or town manager or chief law enforcement officer for the locality in which the agency is located, or his designee, who shall be associated with a governmental entity, and to the Office of Emergency Medical Services.

1996, c. 899;1997, c. 248;1998, cc. 803, 854;2008, c. 660;2011, c. 497;2013, cc. 72, 176, 331, 407; 2015, cc. 362, 502, 503.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

Code of Virginia

Title 15.2. Counties, Cities and Towns

Chapter 15. Local Government Personnel, Qualification for Office, Bonds, Dual Office Holding and Certain Local Government Officers

## § 15.2-1503.1. Background checks required for certain employees and licensees

Any locality having a local ordinance adopted in accordance with § 19.2-389 (i) shall require any applicant who is offered or accepts employment with the locality, (ii) shall require any prospective licensee for any categories of license designated by ordinance, or (iii) may require any individual who is offered or accepts employment with a contractor or public service corporation that provides public transit services to the locality to submit to fingerprinting and to provide personal descriptive information to be forwarded along with the applicant's or licensee's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding such applicant or licensee. The locality may require such applicant or licensee to pay the cost of the fingerprinting or a criminal records check or both.

The Central Criminal Records Exchange, upon receipt of an applicant's or licensee's record or notification that no record exists, shall make a report to the county, city or town manager, or chief law-enforcement officer or his designee, who must belong to a governmental entity. If an applicant is denied employment or a licensee is denied a license because of the information appearing in his criminal history record, the locality shall notify the applicant or licensee that information obtained from the Central Criminal Records Exchange contributed to such denial. The information shall not be disseminated except as provided for in this section.

2003, c. 742;2004, c. 160;2010, cc. 189, 563.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.



## § 19.2-389. Dissemination of criminal history record information

A. Criminal history record information shall be disseminated, whether directly or through an intermediary, only to:

1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for purposes of the administration of criminal justice and the screening of an employment application or review of employment by a criminal justice agency with respect to its own employees or applicants, and dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 3, and 5 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For purposes of this subdivision, criminal history record information includes information sent to the Central Criminal Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time or part-time employee of the State Police, a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth for the purposes of the administration of criminal justice;
2. Such other individuals and agencies that require criminal history record information to implement a state or federal statute or executive order of the President of the United States or Governor that expressly refers to criminal conduct and contains requirements or exclusions expressly based upon such conduct, except that information concerning the arrest of an individual may not be disseminated to a noncriminal justice agency or individual if an interval of one year has elapsed from the date of the arrest and no disposition of the charge has been recorded and no active prosecution of the charge is pending;
3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice pursuant to that agreement which shall specifically authorize access to data, limit the use of data to purposes for which given, and ensure the security and confidentiality of the data;
4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency that shall specifically authorize access to data, limit the use of data to research, evaluative, or statistical purposes, and ensure the confidentiality and security of the data;
5. Agencies of state or federal government that are authorized by state or federal statute or executive order of the President of the United States or Governor to conduct investigations determining employment suitability or eligibility for security clearances allowing access to classified information;
6. Individuals and agencies where authorized by court order or court rule;
7. Agencies of any political subdivision of the Commonwealth, public transportation companies owned, operated or controlled by any political subdivision, and any public service corporation that operates a public transit system owned by a local government for the conduct of



investigations of applicants for employment, permit, or license whenever, in the interest of public welfare or safety, it is necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment, permit, or license under consideration;

7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of Title 33.2 and their contractors, for the conduct of investigations of individuals who have been offered a position of employment whenever, in the interest of public welfare or safety and as authorized in the Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment under consideration;

8. Public or private agencies when authorized or required by federal or state law or interstate compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the adult members of that individual's household, with whom the agency is considering placing a child or from whom the agency is considering removing a child due to abuse or neglect, on an emergency, temporary, or permanent basis pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that the data shall not be further disseminated to any party other than a federal or state authority or court as may be required to comply with an express requirement of law;

9. To the extent permitted by federal law or regulation, public service companies as defined in § 56-1, for the conduct of investigations of applicants for employment when such employment involves personal contact with the public or when past criminal conduct of an applicant would be incompatible with the nature of the employment under consideration;

10. The appropriate authority for purposes of granting citizenship and for purposes of international travel, including, but not limited to, issuing visas and passports;

11. A person requesting a copy of his own criminal history record information as defined in § 9.1-101 at his cost, except that criminal history record information shall be supplied at no charge to a person who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of America; (ii) a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any affiliate of Prevent Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board member or any individual who has been offered membership on the board of a Crime Stoppers, Crime Solvers or Crime Line program as defined in § 15.2-1713.1;

12. Administrators and board presidents of and applicants for licensure or registration as a child welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services' representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and volunteers at such facilities, caretakers, and other adults living in family day homes or homes approved by family day systems, and foster and adoptive parent applicants of private child-placing agencies, pursuant to §§ 63.2-1719, 63.2-1720, 63.2-1720.1, 63.2-1721, and 63.2-1721.1, subject to the restriction that the data shall not be further disseminated by the facility or agency to any party other than the data subject, the Commissioner of Social Services' representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination;

13. The school boards of the Commonwealth for the purpose of screening individuals who are offered or who accept public school employment and those current school board employees for whom a report of arrest has been made pursuant to § 19.2-83.1;



14. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law (§ 58.1-4000 et seq.), and the Department of Agriculture and Consumer Services for the conduct of investigations as set forth in Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;
15. Licensed nursing homes, hospitals and home care organizations for the conduct of investigations of applicants for compensated employment in licensed nursing homes pursuant to § 32.1-126.01, hospital pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-162.9:1, subject to the limitations set out in subsection E;
16. Licensed assisted living facilities and licensed adult day care centers for the conduct of investigations of applicants for compensated employment in licensed assisted living facilities and licensed adult day care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;
17. (Effective until July 1, 2018) The Alcoholic Beverage Control Board for the conduct of investigations as set forth in § 4.1-103.1;
17. (Effective July 1, 2018) The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth in § 4.1-103.1;
18. The State Board of Elections and authorized officers and employees thereof and general registrars appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to voter registration, limited to any record of felony convictions;
19. The Commissioner of Behavioral Health and Developmental Services for those individuals who are committed to the custody of the Commissioner pursuant to §§ 19.2-169.2, 19.2-169.6, 19.2-182.2, 19.2-182.3, 19.2-182.8, and 19.2-182.9 for the purpose of placement, evaluation, and treatment planning;
20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety Action Program for (i) assessments of habitual offenders under § 46.2-360, (ii) interventions with first offenders under § 18.2-251, or (iii) services to offenders under § 18.2-51.4, 18.2-266, or 18.2-266.1;
21. Residential facilities for juveniles regulated or operated by the Department of Social Services, the Department of Education, or the Department of Behavioral Health and Developmental Services for the purpose of determining applicants' fitness for employment or for providing volunteer or contractual services;
22. The Department of Behavioral Health and Developmental Services and facilities operated by the Department for the purpose of determining an individual's fitness for employment pursuant to departmental instructions;
23. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such records information on behalf of such governing boards or administrators pursuant to a written agreement with the Department of State Police;
24. Public and nonprofit private colleges and universities for the purpose of screening individuals who are offered or accept employment;
25. Members of a threat assessment team established by a local school board pursuant to § 22.1-



79.4, by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of higher education, for the purpose of assessing or intervening with an individual whose behavior may present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal history record information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose that such disclosure was made to the threat assessment team;

26. Executive directors of community services boards or the personnel director serving the community services board for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

28. The Commissioner of Social Services for the purpose of locating persons who owe child support or who are alleged in a pending paternity proceeding to be a putative father, provided that only the name, address, demographics and social security number of the data subject shall be released;

29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the purpose of determining if any applicant who accepts employment in any direct care position or requests approval as a sponsored residential service provider or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver has been convicted of a crime that affects his fitness to have responsibility for the safety and well-being of individuals with mental illness, intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-506, and 37.2-607;

30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

31. The chairmen of the Committees for Courts of Justice of the Senate or the House of Delegates for the purpose of determining if any person being considered for election to any judgeship has been convicted of a crime;

32. Heads of state agencies in which positions have been identified as sensitive for the purpose of determining an individual's fitness for employment in positions designated as sensitive under Department of Human Resource Management policies developed pursuant to § 2.2-1201.1. Dissemination of criminal history record information to the agencies shall be limited to those positions generally described as directly responsible for the health, safety and welfare of the general populace or protection of critical infrastructures;

33. The Office of the Attorney General, for all criminal justice activities otherwise permitted under subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.);



34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design, construction, overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary companies, for the conduct of investigations of applications for employment or for access to facilities, by contractors, leased laborers, and other visitors;
35. Any employer of individuals whose employment requires that they enter the homes of others, for the purpose of screening individuals who apply for, are offered, or have accepted such employment;
36. Public agencies when and as required by federal or state law to investigate (i) applicants as providers of adult foster care and home-based services or (ii) any individual with whom the agency is considering placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1, subject to the restriction that the data shall not be further disseminated by the agency to any party other than a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination, subject to limitations set out in subsection G;
37. The Department of Medical Assistance Services, or its designee, for the purpose of screening individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered, or have accepted a position related to the provision of transportation services to enrollees in the Medicaid Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other program administered by the Department of Medical Assistance Services;
38. The State Corporation Commission for the purpose of investigating individuals who are current or proposed members, senior officers, directors, and principals of an applicant or person licensed under Chapter 16 (§ 6.2-1600 et seq.) or Chapter 19 (§ 6.2-1900 et seq.) of Title 6.2. Notwithstanding any other provision of law, if an application is denied based in whole or in part on information obtained from the Central Criminal Records Exchange pursuant to Chapter 16 or 19 of Title 6.2, the Commissioner of Financial Institutions or his designee may disclose such information to the applicant or its designee;
39. The Department of Professional and Occupational Regulation for the purpose of investigating individuals for initial licensure pursuant to § 54.1-2106.1;
40. The Department for Aging and Rehabilitative Services and the Department for the Blind and Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment and for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11 (§ 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;
41. Bail bondsmen, in accordance with the provisions of § 19.2-120;
42. The State Treasurer for the purpose of determining whether a person receiving compensation for wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12 ;
43. The Department of Social Services and directors of local departments of social services for the purpose of screening individuals seeking to enter into a contract with the Department of Social Services or a local department of social services for the provision of child care services for which child care subsidy payments may be provided;
44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult



members of a juvenile's household when completing a predispositional or postdispositional report required by § 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;and

45. Other entities as otherwise provided by law.

Upon an ex parte motion of a defendant in a felony case and upon the showing that the records requested may be relevant to such case, the court shall enter an order requiring the Central Criminal Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons designated in the order on whom a report has been made under the provisions of this chapter.

Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a copy of conviction data covering the person named in the request to the person making the request; however, such person on whom the data is being obtained shall consent in writing, under oath, to the making of such request. A person receiving a copy of his own conviction data may utilize or further disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data subject, the person making the request shall be furnished at his cost a certification to that effect.

B. Use of criminal history record information disseminated to noncriminal justice agencies under this section shall be limited to the purposes for which it was given and may not be disseminated further.

C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal history record information for employment or licensing inquiries except as provided by law.

D. Criminal justice agencies shall establish procedures to query the Central Criminal Records Exchange prior to dissemination of any criminal history record information on offenses required to be reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases where time is of the essence and the normal response time of the Exchange would exceed the necessary time period. A criminal justice agency to whom a request has been made for the dissemination of criminal history record information that is required to be reported to the Central Criminal Records Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination. Dissemination of information regarding offenses not required to be reported to the Exchange shall be made by the criminal justice agency maintaining the record as required by § 15.2-1722.

E. Criminal history information provided to licensed nursing homes, hospitals and to home care organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

F. Criminal history information provided to licensed assisted living facilities and licensed adult day care centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange for any offense specified in § 63.2-1720.

G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be limited to the convictions on file with the Exchange for any offense specified in § 63.2-1719.



