



AGENDA
CLOSED SESSION AND REGULAR MEETING
FREDERICK COUNTY BOARD OF SUPERVISORS
WEDNESDAY, JUNE 13, 2018
5:30 P.M. AND 7:00 P.M.
BOARD ROOM, COUNTY ADMINISTRATION BUILDING
107 NORTH KENT STREET, WINCHESTER, VIRGINIA

5:30 P.M. Closed Session

The Board of Supervisors will convene in closed session pursuant to Virginia Code § 2.2-3711(A)(1) for the annual evaluation of the county attorney and the county administrator.

7:00 P.M. Regular Meeting Call to Order

Invocation

Pledge of Allegiance

Adoption of Agenda

Consent Agenda

Attachment

1. Minutes----- A
 Budget Work Session of May 22, 2018
 Regular Meeting of May 23, 2018
 Work Session and Called Closed Session of June 5, 2018
2. Committee Reports
 - a. Landfill Oversight Committee ----- B
 - b. Public Works Committee ----- C
 - c. Transportation Committee----- D
3. Resolution Honoring Employee of the Month Lisa M. Lambert ----- E
4. Resolutions of Appreciation for retirees (*to be presented at a later date*) ----- F
5. Resolution adding Frogale Court to Secondary Road System ----- G

Citizen Comments – Agenda Items that are not the subject of a Public Hearing

Board of Supervisors Comments

County Officials

1. **Presentation of Resolution Honoring Millbrook HS Girls Basketball Team**
2. **Presentation of Resolution Honoring Employee of the Month Lisa Lambert**
3. **Committee Appointments ----- H**
 - a. **Board of Building Appeals**
One unexpired 5-year term ending 11/10/2018, Applications pending
 - b. **Historic Resources Advisory Board**
Member-At-Large Representative
4-year term ending 6/23/18
 - c. **Winchester Regional Airport Authority**
4-year term of Gene Fisher ends 6/30/18 (Eligible for reappointment)
4-year term of Robert Bearer ends 6/30/18 (Eligible for reappointment)
 - d. **Winchester-Frederick County Tourism Board (*Appointed jointly with City of Winchester*)**
3-year term of Priya Patel ends 6/30/18 (Reappointment recommended by the Tourism Board)
3-year term of Kristen Laise ends 6/30/18 (Reappointment recommended by the Tourism Board)
3-year term (New appointment of Lani Peterson recommended by the Tourism Board)
3-year term (New appointment of Shannon Moeck recommended by the Tourism Board)
 - e. **Conservation Easement Authority**
3-year term of Elaine Cain, Co. Representative, ends 8/24/18 (Eligible for reappointment)
3-year term of Robert Solenberger, Co. Representative ends 8/24/18 (Eligible for reappointment)
3-year term of Charles Triplett, Planning Comm. Representative ends 8/24/18 (Eligible for reappointment)
4. **Requests from the Commissioner of the Revenue for Refunds ----- I**
 - a. **Ally Financial/Vault - \$7,038.39**
 - b. **G E Capital Auto Lease - \$12,124.71**
5. **Resolution Authorizing Extension of Performance Agreement**
Deadline - Kingspan ----- J

Committee Business - None

Public Hearings (Non-Planning Issues)

1. Outdoor Festival Permit Request of Robert Bauserman – Fab Jam Festival ----- K

Pursuant to the Frederick County Code, Chapter 86, Festivals; Section 86-3, Permit Required; Application; Issuance or Denial; Fee, for an Outdoor Festival Permit. Festival to be Held Saturday, June 23, 2018, from 7:00 A.M. to 11:00 P.M., (Rain Date to be Held on Sunday, June 24, 2018, from 7:00 A.M. to 12:00 P.M.), on the Grounds of the Frederick County Fairgrounds, 250 Fair Ground Road, (Route 11 North), Clearbrook, Virginia, Stonewall Magisterial District. Property Owned by Frederick County Fair.

2. Request by Mountain Falls Park Residents for Designation of Sanitary District ----- L

The Board of Supervisors, having Received a Petition Requesting the Creation of a Sanitary District Encompassing the Subdivision Known as Mountain Falls Park, also Known as Wilde Acres, will Conduct a Public Hearing on the Question of the Proposed Sanitary District, which Hearing shall Embrace a Finding of Fact of Whether Creation of the Proposed District or Enlargement of the Existing District is Necessary, Practical, Fiscally Responsible, and Supported by at Least 50 Percent of Persons who Own Real Property in the Proposed District.

Planning Commission Business

Public Hearings

**1. Rezoning #05-17 for O-N Minerals (Chemstone) ----- M
d/b/a Carmeuse Lime & Stone, CONTINUED from March 14, April 25,
and May 23, 2018**

Submitted by Lawson and Silek, PLC., to Amend the Proffers for this Property; Rezoning 394.2 Acres from the EM (Extractive Manufacturing) District with Proffer to the EM (Extractive Manufacturing) District with Revised Proffers. The Properties are Situated Generally West of the Town of Middletown. Specifically, the Middle Marsh Property is Located East of Belle View Lane (Route 758), and West and Adjacent to Hites Road (Route 625) and is Further Traversed by Chapel Road (Route 627). The Northern Reserve is Bounded to the South by Cedar Creek and is West and Adjacent to Meadow Mills Road (Route 624). The Properties are Identified with Property Identification Numbers 83-A-109 and 90-A-23 in the Back Creek Magisterial District.

2. Draft Update of the 2018-2019 Frederick County Primary and Interstate Road Improvement Plans and Joint Public Hearing with the Virginia Department of Transportation ----- N

The Primary and Interstate Road Improvement Plans Establish Priorities for Improvements to the Primary and Interstate Road Networks within Frederick County. Comments from the Transportation Committee will be Forwarded to the Planning Commission and Board of Supervisors. Ultimately, the Priorities Adopted by the Board of Supervisors will be Forwarded to the Commonwealth Transportation Board for consideration.

The Board of Supervisors and VDOT will receive Public Comment on the Proposed Six Year Plan for Secondary Roads for Fiscal Years 2019 Through 2024 in Frederick County and on the Secondary System Construction Budget for Fiscal Year 2019.

3. Ordinance Amendment to Frederick County Code Chapter 165 Zoning, Article II Supplementary Use Regulations; Parking; Buffers; and Regulations for Specific Uses, Part 203 - Buffers and Landscaping; Section 165-203.02(C) Buffer and Screening Requirements. ----- O

Revision to the Frederick County Zoning Ordinance to Modify Requirements for Residential Separation Buffers in the RP (Residential Performance) Zoning District.

Board Liaison Reports

Citizen Comments

Board of Supervisors Comments

Adjourn

A

MINUTES
Frederick County Board of Supervisors
Budget Work Session
Tuesday, May 22, 2018
4:00 p.m.
Board Room, 107 North Kent Street, Winchester, VA

ATTENDEES

Board of Supervisors: Chairman Charles S. DeHaven, Jr.; Vice Chairman Gary A. Lofton; Blaine P. Dunn; J. Douglas McCarthy; Judith McCann-Slaughter; and Shannon G. Trout were present. Robert W. Wells was absent. Staff present: Kris C. Tierney, County Administrator; Jay E. Tibbs, Deputy County Administrator; Cheryl B. Shiffler, Finance Director; Sharon Kibler, Assistant Finance Director; Jennifer Place, Budget Analyst; Rod Williams, County Attorney; C. William Orndoff, Jr., Treasurer; Mike Ruddy, Director of Planning and Development; Candice Perkins, Assistant Director of Planning and Development; and Scott Varner, Director of Information Technology.

CALL TO ORDER

Chairman DeHaven called the meeting to order at 4:00 p.m. Mr. Tierney provided an overview of the agenda items.

DISCUSSION - Aylor Middle School Replacement

Mr. Tierney reviewed the proposed resolution regarding funding for a replacement Aylor Middle School. The Board discussed the possibility of having the School Board respond with a resolution offering concurrence on the topic. There was general discussion of the need for the new school building to be expandable. Mr. Williams provided a revised resolution expressing the desire of the Board of Supervisors to consider a request for an appropriation of \$45.5 million. By consensus, the Board agreed to have the revised resolution added to the Board meeting agenda for May 23, 2018.

DISCUSSION - Master Development Plans to BOS for Information

Mr. Tierney highlighted the past practices regarding Master Development Plans (MDP) being brought to the Board for information. He explained that no action is necessary unless there

is a waiver request submitted with the master development plan. There was discussion of the value of MDPs being on the agenda for information and citizen awareness. The Board discussed the need for formal review of MDPs and by consensus agreed they wish to study the issue before making any change to policy or the zoning ordinance.

DISCUSSION - Medicaid Expansion – Need for June 12 Work Session

Mr. Tierney noted there had been no action on the state budget or the expansion of Medicaid. He noted a conflict with the June 12 work session, and by consensus, the Board agreed to cancel the meeting.

OTHER

The Board and staff discussed obtaining more information on proposed school square footage estimates and what was spent on the Brambleton Middle School near Leesburg, VA.

Vice Chairman Lofton said he wished to begin a conversation about categorical funding for the school system.

Supervisor Dunn inquired about the process for setting the salaries of constitutional officers.

ADJOURN

There being no further business, the meeting was adjourned at 5:05 p.m.

**MINUTES
REGULAR MEETING
FREDERICK COUNTY BOARD OF SUPERVISORS
WEDNESDAY, MAY 23, 2018
7:00 P.M.
BOARD ROOM, COUNTY ADMINISTRATION BUILDING
107 NORTH KENT STREET, WINCHESTER, VIRGINIA**

ATTENDEES

Board of Supervisors: Charles S. DeHaven, Jr., Chairman; Gary A. Lofton, Vice Chairman; Blaine P. Dunn; J. Douglas McCarthy; Judith McCann-Slaughter; and Shannon G. Trout were present. Robert W. Wells was absent.

Staff present: Kris C. Tierney, County Administrator; Jay E. Tibbs, Deputy County Administrator; Roderick B. Williams, County Attorney; Michael T. Ruddy, Director of Planning and Development; Candice Perkins, Assistant Director of Planning; Karen Vacchio, Public Information Officer; Ellen Murphy, Commissioner of the Revenue; and Ann W. Phillips, Deputy Clerk to the Board of Supervisors.

CALL TO ORDER

Chairman DeHaven called the meeting to order at 7:00 p.m.

INVOCATION

Vice Chairman Lofton delivered the invocation.

PLEDGE OF ALLEGIANCE

Supervisor Slaughter led the Pledge of Allegiance.

ADOPTION OF AGENDA - APPROVED

Upon motion of Supervisor Dunn, seconded by Vice Chairman Lofton, the agenda was adopted with one addition on a voice vote.

ADOPTION OF CONSENT AGENDA – APPROVED

Upon motion of Vice Chairman Lofton, seconded by Supervisor Slaughter, the consent agenda was adopted on a voice vote.

-Minutes: Budget Work Session of May 8, 2018 -CONSENT AGENDA APPROVAL

-Minutes: Regular Meeting of May 9, 2018 -CONSENT AGENDA APPROVAL

-Finance Committee Report (Appendix 1) - CONSENT AGENDA APPROVAL

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CITIZEN COMMENTS

Amber Wallin, Opequon District, said she appreciated the Board moving forward with a replacement Aylor Middle School building, but has concerns about the proposed square footage of the building. She said it appears that the opinions of the School Board are being dismissed

and said the Board should plan ahead for future predicted growth and build the larger school building.

Sophia Guntang and Jessica Shostek, Back Creek District, said they are students at Aylor and are concerned about the proposed 140,000 square foot building. They said that Byrd and James Wood Middle Schools are overcrowded meaning more students will be redistricted adding to Aylor's attendance. They said the new building will be the smallest in the County, and with new families moving into the County they are concerned the building will quickly become overcrowded.

Chris Fordney, Red Bud District, said he is a member of the County Parks and Recreation Commission. He said he is in favor of the proposed senior housing project at St. Paul's on the Hill Church on Senseny Road but has some concerns. He said he hoped the proposed amendment to the Comprehensive Plan was not being sought to avoid the discussion of proffers required by a rezoning process. Mr. Fordney said his other concern is access to the proposed multifamily housing saying that the developer should be obligated to create a walking trail accessing nearby development to the east and added that there should be a crosswalk on Senseny Road to allow access to development on the south side of Senseny Road.

Tara Shostek, Back Creek District, spoke about the proposed resolution regarding funding for a replacement Aylor School. She said she is concerned about the legality of forcing provisions on the School Board. She said the Board of Supervisors does not have control over school construction, and encouraged the Board change the language of the resolution in order that it not be a mandate.

BOARD OF SUPERVISORS COMMENTS - None

COUNTY OFFICIALS:

PRESENTATION OF RESOLUTION HONORING THE LIFE OF TOM BAKER

Chairman DeHaven and Vice Chairman Lofton read the Resolution Honoring the Life of Tom Baker, adopted on February 14, 2018, and presented a framed copy of the Resolution to the family of Mr. Baker.

COMMITTEE APPOINTMENTS

LAURA L. LOVING RE-APPOINTED AS STONEWALL DISTRICT

REPRESENTATIVE TO THE EXTENSION LEADERSHIP COUNCIL - APPROVED

Supervisor Slaughter moved to reappoint Laura L. Loving to the Extension Leadership Council as the Stonewall District Representative for a four-year term ending June 30, 2022. Supervisor McCarthy seconded the motion which carried unanimously on a voice vote.

REQUESTS FROM THE COMMISSIONER OF THE REVENUE FOR REFUNDS - APPROVED

Mr. Tierney explained there were four requests for refunds that have been reviewed by the County Attorney. Supervisor Slaughter moved for approval of and the corresponding

supplemental appropriations for the refund requests by Ryder Truck Rental LT for \$3,382.63; Wheels LT for \$3,905.02; Undisclosed Taxpayer- Disabled Veteran’s Relief for \$6,670.46; and D L Peterson Trust for \$20,286.20. Supervisor McCarthy seconded the motion which carried on a roll call vote as follows:

| | | | |
|--------------------------------|------------|--------------------------------|---------------|
| Blaine P. Dunn | Aye | Shannon G. Trout | Aye |
| Gary A. Lofton | Aye | Robert W. Wells | Absent |
| J. Douglas McCarthy | Aye | Charles S. DeHaven, Jr. | Aye |
| Judith McCann-Slaughter | Aye | | |

RESOLUTION REGARDING FUNDING FOR A REPLACEMENT AYLOR MIDDLE SCHOOL – APPROVED

Supervisor Trout stated she wants to disclose for the record, relative to this item and pursuant to the State and Local Government Conflict of Interests Act, that she is employed by Frederick County Public Schools as a teacher and therefore is a member of a group who is or may be affected by the item, and that she is able to participate in the transaction fairly, objectively, and in the public interest.

Supervisor Slaughter moved for approval of the Resolution Regarding Funding for a Replacement Aylor Middle School. Vice Chairman Lofton seconded the motion which carried as follows:

| | | | |
|--------------------------------|------------|--------------------------------|---------------|
| Blaine P. Dunn | Aye | Shannon G. Trout | Aye |
| Gary A. Lofton | Aye | Robert W. Wells | Absent |
| J. Douglas McCarthy | Aye | Charles S. DeHaven, Jr. | Aye |
| Judith McCann-Slaughter | Aye | | |

REGARDING FUNDING FOR A REPLACEMENT
AYLOR MIDDLE SCHOOL

WHEREAS, the County School Board of Frederick County has requested a supplemental appropriation to the FY2018 Construction Fund in the amount of \$52,000,000 for the acquisition of land for and the construction of a new Aylor Middle School;

NOW, THEREFORE, BE IT RESOLVED, that the Board states its willingness to consider the request for an appropriation of up to \$45,500,000 for the acquisition of land for and the construction of a new Aylor Middle School, provided that:

1. The facility does not exceed 140,000 square feet in floor area;
2. The facility will have capacity for 900 students;
3. The facility will be expandable;
4. The facility will not be subject to any unresolved VDOT comments or issues, including that vehicular ingress and egress to the facility shall be safe and appropriate; and
5. The School Board will designate the existing Aylor Middle School property as surplus, for conveyance back to the County, promptly upon the opening of the new Aylor Middle School.

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COMMITTEE BUSINESS

Finance Committee

SUPPLEMENTAL APPROPRIATIONS RECOMMENDED BY THE FINANCE COMMITTEE - APPROVED

Supervisor Slaughter moved for approval of the Sheriff's requests for a General Fund supplemental appropriation in the amount of \$18,253.92 representing (3) auto claim insurance reimbursements; a General Fund supplemental appropriation in the amount of \$4,809.84 representing reimbursements for extraditions; a General Fund supplemental appropriation in the amount of \$100 representing a donation to the Honor Guard; and the Parks & Recreation Director's request for a General Fund supplemental appropriation in the amount of \$900 representing a donation specified for the purchase of pet waste convenience stations at Sherando Park. Supervisor Trout seconded the motion which carried on a roll call vote as follows:

| | | | |
|--------------------------------|------------|--------------------------------|---------------|
| Blaine P. Dunn | Aye | Shannon G. Trout | Aye |
| Gary A. Lofton | Aye | Robert W. Wells | Absent |
| J. Douglas McCarthy | Aye | Charles S. DeHaven, Jr. | Aye |
| Judith McCann-Slaughter | Aye | | |

Supervisor Slaughter moved for approval of the Treasurer's request for a General Fund supplemental appropriation in the amount of \$52,000 representing funds needed for DMV stops for the remainder of the fiscal year. Vice Chairman Lofton seconded the motion which carried on a roll call vote as follows:

| | | | |
|--------------------------------|------------|--------------------------------|---------------|
| Blaine P. Dunn | Aye | Shannon G. Trout | Aye |
| Gary A. Lofton | Aye | Robert W. Wells | Absent |
| J. Douglas McCarthy | Aye | Charles S. DeHaven, Jr. | Aye |
| Judith McCann-Slaughter | Aye | | |

Supervisor Slaughter moved for approval of a request from the Department of Social Services for a General Fund budget reduction in the amount of \$220,000 with \$58,875 of that amount representing local funds, and the reduction representing yearend adjustments to bring the County budget in line with the State budget. Vice Chairman Lofton seconded the motion which carried on a roll call vote as follows:

| | | | |
|--------------------------------|------------|--------------------------------|---------------|
| Blaine P. Dunn | Aye | Shannon G. Trout | Aye |
| Gary A. Lofton | Aye | Robert W. Wells | Absent |
| J. Douglas McCarthy | Aye | Charles S. DeHaven, Jr. | Aye |
| Judith McCann-Slaughter | Aye | | |

Supervisor Slaughter moved for approval of a request from the Department of Social Services for a General Fund budget transfer in the amount of \$48,231 representing a transfer out of health/dental to be used for additional expenses. Supervisor Dunn seconded the motion which carried on a roll call vote as follows:

| | | | |
|--------------------------------|------------|--------------------------------|---------------|
| Blaine P. Dunn | Aye | Shannon G. Trout | Aye |
| Gary A. Lofton | Aye | Robert W. Wells | Absent |
| J. Douglas McCarthy | Aye | Charles S. DeHaven, Jr. | Aye |
| Judith McCann-Slaughter | Aye | | |

PUBLIC HEARINGS (Non-Planning Issues) - None

PLANNING COMMISSION BUSINESS

Public Hearings

REZONING #05-17 FOR O-N MINERALS (CHEMSTONE) d/b/a Carmeuse Lime & Stone, CONTINUED UNTIL JUNE 13, 2018

Submitted by Lawson and Silek, PLC., to Amend the Proffers for this Property; Rezoning 394.2 Acres from the EM (Extractive Manufacturing) District with Proffers to the EM (Extractive Manufacturing) District with Revised Proffers. The Properties are Situated Generally West of the Town of Middletown. Specifically, the Middle Marsh Property is Located East of Belle View Lane (Route 758), and West and Adjacent to Hites Road (Route 625) and is Further Traversed by Chapel Road (Route 627). The Northern Reserve is Bounded to the South by Cedar Creek and is West and Adjacent to Meadow Mills Road (Route 624). The Properties are Identified with Property Identification Numbers 83-A-109 and 90-A-23 in the Back Creek Magisterial District.

Candice Perkins, Assistant Director of Planning, provided an overview of the requested proffer amendment saying it proposes to remove the previously proffered Overall Plan, Phasing I, II, III and IV Plans and six of the twelve viewshed plans. She reviewed the revised proffer proposals including the intent to utilize an amended Generalized Development Plan and nine viewshed plans, revision to the timing of the installation of the berms, revision of the heights of the berms, removal of the landscaping exhibit for the berms, and removal of the water supply and reclamation proffers. Ms. Perkins said staff received revised proffers dated May 15, 2018, that include text which preserves existing vegetation between Berm D and the Westernview Subdivision, addresses stockpiling of material, use of areas outside of Berm D, hours of operation, well monitoring and blasting notifications. She said further revised proffers were received earlier in the day which had been placed at the seats of the Board members.

George McKotch, Area Operations Manager of applicant Carmeuse Lime & Stone, thanked the Board and especially Supervisors Lofton and Dunn for meeting with their neighbors to discuss the proposal. He said when the process began, Carmeuse truly thought that the proposal was better and less impactful option than the original proffer. He said the Board had a choice of leaving the proffers as they were in the 2008 rezoning or voting to accept the new proffers delivered earlier in the day. He said the new proffers address the concerns of the neighbors. He noted that the water and the access are not open to debate.