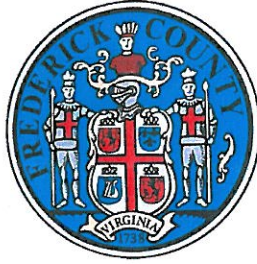
H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in the request to the employer or prospective employer making the request, provided that the person on whom the data is being obtained has consented in writing to the making of such request and has presented a photo-identification to the employer or prospective employer. In the event no conviction data is maintained on the person named in the request, the requesting employer or prospective employer shall be furnished at his cost a certification to that effect. The criminal history record search shall be conducted on forms provided by the Exchange.

Code 1950, § 19.1-19.2; 1966, c. 669; 1968, c. 537; 1970, c. 118; 1975, c. 495; 1976, c. 771; 1977, c. 626; 1978, c. 350; 1979, c. 480; 1981, c. 207; 1985, c. 360; 1987, cc. 130, 131; 1988, c. 851; 1989, c. 544; 1990, c. 766; 1991, c. 342; 1992, cc. 422, 641, 718, 746, 791, 844; 1993, cc. 48, 313, 348; 1994, cc. 34, 670, 700, 830; 1995, cc. 409, 645, 731, 781, 809; 1996, cc. 428, 432, 747, 881, 927, 944; 1997, cc. 169, 177, 606, 691, 721, 743, 796, 895; 1998, cc. 113, 405, 445, 882; 1999, cc. 383, 685; 2001, cc. 552, 582; 2002, cc. 370, 587, 606; 2003, c. 731; 2005, cc. 149, 914, 928; 2006, cc. 257, 277, 644; 2007, cc. 12, 361, 495, 572; 2008, cc. 387, 689, 863; 2009, cc. 667, 813, 840; 2010, cc. 189, 340, 406, 456, 524, 563, 862; 2011, cc. 432, 449; 2012, cc. 40, 189, 386, 476, 507, 803, 835; 2013, cc. 165, 176, 261, 407, 491, 582; 2014, cc. 225, 454; 2015, cc. 38, 343, 540, 730, 758, 770; 2016, cc. 454, 554, 574.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

J





**ORDINANCE**  
\_\_\_\_\_, 2017

The Board of Supervisors of Frederick County, Virginia hereby ordains that Section 122-11 (Methamphetamine Lab Cleanup and Removal; Responsibility for Costs; Determination of Amount) of Chapter 122 (Nuisances) of the Code of Frederick County, Virginia be, and the same hereby is, enacted as follows:

**§ 122-11. Methamphetamine Lab Cleanup and Removal; Responsibility for Costs; Determination of Amount.**

Any person who is convicted of an offense for manufacture of methamphetamine pursuant to Virginia Code § 18.2-248 or 18.2-248.03 shall be liable, at the time of sentencing or in a separate civil action, to the County, the Sheriff, or any other law enforcement entity for the expense in cleaning up any methamphetamine lab related to the conviction. The amount charged shall not exceed the actual expenses associated with cleanup, removal, or repair of the affected property or the replacement cost of personal protective equipment used.

Enacted this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

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

A COPY ATTEST

\_\_\_\_\_  
Kris C. Tierney  
County Administrator  
County of Frederick, Virginia



## COUNTY of FREDERICK

**Jay E. Tibbs**  
Deputy County Administrator

540/665-5666  
Fax 540/667-0370

E-mail:  
jtibbs@fcva.us

**TO:** Board of Supervisors  
**FROM:** Jay E. Tibbs., Deputy County Administrator  
**DATE:** August 29, 2017  
**RE:** Code and Ordinance Committee Report

The Code & Ordinance Committee met on Wednesday, August 23, 2017 at 3:00 P.M., in the First Floor Conference Room, County Administration Building, 107 North Kent Street, Winchester, Virginia. Code and Ordinance Committee members present were Blaine P. Dunn, Chairman; Bill M. Ewing, Robert W. Wells, Derek Aston, Stephen Butler, and James Drown. Also present were Interim County Administrator Kris C. Tierney, Deputy County Administrator Jay E. Tibbs, County Attorney Rod Williams, Fire Chief Dennis Linaburg, Treasurer C. William Orndoff, Jr., Commissioner of the Revenue Ellen Murphy, and Lorraine Mossburg, Administrative Assistant.

The committee submits the following:

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

- 1. Proposed Amendment to the Frederick County Code, Chapter 89 (Volunteer Membership), Section 89-12 (Volunteer Fire Fighter and Rescue Members) – Simplified Background Check Procedure. (See Attached.)**

County Attorney Rod Williams provided a brief overview. He advised this proposal was a technical amendment which would speed up the process for completing background checks necessary in order to approve volunteer fire and rescue members.

Upon a motion by Mr. Butler, seconded by Mr. Ewing, the Committee forwarded this proposed ordinance to the Board of Supervisors for public hearing with a recommendation of approval. The motion was unanimously approved.

- 2. Proposed Amendment to the Frederick County Code, Chapter 122 (Nuisances), Proposed Section 122-11 (Methamphetamine Lab Cleanup and Removal Responsibility for Costs; Determination of Amount). (See Attached.)**

County Attorney Rod Williams provided a brief overview. He advised this proposed ordinance would help ensure that all possible avenues are available for the County to recover any costs it might be forced to incur to protect the public health and safety, in those instances where no other means are available for the cleanup of methamphetamine labs.

Upon a motion by Mr. Butler, seconded by Mr. Drown, the Committee forwarded this proposed ordinance to the Board of Supervisors for public hearing with a recommendation of approval. The motion was unanimously approved.

**3. Proposed Amendment to the Frederick County Code, Chapter 155 (Taxation), Section 155-3 (Tax returns, failure to file). (See Attached.)**

County Attorney Rod Williams provided a brief overview. He advised the proposed amendments are technical amendments to the provision governing personal property return tax filings. The amendments clarify that the requirements apply for mobile homes and provide for annual filing of returns for mobile homes, irrespective of change ownership and/or tax situs. They also establish a uniform filing deadline of March 1 for personal property returns. For proratable personal property (non-business motor vehicles) for which there is a change of ownership and/or tax situs, the ordinance would still require the filing of a return within 60 days of the change.

Upon a motion by Mr. Ewing, seconded by Mr. Butler, the Committee forwarded this proposed ordinance to the Board of Supervisors for public hearing with a recommendation of approval. The motion was unanimously approved.

**\*\*\*Items Not Requiring Board Action\*\*\***

**1. Proposed Amendment to the Frederick County Code, Chapter 155 (Animals and Fowl), Section 48-23 (Specified noise unlawful), Section 48-24 (Enforcement), Section 48-25 (Violations and penalties) and Chapter 118 (Noise), Section 118-1 (Specified noise unlawful), Section 118-2 (Enforcement), Section 118-3 (Violations and penalties), Proposed Section 118-4 (Specific prohibitions), Proposed Section 118-5 (Exceptions). (See Attached.)**

County Attorney Rod Williams provided a brief overview. He advised this proposed amendment was an attempt to revise the existing noise ordinance to meet the constitutional standard for reasonableness. The proposal would bring the ordinance into compliance and provide necessary clarity.

The Committee discussed the proposed amendment and was not ready to move it forward.

Upon a motion by Mr. Butler, seconded by Mr. Ewing, the Committee postponed this item until its next meeting. The motion was approved unanimously.

**2. Other Business.**

Mr. Dunn raised an issue in his district where a property owner was discharging water onto a neighboring property. He stated he had contacted staff and was advised there was no prohibition under current local ordinances to address discharging water onto another person's property. He

stated he was seeking other perspectives.

Mr. Ewing advised that he was dealing with a similar situation in his district.

Interim County Administrator Tierney advised that he would confer with the Public Works Director to see what avenues were available and would let Mr. Dunn know what he finds.

There being no further business, the meeting adjourned at 3:45 p.m.

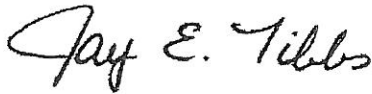
Respectfully Submitted,

**Code and Ordinance Committee**

Blaine P. Dunn, Chairman  
Robert W. Wells  
Derek Aston

Bill M. Ewing  
James Drown  
Stephen Butler

By:

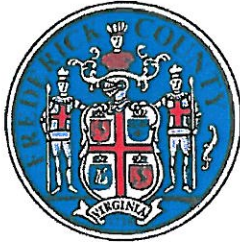


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Jay E. Tibbs  
Deputy County Administrator

Attachments





COUNTY OF FREDERICK

**Roderick B. Williams**  
County Attorney

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

**MEMORANDUM**

TO: Code & Ordinance Committee

FROM: Roderick B. Williams  
County Attorney

DATE: August 10, 2017

RE: Frederick County Code, Chapter 122 (Nuisances), Proposed Section 122-11  
(Methamphetamine Lab Cleanup and Removal; Responsibility for Costs;  
Determination of Amount)

Attached please find materials regarding the above proposed ordinance amendment. The Public Safety Committee, on June 15, 2017, approved forwarding this proposed ordinance to the Code & Ordinance Committee.

Attachments



COUNTY OF FREDERICK

**Roderick B. Williams**  
County Attorney

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

**MEMORANDUM**

TO: Public Safety Committee

FROM: Roderick B. Williams  
County Attorney

DATE: June 9, 2017

RE: Frederick County Code, Chapter 122 (Nuisances), Proposed Section 122-11  
(Methamphetamine Lab Cleanup and Removal; Responsibility for Costs;  
Determination of Amount)

Per legislation enacted by the 2012 Session of the General Assembly, 2012 Acts of Assembly, Chapters 517 and 616, localities may provide by ordinance that any person convicted for the illegal manufacture of methamphetamine shall be liable at the time of sentencing or in a separate civil action to the locality or to any other law-enforcement entity for the expense in cleaning up any methamphetamine lab related to the conviction. Having a local ordinance to such effect would be helpful in ensuring that all possible avenues are available for the County to recover any costs it might be forced to incur to protect public health and safety, in those instances where no other means are available for the cleanup of methamphetamine labs. Therefore, attached are copies of the enabling legislation and of a draft ordinance, for the Committee's consideration, that would amend the County Code to make such provision.

**Attachments**

cc: Sheriff's Office  
Fire Marshal's Office  
Commonwealth's Attorney's Office

Code of Virginia  
Title 15.2. Counties, Cities and Towns  
Chapter 17. Police and Public Order

## § 15.2-1716.2. Methamphetamine lab cleanup costs; localities may charge for reimbursement

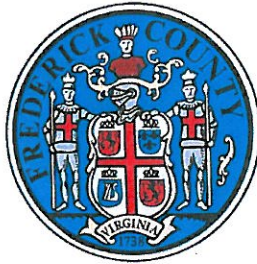
Any locality may provide by ordinance that any person who is convicted of an offense for manufacture of methamphetamine pursuant to § 18.2-248 or 18.2-248.03 shall be liable at the time of sentencing or in a separate civil action to the locality or to any other law-enforcement entity for the expense in cleaning up any methamphetamine lab related to the conviction. The amount charged shall not exceed the actual expenses associated with cleanup, removal, or repair of the affected property or the replacement cost of personal protective equipment used.

2012, cc. 517, 616.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.



К



**ORDINANCE**  
**\_\_\_ \_\_, 2017**

The Board of Supervisors of Frederick County, Virginia hereby ordains that Section 155-3 (Tax returns; failure to file) of Article I (General Provisions) of Chapter 155 (Taxation) of the Code of Frederick County, Virginia be, and the same hereby is, amended by enacting an amended Section 155-3 (Tax returns; failure to file) of Article I (General Provisions) of Chapter 155 (Taxation) of the Code of Frederick County, Virginia, as follows (deletions are shown in ~~bold strikethrough~~ and additions are shown in **bold underline**):

**§ 155-3. Tax returns; failure to file.**

A. The annual return of taxable tangible personal property **for any motor vehicle, trailer, airplane, boat,** and mobile homes ~~for in~~ the County shall be filed with the Commissioner of Revenue for the County on or before the 15th day of February of each year, except as stated in Subsections D and E; provided, further, that the annual return of taxable personal property for any motor vehicle, trailer, airplane, ~~or-boat,~~ **and mobile home** acquired after January 1 shall be filed with the Commissioner of Revenue ~~on or before the 15th day of February of each year or~~ within 60 days from the date of acquisition or situs in the County, ~~whichever occurs later~~. Each return shall be signed by the owner of the property. If the property is owned by an association, partnership, limited liability company, or corporation, the return shall be signed by a member, partner, executive officer, or other person specifically authorized in writing by the association, partnership, limited liability company, or corporation to sign.