Michael Wilmoth of Carmeuse indicated the new proposed berm locations and their heights on an aerial map. He provided a summary of the most recent revisions to the proffers as follows:

- Berm D has been divided into four sections with varying heights and will be placed will be behind the tree line.
- Bern C will be constructed similarly to Berm D.
- Activities in the field will be limited to periodic maintenance, monitoring, and exploration.
- Neighbors will have given 48 hours' notice of a change in the hours of operation.
- Monitoring wells will be installed.
- Notification of blasting will be given to those within 1,500' range by phone, email or

text message.

- A Seismograph will be placed by an engineer.
- Lighting will be turned off after working hours.
- Tree line and fence line will be maintained according to best practices.
- Berm D will be built to 30 feet.
- Plantings will be random to appear natural and will be of the types consistent with those in the Frederick County area.
- Hours of operation will be 6am- 10pm, unless otherwise necessary because of customer demand.

Supervisor Slaughter inquired about the possibility of the hours of operations changing because of customer demand. Mr. McKotch said if there is a clear path to his request, he would remove the customer demand portion of the statement. Vice Chairman Lofton asked for clarification on the work days, and Mr. McKotch responded that the normal hours will be 6am - 10pm Monday through Friday, excluding major holidays. In response to Supervisor Slaughter's question, Mr. McKotch said the lighting would go hand in hand with the operating hours.

Chairman DeHaven opened the public hearing.

Richard Guy, Back Creek District, said he owns 65 acres next to Carmeuse on the southeast side. He asked that the berm be 30 feet high and built 10 years before work begins to allow time for the trees to become established. He asked why the 10-year requirement is being removed now if it was originally promised in the rezoning.

Robin Young, Back Creek District, thanked the Board for the four-week extension saying the time was well used. She said the current revised proffers are an improvement but noted a possible conflict in the proffer language between sections 2.2 and 12.2 regarding the tree line. She requested that comment be sought from VDOT as she had requested at the previous public hearing.

Kristen Laise, Executive Director of Belle Grove, thanked the Board for its efforts and said she is pleased to see the revised proffers. She said in order to protect the historic resource of Belle Grove, the pre-blast surveys need to be written into the proffers. She suggested that a seismograph be located on the Belle Grove property.

Kevin Barrington, Back Creek District, said there is nothing that makes sense about the rezoning. He said he is disheartened that Carmeuse gets to place the seismograph as part of the proffer. He said he will be requesting a noise ordinance to protect the nearby residents from the noise.

Kian Banks, Back Creek District, said he appreciates the Board allowing the time for the residents to negotiate with Carmeuse, saying that a lot of headway toward an agreement has been gained. He said with the late arrival of the revised proffers he would like to see a delay to allow all involved time to read the updated proffer language.

Ed Streun, Back Creek District, thanked the Board for the time allowed to discuss the issue with Carmeuse. He said improvements have been made in the proffers and requested that the Board allow another two weeks to refine the revised language.

Robin Young, Back Creek District, said that VDOT needs to be involved because of language in the proffer referring to lighting and overhead conveyors over Chapel Road. She noted Carmeuse's website mentions the fact that in Belgium, their equipment is insulated to reduce noise, and suggested that insulation be used here. She concluded saying she likes the revision to the hours of operation and suggested that four seismographs be placed by Carmeuse for monitoring.

Chairman DeHaven closed the public hearing.

George McKotch said the berm in question will be 30 feet, and the tree line referred to remains as in the original proffer. He said there will be a seismograph next door to Belle Grove, and there will be three in the area. He said that he will agree to the 6am – 10pm hours of operation. He requested that the Board vote tonight and not delay the matter.

Vice Chairman Lofton said he does not think there can be any more revision to improve the proffers. He moved for approval of the rezoning with the amended proffers. Supervisor Dunn seconded the motion.

Supervisor Trout said she was uncomfortable voting on the proffers with the members not having seen them until arriving at the meeting. She offered an amendment to the motion to delay the vote until the next meeting. Supervisor Slaughter seconded the motion to amend the previous motion.

Vice Chairman Lofton said the revisions were laid out by both the staff and Mr. McKotch and there was no reason for delay.

Supervisor Slaughter said she is grateful for the work done on the issue, but she is hesitant to vote on something she has just received without having had the opportunity to read and digest the proffers. She inquired about comments from VDOT.

Ms. Perkins said that VDOT comments were not requested because there are no impacts different from the original rezoning. Vice Chairman Lofton said that he checked with VDOT and Chapel Road cannot be used by Carmeuse for commercial hauling.

Supervisor Dunn said the Applicant has been very reasonable. He said he likes the revised proffers but has concerns about what has been eliminated from the proffers.

Vice Chairman Lofton said he received a list of 11 items and highlighted how the revised proffers have now addressed nearly all of the requests by the neighbors. He said he wants to protect the residents while allowing the Applicant to function as a business.

Supervisor McCarthy said out of fairness and due process, he is opposed to voting on the matter before he and the public have had a chance to review the revised proffers.

Supervisor Slaughter asked how the proffer amendment addresses the issue of blasting at Belle Grove. Vice Chairman Lofton noted that any neighbor may request notification of blasting via the preferred method.

Supervisor Dunn said he is struggling with certain sections of the original proffer being deleted from the updated version.

The motion to continue the public hearing and delay voting on the matter until June 13, 2018, carried as follows:

| | | | |
|-----------------------|------------|-------------------------|---------------|
| Blaine P. Dunn | Aye | Shannon G. Trout | Aye |
| Gary A. Lofton | No | Robert W. Wells | Absent |

J. Douglas McCarthy Aye
Judith McCann-Slaughter Aye

Charles S. DeHaven, Jr. Aye

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Other Planning Business

ST. PAUL’S ON THE HILL COMPREHENSIVE PLAN AMENDMENT – DIRECTED PLANNING COMMISSION TO HOLD PUBLIC HEARING

To determine whether to send the matter to public hearing before the Frederick County Planning Commission for consideration of an amendment to the Senseny/Eastern Frederick Urban Areas Plan and amendment of the land use designation for PIN 54-A-128 from institutional land use to urban center land use with a recommendation to be forwarded to the Board of Supervisors.

Ms. Perkins provided background information on the topic saying the subject property contains 4.971 acres, has an address of 1527 Senseny Road and is identified with Property Identification Number 54-A-128. She said the property is located within the Sewer and Water Service Area (SWSA) and the Urban Development Area (UDA) and is designated in the Senseny/Eastern Frederick Urban Area Plan of the 2035 Comprehensive Plan for institutional land use with environmental resources. Ms. Perkins said the Applicant is requesting to change the future land use from Institutional to Urban Center, and it should be noted that the subject property is currently zoned RP (Residential Performance) District with the current by-right density for this Property if developed with townhouses or garden apartments at 10 units per acre. She said the Owner is seeking to change the land use designation to Urban Center as this designation would allow for up to 20 units per acre by-right and noted that if the land use designation is changed from Institutional to Urban Center, it would double the by-right density allowed for this property without a rezoning. She added that low- income age restricted housing would not be guaranteed if this plan amendment is approved. Ms. Perkins noted there are some development constraints on the property.

Supervisor McCarthy asked about whether the amendment would require the property to be age restricted. Ms. Perkins said the amendment would not require the development to be age restricted.

Vice Chairman Lofton said with rezoning to a by right use there will be no proffers. Ms. Perkins said that the applicant would have to adhere to agency comments such as those from VDOT and the Parks and Recreation Commission.

Supervisor Slaughter asked if there were a way to preserve the mission of the church without upscaling to the Urban Center designation. Ms. Perkins said the only way to ensure the age restriction is with a rezoning since the restriction could not be accomplished with a comprehensive plan amendment.

Evan Wyatt of Greenway Engineering, representing the Applicant, briefly described the request. He introduced the Vice President of Wesley Housing, Paul Brown, saying Wesley Housing is the planned funding provider for the project.

The Board and staff discussed the options of rezoning or amending the comprehensive plan, the possibility of proffers, the need for setback variance, and the demand for services resulting from new development.

Supervisor Dunn moved for approval of the following resolution directing the Planning Commission to hold a public hearing. Supervisor McCarthy seconded the motion which carried as follows:

| | | | |
|--------------------------------|------------|--------------------------------|---------------|
| Blaine P. Dunn | Aye | Shannon G. Trout | Aye |
| Gary A. Lofton | Aye | Robert W. Wells | Absent |
| J. Douglas McCarthy | Aye | Charles S. DeHaven, Jr. | Aye |
| Judith McCann-Slaughter | Aye | | |

RESOLUTION DIRECTING THE PLANNING COMMISSION TO HOLD A PUBLIC HEARING TO
ADOPT AN AMENDMENT TO THE
2035 COMPREHENSIVE PLAN
APPENDIX I – AREA PLANS
SENSENY/EASTERN FREDERICK URBAN AREA PLAN

WHEREAS, the 2035 Comprehensive Plan, was adopted by the Board of Supervisors on January 25, 2017 and this proposed amendment to the Senseny/Eastern Frederick Urban Areas Plan of Appendix I would result in a land use designation change for (PIN) 54-A-128 from institutional land use to urban center land use; and

WHEREAS, the Frederick County Planning Commission discussed this amendment on May 2, 2018 and sent the amendment to the Board of Supervisors for discussion; and

WHEREAS, the Frederick County Board of Supervisors discussed this proposed amendment on May 23, 2018; 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 consider an amendment to the Senseny/Eastern Frederick Urban Areas Plan to amend the land use designation for PIN 54-A-128 from institutional land use to urban center land use and forward a recommendation to the Board of Supervisors.

This amendment would change the land use designation from Institutional to Urban Center.

+ + + + + + + + + + +

BOARD LIAISON REPORTS

Vice Chairman Lofton noted the proposed Medicaid expansion, if approved, will increase expenses.

Supervisor Trout said that Frederick Water recently approved an increase in water and sewer base rates, adopted the FY 2019 budget, and executed an agreement that will facilitate the construction of the Stephenson interceptor.

CITIZEN COMMENTS - None

BOARD OF SUPERVISORS COMMENTS

Supervisor Dunn said, regarding the Aylor Middle School replacement project, that he recently visited Brambleton Middle School in Loudoun County to try to learn more and that the Board is trying to find options that are beneficial to everyone.

Vice Chairman Lofton noted the upcoming Memorial Day holiday and asked all to remember those fallen in service to our country.

Supervisor Trout said that while she voted in favor of the Aylor resolution, she does not think it is appropriate for the Board to attempt to dictate school design which is the job of the School Board, also an elected body. She said she is appreciative of the Board's moving forward with the resolution and hopes that compromise can be made soon allowing the School Board to meet the bond cycle deadline in the fall.

Supervisor McCarthy said the speakers earlier in the evening insinuated that the Board

was not listening to the experts on the School Board regarding square footage needs. He said that the School Board had indicated that a 140,000 square foot building would serve 900 students. He said the Brambleton Middle School in Loudoun County serves 1400 students at 121 square feet per student. He said the current proposal for the Aylor building replacement will serve 900 students at 155 square feet per student.

ADJOURN

On motion of Vice Chairman Lofton, seconded by Supervisor Trout, the meeting was adjourned at 9:02 p.m.

Board of Supervisors Minutes of 5-23-18, Appendix 1

COUNTY of FREDERICK

Finance Department
Cheryl B. Shiffler
Director

540/665-5610

Fax: 540/667-0370

E-mail: cshiffle@fcva.us

TO: Board of Supervisors
FROM: Finance Committee
DATE: May 16, 2018
SUBJECT: Finance Committee Report and Recommendations

A Finance Committee meeting was held in the First Floor Conference Room at 107 North Kent Street on Wednesday, May 16, 2018 at 8:00 a.m. All members were present. Items 1, 2, 3, and 4 were approved on consent agenda.

- The Sheriff requests a General Fund supplemental appropriation in the amount of \$18,253.92. This amount represents (3) auto claim insurance reimbursements. No local funds required. See attached memos, p. 3 – 8.
- The Sheriff requests a General Fund supplemental appropriation in the amount of \$4,809.84. This amount represents reimbursements for extraditions. No local funds required. See attached memos, p. 9 – 11.
- The Sheriff requests a General Fund supplemental appropriation in the amount of \$100. This amount represents a donation to the Honor Guard. No local funds required. See attached memo, p. 12 – 13.
- The Parks & Recreation Director requests a General Fund supplemental appropriation in the amount of \$900. This amount represents a donation specified for the purchase of pet waste convenience stations at Sherando Park. No local funds required. See attached memo, p. 14.
- The Treasurer requests a General Fund supplemental appropriation in the amount of \$52,000. This amount represents funds needed for DMV stops for the remainder of the fiscal year. No local funds required as revenue collected has exceeded budgeted revenue. See attached memo, p. 15. The committee recommends approval.

Finance Committee Report and Recommendations

May 16, 2018

Page 2

6. The Department of Social Services requests a General Fund budget reduction in the amount of \$220,000. Of that amount, \$58,875 represents local funds. The reduction represents yearend adjustments to bring the County budget in line with the State budget. See attached information, p. 16 – 19. The committee recommends approval.

7. The Department of Social Services requests a General Fund budget transfer in the amount of \$48,231. This amount represents a transfer out of health/dental to be used for additional expenses. No additional local funds required. See attached information, p. 16 – 19. The committee recommends approval.

INFORMATION ONLY

1. The Finance Director provides a Fund 10 Transfer Report for April 2018. See attached, p. 20 – 21.

2. The Finance Director provides financial statements ending April 30, 2018. See attached, p. 22 – 32.

3. The Finance Director provides an FY 2018 Fund Balance Report ending May 10, 2018. See attached, p. 33.

Respectfully submitted,

FINANCE COMMITTEE

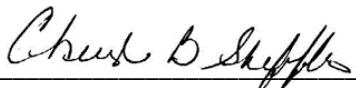
Judith McCann-Slaughter, Chairman

Charles DeHaven

Gary Lofton

Angela Rudolph

Jeffrey Boppe

By 

Cheryl B. Shiffler, Finance Director

MINUTES
Frederick County Board of Supervisors
Budget Work Session
Tuesday, June 5, 2018
4:00 p.m.
Board Room, 107 North Kent Street, Winchester, VA

ATTENDEES

Board of Supervisors: Chairman Charles S. DeHaven, Jr.; Vice Chairman Gary A. Lofton; Blaine P. Dunn; J. Douglas McCarthy; Judith McCann-Slaughter; and Shannon G. Trout were present. Robert W. Wells was absent. Staff present: Kris C. Tierney, County Administrator; Jay E. Tibbs, Deputy County Administrator; Cheryl B. Shiffler, Finance Director; Jennifer Place, Budget Analyst; Rod Williams, County Attorney; Tamara Green, Director of Social Services; Amy Swift, Assistant Director of Social Services; Mike Ruddy, Director of Planning and Development; Mark Cheran, Zoning and Subdivision Administrator; Scott Varner, Director of Information Technology; Ellen Murphy, Commissioner of the Revenue; Patrick Barker, Executive Director of the Economic Development Authority; and Ann W. Phillips, Deputy Clerk to the Board.

Other: Robert T. Mitchell of the law firm of Hall, Monahan, Engle, Mahan & Mitchell

CALL TO ORDER

Chairman DeHaven called the meeting to order at 4:00 p.m.

UPDATE – Medicaid Expansion

Mr. Tierney said that little information is currently available, but he has learned that the state will provide some funding annually in the range of \$238,000. He noted that the projected costs are more than \$400,000. He said staff is reviewing the need for additional personnel, but that the timing of staff growth is still uncertain.

The Board and staff discussed the requirement for the County to participate and fund the expansion, the timing for hiring additional staff, and the funds set aside to assist with the expansion.

CLOSED SESSION

At 4:08 p.m., Vice Chairman Lofton moved that the Board of Supervisors of Frederick County enter a closed session for the following matters:

- Pursuant to Virginia Code § 2.2-3711(A)(7), for consultation with legal counsel and briefings by staff members pertaining to actual or probable litigation, the petitions of Rockwood 72, LLC and 750 Remington, LLC, in regard to April 17, 2018 Decisions of the Board of Zoning Appeals, both petitions currently pending in the Frederick County Circuit Court, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body.

- Pursuant to Virginia Code § 2.2-3711(A)(39), for the discussion or consideration of proprietary information, voluntarily provided to the County by a private business pursuant to a promise of confidentiality for purposes of economic development in the County, and concerning the performance of that business relative to an economic development performance agreement with the County.
- Pursuant to Virginia Code § 2.2-3711(A)(3), for the discussion or consideration of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body.
- Pursuant to Virginia Code § 2.2-3711(A)(3), for the discussion or consideration of the acquisition of real property for a public purpose, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body.

Supervisor Dunn Seconded the motions which carried on a voice vote.

Supervisor McCarthy recused himself from the first item in the closed session motion and did not enter the session.

At 4:39 p.m., Supervisor McCarthy and County Attorney Rod Williams joined the closed session.

At 5:18 p.m., the Board members being assembled within the designated meeting place in the presence of members of the public and the media desiring to attend, the meeting was reconvened on motion of Vice Chairman Lofton, seconded by Supervisor Dunn. Vice Chairman Lofton moved that the Board of Supervisors of Frederick County certify that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed, or considered by the Board. Supervisor Dunn seconded the motion which carried as follows on a roll call vote:

| | | | |
|--------------------------------|------------|--------------------------------|---------------|
| Blaine P. Dunn | Aye | Shannon G. Trout | Aye |
| Gary A. Lofton | Aye | Robert W. Wells | Absent |
| J. Douglas McCarthy | Aye | Charles S. DeHaven, Jr. | Aye |
| Judith McCann-Slaughter | Aye | | |

ADJOURN

There being no further business, the meeting was adjourned at 5:20 p.m. on motion by Vice Chairman Lofton, seconded by Supervisor Slaughter.

B



MEMORANDUM

TO: Landfill Oversight Committee Members and Board of Supervisors
FROM: Joe C. Wilder, Director of Public Works *JCW*
SUBJECT: Landfill Oversight Committee Report for Meeting of May 24, 2018
DATE: May 31, 2018

The Landfill Oversight Committee met on Thursday, May 24, 2018, at 10:00 a.m. All committee members were present except Stan Crockett, Eden Freeman, David Ash, Robert Wells and Perry Eisenach. The following items were discussed:

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

1. Discussion on sludge issues at the Landfill:

During the summer of 2016, the Opequon Wastewater Treatment Facility (OWTF) changed their treatment system and started producing a different type of sludge. For many years, sludge has been transported to the Regional Landfill from many treatment plants in the region. We have been able to place the sludges in the Landfill waste and have not had any problems with stability of the waste mass or being able to obtain a satisfactory compaction of the waste.

However, since the change in the makeup of the sludge in 2016, the sludge from OWTF has had a higher moisture content and it is made up of less solids. Staff at the Landfill has had a very difficult time placing the sludge in the trash due to its poor suitability and higher moisture content. While trying to incorporate the sludge into the waste, the equipment sinks and gets stuck. Since 2016, we have been digging large trenches in the existing trash and burying the sludge. This is causing long term stability problems in the Landfill and our Landfill engineering consultants, SCS Engineers, has told us to cease this operation.

County staff, Frederick Winchester Service Authority (FWSA) staff and City of Winchester staff have met several times over the last few months trying to find a viable, cost effective solution. Don Riggleman, Waste Supply and Wastewater Treatment

Division Manager attended the meeting and presented the many different things they have tried to help make the sludge more suitable to be placed in the Landfill. They have not been able to significantly make any changes to the sludge that will allow it to be placed with minimal impact. He informed the committee that they have submitted a biosolids application to the Department of Environmental Quality (DEQ). Their long-term solutions would be to divert all the sludge to land application and store the material when they can't land apply the sludge. They informed us that this permit could take at least 3-6 months. In the meantime, they are requesting we try to help them by storing the sludge until it can be land applied. It may not be possible to provide that long-term storage.

Our main short-term goal is to mix the sludge with an additive to help the sludge dry out, provide structural stability and be placed like a soil. The Landfill and OWTF would cost share with the additive and equipment to perform an on-site mixing process. There are a lot of logistics related to this and we are continuing to work through the details.

2. Discussion of Leachate issues at the Landfill:

Over the past two weeks, the Landfill area has received eight (8) inches of rain. During this time, we encountered some extreme run-off from the different areas of the Landfill with some bypass pumping in the Permit 40 Landfill area. Over the past few years, we have attempted to make some additional improvements in the Permit 40 area with limited success. We are currently looking at constructing a large ballast holding pond to provide liquid storage during the spring season. The ponds capacity could be 3-4 million gallons in size. We are currently pumping leachate to the OWTF at a rate of approximately 100,000 gallons per day to get some volume in our ponds.

3. Discussion of specific waste fees:

We discussed some updates on special waste fees at the Landfill. We have made some minor adjustments to tires and electronic recycling fees. I have attached the updated 2018 tipping fees at the Landfill which have been approved and adopted by the Board of Supervisors.

(Attachment 1)

4. Discussion of upcoming Projects:

We will begin excavation of Phase 3, Cell A area of the permit 529 MSW Landfill later this year. We want to remove approximately 500,000 cubic yards of soil and rock in preparation of a future Landfill cell.

5. Discussion to add additional Landfill gas collection:

We are going to add additional Landfill gas collections capacity in our active Landfill area to boost our gas production at the energy plant. We will be doing engine

Landfill Oversight Committee Report

Page 3

May 31, 2018

replacements at the energy plant in the late summer since the engines have over 60,000 work hours each.

6. Discussion of future cost sharing with Clarke County:

Currently, Clarke County is starting construction on a new citizen convenience center located east of Berryville. Once this facility goes on-line later this year, we may need to adjust our current cost share program with Clarke County at several sites. We will relook at those rates later this year.

JCW/kco

cc: Committee Members
Kris Tierney, County Administrator
Jay Tibbs, Deputy County Administrator
Ron Kimble, Landfill Manager
Andrew Clark, Environmental Manager
Gloria Puffinburger, Solid Waste Manager
file

2018 Tipping Fees ** EFFECTIVE JULY 1, 2018**

| MATERIAL DESCRIPTION | PRICE/TON | Current Tipping Fees |
|--|------------------------|---------------------------------------|
| COMMERCIAL | | |
| Abbv. | | |
| BRUSH | BC | \$ 47.00 |
| (FACTORY & COMMERCIAL) MSW | F or C | \$ 47.00 |
| TIRES | | \$ 80.00 |
| CONSTRUCTION | CD | \$ 42.00 |
| S - SLUDGE | S | \$ 32.00 |
| Municipal - WATER TREATMENT SLUDGE | WTS | \$ 32.00 |
| Municipal - OPEQUON PLANT SLUDGE | OPS | \$ 32.00 |
| Municipal - BERRYVILLE SLUDGE | BVS | \$ 32.00 |
| CONCRETE/RUBBLE | RBL | \$ 12.00 |
| LIVESTOCK | | \$ 47.00 |
| RESIDENTIAL OVER 1000 LBS | | |
| | | UNDER 1000 LBS IS AT NO CHARGE |
| HOUSEHOLD | | \$ 18.00 |
| CONSTRUCTION DEBRIS | | \$ 18.00 |
| BRUSH | | \$ 18.00 |
| CONCRETE/RUBBLE | | \$ 12.00 |
| THIS INCLUDES FREDERICK, CLARKE COUNTIES AND CITY OF WINCHESTER | | |
| TIRES | | |
| PASSENGER TIRES | CT | \$ 0.80 |
| PASSENGER ON RIM | CTR | \$ 1.80 |
| TRUCK TIRE | TT | \$ 3.00 |
| TRUCK ON RIM | TTR | \$ 4.00 |
| TRACTOR TIRES | TRT | \$ 6.00 |
| TRACTOR TIRES on RIM | TRTR | \$ 7.00 |
| EQUIPMENT/OVERSIZED TIRES | | \$ 7.00 |
| OVER 10 MUST PAY BY WEIGHT | | \$ 80.00 |
| ELECTRONICS RECYCLING | | |
| 2nd Saturday 7:00a.m. - 1:00p.m. | | |
| 4th Wednesday 12:00p.m. - 4:00p.m. *No Wednesday events Nov. & Dec. due to the holidays* | | |
| TV'S | \$15.00 (residential) | tv-\$12 |
| WOOD CONSOLE TV | \$20.00 (residential) | Mon-\$8.00 |
| MONITORS | \$ 10.00 (residential) | |
| UPS (battery back-up) | \$ 5.00 (residential) | |
| | \$21.00 (commercial) | Comm tv-\$18 |
| | \$30.00 (commercial) | Comm Mon-\$8 |
| | \$14.00 (commercial) | |
| | \$ 7.50 (commercial) | |
| HOUSEHOLD HAZARDOUS WASTE | | RESIDENTS ONLY |
| 1st and 3rd Wednesday 12:00p.m. - 6:00p.m. | | |
| **November - March (3rd Wednesday ONLY) | | |
| paints, chemicals, strippers, antifreeze, gas, etc. | | |

C



MEMORANDUM

TO: Board of Supervisors
FROM: Joe C. Wilder, Director of Public Works *JCW*
SUBJECT: Public Works Committee Report for Meeting of May 29, 2018
DATE: June 6, 2018

The Public Works Committee met on Tuesday, May 29, 2018, at 8:00 a.m. All members were present except Robert Wells and Whit Wagner. The following items were discussed:

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

1. Update on the new Stephenson Convenience Site:

Staff gave a brief update on the construction of the new center. Due to recent heavy rainfall, the work has been delayed. We have talked with Carmeuse and they are allowing us to keep operating our Clearbrook site until we can move over. We hope to open the new site in late June.

2. Update on disposition of the old Frederick County Middle School:

Recently, the county received bids for the sale of the old Frederick County Middle School located at 441 Linden Drive. We received a bid from Valley Health, but it was conditioned. They indicated they would pay \$50,000.00 more than the highest bid not to exceed \$4 million. We did not receive any other bids. The County Administrator has reached out to Valley Health to seek clarification and if they are going to submit a bid price.

A question was asked if it would benefit the possible sale of the property if the building was demolished. Due to the need for major renovations, if the building was removed from the property, it could make the property more marketable. Staff has been able to contact a large demolition company in the region to receive a reasonable budget estimate to abate and remove the asbestos in the building and then demolish the building. The company provided an estimate of \$900,000. If this option was chosen, a formal bid process would have to be performed and get an actual bid result. The final option was to reach out to a local real estate company and place the building and property on the market for sale. Staff will seek further clarification from the Board of Supervisors on possible avenues to sell the property.

3. Discussion/Update on the Landfill Oversight Committee Meeting held on Thursday, May 24, 2018:

The committee discussed the different issues at the Frederick County Regional Landfill. We have attached the committee report from the May 24, 2018 meeting which describes in detail what matters we are dealing with out there and our plans of actions. The committee recommended that the report be forwarded to the Board of Supervisors for their information.

(Attachment 1)

4. Discussion regarding an ordinance for lifetime dog tags:

The County Attorney and Treasurer made a presentation to the committee about a process that would allow for a lifetime dog license. After some discussion, the committee recommended that the draft ordinance be sent to the Code and Ordinance committee for further review. Supervisor Lofton recommended approval of the motion and committee member Gene Fisher seconded the motion. The committee unanimously approved the motion.

(Attachment 2)

5. Discussion on a draft ordinance regarding payment of taxes to obtain building permits:

The County Attorney and the Treasurer made a presentation to the committee about requiring that payment of taxes to Frederick County be paid prior to issuance of building permits or land disturbance/stormwater permits. There was discussion about the process of determining how staff would verify the payment of taxes. The Treasurer's office has the information available to staff on the AS400 so once a permit is created if taxes are owed a message will appear informing them the applicant owes Frederick County taxes. Staff would direct the applicants to the Treasurer's office for payment.

After some additional discussion, the committee recommended that the draft ordinance be sent to the Code and Ordinance committee for further review. Committee member Gene Fisher recommended approval of the motion and committee member Ed Strawsnyder seconded the motion. The committee unanimously approved the motion.

(Attachment 3)

6. Update on the Frederick County Esther Boyd Animal Shelter Training Facility Design:

Staff gave a brief update on the progress of the project design. Its anticipated that a final design will be completed by July 2018. The design package will be brought back to the committee at that time for endorsement and to move forward with the bid process.

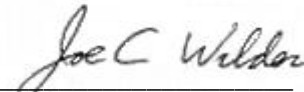
7. Miscellaneous Reports:

- a) Tonnage Report
(Attachment 4)
- b) Recycling Report
(Attachment 5)
- c) Animal Shelter Dog Report
(Attachment 6)
- d) Animal Shelter Cat Report
(Attachment 7)

Respectfully submitted,

Public Works Committee

J. Douglas McCarthy, Chairman
Gary A. Lofton
Robert W. Wells
Whitney "Whit" L. Wagner
Gene E. Fisher
Harvey E. "Ed" Strawsnyder, Jr.

By 

Joe C. Wilder
Public Works Director

JCW/kco

Attachments: as stated

cc: Kris Tierney, County Administrator
Jay Tibbs, Deputy County Administrator
Ron Kimble, Landfill Manager
Gloria Puffinburger, Solid Waste Manager
Rod Williams, County Attorney
Bill Orndoff, Treasurer
Wayne Corbett, Deputy Treasurer
Mike Stewart, Senior Project Manager
file

D



MEMORANDUM

TO: Board of Supervisors
FROM: John A. Bishop, AICP, Assistant Director - Transportation *JB*
RE: Transportation Committee Report for Meeting of May 21, 2018
DATE: June 5, 2018

The Transportation Committee met on Monday, May 21, 2018 at 8:30 a.m.

Members Present

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

Members Absent

Mark Davis (liaison Middletown)
James Racey (voting)

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

1. Perry Road Speed Study:

Chairman Lofton was contacted by residents that reside on Perry Road regarding the 55-mph speed limit. The residents note that it is too fast for the conditions of the roadway and are asking that the County request VDOT to perform a speed evaluation. The most recent VDOT traffic count on Perry Road is 460 daily trips. Staff recommends that VDOT Engineering assess the situation and provide recommendations.

Upon consensus of the Committee they chose to forward a recommendation to the VDOT Staunton District Traffic Engineering for an evaluation.

2. Old Charlestown Road Bridge:

Mr. Lloyd Ingram gave a brief update of the Old Charlestown Road Bridge replacement and discussed the proposed flood gates to be installed for safety issues. Once more information is available, it will be presented to the Committee.

3. Interstate, Primary, and Secondary Road Plan Updates (attached):

Staff gave an overview of the Interstate and Primary Road Plans that are updated each year. Also, discussed was the Secondary Road Plan. VDOT could still make some refinements to the Secondary Road Plan.

Interstate Plan Updates are as follows:

1. Change letter priorities to number priorities to be consistent with the Primary Plan.
2. Update of priorities to place Exit 313 at Number 1 and Exit 317 at Number 2.
3. Update language for Exit 307 to acknowledge the need to improve the existing facility ahead of the long-term goal of relocation.

Primary Plan Updates are as follows:

1. Move Route 11 ahead of Route 277 on the priority list.
2. Route 277 to be broken into segments of logical termini in recognition of the fact that future applications for this roadway would likely need to be for smaller segments.
3. The addition of Route 522 intersection with Costello Drive in recognition and support of the SmartScale application on that facility.

4. County Project Updates:

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

Authorization has been received from VDOT to proceed to 100% design on the roundabout and surface streets. The submission is expected to be complete by the end of May. Also, the maintenance of the traffic plans is expected to be submitted by the end of May. The draft right-of-way plats are being developed and final borings for a couple of spot locations and storm water ponds are being taken. Memorandum of Agreement for historical concerns is undergoing.

Renaissance Drive:

Test borings are complete, and the geotechnical report is on schedule. Upon its completion 30% design for the bridge and roadway will begin. Communication is ongoing with the impacted utilities and the preliminary engineering agreement has been signed and forwarded to CSX. State Environmental Review Process is also underway.

Coverstone Drive:

No activity currently.

Jubal Early Drive Extension and Interchange with Route 37:

No activity currently.

5. Upcoming Agenda Items:

June

Potential cancellation

TBD

Route 11 South Stars Study-MPO
Oakdale Crossing Traffic Calming Study

6. Other Business:

The VDOT Public Hearing about potential projects will be from 5 p.m. to 7 p.m.
on
June 12, 2018 at Strasburg High School, 250 Ram Drive, Strasburg, Virginia.

JAB/ks

E

Employee of the Month Resolution

Awarded to:

Lisa M. Lambert

WHEREAS, the Frederick County Board of Supervisors recognizes that the County's employees are a most important resource; and,

WHEREAS, on September 9, 1992, the Board of Supervisors approved a resolution which established the Employee of the Month award and candidates for the award may be nominated by any County employee; and,

WHEREAS, the Board of Supervisors upon recommendation by the Human Resources Committee selects one employee from those nominated; and,

WHEREAS, Lisa M. Lambert who serves as an HR Specialist was nominated for Employee of the Month; and,

WHEREAS, HR Specialist, Lisa Lambert has done a phenomenal job finalizing the implementation of the ATS portion of NEOGOV. After Lisa was tasked with learning and implementing the NEOGOV Applicant Tracking System, she went to work learning the system and all the variables associated with it. Not only did she learn how to use the software, she learned it in a way that she could train others on how to effectively use the system. Lisa reached out directly to the hiring managers to gain their buy-in for posting their positions in the NEOGOV platform and within about nine months, Lisa took HR from the configuration stage to being fully implemented. This was a HUGE step forward. Moving the County to the NEOGOV platform has opened up the applicant pool for hiring managers and provided overwhelming success for each position posted. It has also reduced the manual transactions associated with a paper system; making the hiring process more efficient. Lisa was also personally recognized by the NEOGOV Implementation Consultant for her hard work in implementing NEOGOV; and,

NOW, THEREFORE BE IT RESOLVED, by the Frederick County Board of Supervisors this 13th day of June 2018, that Lisa M. Lambert is hereby recognized as the Frederick County Employee of the Month for June 2018; and,

BE IT FURTHER RESOLVED that the Board of Supervisors extends gratitude to Lisa M. Lambert for her outstanding performance and dedicated service and wishes her continued success in future endeavors; and,

BE IT FURTHER RESOLVED, that Lisa M. Lambert is hereby entitled to all of the rights and privileges associated with her award.

County of Frederick, VA Board of Supervisors

Charles S. DeHaven, Jr., Chairman

F

FREDERICK COUNTY RESOLUTION OF APPRECIATION

KIM DEHAVEN

WHEREAS, Kim DeHaven served Frederick County, Virginia, for more than 36 years as an employee in the Parks and Recreation Department; and

WHEREAS, Kim DeHaven began her career as a full time Clerk Typist I in 1978 and throughout her tenure received promotions to Clerk Typist II, Clerk typist III, and Administrative Assistant; and

WHEREAS, Kim DeHaven was known for her positive attitude, cooperative spirit, job knowledge, and commitment to the department and the County, learning all aspects of the Parks and Recreation systems and providing training to other staff members; and

WHEREAS, in April of 1994, Kim was selected as Employee of the Month in recognition of her role in developing and implementing the computerized maintenance management system (PMPRO) which greatly increased productivity in the department

NOW, THEREFORE BE IT RESOLVED, that the Frederick County Board of Supervisors extends its sincerest thanks to Kim DeHaven for her dedication and professionalism and wishes her all of the best in her future endeavors.

BE IT FURTHER RESOLVED, that this resolution be spread across the minutes of the Frederick County Board of Supervisors for all citizens to reflect upon the accomplishments of this public servant.

ADOPTED this 13th day of June 2018.

Charles S. DeHaven, Jr.
Chairman

Gary A. Lofton
Back Creek District Supervisor

J. Douglas McCarthy
Gainesboro District Supervisor

Blaine P. Dunn
Red Bud District Supervisor

Robert W. Wells
Opequon District Supervisor

Judith McCann-Slaughter
Stonewall District Supervisor

Shannon G. Trout
Shawnee District Supervisor

Kris C. Tierney
Clerk

FREDERICK COUNTY RESOLUTION OF APPRECIATION

MATTHEW HOTT

WHEREAS, Matthew Hott served Frederick County, Virginia, for more than 32 years as an employee in the Parks and Recreation Department; and

WHEREAS, Matthew Hott began his career as a full time Assistant Superintendent for Parks and Recreation and during his tenure received promotion to Superintendent of Parks and Recreation; and

WHEREAS, during his tenure, Matthew was instrumental in overseeing the evolution of our park system and ensuring the parks were maintained in an above average manner with diligence in park maintenance enabling our park system to manage unprecedented growth in attendance and usage, in particular at our two district parks, Sherando and Clearbrook; and

WHEREAS, Matthew Hott oversaw all projects in the parks including but not limited to the construction of shelters and maintenance facilities, the addition of various sports fields, and paths and trails such as the walking/bike trail at Sherando Park; and

WHEREAS, Matthew Hott served as a catalyst for sound park management methods, worked well with the public and his staff alike, promoted staff development and served as a mentor to many staff members,

NOW, THEREFORE BE IT RESOLVED, that the Frederick County Board of Supervisors extends its sincerest thanks to Matthew Hott for his dedication and professionalism and wishes him all of the best in his future endeavors.

BE IT FURTHER RESOLVED, that this resolution be spread across the minutes of the Frederick County Board of Supervisors for all citizens to reflect upon the accomplishments of this public servant.

ADOPTED this 13th day of June 2018.

Charles S. DeHaven, Jr.
Chairman

Gary A. Lofton
Back Creek District Supervisor

J. Douglas McCarthy
Gainesboro District Supervisor

Blaine P. Dunn
Red Bud District Supervisor

Robert W. Wells
Opequon District Supervisor

Judith McCann-Slaughter
Stonewall District Supervisor

Shannon G. Trout
Shawnee District Supervisor

Kris C. Tierney
Clerk

G



Memorandum

To: Frederick County Board of Supervisors

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

Date: June 7, 2018

RE: Annadale Allied Industrial Park

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:

Frogale Court, State Route 766 0.23 miles

Staff is available to answer any questions.

MRC/dlw



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

The Board of Supervisors of Frederick County, in regular meeting on the 13th day of June, 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

J. Douglas McCarthy

Robert W. Wells

Blaine P. Dunn

Shannon G. Trout

Judith McCann-Slaughter

A COPY ATTEST

Kris C. Tierney
Frederick County Administrator

In the County of Frederick

By resolution of the governing body adopted June 13, 2018

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 Annandale Allied Industrial Park

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

◆ **Frogale Court, State Route Number 766**

Old Route Number: 0

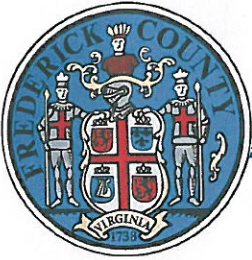
● From: Route 651, Shady Elm Road

To: 0.23 mile southeast to cul-de-sac, a distance of: 0.23 miles.

Recordation Reference: 080000626 Page 0156

Right of Way width (feet) = 60'

H




Kris C. Tierney
County Administrator

540/665-6382

Fax: 540/667-0370

E-mail: ktierney@fcva.us

MEMORANDUM

TO: Board of Supervisors
FROM: Kris C. Tierney, County Administrator 
DATE: June 5, 2018
RE: Committee Appointments

Listed below are the vacancies/appointments due through August 2018. As a reminder, in order for everyone to have ample time to review applications, and so they can be included in the agenda, please remember to submit applications prior to Friday agenda preparation. Your assistance is greatly appreciated.

VACANCIES/OTHER

Board of Building Appeals

David W. Ganse – Frederick County Representative
231 Soldiers Rest Lane
Winchester, VA 22602
Term Expires: 11/10/18
Five year term.

*(The Board of Building Appeals is comprised of six members. Members serve a five year term. **Members should, to the extent possible, represent different occupational or professional fields of the building industry. At least one member should be an experienced builder and one other member should be a licensed professional engineer or architect.**)*

JUNE 2018

Historic Resources Advisory Board

Denny Perry – Member-At-Large Representative
435 Woodchuck Lane
Winchester, VA 22602
Home: (540)667-9658
Term Expires: 06/23/18

Four year term

(Staff has been in contact with Mr. Perry and due to his busy schedule, he does not want to be reappointed.) *(The Historic Resources Advisory Board is comprised of nine members, one member from each magisterial district and three members at large.)*

Winchester Regional Airport Authority

Gene E. Fisher – Frederick County Representative
246 Bush Drive
Winchester, VA 22602
Home: (540)662-5238
Term Expires: 06/30/18
Four year term

Robert Bearer – Frederick County Representative
140 Kinross Drive
Winchester, VA 22602
Phone: (540)550-1898
Term Expires: 06/30/18
Four year term

(Frederick County has four representatives on the Winchester Regional Airport Authority. Members are eligible for reappointment.)

Winchester-Frederick County Tourism Board

Joint Appointment with the City of Winchester

Dan Martin – Private Sector Rep. (Lodging Industry-Hampton Inn & Suites)
General Manager
Hampton Inn & Suites
170 Getty Lane
Winchester, VA 22602
Office: (540)722-2722
Term Expires: 06/30/18

(Mr. Martin is not eligible for reappointment.)

Eric Campbell – Non Profit Sector Rep. (Cedar Creek and Belle Grove National Historic Park)

P. O. Box 700
8695 Valley Pike
Middletown, VA 22645
Phone: (540)868-9176
Term Expires: 06/30/18
Three year term

(Mr. Campbell is not eligible for reappointment.)

Priya Patel – Private Sector Rep. (Lodging Industry-Wingate)
2333 Stoneridge Road
Winchester, VA 22602
Phone: (727)278-6181
Term Expires: 06/30/18
Three year term

(Ms. Patel is eligible for reappointment.)

Kristen Laise – Non Profit Sector Rep. (Belle Grove Plantation)
Belle Grove Plantation
336 Belle Grove Road
Middletown, VA 22645
Office: (540)869-2028
Term Expires: 06/30/18
Three year term

(Ms. Laise is eligible for reappointment.)

(See Attached Recommendation from the Tourism Director.) (Executive Director of the Convention & Visitor's Bureau advised that the Tourism Board recommends to the Board of Supervisors (and City Council) the appointment of Lani Peterson to fill seat of Dan Martin, Shannon Moeck to fill seat of Eric Campbell and the reappointment of Priya Patel and Kristen Laise.) (The Tourism Board was formed by Joint Resolution of the Board of Supervisors and the City Council in April 2001. Members serve a three year term and may only serve two consecutive terms. Recommendation for appointment is contingent upon like approval by the City of Winchester.)

JULY 2018

No appointments due in July.