B. The annual return of taxable machinery and tools, ~~furniture and fixtures and of taxable business tangible personal property~~ employed in a business or trade ~~for in~~ the County **as of January 1** shall be filed with the Commissioner of Revenue for the County on or before the ~~15th~~ **1st** day of March of each year; provided, further, that the annual return of taxable machinery and tools, ~~furniture and fixtures and of taxable business tangible personal property~~ acquired after January 1 shall be filed with the Commissioner of Revenue on or before the ~~15th~~ **1st** day of March of ~~each the following year or within 60 days from the date of acquisition or situs in the County, whichever occurs later~~. Each return shall be signed by the owner of the property. If the property is owned by an association, partnership, limited liability company, or corporation, the return shall be signed by a member, partner, executive



officer, or other person specifically authorized in writing by the association, partnership, limited liability company, or corporation to sign.

C. A penalty for failure to file such return as required by this section shall be assessed as follows:

- (1) As to a return required by subsection A, at the rate of 10% of the tax assessable or due on such property, provided that such penalty shall not be less than a minimum of \$2 and shall not be more than a maximum of \$50; and
- (2) As to a return required by subsection B, at the rate of 10% of the tax assessable or due on such property or \$2, whichever shall be the greater.

D. Notwithstanding the provisions of § 155-3A, Frederick County provides for an alternative method of filing personal property tax returns for motor vehicles, trailers and boats. Such motor vehicles, trailers and boats may be assessed annually based on a previous personal property tax return filed by the owner or owners of such property. For those whose name or address has not changed since a previous filing and whose personal property has had no change in status or situs, the assessment and taxation of property shall be based on a personal property tax return previously filed with Frederick County, which hereby adopts this alternative method of filing. **Personal property tax returns for mobile homes must, however, be filed annually, even if no change occurs.**

E. Such owner or owners of motor vehicles, trailers, ~~and boats,~~ **and mobile homes** must file a new personal property tax return whenever there is:

- (1) A change in the name or address of the person or persons owning such taxable personal property;
- (2) A change in the situs of personal property;
- (3) Any other change affecting the assessment or levy of the personal property tax on motor vehicles, trailers, ~~and boats,~~ **and mobile homes** for which a tax return has been filed previously; or
- (4) Any change in which a person acquires one or more motor vehicles, trailers, ~~and boats,~~ **and mobile homes** and for which no personal property tax return has been filed.

Enacted this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

Charles S. DeHaven, Jr., Chairman \_\_\_\_\_

Gary A. Lofton \_\_\_\_\_

Bill M. Ewing \_\_\_\_\_

Robert W. Wells \_\_\_\_\_

Blaine P. Dunn \_\_\_\_\_

Gene E. Fisher \_\_\_\_\_

Judith McCann-Slaughter \_\_\_\_\_

A COPY ATTEST

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Kris C. Tierney  
County Administrator  
Frederick County, Virginia





## COUNTY of FREDERICK

**Jay E. Tibbs**

Deputy County Administrator

540/665-5666

Fax 540/667-0370

E-mail:

[jtibbs@fcva.us](mailto:jtibbs@fcva.us)

**TO:** Board of Supervisors  
**FROM:** Jay E. Tibbs., Deputy County Administrator  
**DATE:** August 29, 2017  
**RE:** Code and Ordinance Committee Report

The Code & Ordinance Committee met on Wednesday, August 23, 2017 at 3:00 P.M., in the First Floor Conference Room, County Administration Building, 107 North Kent Street, Winchester, Virginia. Code and Ordinance Committee members present were Blaine P. Dunn, Chairman; Bill M. Ewing, Robert W. Wells, Derek Aston, Stephen Butler, and James Drown. Also present were Interim County Administrator Kris C. Tierney, Deputy County Administrator Jay E. Tibbs, County Attorney Rod Williams, Fire Chief Dennis Linaburg, Treasurer C. William Orndoff, Jr., Commissioner of the Revenue Ellen Murphy, and Lorraine Mossburg, Administrative Assistant.

The committee submits the following:

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

- 1. Proposed Amendment to the Frederick County Code, Chapter 89 (Volunteer Membership), Section 89-12 (Volunteer Fire Fighter and Rescue Members) – Simplified Background Check Procedure. (See Attached.)**

County Attorney Rod Williams provided a brief overview. He advised this proposal was a technical amendment which would speed up the process for completing background checks necessary in order to approve volunteer fire and rescue members.

Upon a motion by Mr. Butler, seconded by Mr. Ewing, the Committee forwarded this proposed ordinance to the Board of Supervisors for public hearing with a recommendation of approval. The motion was unanimously approved.

- 2. Proposed Amendment to the Frederick County Code, Chapter 122 (Nuisances), Proposed Section 122-11 (Methamphetamine Lab Cleanup and Removal Responsibility for Costs; Determination of Amount). (See Attached.)**

County Attorney Rod Williams provided a brief overview. He advised this proposed ordinance would help ensure that all possible avenues are available for the County to recover any costs it might be forced to incur to protect the public health and safety, in those instances where no other means are available for the cleanup of methamphetamine labs.

Upon a motion by Mr. Butler, seconded by Mr. Drown, the Committee forwarded this proposed ordinance to the Board of Supervisors for public hearing with a recommendation of approval. The motion was unanimously approved.

**3. Proposed Amendment to the Frederick County Code, Chapter 155 (Taxation), Section 155-3 (Tax returns, failure to file). (See Attached.)**

County Attorney Rod Williams provided a brief overview. He advised the proposed amendments are technical amendments to the provision governing personal property return tax filings. The amendments clarify that the requirements apply for mobile homes and provide for annual filing of returns for mobile homes, irrespective of change ownership and/or tax situs. They also establish a uniform filing deadline of March 1 for personal property returns. For proratable personal property (non-business motor vehicles) for which there is a change of ownership and/or tax situs, the ordinance would still require the filing of a return within 60 days of the change.

Upon a motion by Mr. Ewing, seconded by Mr. Butler, the Committee forwarded this proposed ordinance to the Board of Supervisors for public hearing with a recommendation of approval. The motion was unanimously approved.

**\*\*\*Items Not Requiring Board Action\*\*\***

**1. Proposed Amendment to the Frederick County Code, Chapter 155 (Animals and Fowl), Section 48-23 (Specified noise unlawful), Section 48-24 (Enforcement), Section 48-25 (Violations and penalties) and Chapter 118 (Noise), Section 118-1 (Specified noise unlawful), Section 118-2 (Enforcement), Section 118-3 (Violations and penalties), Proposed Section 118-4 (Specific prohibitions), Proposed Section 118-5 (Exceptions). (See Attached.)**

County Attorney Rod Williams provided a brief overview. He advised this proposed amendment was an attempt to revise the existing noise ordinance to meet the constitutional standard for reasonableness. The proposal would bring the ordinance into compliance and provide necessary clarity.

The Committee discussed the proposed amendment and was not ready to move it forward.

Upon a motion by Mr. Butler, seconded by Mr. Ewing, the Committee postponed this item until its next meeting. The motion was approved unanimously.

**2. Other Business.**

Mr. Dunn raised an issue in his district where a property owner was discharging water onto a neighboring property. He stated he had contacted staff and was advised there was no prohibition under current local ordinances to address discharging water onto another person's property. He



stated he was seeking other perspectives.

Mr. Ewing advised that he was dealing with a similar situation in his district.

Interim County Administrator Tierney advised that he would confer with the Public Works Director to see what avenues were available and would let Mr. Dunn know what he finds.

There being no further business, the meeting adjourned at 3:45 p.m.

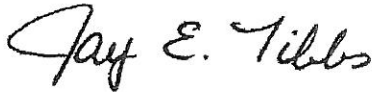
Respectfully Submitted,

**Code and Ordinance Committee**

Blaine P. Dunn, Chairman  
Robert W. Wells  
Derek Aston

Bill M. Ewing  
James Drown  
Stephen Butler

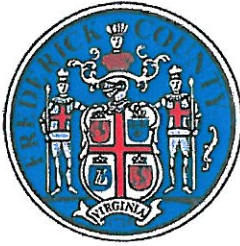
By:



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Jay E. Tibbs  
Deputy County Administrator

Attachments



COUNTY OF FREDERICK

**Roderick B. Williams**  
County Attorney

540/722-8383

Fax 540/667-0370

E-mail: [rwillia@fcva.us](mailto:rwillia@fcva.us)

### MEMORANDUM

TO: Code & Ordinance Committee

FROM: Roderick B. Williams  
County Attorney

DATE: August 11, 2017

RE: **Personal Property Tax – Return Filing Requirements**

Attached please find a draft ordinance revision containing technical amendments to the provision governing personal property tax return filings. The Commissioner of the Revenue has suggested these amendments. The amendments clarify that the requirements apply for mobile homes and provide for annual filing of returns for mobile homes, irrespective of change of ownership and/or tax situs. The amendments also establish a uniform filing deadline of March 1 for personal property returns. For proratable personal property (non-business motor vehicles) for which there is a change of ownership and/or tax situs, the ordinance would still require the filing of a return within 60 days of the change.

Attachment



L



## MEMORANDUM

TO: Frederick County Board of Supervisors

FROM: Mark R. Cheran, Zoning Administrator *MRC*

RE: Request to Add Parcels 60-A-89, 61-A-15 and 61-A-17, owned by Vernon Wright and Eula Wright to the South Frederick Agricultural and Forestal District.

DATE: October 2, 2017

Please find attached a form from Vernon Wright and Eula Wright, dated July 20, 2017. The Wright's have requested to add three parcels to the South Frederick Agricultural and Forestal District. The South Frederick Agricultural and Forestal District was established in 1980. The most recent renewal of this district occurred in May 2016 for a period of five years. Currently, 6,070+/- acres are contained in this district.

Mr. and Mrs. Wright desire to add three parcels totaling 178.50+/- acres to the South Frederick Agricultural and Forestal District. Section 15.2-4314 of the Code of Virginia, 1950, as amended, provides property owners with the ability to request to add land to the Agricultural and Forestal District through a public process via the local governing body.

The Agricultural District Advisory Committee (ADAC) considered this request during their meeting on August 23, 2017. The ADAC unanimously recommended that the three parcels totaling 178.50+/- acres to be added to the South Frederick Agricultural and Forestal District. The Planning Commission considered this request during their meeting on September 20, 2017. The Planning Commission unanimously recommended that the three parcels totaling 178.50+/- acres to be added to the South Frederick Agricultural and Forestal District. The addition of the 178.50+/- acres will increase the South Frederick Agricultural and Forestal District to 6,248.50+/- acres.

Staff will present mapping during the Board of Supervisors Meeting which delineates the location of this acreage and its proximity to other land within the South Frederick Agricultural and Forestal District.

MRC/pd



## **Addition to the South Frederick Agricultural and Forestal District**

This is a request to the Frederick County Agricultural District Advisory Committee (ADAC) to update the South Frederick Agricultural and Forestal District. Chapter 43, Section 15.2-4300 of the Code of Virginia, 1950, as amended, requires that Agricultural and Forestal Districts be reviewed by the local government every five years after establishment. The South Frederick Agricultural and Forestal District (District) was established in 1980. This is a request to the South Frederick Agricultural and Forestal District to increase the District, to add three parcels of 178.50+/- acres.

### **LOCATION AND SIZE**

The District is located in the Back Creek Magisterial District and currently contains 6,070± acres. The proposed addition of three parcels (tax map numbers 60-A-89, 61-A-15, and 61-A-17) totaling 178.50± acres has requested to be included in the South Frederick Agricultural and Forestal District bringing the acreage to 6,248.50± acres. Please see attached map.

### **AGRICULTURAL & FORESTAL SIGNIFICANCE**

The predominantly agricultural operations in the District are 90 percent agriculture (orchard, and crop harvesting) and 10 percent open-space/woodlands. The area within the District is rural in nature.

### **LAND USE**

All parcels within the District are in agricultural or residential use.

### **COMPREHENSIVE PLAN**

The 2035 Comprehensive Policy Plan of Frederick County (Comp Plan) provides guidance when considering land use actions. The addition of these parcels within the District are outside the Urban Development Area (UDA) and Sewer and Water Service Area (SWSA), and are not part of any land use plan or study by the County. The current land use should remain in its present land use of pristine condition with orchards, agricultural, and residential.

### **LAKES/PONDS/STREAMS**

The District lies primarily within the Opequon Creek and Stephens Run drainage area. The establishment of this District will further assist with managing the quality of the County's water resources.

### **SOILS**

The general relief of the District varies from rolling hills to ridges to the north, west, south and east. This District lies within the Opequon Creek watershed and water is available from ponds, wells and springs.

### **PRIME AGRICULTURE SOIL**

The largest amount of prime agricultural soils located within the District is Frederick-Poplimento.

### **STAFF COMMENTS**

Based on this information, Staff feels that the additions to this District are agriculturally significant as outlined in the Agricultural and Forestal Districts Act and the 2035 Comprehensive Policy Plan (Comp Plan), which labels the area as rural. The intent of the Rural Areas is to maintain agriculture as a significant portion of the County's economy and to maintain the rural character of areas outside of the UDA. The Comprehensive Plan can accomplish this by promoting the inclusion of additional land in Agricultural and Forestal Districts. The Comprehensive Plan supports additions to and renewal of the District, for it provides an opportunity for the agribusiness community to conduct long range planning efforts for the management of their operations while providing a reserve of agricultural land through the year 2020.

### **AGRICULTURAL DISTRICT ADVISORY COMMITTEE FOR THE 08/23/17 MEETING:**

The Agricultural District Advisory Committee (ADAC) unanimously recommended approval to add three (3) parcels totaling 178.50± acres to the South Frederick Agricultural and Forestal District which would increase the South Frederick Agricultural and Forestal District to 6,248.50± acres.

**CONCLUSION FOR THE 09/20/17 PLANNING COMMISSION MEETING:** The Frederick County Agricultural District Advisory Committee (ADAC) unanimously recommended approval to add three (3) parcels totaling 178.50± acres to the South Frederick Agricultural and Forestal District at their meeting on August 23, 2017. Staff would recommend that the Planning Commission recommend to the Board of Supervisors the addition of the three (3) parcels totaling 178.50± acres to the District.

### **PLANNING COMMISSION SUMMARY & ACTION OF THE 9/20/17 MEETING:**

Staff reported this is a request to add three (3) parcels of land totaling 178.50± acres owned by Vernon and Eula Wright to the South Frederick Agricultural and Forestal District. Mr. Cheran noted currently the District contains 6,070± acres; this addition would increase that total to 6,248.50± acres. Staff presented location maps of the property. Staff concluded the Agricultural District Advisory Committee (ADAC) unanimously recommended to add the three (3) parcels to the District at their meeting on August 23, 2017.

A motion was made, seconded, and unanimously passed to recommend approval of the South Frederick Agricultural and Forestal District to consider adding additional parcels into the South Frederick Agricultural and Forestal District. These properties are located at 833 Barley Lane, Winchester Virginia and are identified with Property Identification Numbers 60-A-89, 61-A-15 and 61-A-17 in the Back Creek Magisterial District.

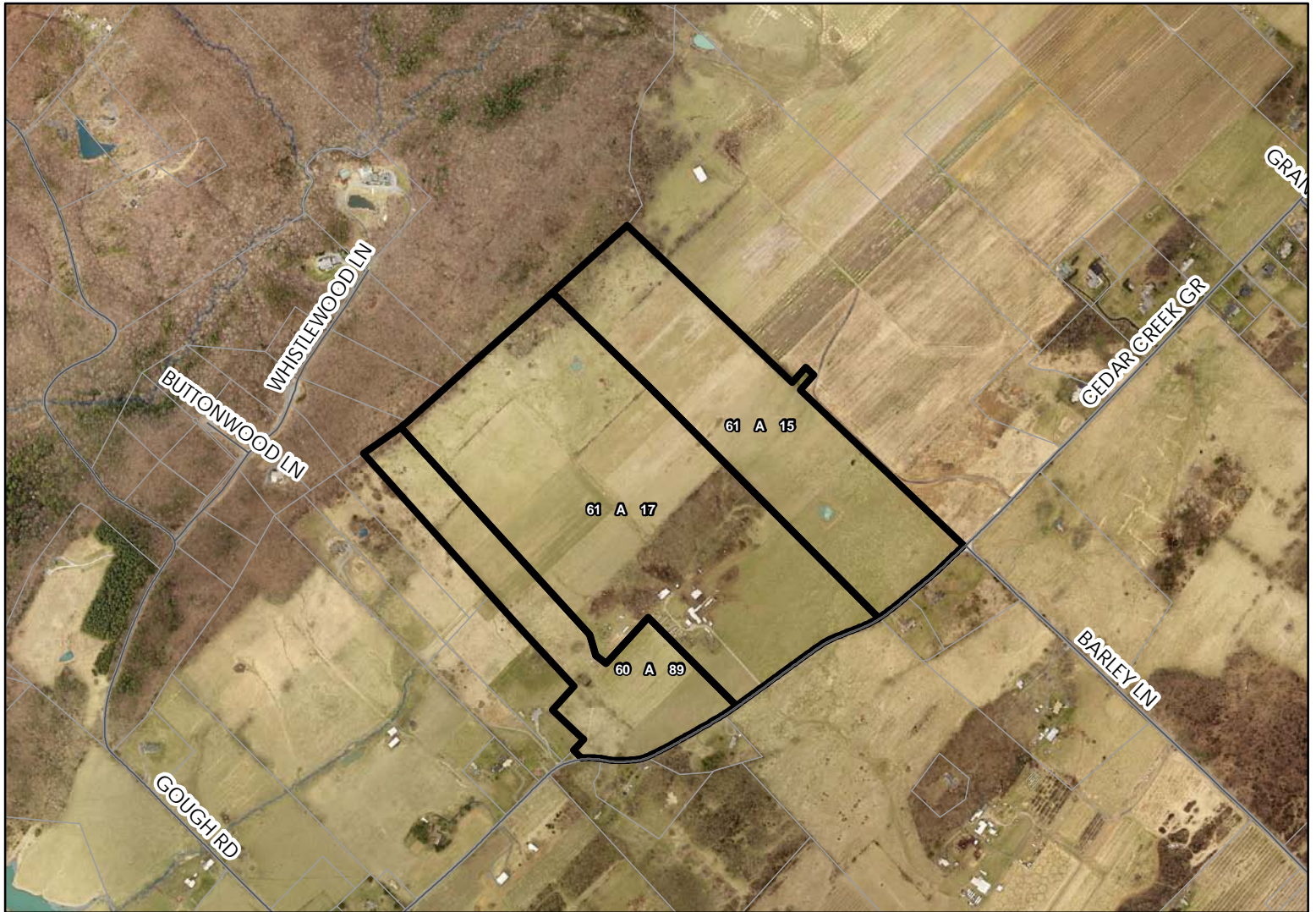
(Note: Commissioner Oates was absent from the meeting)





**CONCLUSION FOR THE 10/11/17 BOARD OF SUPERVISORS MEETING:**

Staff presented to the Agricultural District Advisory Committee (ADAC) on August 23, 2017, to add three (3) parcels totaling 178.50+/- acres to the South Frederick Agricultural and Forestal District. The ADAC unanimously recommended approval. This request was presented to the Planning Commission at their September 20, 2017 meeting to add three (3) parcels of land totaling 178.50+/- acres to the South Frederick Agricultural and Forestal District. The Planning Commission recommended to add the three (3) parcel of 178.50+/- acres to the South Frederick Agricultural and Forestal which would increase the District to 6,248.50+/-.

# 2015-2020 South Frederick Addition Agricultural & Forestal District

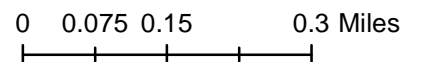


-  Addition
-  Parcels

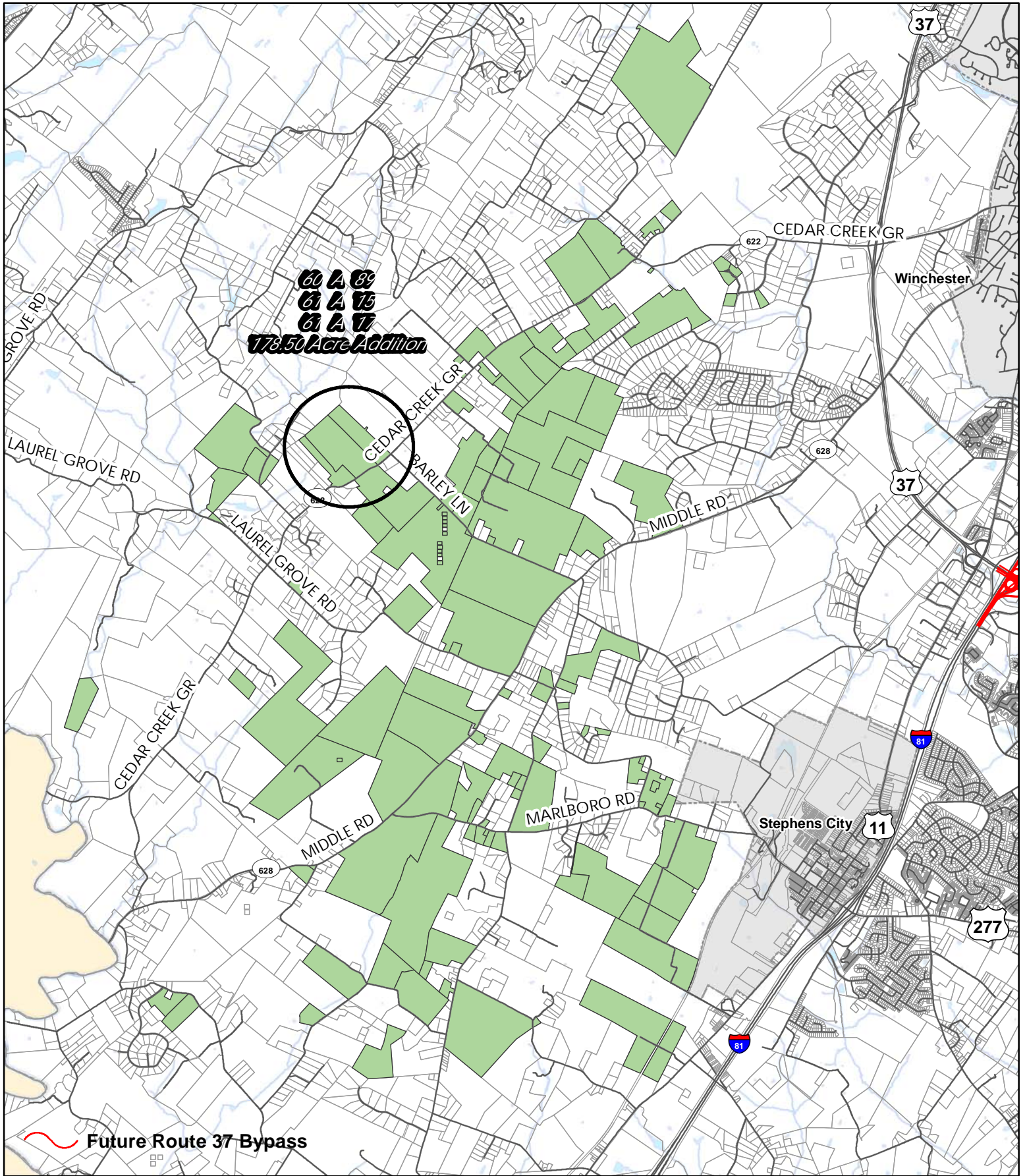
PIN	Owner	Acres
60 A 89	WRIGHT, VERNON C & EULA H	28.00
61 A 15	WRIGHT, VERNON C & EULA H	52.50
61 A 17	WRIGHT, VERNON C & EULA H	98.00



Note:  
 Frederick County Dept of Planning & Development  
 107 N Kent St. Suite 202, Winchester, VA 22601  
 540 - 665 - 5651  
 Map Created: August 2, 2017





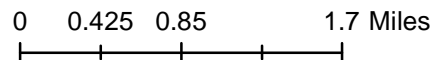


District Acreage: 6,248.71 Ac.