AUGUST 2018

Conservation Easement Authority

Elaine Cain – Frederick County Representative
444 Fair Lane
Winchester, VA 22603
Home: (540)722-4882
Term Expires: 08/24/18
Three year term

Robert Solenberger – Frederick County Representative
c/o Fruit Hill Orchard
P. O. Box 2368
Winchester, VA 22604
Home: (540)662-2938
Term Expires: 08/24/18
Three year term

Charles Triplett – Planning Commission Representative
150 Lone Willow Lane
Gore, VA 22637
Home: (540)877-1380
Term Expires: 08/24/18
Three year term

*(The Authority consists of seven citizen members, one member from the Board of Supervisors and one member from the Planning Commission. **Members shall be knowledgeable in one or more of the following fields: conservation, biology, real estate and/or rural land appraisal, accounting, farming, or forestry.** Members serve a three year term and are eligible for reappointment.)*

KCT/tjp

Attachment



May 17, 2018

To: Frederick County Board of Supervisors & Winchester City Council
From: Justin Kerns, Executive Director, Winchester-Frederick County Convention & Visitors Bureau on behalf of the Winchester-Frederick County Tourism Board

Subject: Winchester-Frederick County Tourism Board Nominations

The Winchester-Frederick County Tourism Board respectfully submits Lani Peterson as the nominee to represent the Private Sector - Lodging. Lani will begin her appointment on 7/1/2018, after Dan Martin steps down. Lani is the General Manager at the La Quinta Inn and Suites, which is located in Frederick County. Her first term will end on 6/30/2021, at which time she will be eligible for re-appointment.

The Board also recommends the appointment of Shannon Moeck to represent the Non-Profit Sector. Shannon will begin her appointment on 7/1/2018, after Eric Campbell steps down. Shannon is a Park Ranger at Cedar Creek and Belle Grove National Historic Park, which is located in Middletown. Her first term will end on 6/30/2021, at which time she will be eligible for re-appointment.

The Board also recommends the re-appointment of Priya Patel, whose first term as a Private Sector - Lodging representative expires on 6/30/2018. According to the bylaws, Priya is eligible for re-appointment, and her second term will expire on 6/30/2021. Priya is the General Manager of the Wingate by Wyndham, which is located in Winchester.

The Board also recommends the re-appointment of Kristen Laise, whose first term as a Non-Profit Sector representative expires on 6/30/2018. According to the bylaws, Kristen is eligible for re-appointment, and her second term will expire on 6/30/2021. Kristen is the Executive Director of the Belle Grove Plantation, which is located in Middletown.

These members will join: Mary Braun and Karen Helm who represent the Non-Profit Sector, and Andy Gyurisin, Sharon Farinholt and James "Eddie" Richard, Jr. who represent the Private Sector. With approval of the new nominations and the re-appointments, the board will consist of five private-sector representatives, two of whom represent lodging, and four public/non-profit-sector representatives, as outlined in the Winchester-Frederick County Tourism Bylaws.

Winchester-Frederick County Convention and Visitors Bureau

1400 South Pleasant Valley Road, Winchester, VA 22601 • 540.542.1326 (o) • 540.450.0099 (f)
www.VisitWinchesterVa.com

I



COUNTY OF FREDERICK

Roderick B. Williams
County Attorney

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

MEMORANDUM

TO: Frederick County Board of Supervisors
CC: Kris Tierney, County Administrator
FROM: Roderick B. Williams, County Attorney
DATE: Monday, June 04, 2018
RE: Commissioner of Revenue Refund Requests

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

1. Ally Financial/Vault – \$7,038.39
2. G E Capital Auto Lease – \$12,124.71

Roderick B. Williams
County Attorney

Attachments



COUNTY OF FREDERICK

Roderick B. Williams
County Attorney

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

MEMORANDUM

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

CC: Kris Tierney, County Administrator

FROM: Roderick B. Williams, County Attorney

DATE: June 4, 2018

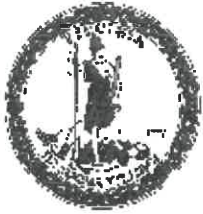
RE: Refund – Ally Financial/Vault

I am in receipt of the Commissioner's request, dated June 4, 2018, to authorize the Treasurer to refund Ally Financial/Vault the amount of \$7,038.39, for exoneration of personal property taxes for 2016, 2017 and part of 2018 and vehicle license fees for 2016, 2017 and 2018. This refund resulted from normal proration of vehicle taxes where vehicles were either sold or moved from this locality.

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

Roderick B. Williams
County Attorney

Attachment



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



JUNE 4, 2018

TO: Rod Williams, County Attorney
Cheryl Shiffler, Finance Director
Frederick County Board of Supervisors
Kris Tierney, County Administrator

FROM: Ellen E. Murphy, Commissioner of the Revenue

RE: Exoneration – Ally Financial/Vault

Ellen E. Murphy

Please approve a refund of \$7,038.39 for exoneration of personal property taxes for 2016 through part of 2018 and registration fees in the name of Ally Financial/Vault. This refund is for vehicular personal property taxes for the periods shown. Vehicles were either sold or moved out during this period and all are the result of normal proration.

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

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

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

Exoneration is \$7,038.39.

Date: 5/31/18

Cash Register: COUNTY OF FREDERICK

Time: 12:36:39

Cashier:

Customer Name: ALLY FINANCIAL/VAULT

Total Transactions: 845
Customer Transactions: 16

Options: 2=Edit 4=Delete 5=View

| Opt | Dept | Trans | Ticket No. | Tax Amount | Penalty/Int | Amount Paid |
|-----|--------|-------|-------------|-------------|-------------|-------------|
| - | PP2016 | 1 | 00009200005 | \$1,081.96- | \$.00 | \$1,081.96- |
| - | PP2016 | 2 | 00009200006 | \$1,081.96- | \$.00 | \$1,081.96- |
| - | PP2017 | 3 | 00009340001 | \$868.73- | \$.00 | \$868.73- |
| - | PP2017 | 4 | 00009340002 | \$868.72- | \$.00 | \$868.72- |
| - | PP2017 | 5 | 00009340017 | \$101.25- | \$.00 | \$101.25- |
| - | PP2017 | 6 | 00009340018 | \$303.75- | \$.00 | \$303.75- |
| - | PP2018 | 7 | 00009520001 | \$742.98- | \$.00 | \$742.98- |
| - | PP2018 | 8 | 00009520002 | \$742.97- | \$.00 | \$742.97- |
| - | PP2018 | 9 | 00009520003 | \$270.10- | \$.00 | \$270.10- |
| - | PP2018 | 10 | 00009520004 | \$270.09- | \$.00 | \$270.09- |
| - | PP2018 | 11 | 00009520025 | \$151.47- | \$.00 | \$151.47- |
| - | PP2018 | 12 | 00009520026 | \$454.41- | \$.00 | \$454.41- |

Multiple Pages

F3=Exit F14=Show Map#

Total Paid :

F15=Show Balance

\$7,038.39

F18=Sort-Entered

F21=CmdLine

F20=Attach

Date: 5/31/18

Cash Register: COUNTY OF FREDERICK

Time: 12:36:39

Cashier:

Customer Name: ALLY FINANCIAL/VAULT

Total Transactions: 845
Customer Transactions: 16

Options: 2=Edit 4=Delete 5=View

| Opt | Dept | Trans | Ticket No. | Tax Amount | Penalty/Int | Amount Paid |
|-----|--------|-------|-------------|------------|-------------|-------------|
| - | VL2016 | 13 | 00012190001 | \$25.00- | \$.00 | \$25.00- |
| - | VL2017 | 14 | 00012870001 | \$25.00- | \$.00 | \$25.00- |
| - | VL2018 | 15 | 01049170001 | \$25.00- | \$.00 | \$25.00- |
| - | VL2018 | 16 | 01049180001 | \$25.00- | \$.00 | \$25.00- |

Multiple Pages

F3=Exit F14=Show Map#

Total Paid :

F15=Show Balance

\$7,038.39

F18=Sort-Entered

F21=CmdLine

F20=Attach

* Needs Board Approval



COUNTY OF FREDERICK

Roderick B. Williams
County Attorney

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

MEMORANDUM

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

CC: Kris Tierney, County Administrator

FROM: Roderick B. Williams, County Attorney

DATE: May 29, 2018

RE: Refund – G E Capital Auto Lease

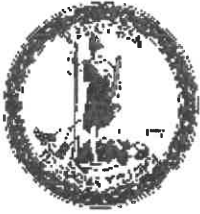
I am in receipt of the Commissioner's request, dated May 23, 2018, to authorize the Treasurer to refund G E Capital Auto Lease the amount of \$12,124.71, for exoneration of personal property taxes for 2015, 2016 and 2017 and vehicle license fees for 2015, 2016 and 2017. This refund resulted from normal proration of vehicle taxes where vehicles were either sold or moved from this locality.

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

A handwritten signature in black ink, appearing to be "Roderick B. Williams", is written over a horizontal line.

Roderick B. Williams
County Attorney

Attachment



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



May 23, 2018

TO: Rod Williams, County Attorney
Cheryl Shiffler, Finance Director
Frederick County Board of Supervisors
Kris Tierney, County Administrator

FROM: Ellen E. Murphy, Commissioner of the Revenue

RE: Exoneration – G E Capital Auto Lease

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

Please approve a refund of \$12,124.71 for exoneration of personal property taxes for 2015, 2016 and 2017 and registration fees in the name of G E Capital Auto Lease. This refund is for vehicular personal property taxes for the periods shown. Vehicles were either sold or moved out during this period and all are the result of normal proration.

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

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

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

Exoneration is \$12,124.71

Cashier:
Customer Name: G E CAPITAL AUTO LEASE

Total Transactions:
Customer Transactions: 50

Options: 2=Edit 4=Delete 5=View

Table with 7 columns: Opt, Dept, Trans, Ticket No., Tax Amount, Penalty/Int, Amount Paid. Rows 1-12.

Table with 7 columns: Opt, Dept, Trans, Ticket No., Tax Amount, Penalty/Int, Amount Paid. Rows 13-24.

Table with 7 columns: Opt, Dept, Trans, Ticket No., Tax Amount, Penalty/Int, Amount Paid. Rows 25-36.

Table with 7 columns: Opt, Dept, Trans, Ticket No., Tax Amount, Penalty/Int, Amount Paid. Rows 37-48.

Table with 7 columns: Opt, Dept, Trans, Ticket No., Tax Amount, Penalty/Int, Amount Paid. Rows 49-50.

*needs Board Approval

J

DATE: June 7, 2018

TO: Frederick County Board of Supervisors

FROM: Patrick Barker, CEcD
Executive Director

CC: Kris Tierney
County Administrator

RE: Performance Agreement Extension: Kingspan

Attached for the Board of Supervisors action please find a resolution extending the Performance Date of Kingspan Insulation LLC's Performance Agreement dated December 31, 2016. As you might recall, the Board of Supervisors previously discussed this matter and was supportive of a revised Performance Date of December 31, 2018. Section 1 of the Performance Agreement permits such an extension to December 31, 2018. Frederick County possesses the sole and absolute authority to extend the Performance Date.

The commissioning of Kingspan Insulation LLC's new production line has proven to take longer than expected. By the end of the year, the company states all necessary investment will be complete to comply with the New Capital Investment Target in the Performance Agreement. They have already achieved the New Jobs Target.

Staff is seeking Board action on the attached resolution.



RESOLUTION

Frederick County Board of Supervisors

EXTENDING PERFORMANCE DATE FOR KINGSPAN INSULATION LLC ECONOMIC DEVELOPMENT PERFORMANCE AGREEMENT

WHEREAS, KINGSPAN INSULATION LLC has made known its intent to expand its operation in Frederick County, Virginia by making new taxable machinery and equipment and real property improvements and retain and create jobs; and

WHEREAS, the Board of Supervisors for the County of Frederick, Virginia and KINGSPAN INSULATION LLC executed a Performance Agreement on June 22, 2016 to assist in expanding the operation for KINGSPAN INSULATION LLC in Frederick County, Virginia; and

WHEREAS, that the Board of Supervisors for the County of Frederick, Virginia, possesses the sole and absolute authority to extend the Performance Date in the executed Performance Agreement with KINGSPAN INSULATION LLC;

NOW THEREFORE BE IT RESOLVED, that the Board of Supervisors for the County of Frederick, Virginia does authorize extension of the Performance Date of the executed Performance Agreement with KINGSPAN INSULATION LLC to December 31, 2018.

Upon motion duly made by _____, seconded by _____, and on the votes hereafter recorded,

ADOPTED, this 13th day of June 2018

Charles S. Dehaven, Jr. _____

Shannon Trout _____

Judith McCann-Slaughter _____

Gary Lofton _____

J. Douglas McCarthy _____

Robert Wells _____

Blaine Dunn _____

A COPY TESTE:

Kris Tierney
Clerk, Board of Supervisors

К



APPLICATION FOR OUTDOOR FESTIVAL PERMIT COUNTY OF FREDERICK, VIRGINIA

(Please Print Clearly)

| APPLICANT INFORMATION | | | | |
|---|--|-----------------|---|------------------------------------|
| Name of Applicant: <u>Robert Bauserman</u> | | | | |
| Telephone Number(s): <u>540 532-2632</u> <input type="checkbox"/> home <input checked="" type="checkbox"/> office <input type="checkbox"/> cell _____ <input type="checkbox"/> home <input type="checkbox"/> office <input type="checkbox"/> cell | | | | |
| Address: <u>2790 North Frederick Pike Winc. VA 22603</u> | | | | |
| Contact Email: <u>Fabjamshow@gmail.com</u> | | | | |
| FESTIVAL EVENT ORGANIZATIONAL INFORMATION | | | | |
| Festival Event | Name of Festival: <u>FAB JAM</u> | | | |
| Cost of Admission to Festival: <u>Free</u> | Business License Obtained: <input type="checkbox"/> Yes <input type="checkbox"/> No | | | |
| Date(s) | Start Time | End Time | Maximum No. of Tickets Offered For Sale Per Day | Estimated No. of Attendees Per Day |
| <u>June 23rd</u> | <u>7:00 AM</u> | <u>11:00 PM</u> | <u>500</u> | <u>500</u> |
| <u>(RAIN DATE) 24th</u> | <u>7:00 AM</u> | <u>12:00 PM</u> | <u>200</u> | <u>200</u> |
| Location | Address: <u>Frederick County Fairgrounds</u> | | | |
| Owner of Property | Name(s): <u>Frederick County Fairground Association</u>
Address: _____
<small>(*NOTE: Applicant may be required to provide a statement or other documentation indicating consent by the owner(s) for use of the property and related parking for the festival.)</small> | | | |
| Promoter | Name(s): <u>Robert Bauserman</u>
Address: <u>2790 North Fred. Pike</u>
<small>(*NOTE: For festivals other than not-for-profit, promoter may need to check with the Frederick County Commissioner of Revenue to determine compliance with County business license requirements; in addition, promoters who have repeat or ongoing business in Virginia may be required to register with the VA State Corporation Commission for legal authority to conduct business in Virginia.)</small> | | | |
| Financial Backer | Name(s): _____
Address: _____ | | | |
| Performer | Name of Person(s) or Group(s): <u>Apollo's Prophecy, Rock Shiver, and Southern Governor</u>
<u>(music from 7pm to 10pm)</u>
<small>(*NOTE: Applicant may need to update information as performers are booked for festival event.)</small> | | | |

FESTIVAL EVENT LOGISTICS INFORMATION AND DOCUMENTATION

- 1. Attach a copy of the printed ticket or badge of admission to the festival, containing the date(s) and time(s) of such festival (may be marked as "sample"). copy attached OR copy to be provided as soon as available
- 2. Provide a plan for adequate sanitation facilities as well as garbage, trash, and sewage disposal for persons at the festival. This plan must meet the requirements of all state and local statutes, ordinances, and regulations, and must be approved by the VA Department of Health (Lord Fairfax Health District).

Johnny Blues, trash bins

- 3. Provide a plan for providing food, water, and lodging for the persons at the festival. This plan must meet the requirements of all state and local statutes, ordinances, and regulations, and must be approved by the VA Department of Health (Lord Fairfax Health District).

Fizzles BBQ, O-60 cafe

- 4. Provide a plan for adequate medical facilities for persons at the festival. This plan must meet the requirements of all state and local statutes, ordinances, and regulations, and must be approved by the County Fire Chief or Fire Marshal and the local fire and rescue company.

I will notify Clearbrook fire + rescue

- 5. Provide a plan for adequate fire protection. This plan must meet the requirements of all state and local statutes, ordinances, and regulations, and must be approved by the County Fire Chief or Fire Marshal and the local fire and rescue company.

"

"

- 6. Provide a plan for adequate parking facilities and traffic control in and around the festival area. (A diagram may be submitted.)

- 7. State whether any outdoor lights or lighting will be utilized: YES NO

If yes, provide a plan or submit a diagram showing the location of such lights and the proximity relative to the property boundaries and neighboring properties. In addition, show the location of shielding devices or other equipment to be used to prevent unreasonable glow beyond the property on which the festival is located.

Just lighting from 7pm to 10pm

- 8. State whether alcoholic beverages will be served: YES NO

If yes, provide details on how it will be controlled.

(NOTE: Evidence of any applicable VA ABC permit must also be provided and posted at the festival as required. Applicant may need to confirm with the VA ABC that a license is not required from that agency in order for festival attendees to bring their own alcoholic beverages to any event that is open to the general public upon payment of the applicable admission fee.)

FESTIVAL PROVISIONS

Applicant makes the following statements:

- A. Music shall not be rendered nor entertainment provided for more than eight (8) hours in any twenty-four (24) hour period, such twenty-four (24) hour period to be measured from the beginning of the first performance at the festival.
- B. Music shall not be played, either by mechanical device or live performance, in such a manner that the sound emanating therefrom exceeds 73 decibels at the property on which the festival is located.
- C. No person under the age of eighteen (18) years of age shall be admitted to any festival unless accompanied by a parent or guardian, the parent or guardian to remain with such person at all times. (NOTE: It may be necessary to post signs to this effect.)
- D. The Board, its lawful agents, and/or duly constituted law enforcement officers shall have permission to go upon the property where the festival is being held at any time for the purpose of determining compliance with the provisions of the County ordinance.

CERTIFICATION

I, the undersigned Applicant, hereby certify that all information, statements, and documents provided in connection with this Application are true and correct to the best of my knowledge. In addition, Applicant agrees that the festival event and its attendees shall comply with the provisions of the Frederick County ordinance pertaining to festivals as well as the festival provisions contained herein.



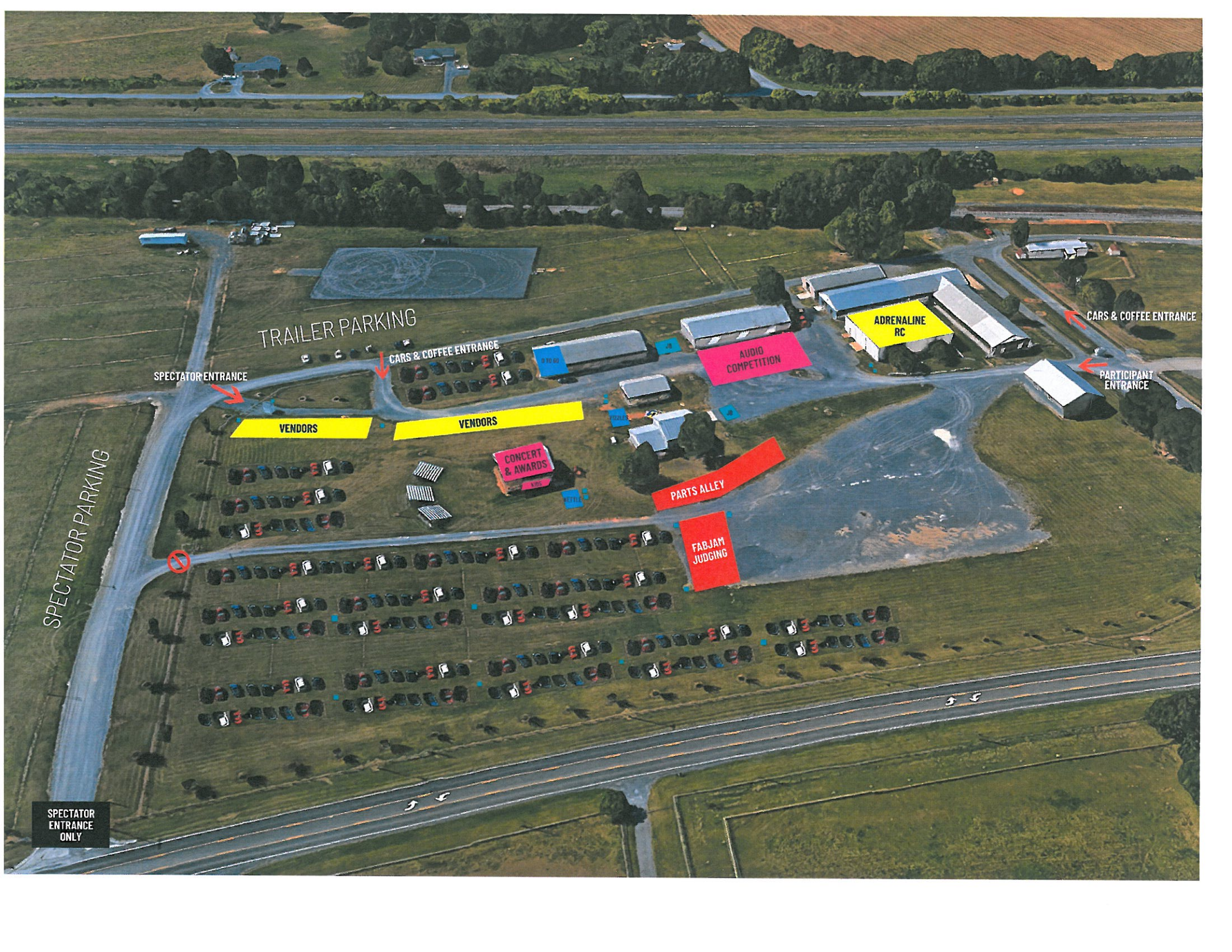
Signature of Applicant

Robert C. Bauer

Printed Name of Applicant

5-3-2018
Date: 5-3-2018

THE BOARD SHALL HAVE THE RIGHT TO REVOKE ANY PERMIT ISSUED UNDER THIS ORDINANCE UPON NON-COMPLIANCE WITH ANY OF ITS PROVISIONS AND CONDITIONS.



TRAILER PARKING

SPECTATOR ENTRANCE

CARS & COFFEE ENTRANCE

CARS & COFFEE ENTRANCE

PARTICIPANT ENTRANCE

VENDORS

VENDORS

ADRENALINE RC

AUDIO COMPETITION

CONCERT & AWARDS

PARTS ALLEY

FAB-JAM JUDGING

SPECTATOR PARKING

SPECTATOR ENTRANCE ONLY

L



COUNTY of FREDERICK

Office of the County Administrator

Tel: 540.665.6382

Fax: 540.667.0370

MEMORANDUM

To: Frederick County Board of Supervisors

From: Ann W. Phillips, Deputy Clerk to the Board of Supervisors

Date: June 7, 2018

Re: Request for Mountain Falls Park Sanitary District Designation

=====

Following is the timeline of events set in motion by the receipt in this office of petitions signed by residents of Mountain Falls Park subdivision.

On April 3, we received a petition stating “I am interested in Mountain Falls Park becoming a Sanitary District. I certify I am a registered voter and reside in Mountain Falls Park Subdivision”. Rick Miller, Voter Registrar, verified that the petition contained the signatures of 63 qualified registered voters and therefore it was certified as a valid petition.

On April 16, Kris wrote you a memo outlining possible courses of action following a public hearing on the issue.

On April 25, the Board set a public hearing on the matter for the June 13 meeting.

On May 23, twenty-five signed statements were received in this office with the notation that more would be forthcoming. **(SEE ATTACHED SAMPLE)**

As of June 7, five (5) emails in support of a sanitary district designation and two (2) in opposition have been received.

PDF files of the materials received have been sent electronically for your review. The original hard copies will be available at the Board meeting.

On June 13, the Board will conduct a public hearing on the request for creation of a sanitary district.

Date: May 8, 2018
To: Mountain Falls Park Property Owners
From: Ethel Nichols & Beth Shalap
Subject: Update on the Sanitary District Petition Process /
Defining the Mt. Falls Park Sanitary District Petition Request

UPDATE:

The Virginia Law regarding the process to become a Sanitary District changed last year. Sanitary District Petition Motions are no longer filed with the Frederick County Circuit Court. Instead, they must be submitted to the Frederick County Board of Supervisors for a decision. Frederick County currently has two Sanitary Districts, Shawneeland and Lake Holiday. Due to the change in the Law, Frederick County now has to create a process by which to address Sanitary District Petitions and is a fluid work in progress by all involved but is continuing to move forward.

Our petition requesting Mt. Falls Park become a Sanitary District was submitted on May 3, 2018, with 66 signatures. The County Registrar validated 63 of the signatures as being qualified and thus the first requirement of the new Law mandating 50 "qualified" signatures has been met.

Our Petition was placed on the Frederick County Board of Supervisors Agenda on April 25, 2018. At that meeting, the Board of Supervisors set a Public Hearing date for the Sanitary District Petition to be heard at 7:00 pm on June 13, 2018, in the County Board of Supervisors meeting room.

In order for the Public Hearing to be held on June 13, 2018, the Public Hearing process requires that Frederick County advertise the Public Hearing in the newspaper 3-weeks in May. This Public Hearing period will afford the property owners within Mt. Falls Park to address the Frederick County Board of Supervisors to share their opinion on the "Park" becoming a Sanitary District. It is imperative that all in favor of Mt. Falls Park becoming a Sanitary District have their voices heard by either calling, emailing or **preferably** coming to this Public Hearing to address the County Board of Supervisors directly. The address where the County Board of Supervisors meeting is held is 107 N. Kent Street, Winchester, Virginia. Additional contact information has been provided below for those unable to attend but who still want their opinion heard.

At the April 25, 2018, Frederick County Board of Supervisors meeting, the Frederick County Administrator informed the Supervisors that they have four options to choose from at the June 13, 2018, Public Hearing and they are as follows:

- 1) **Create a SD** - You could decide to create a sanitary district. If the Board chooses to create the new district, it would need to enact an ordinance that sets the metes and bounds of the district. The Board may exclude any parcels from the district that would not benefit from inclusion.
- 2) **Decide against creating a SD** - If the Board does not choose to create a new sanitary district, the Board need not take further action beyond its vote.
- 3) **Task Residents desiring the SD with Refining their Request** - Given that there are only 63 signatures on the petition (there are over 400 lots in the subdivision) and the petition provides no insight into the reasons why a district is being sought, the Board could task those residents that are promoting its creation with providing more information on what they envision a Sanitary District doing, as well as demonstrating that there is broad support amongst the community for its creation.

4) **Refer to staff/Public Works Committee for study** - You could direct staff to examine the issues associated with the creation of the proposed sanitary district and develop a proposal (including projected costs) for its creation and operation. The proposal might address such items as:

- The current status of roads and common areas in the proposed district, including the estimated cost of any needed remediation or repair.
- The anticipated annual cost of maintaining the proposed sanitary district, to include roads, or other capital projects that are anticipated.
- Staffing needs for the proposed district.
- Necessary fees to be charged to members of the district to support needed upgrades as well as annual district maintenance.
- A means of determining whether the creation of the SD is supported by at least half of residents and landowners Mt. Falls/Wilde Acres.

It will be our request at the June 13, 2018, County Board of Supervisors meeting that the Board **NOT** vote yes or no to our petition at that time, but will instead choose option (4) and refer the matter to the Public Works Committee for further study to come up with a cost estimate and inform residents of said annual costs for a Mt. Falls Park Sanitary District. We will request that there then be a Second Public hearing with a final vote to occur at that time.

DEFINING THE MT. FALLS PARK SANITARY DISTRICT PETITION REQUEST:

Prior to the Public Hearing occurring on June 13, 2018, the County has requested property owners within the "Park" broadly define how we envision a Mt. Falls Park Sanitary District.

When Beth and I were soliciting the Petition Signatures, we explained to those signing that our goal was for Frederick County to create a Sanitary District modeled after Shawneeland. Therefore, the petitioners/residents of Mt. Falls Park formally request a Mt. Falls Park Sanitary District include Road Maintenance, Snow Removal, Maintenance of the Common Areas, and Establish an Advisory Committee to represent the interest of the residents of Mt. Falls Park.

If you agree with this request, please indicate your approval by signing below and return to Ethel Nichols in the enclosed pre-paid envelope by May 21, 2018. We will be providing this additional information to the County Board of Supervisors on May 23, 2018. If you have any further questions, please contact Ethel Nichols at elnichols57@gmail.com or Beth Shalap at bshalap1@hotmail.com.

Property Owner/Resident Signature:

Date:

Property Owner/Resident Address:

If you are unable to attend the County Board of Supervisors meeting on June 13, 2018, you can still have your opinion heard by contacting the Frederick County Deputy Clerk, Ann Phillips by phone at 540-722-8273 or email at ann.phillips@fcva.us.

M



REZONING APPLICATION #05-17

O-N MINERALS/dba CARMEUSE LIME & STONE

Staff Report for the Board of Supervisors

Prepared: June 1, 2018

Staff Contact: Candice E. Perkins, AICP, CZA, Assistant Director

| | <u>Reviewed</u> | <u>Action</u> |
|------------------------------|-----------------|---|
| Planning Commission: | 11/15/17 | Public Hearing Held; Postponed for 90 Days |
| Planning Commission: | 02/21/18 | Public Hearing Held; Recommended Denial |
| Board of Supervisors: | 03/14/18 | Public Hearing Held; Postponed for 30 Days |
| Board of Supervisors: | 04/25/18 | Public Hearing Held; Postponed to May 23, 2018 |
| Board of Supervisors: | 05/23/18 | Public Hearing Held; Postponed to June 13, 2018 |
| Board of Supervisors: | 06/13/18 | Pending |

PROPOSAL: To rezone 394.2+/- acres from the EM (Extractive Manufacturing) District with proffers to the EM (Extractive Manufacturing) District with revised proffers. The Middletown site was originally rezoned to the EM (Extractive Manufacturing) District with Rezoning #03-06 for O-N Minerals (Chemstone) which was approved in 2008.

LOCATION: The properties are located west of the Town of Middletown. Specifically, the Middle Marsh Property is located east of Belle View Lane (Route 758), and west and adjacent to Hites Road (Route 625) and is further traversed by Chapel Road (Route 627). The Northern Reserve is bounded to the south by Cedar Creek and is west and adjacent to Meadow Mills Road (Route 624).

EXECUTIVE SUMMARY & CONCLUSION FOR THE 06/13/18 BOARD OF SUPERVISORS

MEETING:

The Planning Commission at their February 21, 2018 meeting unanimously recommended denial of this application. The Board of Supervisors held a public hearing for this item on March 14, 2018 and postponed the application until the April 25, 2018 meeting. The application was then postponed to the May 23rd Board of Supervisors meeting to provide the Applicant additional time to work on the application and was then postponed to the June 13, 2018 to allow additional time to review revised proffers.

With this rezoning, the Applicant is proposing the following changes:

- **Proffer Introduction:**
 - Remove the previously proffered Overall Plan, Phasing I, II, III and IV Plans and six of the twelve viewshed plans.
 - The revised proffer proposes to utilize an amended Generalized Development Plan and nine viewshed plans.
- **Berm installation timing:**
 - Berms A and Berm B (original Phase I) were to be installed within 10 years of the approval of the proffer (2018).
 - Berms C and Berm D (original Phase II) were to be installed no later than 10 years prior to the commencement of mining north of Chapel Road.

- *The proffer amendment removes the requirement that the berms be installed 10 years prior to mining north of Chapel Road. The proposed amendment states that the berms would be installed after permitting and two years prior to the extraction of material for processing.*
- **Berm Landscaping:**
 - The amendment removes original Exhibit 3 which pertained to the description of the plants to be installed on the berms. The approved proffer statement requires the berm plantings to “a mix of deciduous and coniferous plantings placed in a random manner to be consistent with existing vegetation patterns” and would be subject to reasonable approval by the Zoning Administrator and the state forester.
 - The proposed proffer states “plantings will include a seed mix recommended by the National Park Service that is currently in use at the adjacent Cedar Creek and Bell Grove National Historic Park”.
 - *This proffer reduces the timing to include two years prior to extraction of materials, which reduces the established timeline that would provide additional established landscaping protection for adjacent properties.*
- **Berm Heights:**
 - Berms were proffered with a maximum height of 30 feet and a minimum height of 10 feet as depicted on the twelve original viewshed plans.
 - The proposed proffer includes nine proposed viewshed plats and proposes text that states, “a combination of landscaping, earthen berms and fencing shall either be maintained or installed as depicted and described on the amended GDP” and that the “owner shall install berms in the areas where berms are depicted on said Amended GDP”.
 - **Proffer 2.2 Berm D - Section 1** – Berm Section 1 is the section south of the Westernview Subdivision. The viewshed from the quarry to the adjacent Subdivision was originally proffered at a 20’.
 - **Proffer 2.2 Berm D - Section 2** – This revision proposes a 30’ berm which is consistent with the approved proffers. **Proffer 2.2 Berm D - Section 3** – The northern section of Chapel Road shows a 10’ berm which is consistent with the approved proffer.
 - **Proffer 2.2 Berm D - Section 4** – This revision proposes a 20’ berm which is consistent with the approved proffers.
- **Proffer 2.2 – Stockpile** – No spoil pile shall exceed the height of the highest berm north of Chapel Road.
- **Proffer 2.2 – Area outside of Berm D – Section 1** – There shall be no extraction of material for processing outside the berms. The field between Berm D Section 1 and Westernview shall not be used for parking or storage of mining equipment, and any vehicles and/or equipment shall be staged in this area only while they are engaged maintenance, monitoring and/or exploration activities.

- **Quarry Hours – Proffer 2.4** – This proposed addition includes normal hours of operation for the portion of the property north of Chapel Road which will be 6 a.m.-10 p.m. Monday-Friday and no major holidays.
- **Rights to Water Supply – Original Proffer 5.** This proffer is proposed to be eliminated.
- **Proffer 4 – Groundwater (Original proffer 5):** Addition to this proffer of “In addition to the provisions set forth above, the Owner agrees to install at least one monitoring well within six (6) months of the approval of this Amended Proffer Statement”.
- **Proffer 6 Blasting Control (Original Proffer 7):** Addition to this proffer of “Provided Owner has received a written request from a property owner within fifteen hundred feet (1,500’) of the Property rezoned herein, the Owner shall establish and maintain a notification methodology that provides notice to the requesting property owner of any and all blasting that will occur north of Chapel Road as part of the extraction of material for processing or site development. Such methods may include but not be limited to, telephone calls, text messages or emails.
- **Proffer 8 (Original proffer 9.1):** Addition to this proffer of “a stationary seismograph reader shall be installed at a strategic location north of Chapel Road. Such location shall be chosen in coordination with and at the direction of a licensed engineer well versed in this function”.
- **Reclamation (Original Proffer 10):** This proffer is proposed to be eliminated.
- **Proffer 10 (Original Proffer 12):** Addition of “all lighting shall be turned off after working hours”.
- **Proffer 12.4 Environment (Original Proffer 14):** Addition to this proffer that agrees that the existing fence line/tree line along Section 1 of Berm D will remain and be maintained using best management and farm practices.

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

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

| | <u>Reviewed</u> | <u>Action</u> |
|------------------------------|-----------------|---|
| Planning Commission: | 11/15/17 | Public Hearing Held; Postponed for 90 Days |
| Planning Commission: | 02/21/18 | Public Hearing Held; Recommended Denial |
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| Board of Supervisors: | 05/23/18 | Public Hearing Held; Postponed to June 13, 2018 |
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PROPOSAL: To rezone 394.2+/- acres from the EM (Extractive Manufacturing) District with proffers to the EM (Extractive Manufacturing) District with revised proffers. The Middletown site was originally rezoned to the EM (Extractive Manufacturing) District with Rezoning #03-06 for O-N Minerals (Chemstone) which was approved in 2008.

MAGISTERIAL DISTRICT: Back Creek

PROPERTY ID NUMBERS: 83-A-109 and 90-A-23 (portions of)

PROPERTY ZONING: EM (Extractive Manufacturing) District

PRESENT USE: Quarry and Undeveloped

ADJOINING PROPERTY ZONING & PRESENT USE:

| | |
|--------------------------------------|-------------------------------|
| North: RA (Rural Areas) | Use: Residential |
| South: EM (Extractive Manufacturing) | Use: Shenandoah County |
| East: RA (Rural Areas) | Use: Residential/Agricultural |
| West: RA (Rural Areas) | Use: Residential/Agricultural |

PROPOSED USES: Quarry

REVIEW EVALUATIONS:

Planning & Zoning:

1) **Site History:**

The original Frederick County zoning map (U.S.G.S. Middletown Quadrangle) identifies the subject parcels as being zoned A-2 (Agricultural General). The County's agricultural zoning districts were subsequently combined to form the RA (Rural Areas) District upon adoption of an amendment to the Frederick County Zoning Ordinance on May 10, 1989. The corresponding revision of the zoning map resulted in the re-mapping of the subject property and all other A-1 and A-2 zoned land to the RA District. The subject properties were rezoned to the EM (Extractive Manufacturing) District with the approval of Rezoning #03-06 on May 28, 2008 (see attached original proffers).

2) **Comprehensive Plan:**

The 2035 Comprehensive Plan is the guide for the future growth of Frederick County.

The 2035 Comprehensive Plan is an official public document that serves as the Community's guide for making decisions regarding development, preservation, public facilities and other key components of Community life. The primary goal of this plan is to protect and improve the living environment within Frederick County. It is in essence a composition of policies used to plan for the future physical development of Frederick County.

The Area Plans, Appendix I of the 2035 Comprehensive Plan, are the primary implementation tool and will be instrumental to the future planning efforts of the County.

Land Use

The subject properties are located within the Rural Areas of Frederick County and are outside of the limits of the Urban Development Area (UDA) and the Sewer and Water Service Area (SWSA). The Rural Areas land use designation is defined in the Comprehensive Plan as all areas outside of the designated Urban Development Area. The primary land uses in the Rural Areas are agriculture and forests. The primary growth pattern consisting of widely scattered, large lot residential development.

Transportation and Access

The Eastern Road Plan of the Comprehensive Policy Plan does not cover this portion of the County. Per the 2006 rezoning, site access continues to be via the existing quarry entrance on McCune Road (Route 757) – See proffer 2.1

3) **Historic:**

The Historic Resources Advisory Board (HRAB) reviewed the original 2006 rezoning application on December 20, 2005. This rezoning does not increase the historic impacts from the original rezoning application. Staff would note that the Applicant has completed the 8-acre

land dedication to the Cedar Creek Battlefield Foundation as stated in proffer 3.1, as well as, the Phase I Archeological Survey per proffer 3.2.

4) **Proffer Statement – Dated June 13, 2005; revised January 31, 2018; revised February 14, 2018; March 2, 2018; revised May 15, 2018; revised June 1, 2018:**

Proposed revisions from the approved proffer statement (please see attached redline copy of the proffer statement):

- **Proffer Introduction:**
 - Remove the previously proffered Overall Plan, Phasing I, II, III and IV Plans and six of the twelve viewshed plans.
 - The revised proffer proposes to utilize an amended Generalized Development Plan and nine viewshed plans.

- **Berm installation timing:**
 - Berms A and Berm B (original Phase I) were to be installed within 10 years of the approval of the proffer (2018).
 - Berms C and Berm D (original Phase II) were to be installed no later than 10 years prior to the commencement of mining north of Chapel Road.
 - *The proffer amendment removes the requirement that the berms be installed 10 years prior to mining north of Chapel Road. The proposed amendment states that the berms would be installed after permitting and two years prior to the extraction of material for processing.*

- **Berm Landscaping:**
 - The amendment removes original Exhibit 3 which pertained to the description of the plants to be installed on the berms. The approved proffer statement requires the berm plantings to “a mix of deciduous and coniferous plantings placed in a random manner to be consistent with existing vegetation patterns” and would be subject to reasonable approval by the Zoning Administrator and the state forester.
 - The proposed proffer states “plantings will include a seed mix recommended by the National Park Service that is currently in use at the adjacent Cedar Creek and Bell Grove National Historic Park”.
 - *This proffer reduces the timing to include two years prior to extraction of materials, which reduces the established timeline that would provide additional established landscaping protection for adjacent properties.*

- **Berm Heights:**
 - Berms were proffered with a maximum height of 30 feet and a minimum height of 10 feet as depicted on the twelve original viewshed plans.
 - The proposed proffer includes nine proposed viewshed plats and proposes text that states, “a combination of landscaping, earthen berms and fencing shall either be maintained or

installed as depicted and described on the amended GDP” and that the “owner shall install berms in the areas where berms are depicted on said Amended GDP”.

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 - **Proffer 2.2 Berm D - Section 2** – This revision proposes a 30’ berm which is consistent with the approved proffers. **Proffer 2.2 Berm D - Section 3** – The northern section of Chapel Road shows a 10’ berm which is consistent with the approved proffer.
 - **Proffer 2.2 Berm D - Section 4** – This revision proposes a 20’ berm which is consistent with the approved proffers.
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 - **Rights to Water Supply – Original Proffer 5.** This proffer is proposed to be eliminated.
 - **Proffer 4 – Groundwater (Original proffer 5):** Addition to this proffer of “In addition to the provisions set forth above, the Owner agrees to install at least one monitoring well within six (6) months of the approval of this Amended Proffer Statement”.
 - **Proffer 6 Blasting Control (Original Proffer 7):** Addition to this proffer of “Provided Owner has received a written request from a property owner within fifteen hundred feet (1,500’) of the Property rezoned herein, the Owner shall establish and maintain a notification methodology that provides notice to the requesting property owner of any and all blasting that will occur north of Chapel Road as part of the extraction of material for processing or site development. Such methods may include but not be limited to, telephone calls, text messages or emails.
 - **Proffer 8 (Original proffer 9.1):** Addition to this proffer of “a stationary seismograph reader shall be installed at a strategic location north of Chapel Road. Such location shall be chosen in coordination with and at the direction of a licensed engineer well versed in this function”.
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 - **Proffer 10 (Original Proffer 12):** Addition of “all lighting shall be turned off after working

hours”.

- **Proffer 12.4 Environment (Original Proffer 14):** Addition to this proffer that agrees that the existing fence line/tree line along Section 1 of Berm D will remain and be maintained using best management and farm practices.

All other proffers remain generally consistent with the 2006 approved rezoning and proffer statement.