## 2015-2020 South Frederick Addition Agricultural & Forestal District



Note:  
 Frederick County Dept of Planning & Development  
 107 N Kent St. Suite 202, Winchester, VA 22601  
 540 - 665 - 5651  
 Map Created: August 3, 2017





1575 P. 103 10  
1575 JUL

APPLICATION FOR ADDITION TO THE SOUTH FREDERICK  
AGRICULTURAL & FORESTAL DISTRICT  
FREDERICK COUNTY, VIRGINIA

Name:

Address:

I would like to have the following tracts added to the South Frederick Agricultural and Forestal District:

Tax Map #:	Acreage:
61-A-17	98.00
<del>61-A-22</del>	<del>87.48</del>
60-A-89	28.00
61-A-15	52.50

Don F. Wright  
Signature

7-20-17  
Date

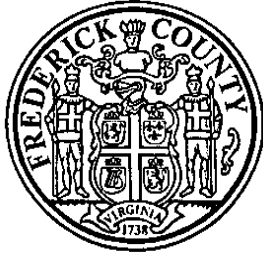
Paula H. Wright  
Signature

7/20/17  
Date

933 Barley Lane  
Address

540-667-7377  
Phone Number

Winchester Va. 22603  
City, State, Zip



## ADDITION

---

**Action:**

PLANNING COMMISSION: September 20, 2017- Recommended Approval

BOARD OF SUPERVISORS: October 11, 2017 APPROVED DENIED

---

### ADDITION TO THE SOUTH FREDERICK AGRICULTURAL & FORESTAL DISTRICT

**WHEREAS**, an addition to the 2015-2020 South Frederick Agricultural & Forestal District was considered. Vernon and Eula Wright desire to add three (3) parcels identified by Property Identification Numbers 60-A-89, 61-A-15 and 61-A-17 to the South Frederick Agricultural & Forestal District located in the Back Creek Magisterial District. This request was reviewed by the Agricultural District Advisory Committee (ADAC), and the Planning Commission during their regularly scheduled meetings; and

**WHEREAS**, The Agricultural District Advisory Committee (ADAC) recommended approval of this addition on August 23, 2017; and

**WHEREAS**, the Planning Commission held a public hearing and recommended approval of this addition to the 2015-2020 South Frederick Agricultural & Forestal District; and

**WHEREAS**, the Board of Supervisors held a public hearing on this addition to the 2015-2020 South Frederick Agricultural & Forestal District on October 11, 2017; and

**WHEREAS**, the Frederick County Board of Supervisors finds the addition to the 2015-2020 South Frederick 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 adopts the addition to the 2015-2020 South Frederick Agricultural & Forestal District of 178.50± acres in the Back Creek Magisterial District, with an expiration date of May 27, 2020. This Agricultural & Forestal District is as described on the attached map dated 08/03/17 and the attached property owners table dated 08/02/17.

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

Passed this 11th day of October, 2017 by the following recorded vote:

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

**A COPY ATTEST**

---

Kris C. Tierney  
Frederick County Administrator



M



**SUBDIVISION REQUEST #05-17**  
**FREEDOM CROSSING**  
**Staff Report for the Board of Supervisors**  
**Prepared: September 29, 2017**  
Staff Contact: Mark R. Cheran, Zoning Administrator

*This report is prepared by the Frederick County Planning Staff to provide information to the Planning Commission and the Board of Supervisors to assist in the review of this application. It may also be useful to others interested in this zoning matter.*

	<u>Reviewed</u>	<u>Action</u>
Planning Commission:	09/20/17	Reviewed
Board of Supervisors:	10/11/17	Pending; Public Meeting

**LOCATION:** The property is located on 357 Double Church Road, Stephens City.

**MAGISTERIAL DISTRICT:** Opequon

**PROPERTY ID NUMBER:** 86-A-6

**PROPERTY ZONING & PRESENT USE:** RP (Residential Performance)

**ADJOINING PROPERTY ZONING & USE:**

North: RP (Residential Performance)	Use: Residential
South: RP (Residential Performance)	Use: Residential
East: RP (Residential Performance)	Use: Residential
West: RP (Residential Performance)	Use: Open Space

**STAFF CONCLUSION FOR THE 10/11/17 BOARD OF SUPERVISORS MEETING:**

This application is for a subdivision design plan for seven (7) single-family attached (townhouses) units with a minimum lot size of 1,500 square feet planned to be constructed on 1.2751+/- acres of land zoned RP (Residential Performance) District. The proposed subdivision will be accessed by Double Church Road (Route 641) via a private internal road. This subject property is located within the limits of the Urban Development Area (UDA) and the Sewer Water Service Area (SWSA). The 2035 Frederick County Comprehensive Policy Plan also shows this property with a residential land use designation.

The Applicant previously received a waiver of the Master Development Plan (MDP) requirement and has chosen to process a subdivision design plan in lieu of the MDP. When processing a subdivision design plan in lieu of the MDP, the application must be presented to the Planning Commission and the Board of Supervisors as an informational item. Following its presentation to the Planning Commission and the Board of Supervisors, staff will proceed with approval of the plan.

*This application is presented for information; no action is necessary.*

**SUBDIVISION SPECIFICS:** Subdivision of 1.2751+/- acres into seven (7) single-family (townhouses) lots with a minimum lot size of 1,500 square feet each.

**REVIEW AGENCY COMMENTS:**

**Virginia Department of Transportation:** A VDOT review has been conducted for the Freedom Crossing Site Plan with a signature date of July 26, 2017. Based off of the review of the Drawings, all of the previous VDOT comments have been addressed and the Site Plan is approved by our office.

**Frederick County Fire Marshall:** Approved.

**Inspections:** Project shall comply with The Virginia Uniform Statewide Building Code (USBC). Dwellings (R-5) shall comply with The Virginia Residential 2012 Codes. Other Codes that apply are the 2009 ANSI A117.1-09 Accessible and Usable Buildings and Facilities and the 2012 Virginia Energy Code.

Dwelling (townhouse) shall be separated as required for per Section R 302.2. All recreational facilities shall be provided with an accessible route.

Engineer design required on all foundation and/or slabs with greater than 8" fill or 24" clean sand/gravel.

Engineer design may be required under R610 for windbracing requirements.

Backwater valves shall be installed on all plumbing fixtures, (subject to back sewer), located below the top elevation of the upstream man hole cover.

Storm water drains, if higher than the basement finished floor, may require additional engineering of the foundation.

Grade shall be sloped away from foundation a min 6" in 10'.

Site plan approved pending receipt of geotechnical soil investigation soil investigation as required.

7/17 sidewalk provided to recreational area. Walkway shall not exceed 5%.

**Frederick County Public Works:** Approved – 8/8/17

**Parks and Recreation:** Plan appears to meet Parks and Recreation requirements.

**GIS:** The street name "Anthem Ct." has been approved and reserved for use by Freedom Crossing. Addresses will be assigned to the town homes during the building permitting process. Please note: New addresses for Anthem Ct will replace the existing address 357 Double Church Road. The address will be removed from the County system after construction of Anthem Ct.

**Frederick County Sanitation Authority:** Approved as noted.



**Frederick County Public Schools:** Frederick County Public Schools has reviewed the Freedom Crossing site plan submitted to us on June 5, 2017. We offer the following comment:

1. It is noted that Anthem Court will be a private lane. As our buses don't travel down private lanes, students who live on this street will need to walk to a public street to meet the bus at a location to be designated by our Transportation Department.

**Planning Staff Review:**

The Subdivision Ordinance requires that land divisions in the RP (Residential Performance) Zoning District, without an approved Master Development Plan (MDP) be presented to the Board of Supervisors (Chapter 144-12E). The MDP requirement may be waived under Section 165-801.03A(5) of the Frederick County Zoning Ordinance if the Applicant chooses to process a design plan in lieu of an MDP:

- ***A MDP may also be waived if the applicant chooses to process a site plan in lieu of a MDP. The site plan must contain all information generally required on a MDP and a site plan. Once the site plan is in an administratively approvable form, the plan will be presented to the Planning Commission and the Board of Supervisors per § 165-801.06.***

This application is for a subdivision design plan for seven (7) single-family attached (townhouses) units with a minimum lot size of 1,500 square feet planned to be constructed on 1.2751+/- acres of land zoned RP (Residential Performance) District. The proposed subdivision will be accessed by Double Church Road (Route 641) via a private internal road. This subject property is located within the limits of the Urban Development Area (UDA) and the Sewer Water Service Area (SWSA). The 2035 Frederick County Comprehensive Policy Plan also shows this property with a residential land use designation.

The applicant previously received a waiver of the Master Development Plan (MDP) requirement and has chosen to process a subdivision design plan in lieu of the MDP. When processing a subdivision design plan in lieu of the MDP, the application must be presented to the Planning Commission and the Board of Supervisors as an informational item. Following its presentation to the Planning Commission and the Board of Supervisors, staff will proceed with approval of the plan.

**PLANNING COMMISSION SUMMARY FOR THE 09/20/17 MEETING:**

Staff reported this is a subdivision request for seven (7) single family (townhouse) lots located at 357 Double Church Road. Mr. Cheran presented location maps of the property. Staff continued the property is located within the Urban Development Area (UDA) and the Sewer Water Service Area (SWSA). Staff noted access will be provided via a private internal street that access Double Church Road. Staff explained the plan calls for right-of-way dedication on Double Church Road, sidewalks, landscaping, and buffers. Staff reported the Applicant previously

received a waiver of the Master Development Plan (MDP) requirement and has chosen to process a subdivision design plan in lieu of the MDP; the application must be presented to the Planning Commission and Board of Supervisors as an informational item.

Although not a public hearing, two (2) citizens were permitted to speak regarding this item. Ms. Melissa Turner shared her concerns regarding barriers, the development entrance, and what type of fencing will serve as a buffer. Ms. Kizzy Pangle shared her concerns regarding the titling and deed for this property and noted her family has a scheduled court date of October 4, 2017 to help clarify this issue.

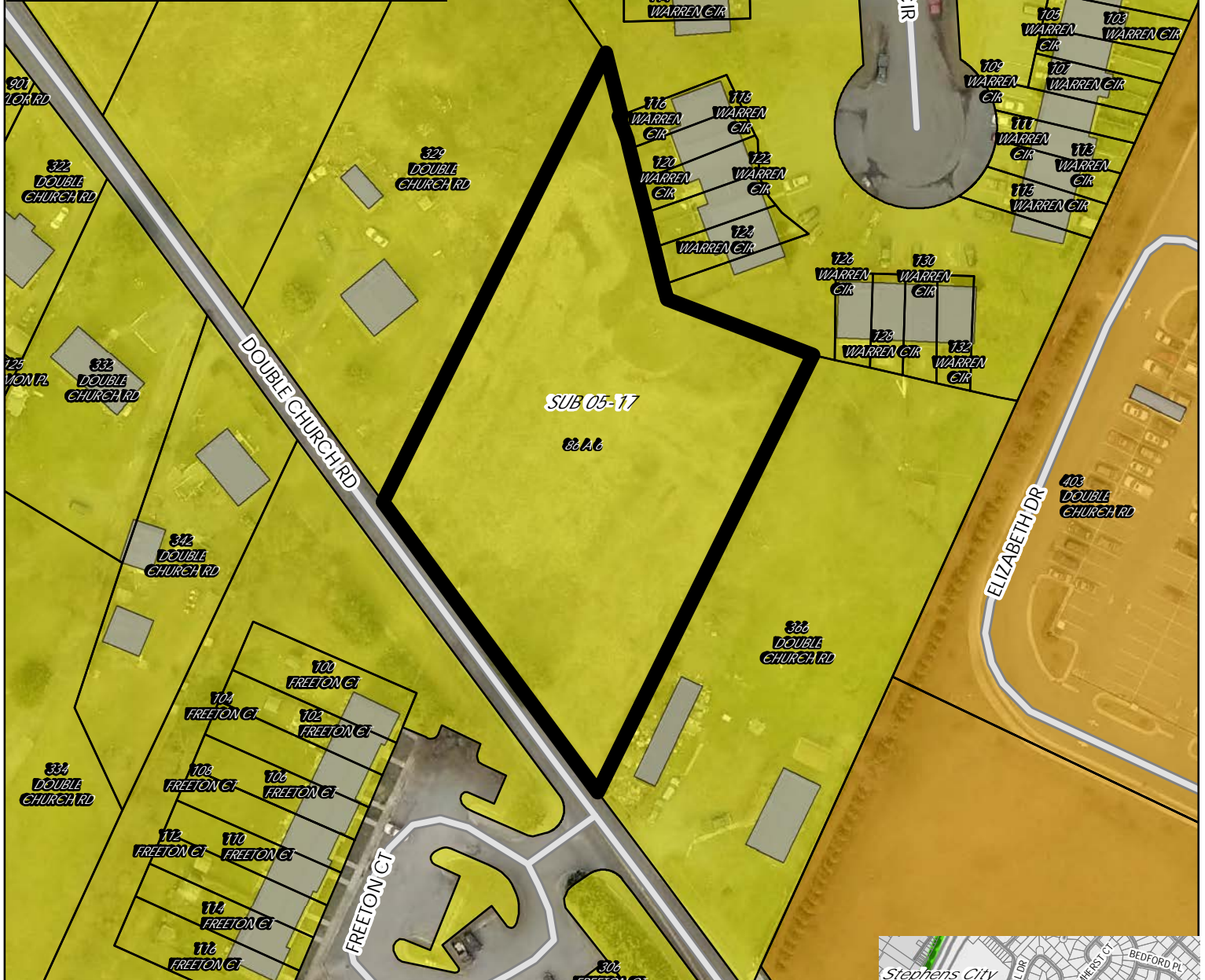
**STAFF CONCLUSIONS FOR THE 10/11/17 BOARD OF SUPERVISORS MEETING:**