PLANNING COMMISSION SUMMARY AND ACTION FROM THE 11/15/17 MEETING:

Staff reported this is a request to amend the proffers associated with Rezoning #03-06 which was approved in 2008. Staff continued, at that time 394.2+/-acres was rezoned from RA (Rural Areas) District to EM (Extractive Manufacturing) District. Staff noted the Applicant is seeking to revise the proffers pertaining to: Viewshed Plans, berm heights, installation timing, landscaping exhibit removal, and cemetery access. A location map of the property was presented. Staff reported the amendment seeks to remove the previously proffered Overall Plan, Phasing I, II, III and IV Plans, and the twelve (12) Viewshed Plans which were all components of the General Development Plan (GDP). This amendment seeks to eliminate these components and only utilize one (1) GDP. Staff presented the GDP which is generally consistent with the outline of the previously approved GDP in regard to the Berm locations on the properties. Staff reviewed the proffer revisions:

Viewshed Plans, Berm Heights, and Berm Installation Timing:

- The viewshed plans from the approved rezoning depicted the proposed berm heights that would provide screening and protection for surrounding properties.
- Berm heights ranged from 10’ to 30’ as depicted on the viewshed plans.
- Berm timing – Berms A and B were to be installed within 10 years of rezoning approval (installation by 2018). Berms C and D were to be installed no later than 10 years before the commencement of mining north of Chapel Road.
- This amendment removes all minimum/maximum heights and timing is now prior to the commencement of any extraction of materials.

Cemetery Access:

- Amendment seeks to eliminate the Marsh Brook Lane access and provide a new right-of-way that would provide access to the cemetery via Chapel Road. (the approved rezoning stated that the Applicant would improve the Marsh Brook Lane access within 12 months of completion of the cemetery restoration)
- The proposed amendment does not contain a timeline for the installation of this accessway and does not contain a backup if agency approval cannot be obtained for the new access point on Chapel Road.

Staff noted it appears this proposed proffer amendment will have a great impact on the surrounding residential properties and the Applicant has not provided justification that the berm revisions and the changes requested would mitigate the impacts on the surrounding properties.

A Commissioner inquired about the rights to water supply in paragraph 4.1 of the proffers. Staff explained that a proffer amendment was received from Mr. Ty Lawson prior to the meeting. Staff and the County Attorney were not able to review these prior to this meeting and cannot comment on them at this time. A Commissioner asked how long the Applicant has been working with Staff on these revisions. Staff noted in June 2017 comments were provided to the Applicant. A Commissioner inquired, in the original proffers there were commitments as far as pre-blast surveys of the properties surrounding the quarry; who was responsible in making sure the Applicant performed those commitments that were agreed to in the original rezoning; is the County involved in that, specifically the surveys concerning property conditions, water well conditions, and seismic monitoring. Staff reported it is the Applicant's responsibility to make sure they are fulfilling their proffers; should it arise that those proffers are not being fulfilled or there is a complaint, that proffer compliance would be investigated and determined if the proffers are being met or not. A Commissioner asked if Staff had received comments from residents that the proffers were not implemented as originally agreed to. Staff commented no, not at this time. A Commissioner commented that if the proposed amendment were approved, that the height of the berms would be up to the Applicant. Staff stated that is correct, under the proposed amendment the berm height would be at the Applicants discretion and they eliminated the landscaping detail. The Commissioner commented the current approval offers more to work with; the new proposal has no specificity. A Commissioner commented for clarity and should ignore what was submitted just a few hours ago and focus on what is in the agenda. A Commissioner asked how close the berms on the north end are from the residential strip of community housing there. Staff deferred this question to the Applicant as to if they have an exact distance planned for the old and new proffers.

Mr. Thomas (Ty) Moore Lawson, P.C. with Lawson & Silek, P.L.C representing the Applicant came forward. Mr. Lawson reported this proffer amendment is to specifically address the berms; on the north end of the property. In response to a Commissioner, Mr. Lawson noted when this exercise was started it was written in a way to just focus on things they wanted to change, as things developed it was pointed out with this rezoning being relatively old that a lot has been completed, therefore what has been accomplished should be considered. Mr. Lawson continued, 36+ acres has been conveyed to the Cedar Creek Battlefield and Article 4 references two old agreements that existed with the Sanitation Authority in 2005; those agreements were terminated, and a new agreement was put in place. Mr. Lawson reviewed the proffer update that was sent to Staff just prior to this meeting: 8-acre historical reserve grew to 36-acres; Phase I archeological study; Two (2) cemeteries were restored; ground water labeled as completed but under way; pre-blast surveys are ongoing (have contacted 105 families); noise requirements are the same; well monitoring is ongoing; phasing of berms A and B are complete. Regarding the berms Mr. Lawson explained the intent now is to have irregular berms in height and different vegetation. Mr. Lawson provided photos of existing berms and of new proposed berms placing berms behind vegetation. Mr. Lawson addressed the question of timing for the berms; the existing proffers states the berms be installed ten (10) years prior to mining activities, this has been removed and replaced with commencement and behind the tree lines so there is less disturbance. Mr.

Lawson provided photos of the viewshed and the GDP. A Commissioner inquired why the berms are being located behind the vegetation. Mr. Lawson commented the Applicant has a better idea where most of the stone is underground therefore the point is to be able to install the berms 100 ft. off the property line in turn making the impacts less severe. The Commissioner commented, to simplify; relocating the berms now depends on where the high-quality mineral is to be mined. Mr. Lawson stated that is partially correct; the other part is a fresh set of eyes reviewed this and determined relocation would be better for neighbors. The Commissioner noted relocating the berms have no bearing on the height of the berms. Mr. Lawson explained there was not a requirement to make the berms 30 ft., but somehow became part of the public process; this is not something the company wanted, and the intent is to vary the berm sizes.

A Commissioner requested clarification that the 85 property owners within the property boundary have been contacted regarding pre-blast surveys. Mr. Lawson noted the Applicant contacted all property owners, also offered pre-blast surveys and well monitoring at the Applicant's expense; some have taken advantage of this and others have not. The Commissioner asked if someone comes forth years down the road with problems on their property or structure, how would Chemstone defend this. Mr. Lawson explained the property owners should take advantage of these offers in advance therefore having something to go by. Mr. Lawson noted the existing proffers do not change obligations to one another. Complaints and questions are addressed by the company at all times. The Commissioner asked how often seismic waves are monitored for the 85 properties. Mr. Lawson stated the monitoring is ongoing. Mr. Mark Basel, Site Production Manager at the Middletown, Virginia operation came forward and reported the operation at Chemstone monitors every blast. They have permanent seismic graphs at three (3) different residences toward the southern end of the property. Mr. Basel noted currently there are no monitors at the northern end where there is no mining yet; they do place mobile units if necessary. A Commissioner inquired has there been any reported impacts/damages from blasting. Mr. Basel commented to his knowledge they have not been out of compliance; they do get calls if the blast is felt stronger than normal. He reiterated, they do monitor all blasts.

There were nine (9) citizens that spoke in opposition of this rezoning. The concerns shared were similar: delay action on this item, no contact from the Applicant regarding well and pre-blast surveys, berms would not provide enough protection and language in the proffers very ambiguous.

Mr. Lawson responded to comments: the drawings/maps are scaled, it is approximately 100 feet from the property line under the existing proffers, the Applicant has copies of notifications/letters that were sent to property owners for pre-blast surveys and well monitoring.

A Commissioner reminded everyone this item is not about the current land use which was previously approved; it pertains to the proffers being amended. He commented, he is agreeable to a delay on this and noted community engagement is extremely important. A Commissioner commented, this item must be acted on in a timely manner and cannot be moved to Spring 2018; he agrees to a postponement. The Commissioner continued, he urges the citizens to take advantage of the offer made by Carmeuse for pre-blast surveys and well monitoring so there can be a base starting point down the road. He concluded, the language is very ambiguous and vague, the Applicant needs to put back in the drawings and examples and put things in writing so that it is very clear.

A motion was made, seconded, and unanimously passed to recommend postponement for 90 days.

(Note: Commissioners Unger and Cline were absent from the meeting)

PLANNING COMMISSION SUMMARY AND ACTION FROM THE 02/21/18 MEETING:

Staff reported this is a request to amend the proffers associated with Rezoning #03-06 which was approved in 2008. Ms. Perkins continued, this request was postponed for 90 days at the Planning Commission's November 15, 2017 meeting to provide the Applicant additional time to discuss the proposal with neighbors. Staff explained the Applicant is seeking to revise the proffers pertaining to: Viewshed Plan, berm heights, installation timing, Landscaping exhibit removal and Cemetery access. Staff compared the proffers that have been approved to the amended proffers, dated February 14, 2018:

- The approved proffer required berms that ranged in height from 10' to 30' based on the 12 proffered viewshed plans. The revision includes 3 viewshed plats that only show proposed berm details north of Chapel Road.
- Berm Heights – Berm D (north of Chapel Road); berm adjacent to the Westernview Subdivision was proffered to be 30'. The revision proposes to reduce this berm to 15'.
- Berm Heights – Berms C & D; removes the berm detail south of Chapel Road and the Northern berm is still shown at 10'.
- Berm Timing – Berms C & D were proffered to be installed no later than 10 years prior to the commencement of mining north of Chapel Road. The revision proposes Berms C & D to be installed after the permitting process of the properties for mining and before any extraction of material for processing.
- Proffer 2.2 – Site Development: The November 2017 proffer stated, “a combination of landscaping, earthen berms and fencing shall be installed”; the February 2018 proffer states “earthen berms or fencing shall be installed”. This language is ambiguous and appears to allow for the complete elimination of all berms and only fencing provided.
- Cemetery Access: Seeks to relocate the Marsh Brook Lane access to Chapel Road. The approved proffer stated that the Applicant would “improve” the ROW so it can be used for access and that the Applicant would provide continued maintenance. The proposed proffer states that the owner would relocate the ROW; this proffer is ambiguous as to whether the Applicant will be building a ROW for access or just relocating the ROW. It was noted this also removes the timeline (12 months from cemetery restoration) therefore this is no trigger for the completion of this relocation.
- Site Access – Clarification: Staff noted the approved proffers state “access via public secondary roads shall be limited to the quarry entrance on McCune Road”. Staff has received several questions regarding site access directly via Chapel Road; Proffer 2.1 prohibits access to Chapel

Road for quarry operations. The proffered GDP indicates a proposed tunnel under Chapel Road.

Staff concluded it appears this proposed proffer amendment will have a great impact on the surrounding residential properties and the Applicant has not provided justification that the berm revisions and the changes requested would mitigate the impacts on the surrounding properties.

Mr. Michael Wilmoth from Carmeuse presented a brief overview of what has transpired since the November meeting: held two community meetings; had face to face meetings with residents; handled numerous phone calls. He provided a presentation of the revised proffers and various mapping.

A Commission Member inquired if the open field on the combined comparison will be mined in the future. Mr. Wilmoth stated not at this time. A Commission Member suggested possibly zoning this piece back to RA. Mr. Ty Lawson, representing the Applicant noted there is no intent at this time. A Commission Member suggested, if the berms are behind the tree line, why not include map or protection in the proffers for residents' years down the road and could be include in proffer 2.2. The Commissioner noted the wording in proffer 2.2 can be easily misinterpreted. A Commission Member suggested the wording be changed to offer protection to residents in the future. Mr. George McKotch of Carmeuse came forward and provided information pertaining to the berms and future mining. A Commission Member reminded everyone that is what is presented in the agenda is what is to be voted on this evening.

The Public Hearing was opened and six (6) residents came forward and shared their opposition to this rezoning citing concerns such as: requests not fully addressed by Carmeuse; community meetings did not involve everyone, truck traffic on roads, all berms to be 30 feet and residents losing property value. A Commission Member commented the items presented tonight are not acceptable, he sees no reason to reduce the height of the berms and the residents are not satisfied with any of the changes. Mr. Lawson noted the mission was to meet with neighbors; the berm height was the majority of the discussion and they received conflicting requests from neighbors. Mr. Lawson concluded this item needs to move forward and there is no time for a delay request.

A motion was made to deny this request, seconded, and unanimously recommended for denial. (Commissioner Mohn was absent from the meeting)

BOARD OF SUPERVIORS SUMMARY AND ACTION FROM THE 03/14/18 MEETING:

Staff provided an overview of the application and the revisions requested by the Applicant. Thomas Moore Lawson, representing Carmeuse, introduced Michael Wilmoth of Carmeuse who provided an overview of the request. Mr. Wilmoth said the company met with the neighbors of the property in question and the consensus was that moving the berm and changing the berm timeline were good things. He discussed a list of 11 items that were requested by the neighbors saying Carmeuse has been able to agree to eight of them. Mr. Lawson proceed to provide additional information and an overview of their request. Dr. Clarence R. Geier then discussed the Phase I Archeological Survey which was conducted on the property.

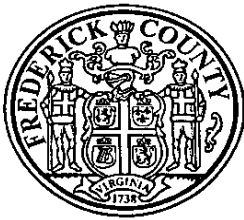
Thirteen citizens spoke during the public hearing. Mr. Lawson responded to the public hearing comments and he appreciated the time and comments of the Board and the project's neighbors. He said there have been seven amendments to the proffers and highlighted the proposed changes.

The item was postponed to the April 25, 2018 meeting with a continued public hearing.

BOARD OF SUPERVIORS SUMMARY AND ACTION FROM THE 04/25/18 MEETING: The item was postponed to the May 23, 2018 meeting with a continued public hearing.

BOARD OF SUPERVIORS SUMMARY AND ACTION FROM THE 05/23/18 MEETING: Staff provided an overview of the application and the revisions requested by the Applicant. The Applicant provided a presentation and provided an overview of the revised proffers presented to the Board at the meeting. The Board of Supervisors requested clarification on the hours of operation; the Applicant agreed to modify the hours of operation to remove the allowance for changes due to demand. Six citizens spoke during the public hearing. The item was postponed to the June 13, 2018 meeting with a continued public hearing to allow additional time to review the revised proffers present to the Board of Supervisors at their May 23, 2018 meeting.

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



ORDINANCE

Action:

| | | |
|-----------------------|---|--|
| PLANNING COMMISSION: | November 15, 2017
February 21, 2018 | Public Hearing Held; Postponed for 90 days
Recommended Denial |
| BOARD OF SUPERVISORS: | March 14, 2018
April 25, 2018
May 23, 2018
June 13, 2018 | Postponed to April 25, 2018
Postponed to May 23, 2018
Postponed to June 13, 2018 |

AN ORDINANCE AMENDING

THE ZONING DISTRICT MAP

REZONING #05-17 O-N MINERALS/dba CARMEUSE LIME & STONE

WHEREAS, REZONING #05-17, submitted O-N Minerals (Chemstone) Company to rezone 394.2± acres from the EM (Extractive Manufacturing) District with proffers to the EM (Extractive Manufacturing) District with revised proffers. The Middletown site was originally rezoned to the EM (Extractive Manufacturing) District with Rezoning #03-06 for O-N Minerals (Chemstone) which was approved in 2008. The Applicant is seeking to revise the proffers pertaining to viewshed plans, berms, landscaping and cemetery access with a final revision date of June 1, 2018 was considered. The subject properties are located west of the Town of Middletown. Specifically, the Middle Marsh Property is located east of Belle View Lane (Route 758), and west and adjacent to Hites Road (Route 625) and is further traversed by Chapel Road (Route 627). The Northern Reserve is bounded to the south by Cedar Creek and is west and adjacent to Meadow Mills Road (Route 624). The properties are located in the Back Creek Magisterial District and are identified by Property Identification Nos. 83-A-109 and 90-A-23 (portions of); and

WHEREAS, the Planning Commission held a public hearing on this rezoning on November 15, 2017 and postponed the application for 90 days and; the Planning Commission then held a public meeting on this rezoning on February 21, 2018 and recommended denial; and

WHEREAS, the Board of Supervisors held a public hearing on this rezoning on March 14, 2018 and postponed the application to the April 25, 2018 meeting with a continued public hearing; and

WHEREAS, the Board of Supervisors on April 25, 2018 postponed the application to the May 23, 2018 meeting with a continued public hearing; and

WHEREAS, the Board of Supervisors held a public hearing on this rezoning on May 23, 2018 and postponed the application to the June 13, 2018 meeting with a continued public hearing; and

WHEREAS, the Board of Supervisors held a public hearing on this rezoning on June 13, 2018; and

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

NOW, THEREFORE, BE IT ORDAINED by the Frederick County Board of Supervisors, that Chapter 165 of the Frederick County Code, Zoning, is amended to rezone two (2) parcels of land, 394.2± acres from the EM (Extractive Manufacturing) District with proffers to the EM (Extractive Manufacturing) District with revised proffers with a final revision date of June 1, 2018. The conditions voluntarily proffered in writing by the Applicant and the Property Owner are attached.

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

Passed this 13th day of June 2018 by the following recorded vote:

Charles S. DeHaven, Jr., Chairman

Gary A. Lofton

J. Douglas McCarthy

Robert W. Wells

Shannon G. Trout

Judith McCann-Slaughter

Blaine P. Dunn

A COPY ATTEST

Kris C. Tierney
Frederick County Administrator

REZ # 05 - 17

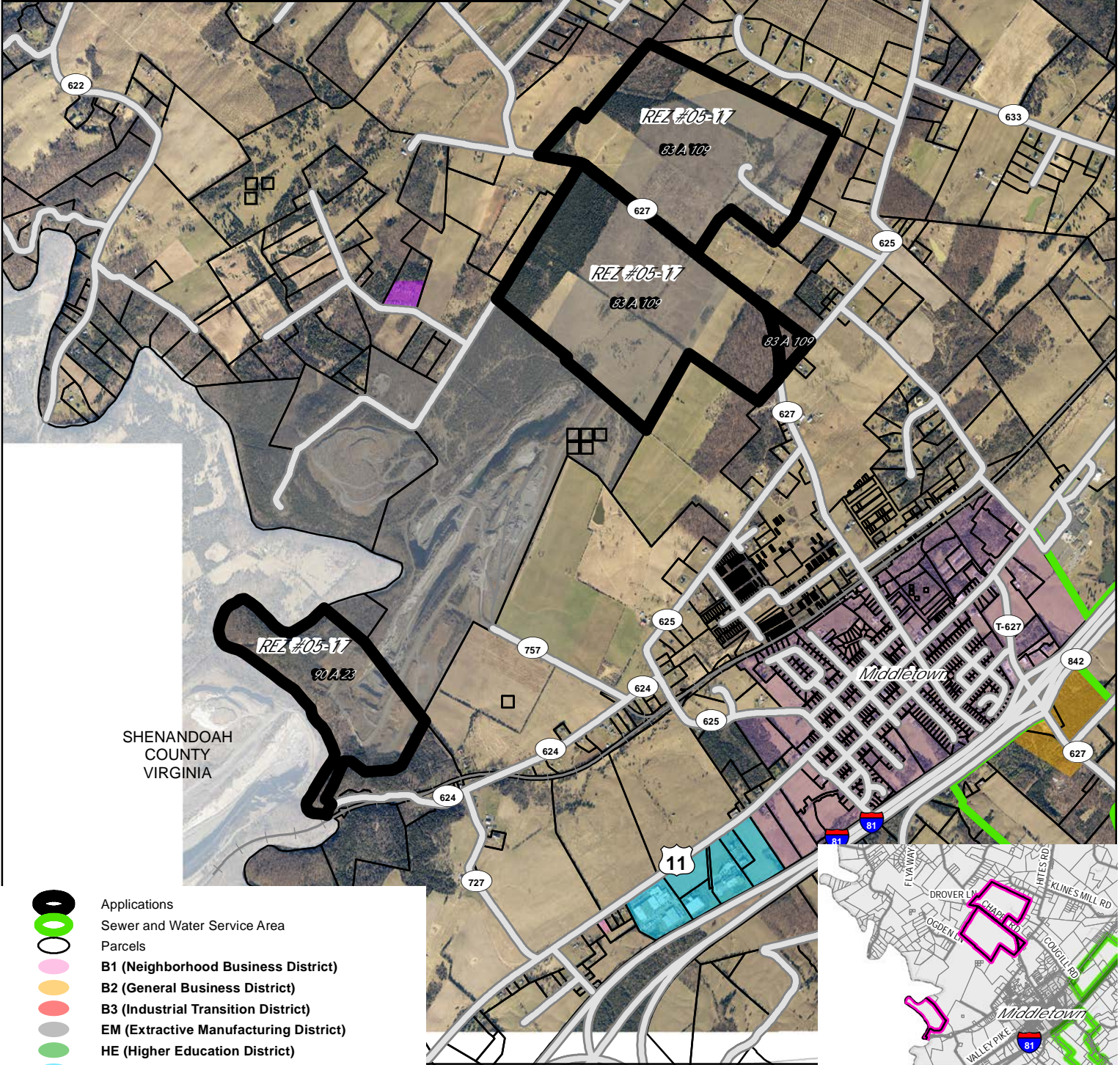
O-N Minerals (Chemstone) Co.

PINs:















83 - A - 109, 90 - A - 23

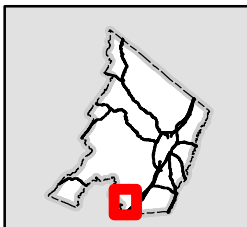
Rezoning from EM to EM

Zoning Map



SHENANDOAH
COUNTY
VIRGINIA

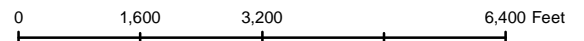
-  Applications
-  Sewer and Water Service Area
-  Parcels
-  B1 (Neighborhood Business District)
-  B2 (General Business District)
-  B3 (Industrial Transition District)
-  EM (Extractive Manufacturing District)
-  HE (Higher Education District)
-  M1 (Light Industrial District)
-  M2 (Industrial General 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)



REZ # 05 - 17 O-N Minerals (Chemstone) Co.

PINs:
83 - A - 109, 90 - A - 23
Rezoning from EM to EM
Zoning Map

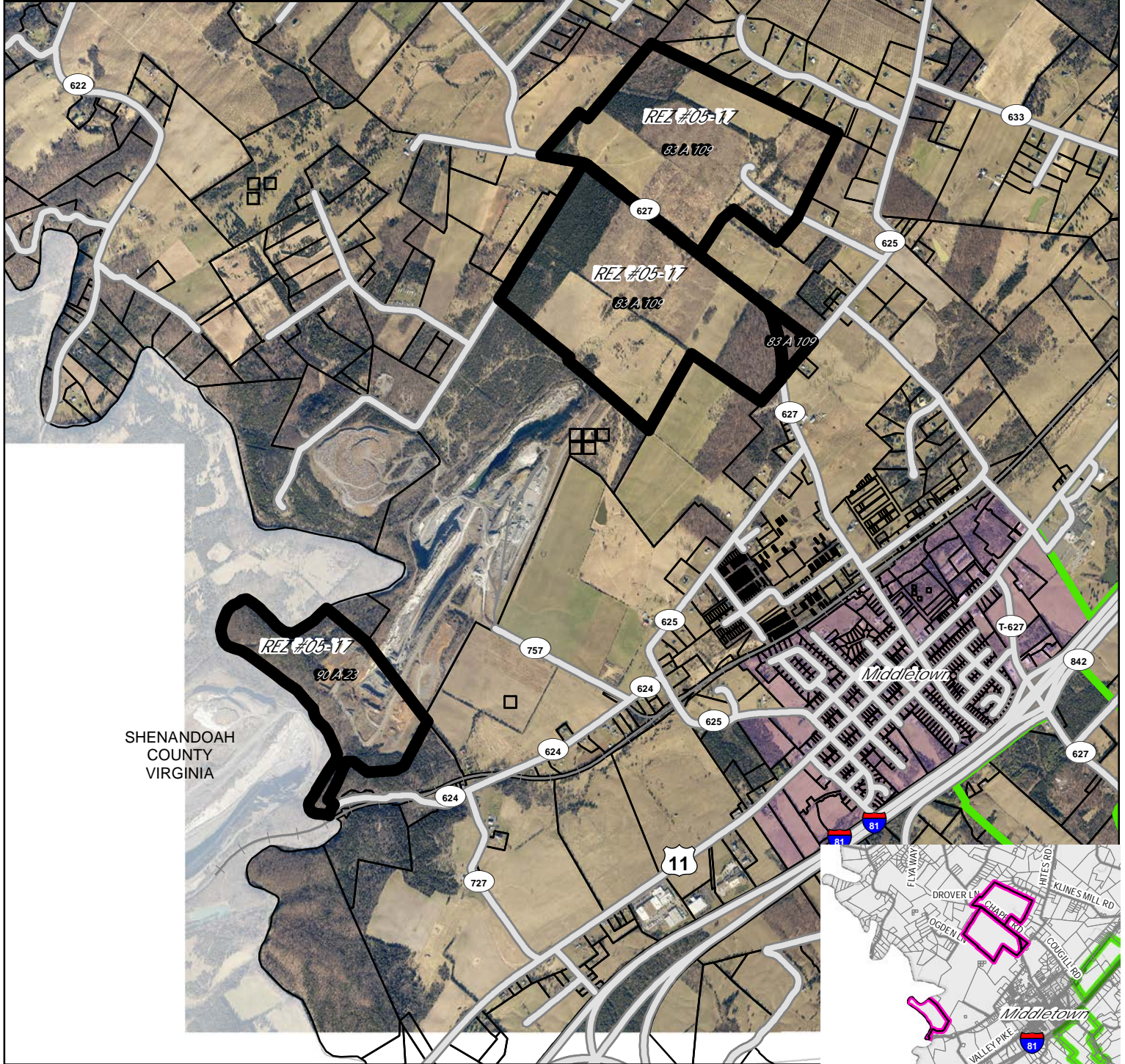
Note:
Frederick County Dept of
Planning & Development
107 N Kent St
Suite 202
Winchester, VA 22601
540 - 665 - 5651
Map Created: October 18, 2017
Staff: cperkins



REZ # 05 - 17

O-N Minerals (Chemstone) Co.

PINs:
 83 - A - 109, 90 - A - 23
 Rezoning from EM to EM
 Location Map



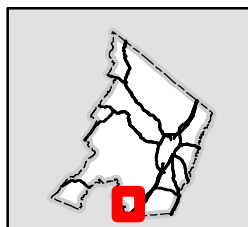
SHENANDOAH
 COUNTY
 VIRGINIA

REZ # 05 - 17

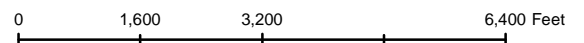
O-N Minerals (Chemstone) Co.

PINs:
 83 - A - 109, 90 - A - 23
 Rezoning from EM to EM
 Location Map

Note:
 Frederick County Dept of
 Planning & Development
 107 N Kent St
 Suite 202
 Winchester, VA 22601
 540 - 665 - 5651
 Map Created: October 18, 2017
 Staff: cperkins



- Applications
- Sewer and Water Service Area
- Parcels



REZ # 05 - 17

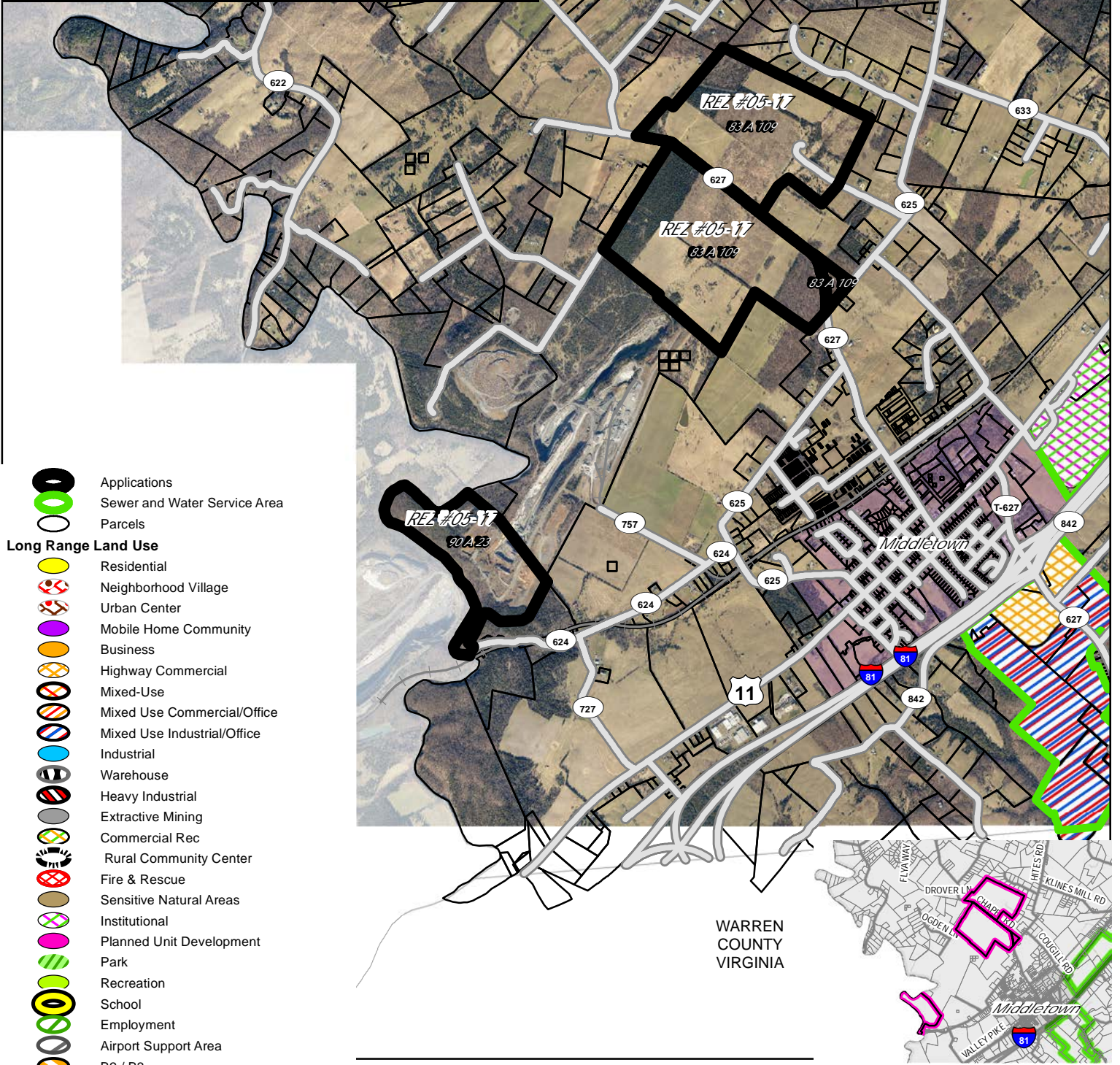
O-N Minerals (Chemstone) Co.

PINs:

83 - A - 109, 90 - A - 23

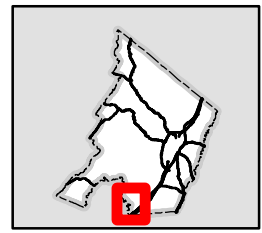
Rezoning from EM to EM

Long Range Land Use Map



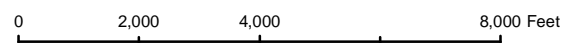
-  Applications
-  Sewer and Water Service Area
-  Parcels
- Long Range Land Use**
-  Residential
-  Neighborhood Village
-  Urban Center
-  Mobile Home Community
-  Business
-  Highway Commercial
-  Mixed-Use
-  Mixed Use Commercial/Office
-  Mixed Use Industrial/Office
-  Industrial
-  Warehouse
-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

WARREN COUNTY
VIRGINIA



REZ # 05 - 17
O-N Minerals
(Chemstone) Co.
PINs:
83 - A - 109, 90 - A - 23
Rezoning from EM to EM
Long Range Land Use Map

Note:
Frederick County Dept of
Planning & Development
107 N Kent St
Suite 202
Winchester, VA 22601
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Map Created: October 18, 2017
Staff: cperkins



June 1, 2018

Candice Perkins, AICP, CZA, Assistant Director
Planning and Development
County of Frederick
107 North Kent Street, 2nd Floor
Winchester, VA 22601

Re: Middletown

VIA E-MAIL

Dear Candice:

Enclosed please find a revised Amended Proffer Statement in clean and redline format for the Carmeuse Middletown matter. For your convenience I have itemized below the revisions to this latest Amended Proffer Statement.

- Section 2.2: We have removed the language “and provide for a preservation of the existing vegetation/tree/fence line of at least 60 feet in width” from the end of the new sentence beginning “Section 1 shall be installed to a height of 20 feet.” As you will recall, Ms. Robin Young in her comments to the Board advised that she believed that the language in Section 2.2 conflicts with the proffer language in Section 12.2. In order to avoid any appearance of conflict we have removed the language that she discussed and have retained the language in Section 12.2.
- Also in Section 2.2: The following sentences have been struck: “Further, ten trees shall be planted for every 100 square feet on the outside of the berms. Trees shall be planted at a minimum of 2” caliper.” We have removed these sentences because as we understand it, that language is simply a recitation of the planning that is required per existing Frederick County Ordinances. We also recall comments at the public hearing, perhaps coming from Supervisor Lofton, advising that given that these are already ordinance requirements they are not needed in the Proffer.

- Section 2.4: The final two sentences of new Section 2.4 have been struck. Carmeuse has agreed to remove this qualifying language as the result of Staff's clarifying statements at the public hearing confirming Carmeuse shall be able to access its properties via public roads to install proffer requirements and conduct mining activities. We understand that access to State roads is only obtained after obtaining all appropriate permits for same from the Virginia Department of Transportation; therefore, this is not a County issue. Carmeuse like any other property owner will obtain proper permitting before accessing any public road upon which Carmeuse's property fronts in order to be able to perform extractive mining activities including, but not limited to, performing extractive mining activities north of Chapel Road. Unless we hear from the County to the contrary, we will assume that our understanding is correct and that there are no other restrictions.

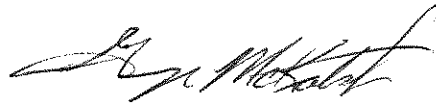
Finally, there has been no revisions to old Sections 4 and 10, which relate to a terminated and superseded agreement with Frederick County Sanitation Authority. As a reminder, when we first endeavored to create an Amended Proffer Statement in November 2017, the advice that Carmeuse was given was to redline the existing Proffer Statement (as was approved in 2008) to reflect all those items that have now been accomplished or which have been affected by intervening events. The purpose of this was to let the County know that in fact many of the items to be accomplished had in fact been completed but also to bring the County up to date so that there would be a comprehensive understanding on which proffers still affected the property.

As the County certainly knows, there was an agreement subsequent to 2008 wherein, at FCSA's request the prior agreements with FCSA were terminated and replaced by a new agreement which related primarily to confirmation of an agreement for the Anderson Water Treatment Plant and surrounding property. As a result of that subsequent agreement, there is no existing contract or agreement between Carmeuse and FCSA regarding other Carmeuse properties including, but not limited to, Middletown. In order to fully apprise the County of developments and/or any changes in the status of the property subsequent to 2008, we thought it only appropriate to properly and accurately reflect the same in the Amended Proffer Statement. We recognize that given that more than eight years have passed, there may be individuals that are not familiar with all that has transpired during that time. We trust that this narrative brings everyone up to date.

Candice Perkins, AICP, CZA, Assistant Director
June 1, 2018
Page 3

Thank you for your continued assistance and cooperation. If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "George McKotch". The signature is fluid and cursive, with a large initial "G" and "M".

George McKotch
Site Operations Manager
Carause Lime & Stone

AMENDED PROFFER STATEMENT

REZONING: RZ# ~~03-06~~
Rural Areas (RA) to Extractive Manufacturing (EM)

PROPERTY: 394.2Acres +/-;
Portions of Tax Map Parcels 83-A-109 (“parcel 109”) and 90-A-23
 (“parcel 23”) (the “Properties”)

RECORD OWNER: O-N Minerals (Chemstone) Company (~~“Owner”~~)

APPLICANT: O-N Minerals (Chemstone) Company (~~“Applicant”~~)

PROJECT NAME: Chemstone - Middletown

ORIGINAL DATE
OF PROFFERS: June 13, 2005

REVISION DATE(S): February 24, 2017, ~~June 5, 2017, September 25, 2017, November 15, 2017, January 31, 2018, February 14, 2018, March 2, 2018, June 1, 2018~~

The undersigned ~~Applicant-Owner~~ hereby proffers that the use and development of the portions of the above-referenced parcels, which are requested to be rezoned, the portions requested to be rezoned being shown on the attached and incorporated plat identified as “Exhibit 1”, shall be in strict conformance with the following conditions, which shall supersede all other proffers on the Properties that may have been made prior hereto. In the event that the above-referenced EM conditional rezoning is not granted as applied for by the ~~Applicant-Owner~~, these proffers shall be deemed withdrawn and shall be null and void. Further, these proffers are contingent upon final rezoning of the Properties with “final rezoning” defined as that rezoning which is in effect on the day following the last day upon which the Frederick County Board of Supervisors’ (the “Board”) decision granting the rezoning may be contested in the appropriate court. If the Board’s decision is contested, and the ~~Applicant-Owner~~ elects not to submit development plans until such contest is resolved, the term rezoning shall include the day following entry of a final court order affirming the decision of the Board which has not been appealed, or, if appealed, the day following which the decision has been affirmed on appeal.

The headings of the proffers set forth below have been prepared for convenience or reference only and shall not control or affect the meaning or be taken as an interpretation of any provision of the proffers. The improvements proffered herein shall be provided at the time of development of that portion of the Properties adjacent to or including the improvement or other proffered requirement, unless otherwise specified herein. Any proffered conditions that would prevent the ~~Applicant-Owner~~ from conforming ~~with-to~~ State and/or Federal regulations shall be considered null and void. The term “~~Applicant-Owner~~” as referenced herein shall include within its meaning all future owners and successors in interest. When used in these proffers, the

“Generalized Development Plan,” shall refer to the plan entitled “Generalized Development Plan, O-N Minerals (Chemstone)” dated May, 2008 and revised February 14, 2018, and which includes that document entitled Generalized Development Plan Attachment bearing the same date, February 14, 2018 (the “Amended GDP”). “Exhibit 1”. The Applicant-Owner attaches and incorporates the Amended GDP and 93 viewshed plats titled Viewshed 1, Viewshed 2 and Viewshed 3. The aforementioned viewshed plats are and shall be incorporated by reference herein as “Exhibit 2.”, which includes a plan titled “Generalized Development Plan”; a plan titled “Overall Plan”; four plans titled “Phase I Plan”, “Phase II Plan”, “Phase III Plan”, and “Phase IV Plan”; and twelve viewshed plats titled “Viewshed 1A, Viewshed 1B, Viewshed 2, Viewshed 3, Viewshed 4A, Viewshed 4B, Viewshed 5A, North Viewshed 1, North Viewshed 2 and North Viewshed 3, Viewshed 5B, Viewshed 6, Viewshed 7, and Viewshed 8”. The aforementioned ~~documents-viewshed plats~~ are and shall be incorporated by reference herein as “Exhibit 2”. The Applicant-Owner proffers that its development of the Properties will be in substantial conformity with the Amended GDP. The Generalized Development Plan included in the Proffer Statement approved on May 28, 2008 (“GDP”) is hereby replaced as it relates to the installation and location of berms and viewsheds. All other aspects of the GDP remain the same and in full force and effect.

1. Land Use

1.1 The Properties shall be developed with extractive manufacturing land uses pursuant to the mining permit approved by the Division of Mineral Mining (“DMM”) of the Virginia Department of Mines, Minerals and Energy (“VDMME”), and shall therefore conform to the Mineral Mining Law and Reclamation Regulations for Mineral Mining of the Commonwealth of Virginia.

1.2 The Applicant-Owner hereby proffers not to engage in the following uses on the Properties:

Oil and natural gas extraction;
Asphalt and concrete mixing plants;
Brick, block and precast concrete products;
Cement and lime kilns; and
Coal and natural gas-fired power plants or facilities which sell power to the local utility or power grid*

*This is not to be interpreted as a restriction against using power plants on the Properties as necessary to support extractive mining activities.