This proposed subdivision meets the requirements of the Zoning and Subdivision Ordinances and is in a form that it is administratively approvable. All the issues brought forth by the Board of Supervisors should be appropriately addressed by the Applicant. This is being presented as an informational item and following its presentation to the Planning Commission and the Board of Supervisors, staff will proceed with approval of the plan.

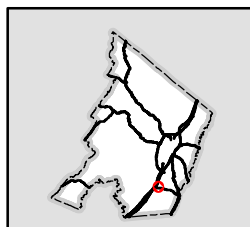
*This application is presented for information; no action is necessary.*

# SUB # 05 - 17 Freedom Crossing Lot 7

PIN:  
86 - A - 6  
Zoning Map

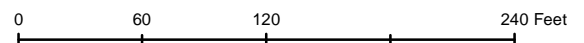


-  Applications
-  Parcels
-  Building Footprints
-  B1 (Neighborhood Business District)
-  B2 (General Business District)
-  B3 (Industrial Transition District)
-  EM (Extractive Manufacturing District)
-  HE (Higher Education District)
-  M1 (Light Industrial District)
-  M2 (Industrial General District)
-  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 Areas District)
-  RP (Residential Performance District)



SUB # 05 - 17  
Freedom Crossing Lot 7  
PIN:  
86 - A - 6  
Zoning Map

Note:  
Frederick County Dept of  
Planning & Development  
107 N Kent St  
Suite 202  
Winchester, VA 22601  
540 - 665 - 5651  
Map Created: September 7, 2017  
Staff: mcheran





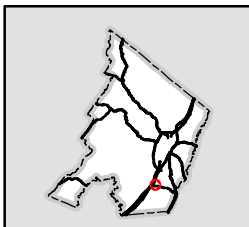
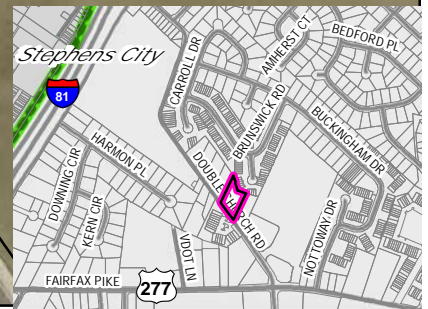
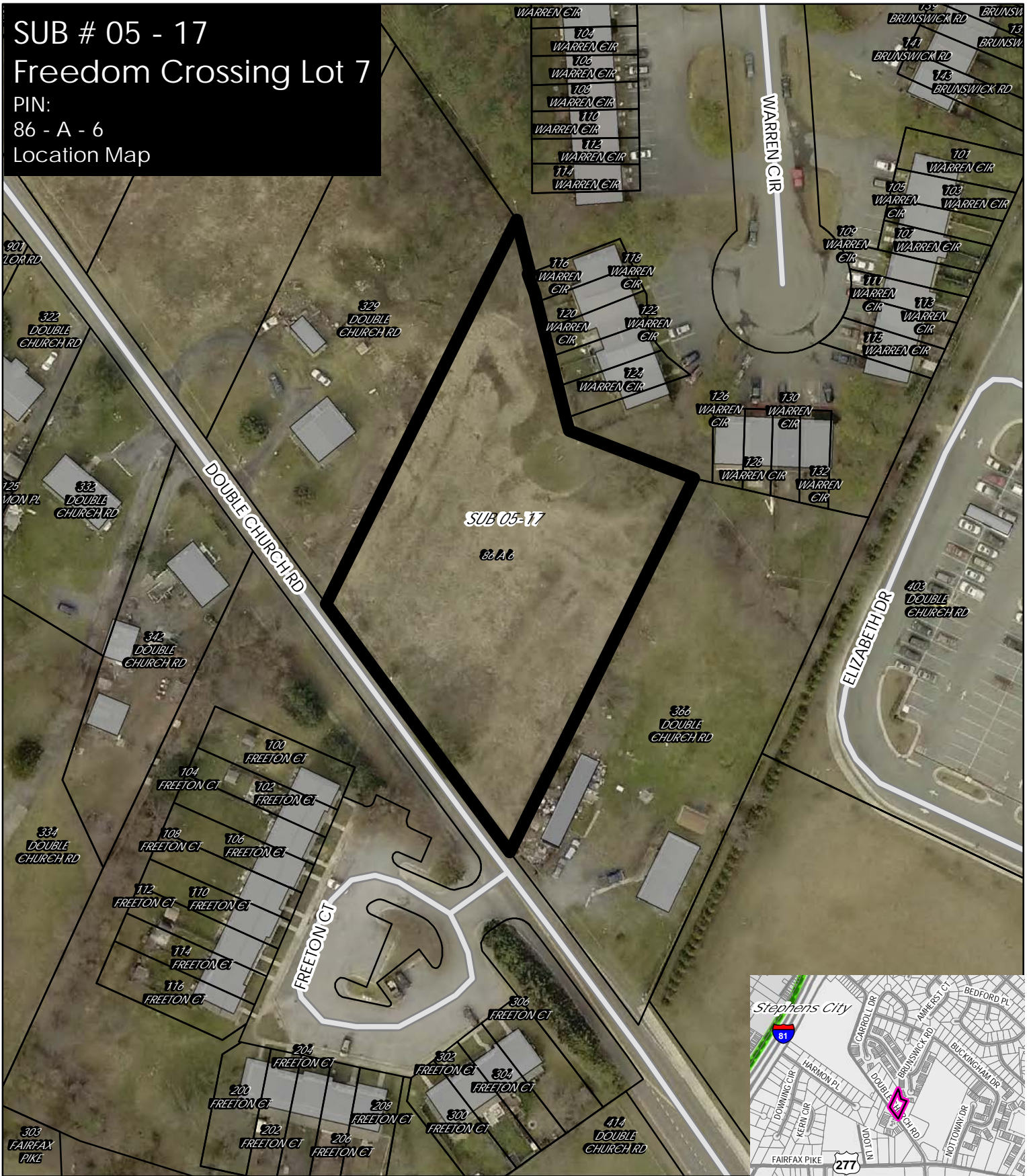
SUB # 05 - 17

# Freedom Crossing Lot 7

PIN:

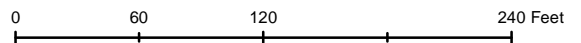
86 - A - 6




Location Map

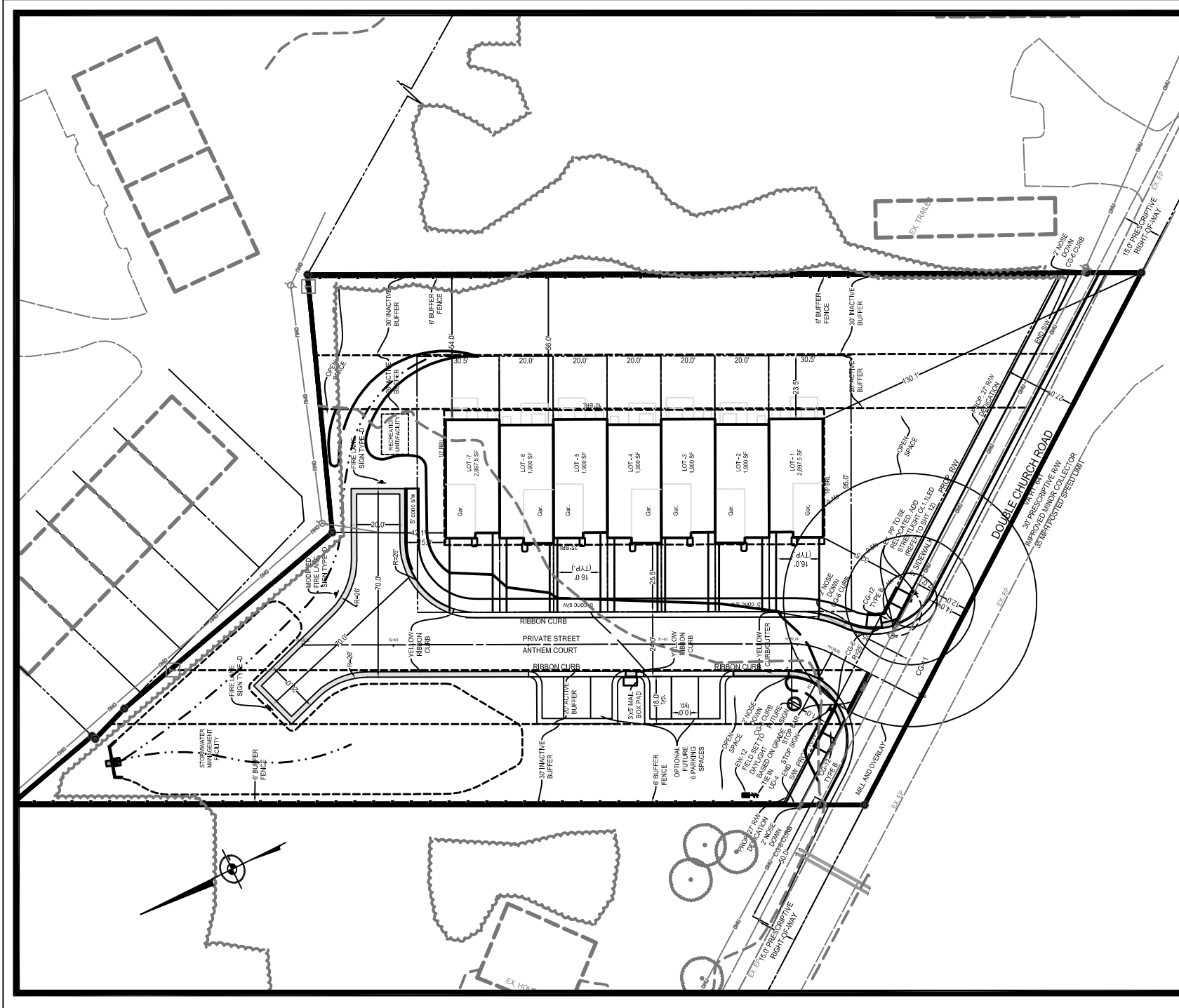


SUB # 05 - 17  
 Freedom Crossing Lot 7  
 PIN:  
 86 - A - 6  
 Location Map

Note:  
 Frederick County Dept of  
 Planning & Development  
 107 N Kent St  
 Suite 202  
 Winchester, VA 22601  
 540 - 665 - 5651  
 Map Created: September 7, 2017  
 Staff: mcheran



-  Applications
-  Parcels
-  Building Footprints

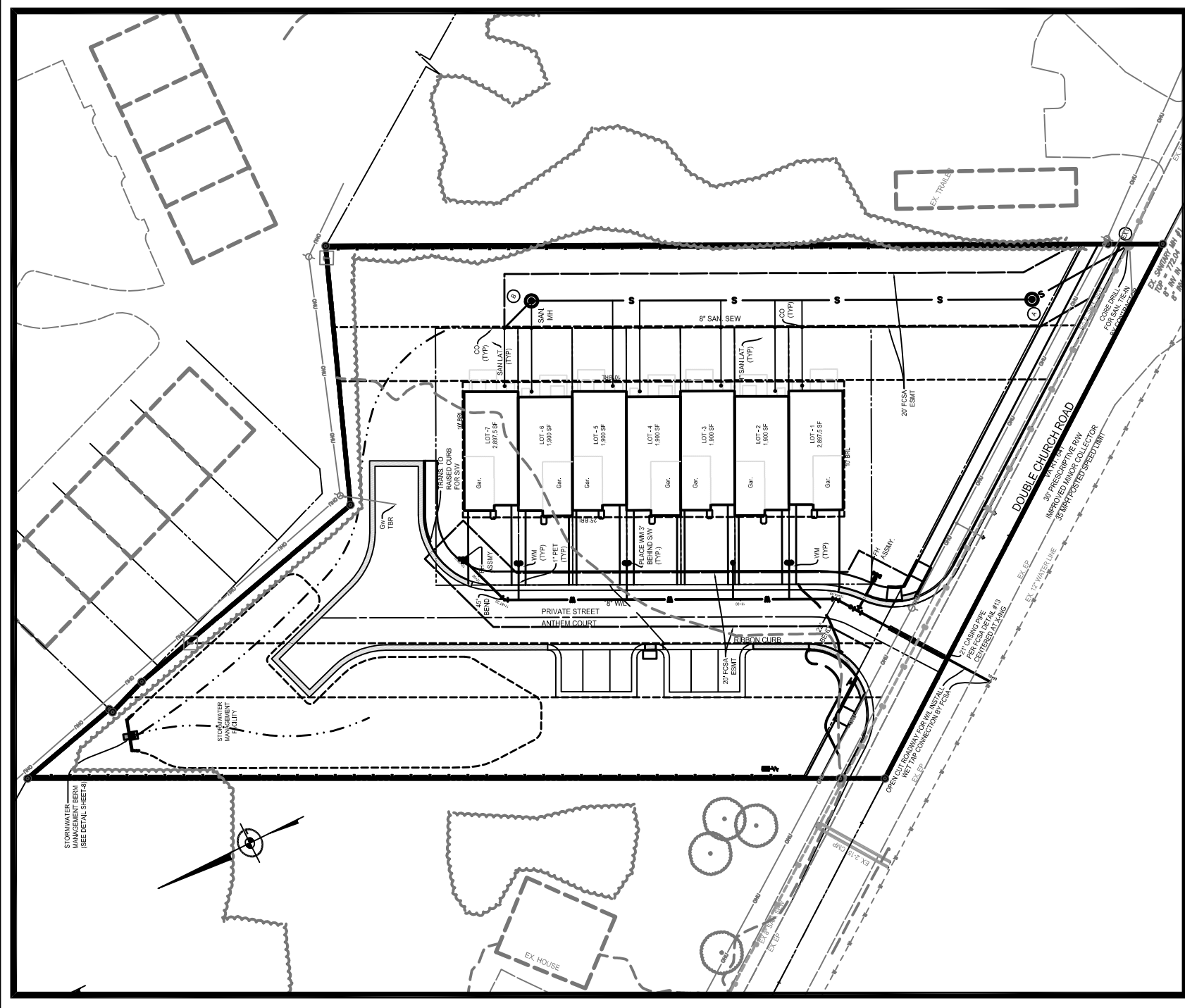


# GEOMETRY PLAN

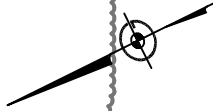
## FREEDOM CROSSING

Date: Sept. 2017  
 Scale: 1" = 50'





STORMWATER MANAGEMENT BERM (SEE DETAIL SHEET-9)



151 Windy Hill Lane  
 Winchester, Virginia 22602  
 Telephone: (540) 662-4185  
 Fax: (540) 722-9528  
 www.greenwayeng.com

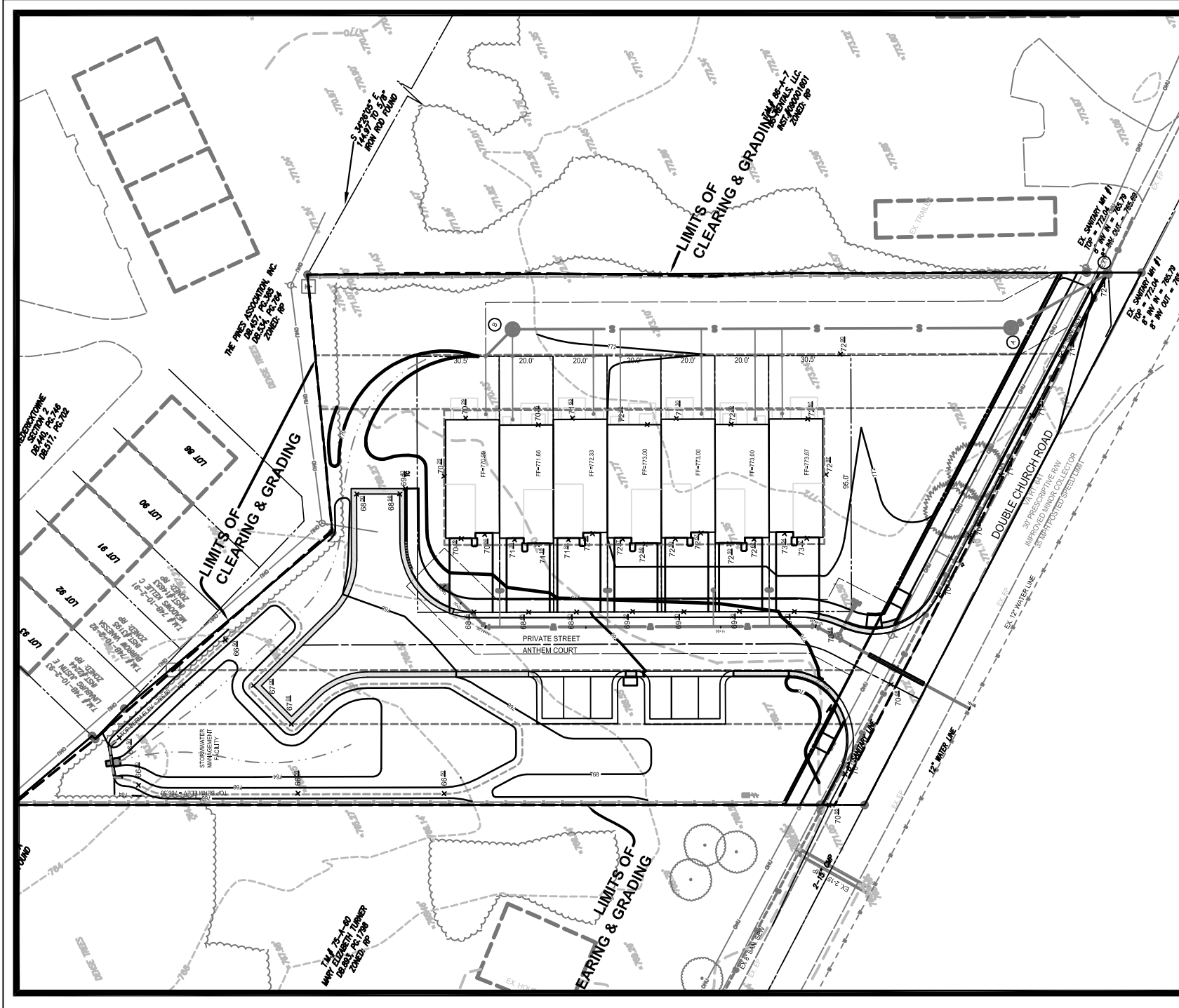
**GREENWAY**  
ENGINEERING

# UTILITY PLAN

## FREEDOM CROSSING

Date: Sept. 2017  
 Scale: 1"=50'





151 Windy Hill Lane  
 Winchester, Virginia 22602  
 Telephone: (540) 662-4185  
 Fax: (540) 722-9528  
 www.greenwayeng.com

**GREENWAY**  
ENGINEERING

# GRADING PLAN

## FREEDOM CROSSING

Date: Sept. 2017  
 Scale: 1"=50'



**Special Limited Power of Attorney**  
**County of Frederick, Virginia**  
**Frederick Planning Website: [www.co.frederick.va.us](http://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) Freetown, LLC (Phone) 540-868-1818

(Address) 126 Laredo ZCourt

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. 170004040 on Page \_\_\_\_\_, and is described as

Parcel: 86 Lot: A Block: 6 Section: \_\_\_\_\_ Subdivision: \_\_\_\_\_  
do hereby make, constitute and appoint:

(Name) Greenway Engineering Inc. (Phone) 540-662-4185

(Address) 151 Windy Hill Lane, Winchester, VA 22601

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 27 day of July, 2017,

Signature(s)

State of Virginia, City/County of Frederick, To-wit:

I, Deanna D. Painter, 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 27 day of July, 2017.

Notary Public

DEANNA D PAINTER My Commission Expires: Sept. 30, 2020  
NOTARY PUBLIC  
REG #7135427  
COMMONWEALTH OF VIRGINIA  
MY COMMISSION EXPIRES SEPTEMBER 30, 2020

Subdivision

**SITE PLAN APPLICATION**

Date Application Received: 7/27/17 *Office Use Only-* Application #: 05-17  
Fees Received: \$3200 Receipt #: 554527 Initials: PD

1. Project Title: FREEDOM CROSSING - 7 LOT TOWNHOUSE SUDIVISION

2. Location of Property 357 DOUBLE CHURCH ROAD  
(Street address) STEPEHSN CITY, VA 22655

3. Applicant/Designer:  
Name: Greenway Engineering, Inc. Telephone: 540-662-4185  
Address: 151 Windy Hill Lane  
Winchester, VA 22602

4. Property Owner (if different than above):  
Name: FREETOWN, LLC Telephone: 540-868-1818  
Address: 126 LAREDO COURT  
STEPHENS CITY

5. Property Information:

a. Property Identification Number:	<u>86-A-6</u>
b. Total acreage of the parcel to be developed:	<u>1.2751 Acres</u>
c. Total disturbed area of the parcel:	<u>1.2751 Acres</u>
d. Present Use:	<u>Vacant</u>
e. Proposed Use:	<u>Residential (Townhouses)</u>
f. Magisterial District(s)	<u>Opequon</u>



6. Site Plan Type:

a. Is this an original or new site plan?

Yes

No

b. Is this a revised site plan?

Yes

No

If yes provide all previous site plan numbers:

c. Is this a minor site plan?

Yes

No

If yes provide all previous site plan numbers: \_\_\_\_\_

7. Zoning Information:

a. Current Zoning:

RP \_\_\_\_\_

b. Was this property Rezoned?

Yes

No

c. If yes provide the rezoning number for this property: \_\_\_\_\_

d. Are there any proffers for this property?

Yes

No

e. Has a MDP been approved for this property?

Yes

No

f. If yes provide the MDP number for this property:

Waiver See attached. \_\_\_\_\_

8. Adjoining property zoning and use:

	<u>USE</u>
North	Residential
East	Double Church Road
South	Residential
West	Residential

	<u>ZONING</u>
North	RP
East	NA
South	RP
West	RP

I have read the material included in this package and understand what is required by the Frederick County Planning Department. I also understand that all required material will be complete prior to the submission of my site plan.

Signature:  \_\_\_\_\_

Date: July 27, 2017 \_\_\_\_\_

**N**



## MEMORANDUM

**TO:** Frederick County Board of Supervisors

**FROM:** M. Tyler Klein, AICP, Planner *MTK*

**SUBJECT:** Ordinance Amendment – Residential Separation Buffer Waiver – Discussion

**DATE:** October 3, 2017

---

This is a proposed amendment to Chapter 165 – Zoning Ordinance to modify the requirement for residential separation buffers in the RP (Residential Performance) Zoning District. Currently, residential separation buffers are required to adequately buffer housing types from dissimilar housing types within separate adjacent developments.

Staff has drafted a revision to the Zoning Ordinance to modify the required residential separation buffer between single-family detached (SFD) units and townhome units; and single-family small lot (attached and detached) units and townhome units. This modification would change the required buffer category from a Category B Type Buffer to a Category A Type Buffer. The intent of this modification is to provide flexibility for smaller infill-type lots in the RP Zoning District, ensuring the desired housing densities are sited where they are planned for as part of the County's 2035 Comprehensive Plan's Long Range Land Use Plan (LRLUP).

This item was proposed through a request from a private developer and discussed by the DRRC at their April 27, May 25, July 27 and August 24, 2017 regular meetings. The DRRC agreed with the proposed changes from August 24, and the item was forwarded to the Planning Commission for discussion. The Planning Commission discussed this item at their June 7 and September 20, 2017 meetings. The Planning Commission agreed with the changes presented on September 20 and sent the item forward for review by the Board of Supervisors.

The attached document shows the existing ordinance with the proposed changes supported by the DRRC (with bold italic for text added). **Staff is seeking direction from the Board of Supervisors on this Zoning Ordinance text amendment.** Attached is a resolution directing the item to a public hearing should the Board of Supervisors deem it to be appropriate.

---

**Attachments:**    **1. Revised ordinance with additions shown in bold underlined italics.**  
                          **2. Resolution**

MTK/pd



Article II

SUPPLEMENTARY USE REGULATIONS; PARKING; BUFFERS; AND REGULATIONS FOR SPECIFIC USES

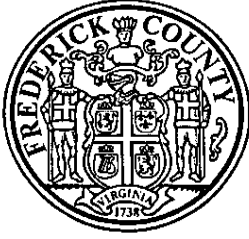
Part 203. Buffers and Landscaping

§ 165-203.02. Buffer and screening requirements.

C. Residential separation buffers. Residential separation buffers shall be established to adequately buffer different housing types from dissimilar housing types within adjacent separate developments. The requirements for residential separation buffers are as follows:

(1) When placed adjacent to one another, developments with different housing types shall provide the following residential separation buffers:

Minimum Residential Separation Buffer Area Required					
Proposed Use/Development	Adjoining Existing Use/Development				
	1	2	3	4	5
1. Single-family detached	-	-	A	B	B
2. Single-family zero lot line or small lot	-	-	A	B	B
3. <del>Multiplex</del> or Townhouse	<u>A</u>	<u>A</u>	-	B	B
4. Garden apartment or multifamily buildings	C	C	B	-	A
5. Age-restricted multifamily	C	C	C	-	-



---

**Action:**

BOARD OF SUPERVISORS: October 11, 2017    APPROVED    DENIED

---

**RESOLUTION**

**DIRECTING THE PLANNING COMMISSION TO HOLD A PUBLIC HEARING  
REGARDING CHAPTER 165, ZONING**

**ARTICLE II  
SUPPLEMENTARY USE REGULATIONS, PARKING; BUFFERS; AND  
REGULATIONS FOR SPECIFIC USES  
PART 203 – BUFFERS AND LANDSCAPING  
§165-203.02. BUFFER AND SCREENING REQUIREMENTS**

**WHEREAS**, an ordinance to amend Chapter 165, Zoning to modify the requirement for residential separation buffers in the RP (Residential Performance) Zoning District was considered; and

**WHEREAS**, The Development Review and Regulations Committee (DRRC) reviewed the change at their April 27, May 25, July 27 and August 24, 2017 regular meetings to modify the required residential separation buffer between single-family detached (SFD) units, townhome units, single-family small lot (attached and detached) units and townhome units. The modification would change the required buffer category from a Category B Type Buffer to a Category A Type Buffer; and

**WHEREAS**, the Planning Commission discussed the proposed change at their regularly scheduled meeting on June 7, 2017 and September 20, 2017 and agreed with the proposed changes; and

**WHEREAS**, the Board of Supervisors discussed the proposed change at their regularly scheduled meeting on October 11, 2017; and

**WHEREAS**, the Frederick County Board of Supervisors finds that in the public necessity, convenience, general welfare, and good zoning practice, directs the Frederick

County Planning Commission hold a public hearing regarding an amendment to Chapter 165; and

**NOW, THEREFORE, BE IT REQUESTED** by the Frederick County Board of Supervisors that the Frederick County Planning Commission shall hold a public hearing to modify the requirement for residential separation buffers in the RP (Residential Performance) District, the modification would change the required buffer category between certain housing types from a Category B Type Buffer to a Category A Type Buffer.

Passed this 11th day of October, 2017 by the following recorded vote:

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

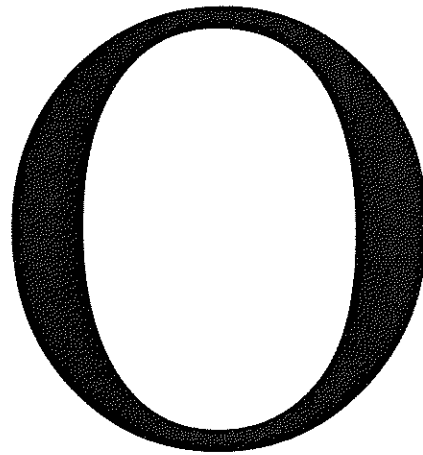
**A COPY ATTEST**

\_\_\_\_\_

Kris C. Tiereny  
 Frederick County Administrator



# CONSENT AGENDA





## *Memorandum*

To: Frederick County Board of Supervisors

From: Mark R. Cheran, Zoning and Subdivision Administrator *MRC*

Date: October 2, 2017

RE: Roscommon, Sections 6 & 7

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The following additions to the Secondary System of State Highways, pursuant to the statutory provision or provisions cited, are hereby requested; the right of way for which, including additional easements for cuts, fills and drainage, as required, is hereby guaranteed:

LaCosta Court, State Route Number 1571	0.11 miles
Saint Andrews Court, State Route Number 1570	0.46 miles
LaCosta Court, State Route Number 1571	0.23 miles

Staff is available to answer any questions.

MRC/dw



**RESOLUTION  
BY THE  
FREDERICK COUNTY BOARD OF  
SUPERVISORS**

The Board of Supervisors of Frederick County, in regular meeting on the 11th day of October, 2017, 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.

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

**A COPY ATTEST**

\_\_\_\_\_  
Kris C. Tierney  
Frederick County Administrator

In the County of Frederick

By resolution of the governing body adopted October 11, 2017

The following VDOT Form AM-4.3 is hereby attached and incorporated as part of the governing body's resolution for changes in the secondary system of state highways.

A Copy Testee

Signed (County Official): \_\_\_\_\_

Report of Changes in the Secondary System of State Highways

Project/Subdivision Roscommon, Sections 6 & 7

Type Change to the Secondary System of State Highways: Addition

The following additions to the Secondary System of State Highways, pursuant to the statutory provision or provisions cited, are hereby requested; the right of way for which, including additional easements for cuts, fills and drainage, as required, is hereby guaranteed:

Reason for Change: New subdivision street

Pursuant to Code of Virginia Statute: §33.2-705

Street Name and/or Route Number

◆ LaCosta Court, State Route Number 1571

Old Route Number: 0

- From: Route 1570, Saint Andrews Court

To: 0.11 mile southwest of Route 1570, Saint Andrews Court, a distance of: 0.11 miles.

Recordation Reference: Instrument #170006376

Right of Way width (feet) = 50'

Street Name and/or Route Number

◆ Saint Andrews Court, State Route Number 1570

Old Route Number: 0

- From: Route 621, Merrimans Lane

To: 0.46 mile northwest to Lacosta Court, Route 1571, a distance of: 0.46 miles.

Recordation Reference: Instrument #170006376

Right of Way width (feet) = 50'

Street Name and/or Route Number

◆ LaCosta Court, State Route Number 1571

Old Route Number: 0

- From: Route 1570, Saint Andrews Court

To: 0.23 mile east of Route 1570, Saint Andrews Court, a distance of: 0.23 miles.

Recordation Reference: Instrument #170006376

Right of Way width (feet) = 50'





## *Memorandum*

To: Frederick County Board of Supervisors

From: Mark R. Cheran, Zoning and Subdivision Administrator *MRC*

Date: October 2, 2017

RE: Meadows Edge Phase 2

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The following additions to the Secondary System of State Highways, pursuant to the statutory provision or provisions cited, are hereby requested; the right of way for which, including additional easements for cuts, fills and drainage, as required, is hereby guaranteed:

Velvet Wall Way, State Route Number 1703	0.06 miles
Nightbird Way, State Route Number 1716	0.18 miles
Littlewing Way, State Route Number 1715	0.06 miles
Littlewing Way, State Route Number 1715	0.19 miles
Littlewing Way, State Route Number 1715	0.07 miles
Littlewing Way, State Route Number 1715	0.04 miles
Driftwood Drive, State Route Number 1450	0.08 miles

Staff is available to answer any questions.

MRC/dw



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BY THE  
FREDERICK COUNTY BOARD OF  
SUPERVISORS**

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

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

**A COPY ATTEST**

\_\_\_\_\_  
Kris C. Tierney  
Frederick County Administrator

In the County of Frederick

By resolution of the governing body adopted October 11, 2017

The following VDOT Form AM-4.3 is hereby attached and incorporated as part of the governing body's resolution for changes in the secondary system of state highways.

A Copy Testee

Signed (County Official): \_\_\_\_\_

Report of Changes in the Secondary System of State Highways

Project/Subdivision Meadows Edge Phase 2

Type Change to the Secondary System of State Highways: Addition

The following additions to the Secondary System of State Highways, pursuant to the statutory provision or provisions cited, are hereby requested; the right of way for which, including additional easements for cuts, fills and drainage, as required, is hereby guaranteed:

Reason for Change: New subdivision street

Pursuant to Code of Virginia Statute: §33.2-705

Street Name and/or Route Number

◆ Velvet Wall Way, State Route Number 1703

Old Route Number: 0

- From: Route 1716, Nightbird Way
To: Route 1715, Littlewing Way, a distance of: 0.06 miles.
Recordation Reference: Instr. #130009595 Pabe 0165
Right of Way width (feet) = 47'

Street Name and/or Route Number

◆ Nightbird Way, State Route Number 1716

Old Route Number: 0

- From: Route 1703, Velvet Wall Way
To: Route 1715, Little Wing Way, a distance of: 0.18 miles.
Recordation Reference: Instr. #130009595 Pabe 0165
Right of Way width (feet) = 47'

Street Name and/or Route Number

◆ Littlewing Way, State Route Number 1715

Old Route Number: 0

- From: Route 1702, Dollie Mae Lane
To: Route 1716, Nightbird Way, a distance of: 0.06 miles.
Recordation Reference: Instr. #130009595 Pabe 0165
Right of Way width (feet) = 47'

**Street Name and/or Route Number**

◆ **Littlewing Way, State Route Number 1715**

Old Route Number: 0

- From: Route 1716, Nightbird Way

To: Route 1450, Driftwood Drive, a distance of: 0.19 miles.

Recordation Reference: Instr. #130009595 Pabe 0165

Right of Way width (feet) = 47'

**Street Name and/or Route Number**

◆ **Littlewing Way, State Route Number 1715**

Old Route Number: 0

- From: Route 1703, Velvet Wall Way

To: cul-de-sac, a distance of: 0.07 miles.

Recordation Reference: Instr. #130009595 Pabe 0165

Right of Way width (feet) = 47'

**Street Name and/or Route Number**

◆ **Littlewing Way, State Route Number 1715**

Old Route Number: 0

- From: Route 1450, Driftwood Drive

To: Route 1703, Velvet Wall Way, a distance of: 0.04 miles.

Recordation Reference: Instr. #130009595 Pabe 0165

Right of Way width (feet) = 47'

**Street Name and/or Route Number**

◆ **Driftwood Drive, State Route Number 1450**

Old Route Number: 0

- From: Route 1453, Barkwood Drive

To: Route 1715, Littlewing Way, a distance of: 0.08 miles.

Recordation Reference: Instr. #130009595 Pabe 0165

Right of Way width (feet) = 54'