2. Site Development

2.1 Properties’ access via public secondary roads shall be limited to the existing quarry entrance on McCune Road (Route 757). Access by vehicles needed for periodic maintenance of the Properties shall not be limited. [ONGOING]

2.2 A combination of landscaping, Earthen berms and or and fencing -shall be either maintained or installed as depicted and described on the Amended GDP around the Properties in the areas depicted on the Amended GDP. Owner shall install

~~berms in the areas where berms are depicted on said Amended GDP. The berms for Berm D shall have a maximum height of 30 feet and a minimum height of 10 feet. As depicted on the GDP Attachment Amended GDP, the berms for Berm D shall be installed at specified heights. The Amended GDP Attachment designates the berms for Berm D in four numbered sections. Section 1 shall be installed to a height of 20 feet and provide for a preservation of the existing vegetation/tree/fence line of at least 60 feet in width. Section 2 shall be installed to a height of 30 feet and not encroach on the cemetery and/or stream. Section 3 shall be installed to a height of 10 feet. Section 4 shall be installed to a minimum height of 20 feet. No spoil pile shall exceed the height of the highest berm north of Chapel Road. Berm C which is located on the Property south of Chapel Road and north of Nieswander Road shall be installed after permitting of the above-described Property for mining and at least two years (24 calendar months) prior to the extraction of material for processing. active quarry pits in the location show on the GDP. The berms shall have a maximum height of 30 feet and a minimum height of 10 feet. The berms (Berm A and Berm B) depicted on the Phase I Plan of the GDP shall be installed within 10 years of the approval of the rezoning. The berms (Berm C and Berm D) depicted on the Phase II Plan of the GDP shall be installed no later than 10 years prior to the commencement of mining north of Chapel Road. The berms shall be landscaped to minimize impacts to the viewshed of the surrounding community and shall be installed after at the commencement of permitting of the Properties for mining but and before any extraction of material for processing, and at least two years (24 calendar months) prior to the extraction of material for processing and in the locations depicted on the Amended GDP. The Such landscaping shall have consist of a mix of deciduous and coniferous plantings placed in a random manner to be consistent with existing vegetation patterns. Plantings will include a seed mix recommended by the National Park Service that is currently in use at the adjacent Cedar Creek and Belle Grove National Historical Park. Owner shall adhere to the screening requirements of the Frederick County Code. Further, ten trees shall be planted for every 100 square feet on the outside of the berms. Trees shall be planted at a minimum of 2" caliper. In addition to requirements of the Frederick County Code, Owner will take all appropriate measures to ensure survival of plantings. The description of the plants to be installed on the berms are more specifically described in the attached and incorporated "Exhibit 3." The landscaping shall be subject to reasonable approval of the Zoning Administrator of Frederick County and upon consultation with the State Forester. With respect to Berm A, located on Tax Parcel 90-A-2, not owned by the Applicant Owner, the berm will be constructed by the Applicant Owner as the tenant under a 100-year lease of Parcel 90-A-2, with authority under the lease to construct Berm A. There shall be no extraction of material for processing outside the berms. The field between Berm D Section 1 and Westernview shall not be used for parking or storage of mining equipment, and any vehicles and/or equipment shall be staged in this area only while they are engaged in maintenance, monitoring and/or exploration activities.~~

- 2.3 The existing overburden stock pile on the southeast corner of the current Middletown plant site shall be reduced in height to the greater of 30 feet or the

height of the adjacent tree line (lying to the east) within 5 years of the approval of the rezoning. [COMPLETED]

~~2.4 Normal hours of operation for the portion of the Property north of Chapel Road shall be 6:00 a.m. to 10:00 p.m. Monday through Friday. No operations shall take place on any major holiday. The Owner may alter these hours as needed as the result of instances such as and including, but not limited to, natural disasters, force majeure, unforeseen circumstances, acts of God, excessive customer demand, and production to meet demand. The Owner shall notify all affected residents within the 1500' property line, 48 hours prior to major shifts in hours of operation.~~

3. Historic Resources

3.1 The ~~Applicant-Owner~~ shall create an 8 acre historic reserve as shown on the GDP, within which archeological resources and other historic activities have been identified. Further, the ~~Applicant-Owner~~ shall place restrictions on the reserve land for how the reserve will be used by the Properties' owner and future owners. A copy of said restrictions are attached and incorporated as "Exhibit 324". Said reserve land shall be dedicated to the Cedar Creek Battlefield Foundation, Inc. within 60 days of final rezoning. [NOTE: the aforementioned 8 acre historic reserve property is not to be included in the property to be rezoned.] [COMPLETED]

3.2 The ~~Applicant-Owner~~ shall complete a Phase I Archaeological Survey of parcels 23 and 109. The Phase I Archaeological Survey of parcel 23 shall be completed within 12 months of the approval of the rezoning. For the remaining tracts of land, the ~~Applicant-Owner~~ shall complete a Phase I Archaeological Survey of particular tract of land before any mining activities commence on that property. The ~~Applicant-Owner~~ may commence mining activities on a particular portion of the Properties before the completion of the Phase I survey for all of the Properties, but under any and all circumstances, no mining operations shall commence on any portion of the Properties until after the Phase I Archeological Survey has been completed on said portion of the Properties. Said survey shall locate, identify, and comprehensively record all historic sites, buildings, structures, and objects on the parcels. Such survey shall be conducted in accordance with the guidelines for a Phase 1 Survey as defined in the Virginia Department of Historic Resources "GUIDELINES FOR CONDUCTING CULTURAL RESOURCE SURVEY IN VIRGINIA - Chapter 7: Guidelines for Archaeological Investigations in Virginia," 1999 (Rev. Jan. 2003). [COMPLETED]

3.3 Two cemeteries have been identified on the Properties. The first cemetery is located adjacent to Chapel Road and is in an area that is not designated for mining and is also outside of the berming area. That cemetery is currently undergoing a historical restoration. After the historical restoration, the ~~Applicant-Owner~~ will follow the recommendations of the ~~Owner's~~~~Applicant's~~ historian. [COMPLETED]

The second cemetery is located in the area where berming is slated to be installed. The ~~Applicant Owner~~ proffers the berming will be located in such a way as to not encroach on the cemetery. This cemetery is also currently undergoing a historical restoration. After the historical restoration, the ~~Applicant Owner~~ will follow the recommendations of the ~~Applicant's Owner's~~ historian. In addition, the cemetery is accessed through a right-of-way which is of record providing access to the cemetery from Route 625. The ~~Applicant Owner~~ proffers to improve said right-of-way so that it can be used for access by the descendants of those in the cemetery within 12 months of completion of the cemetery restoration. Once said right-of-way has been improved, the ~~Applicant Owner~~ will provide continued maintenance and have use of same.

~~4. Rights to Water Supply~~

~~4.1 The Applicant shall guarantee the Frederick County Sanitation Authority ("FCSA") rights to the water resources available on the Properties in accordance with the existing agreements between the Applicant and FCSA.~~

~~45. Ground Water – [COMPLETED ONGOING]~~

~~45.1 The Applicant Owner shall install a minimum of three monitoring wells to effectively establish and monitor the groundwater level in order to avoid detrimental impacts to surrounding properties. Said wells shall be installed prior to any land disturbance of the portion of the Properties identified as parcel 109 by the GDP, and shall be located within 500 feet of the Properties' boundaries. A minimum of one monitoring well shall be installed within 500 feet of the parcel 109 Properties' boundary. The exact location of the monitoring wells is depicted on the Overall Plan of the GDP. In addition to the provisions set forth above, the Owner agrees to install at least one monitoring well within six (6) months of the approval of this Amended Proffer Statement.~~

~~45.2 Subject to and consistent with the provisions of paragraph 9.2, the Applicant Owner shall remediate any adverse impacts to wells located on surrounding properties caused by mining operations on the Properties. Costs associated with any required remediation shall be borne by the Applicant Owner.~~

Furthermore, the ~~Applicant Owner~~ agrees to participate in a pre-blast survey and well monitoring survey, as further described herein. The intent of the aforementioned surveys is to provide a mechanism to remediate any adverse impacts to wells and/or structures, which are caused by the mining operations on the Properties.

~~56. Dust Control – [ONGOING]~~

~~56.1 Dust from drills, muck piles, material handling, screens, crushers, conveyors, feeders, hoppers, stockpiles, load-outs, and traffic areas shall be controlled by wet~~

suppression or equivalent, and controlled by and consistent with the terms of the Department of Environmental Quality (“VDEQ”) general air permit. The Applicant-Owner shall remediate any adverse impacts to surrounding properties caused by dust associated with the mining operations on the Properties.

67. Blasting Control – [ONGOING]

67.1 All blasting associated with mining operations on the Properties shall be limited by the mining permit approved by the DMM of the VDMME. Peak Particle Velocities (PPV) associated with blasting on the Properties shall not exceed the levels stipulated by said permit. In addition, the Applicant-Owner agrees to have an approved blasting plan in place at all times. An example of the current blasting plan is attached. Further, in addition, the Applicant-Owner agrees that there will be no block holing or adobe blasting conducted on the Properties. Any damage to surrounding properties caused by blasting on the Properties shall be remediated at the Applicant’s-Owner’s expense.

Provided Owner has received a written request from a property owner within fifteen hundred feet (1,500’) of the Property rezoned herein, the Owner shall establish and maintain a notification methodology that provides notice to the requesting property owner of any and all blasting that will occur north of Chapel Road as part of the extraction of material for processing or site development. Such methods may include but not be limited to, telephone calls, text messages or emails.

78. Traffic – [ONGOING]

78.1 The Applicant’s-Owner’s current number of truck loads leaving the site on a daily basis is approximately 63, and the Applicant-Owner has had higher numbers of recorded truck loads leaving the plant to a total of 114 truck loads per day. The Applicant-Owner, in its proffer, is agreeing to restrict truck traffic to the Properties to 86 truck loads per day averaged over the prior 30 days, but intends to also have an ability to increase the number of truck loads in the event of an emergency or circumstances, which could be caused by issues driven by the Applicant’s-Owner’s customers, suppliers, and/or carriers. Examples of such shall include, but are not limited to, an interruption of rail service to the site and/or any sites that are serviced by rail from the Applicant’s-Owner’s Properties and/or any other interruption of the ability to deliver materials at the Applicant’s-Owner’s site or any other sites which are owned, controlled, or by business relationship connected with the Applicant’s-Owner’s site. To that end, and in any circumstance, the Applicant-Owner agrees to restrict truck traffic to the Properties to a maximum of 200 truck loads per day averaged over the prior 30 days through the scale house hauling mined materials on and/or off the proposed quarry site from the existing quarry entrance. The maximum number of truck loads will be regulated by the Applicant-Owner and its successors and/or assigns. A record of the actual number of truck loads per day shall be kept current (and maintained for one year) by the Applicant-Owner at its scale house office. Said record shall be made available in a

form which confirms the number of trips and the form will be produced to Frederick County officials upon demand with reasonable notice. The Applicant Owner proffers there will be no truck loads from the Properties on Sundays and the hours of truck loading on Saturdays will be no later than 7:00 p.m. The Applicant Owner further proffers it will instruct all truckers as to the proper route of travel from the Properties to Route 11, which shall exclude both Belle Grove and Chapel Roads.

89. Pre-Blast Surveys – [ONGOING]

89.1 The Applicant Owner will offer voluntary pre-blast surveys of properties that are within 1,500 feet of the boundaries of parcel 23 and parcel 109. The aforementioned surveys will be conducted by an independent engineering firm, which will investigate and document the pre-blast conditions of the participants' residences and/or outbuildings. The Applicant Owner and its successors and assigns will contact all citizens who have property within 1,500 feet of the boundaries of parcel 23 and parcel 109, and monitor the tax roles for Frederick County on an annual basis in order to contact any citizens who have recently purchased the aforementioned property. This contact will be made by the Applicant Owner and its successor and assigns to invite citizens who have property within 1,500 feet of the boundaries of parcel 23 and parcel 109 to participate in the pre-blast surveys. Contact will be made by registered return-receipt letters, mailed annually from the time of the rezoning. All citizens who have property within 1,500 feet of the boundaries of parcel 23 and parcel 109 can, and are encouraged to, participate in the survey by contacting the Applicant Owner and scheduling a mutually agreeable time for the independent engineering firm to visit the party's residence to document and survey the pre-blast condition of the party's residences/outbuildings following the procedures set forth in the attached and incorporated "Exhibit 435". If the property owner agrees to participate, ~~the Applicant's Owner's and/or its an independent~~ engineering firm shall visit and inspect the party's residences/outbuildings to monitor the condition of the same. A record of those pre-blast conditions will be kept by the independent engineering firm with copies retained by the Applicant Owner and the participating property owner. In the event of a change in condition, which is alleged by the participating property owner as a result of mining operations, the engineering firm will then conduct a follow-up visit and investigation and use the pre-blast information as a control and basis for subsequent analysis. Said analysis shall be used to determine the cause of any negative change in condition. If it is determined there is a change in condition in the residences/outbuildings, which has been caused by the Applicant's Owner's mining activities on the Properties, then the Applicant Owner agrees to remediate and/or repair said negative change in condition to restore it to its status prior to blasting operations. In addition, the Applicant Owner agrees to establish seismic monitoring of the proposed quarry site to monitor all blasting activities and keep records of said seismic monitoring as required by the VDMME. A stationary seismograph reader shall be installed at a strategic location north of Chapel Road. Such location shall be chosen in

coordination with and at the direction of a licensed engineer well versed in this function.

89.2 The Applicant-Owner will offer voluntary well monitoring surveys of properties that are within 1,500 feet of the boundaries of parcel 23 and parcel 109. The aforementioned surveys will be conducted by an independent well drilling firm or hydrogeologist, which will investigate and document the pre-mining conditions of the participants' wells. The Applicant-Owner and its successors and assigns will contact all citizens who have property within 1,500 feet of the boundaries of parcel 23 and parcel 109, and monitor the tax roles for Frederick County on an annual basis in order to contact any citizens who have recently purchased the aforementioned property. This contact will be made by Applicant-the Owner and its successor and assigns to invite citizens who have property within 1,500 feet of the boundaries of parcel 23 and parcel 109 to participate in the well monitoring surveys. Contact will be made by sending annually registered return-receipt letters. All citizens who have property located within 1,500 feet of the boundaries of parcel 23 and parcel 109 can and are encouraged to participate in the survey by scheduling a mutually agreeable time for the independent well drilling firm to visit the party's residence to document and survey the pre-blast condition of the party's well following the procedures set forth in the attached and incorporated "Exhibit 546A and 546B". A record of these pre-mining conditions will be kept by the independent well drilling firm, with copies retained by the Applicant Owner and the participating property owner. In the event a change of condition is alleged by the property owner as a result of mining operations, the Applicant Owner will provide an interim replacement water supply as necessary to supply the property owner with water. The well drilling firm will then conduct a follow-up visit and investigation and use pre-blast information as a control and basis for subsequent analysis. If it is determined that the status of the neighboring property owner's well has deteriorated from the condition it was in at the time of the pre-blast survey, then the Applicant-Owner agrees to restore the well to its condition existing at the time of the pre-blast survey and/or provide the adjoining property owner a replacement well of the same condition (or better) of that which existed at that time of the pre-blast survey.

89.3 In addition to the above, the Applicant-Owner agrees to maintain in force an insurance policy or other sufficient security for the period of time covering the active mining operations on the Properties and to maintain in effect for a period of one year from the date of cessation of said mining operations, and to cover the costs of any remediation and/or repair, which is required pursuant to the terms of sections 9.1 and 9.2 above. Said policy or surety shall be in the amount of no less than One Million and 00/100 Dollars (\$1,000,000.00) per occurrence. Frederick County may review from time to time the amount of the policy or surety to evaluate whether the minimum amount of \$1,000,000.00 is sufficient to protect the cost of any remediation and/or repair, which is required pursuant to the terms of sections 9.1 and 9.2. In the event Frederick County believes that the amount of the policy or surety needs to be increased for the reasons set forth above, then the Applicant-Owner and Frederick County shall reach an agreement as to the proper

amount of policy or surety. The approval of said increase shall not be unreasonably withheld, conditioned or denied by either party. The Applicant Owner shall annually provide to the County a Certificate of Insurance from the insurance carrier.

~~10.~~ Reclamation

~~10.1~~ ~~It is intended that pursuant to the terms of the agreement reached with the FCSA that at the time of cessation of mining activities, the Properties' quarry pits shall be used by the FCSA as water reservoirs. The control of the water levels in the quarry pits shall be handed over to the FCSA. It is intended that the quarry pits at that time will contain quantities of water monitored and directed by the FCSA, and which will be conducive to the general betterment of natural habitat.~~

~~94.~~ Noise Abatement – [ONGOING]

~~94.1~~ Operations on the Properties will not exceed the VDMME Engineering's decibel guidelines. The Applicant Owner will make all reasonable efforts to locate mining machinery in the quarry pit or behind berms.

~~102.~~ Lighting – [ONGOING]

~~102.1~~ There shall be no affixed lighting structures above-ground on the berms other than as may be required for or provided by regulations that affect the plant operations, including but not limited to, Mine Safety Health Administration ("MSHA"), VDMME, and any other governmental or regulatory body that oversees mining operations. Lighting used for devices or machines that convey materials or for pit crushing facilities and other mining activities is permitted. Conveying and pit crushing facilities shall also be interpreted as including such other devices or activities that perform similar or related functions that may come into use and/or existence at some time in the future while the extractive mining use is still in effect on the Properties. In addition to the above, all lighting will be installed in such a manner that there will be no spillover beyond any property line of the Applicant Owner onto adjacent properties not owned by the Applicant Owner. All lighting shall be turned off after working hours.

~~113.~~ Air Permit – [ONGOING]

~~113.1~~ The Applicant Owner shall maintain its existing general air permit controlling emissions in accordance with the VDEQ standards and also see that the existing general air permit covers all activities conducted on the rezoned Properties.

~~124.~~ Environment – [ONGOING]

~~124.1~~ In addition to compliance with the VPDES water discharge permit already in place, the Applicant Owner agrees to work with a recognized environmental entity of the Applicant's Owner's choosing during its operations to ensure that the

water emissions from water flowing from the quarry operations on the Properties is of a quality consistent with the water quality in Cedar Creek so as to maintain an environment conducive to natural habitats. No additional water discharge points will be added.

124.2 The ~~Applicant Owner~~ agrees that all areas currently in trees on property owned by the ~~Owner Applicant~~, which is outside of the rezoned Properties and identified on the GDP as “Middletown Woods”, shall be maintained using best management practices. The Owner also agrees that the existing fence line/tree line along Section 1 of Berm D will remain and be maintained using best management and farm practices.

124.3 The ~~Applicant Owner~~ proffers to keep its mining operations at least 200 feet from the edge of Cedar Creek.

135. Phasing

135.1 The ~~Applicant Owner~~ agrees that mining activities on the Properties shall occur with the following phasing ~~and as set forth on the Phasing Plans of the GDP:~~

After the rezoning is approved, the ~~Applicant Owner~~ will start creating berms on the newly rezoned Properties and the ~~Applicant Owner~~ shall start quarrying in the area identified as parcel 23. Mining in parcel 23 shall occur from the time period commencing with the approval of the rezoning for a period of time which is estimated to be twenty years. [COMPLETED IN PART – The berm referenced is installed and mining is continuing but not yet completed.]

For the newly zoned area, which is north of the existing EM zoned property, and south of Chapel Road, mining activities will commence no earlier than ten years from the date that the rezoning referenced herein is approved.

For the newly zoned area, which lies north of Chapel Road, mining will commence no earlier than twenty years from the date that the rezoning referenced herein is approved.

Respectfully submitted,

O-N MINERALS (CHEMSTONE) COMPANY

By: _____ Ian Karkaria

Its: _____ Area Operations Manager/Director of Operations, Eastern Region

COMMONWEALTH OF VIRGINIA, AT LARGE
FREDERICK COUNTY, To-wit:

The foregoing instrument was acknowledged before me this _____ day of _____,
2017~~2018~~, by _____ Ian Karkaria, Area
Operations Manager~~Director of Operations, Eastern Region of O-N Minerals (Chemstone)~~
Company.

NOTARY PUBLIC

My commission expires: _____
Registration number: _____

AMENDED PROFFER STATEMENT

REZONING: RZ#
Rural Areas (RA) to Extractive Manufacturing (EM)

PROPERTY: 394.2Acres +/-;
Portions of Tax Map Parcels 83-A-109 (“parcel 109”) and 90-A-23
 (“parcel 23”) (the “Properties”)

RECORD OWNER: O-N Minerals (Chemstone) Company (“Owner”)

APPLICANT: O-N Minerals (Chemstone) Company

PROJECT NAME: Chemstone - Middletown

ORIGINAL DATE
OF PROFFERS: June 13, 2005

REVISION DATE(S): February 24, 2017, June 5, 2017, September 25, 2017, November
15, 2017, January 31, 2018, February 14, 2018, March 2, 2018, June 1, 2018

The undersigned Owner hereby proffers that the use and development of the portions of the above-referenced parcels, which are requested to be rezoned, the portions requested to be rezoned being shown on the attached and incorporated plat identified as “Exhibit 1”, shall be in strict conformance with the following conditions, which shall supersede all other proffers on the Properties that may have been made prior hereto. In the event that the above-referenced EM conditional rezoning is not granted as applied for by the Owner, these proffers shall be deemed withdrawn and shall be null and void. Further, these proffers are contingent upon final rezoning of the Properties with “final rezoning” defined as that rezoning which is in effect on the day following the last day upon which the Frederick County Board of Supervisors’ (the “Board”) decision granting the rezoning may be contested in the appropriate court. If the Board’s decision is contested, and the Owner elects not to submit development plans until such contest is resolved, the term rezoning shall include the day following entry of a final court order affirming the decision of the Board which has not been appealed, or, if appealed, the day following which the decision has been affirmed on appeal.

The headings of the proffers set forth below have been prepared for convenience or reference only and shall not control or affect the meaning or be taken as an interpretation of any provision of the proffers. The improvements proffered herein shall be provided at the time of development of that portion of the Properties adjacent to or including the improvement or other proffered requirement, unless otherwise specified herein. Any proffered conditions that would prevent the Owner from conforming to State and/or Federal regulations shall be considered null and void. The term “Owner” as referenced herein shall include within its meaning all future owners and successors in interest. When used in these proffers, the “Generalized Development Plan,” shall refer to the plan entitled “Generalized Development Plan, O-N Minerals

(Chemstone)” dated May, 2008 and revised February 14, 2018, and which includes that document entitled Generalized Development Plan Attachment bearing the same date, February 14, 2018 (the “Amended GDP”). “Exhibit 1”. The Owner attaches and incorporates the Amended GDP and 9 viewshed plats titled “Viewshed 1A, Viewshed 1B, Viewshed 2, Viewshed 3, Viewshed 4A, Viewshed 5A, North Viewshed 1, North Viewshed 2 and North Viewshed 3. The aforementioned viewshed plats are and shall be incorporated by reference herein as “Exhibit 2”. The Owner proffers that its development of the Properties will be in substantial conformity with the Amended GDP. The Generalized Development Plan included in the Proffer Statement approved on May 28, 2008 (“GDP”) is hereby replaced as it relates to the installation and location of berms and viewsheds. All other aspects of the GDP remain the same and in full force and effect.

1. Land Use

1.1 The Properties shall be developed with extractive manufacturing land uses pursuant to the mining permit approved by the Division of Mineral Mining (“DMM”) of the Virginia Department of Mines, Minerals and Energy (“VDMME”), and shall therefore conform to the Mineral Mining Law and Reclamation Regulations for Mineral Mining of the Commonwealth of Virginia.

1.2 The Owner hereby proffers not to engage in the following uses on the Properties:

- Oil and natural gas extraction;
- Asphalt and concrete mixing plants;
- Brick, block and precast concrete products;
- Cement and lime kilns; and
- Coal and natural gas-fired power plants or facilities which sell power to the local utility or power grid*

*This is not to be interpreted as a restriction against using power plants on the Properties as necessary to support extractive mining activities.

2. Site Development

2.1 Properties’ access via public secondary roads shall be limited to the existing quarry entrance on McCune Road (Route 757). Access by vehicles needed for periodic maintenance of the Properties shall not be limited. [ONGOING]

2.2 A combination of landscaping, earthen berms and fencing shall be either maintained or installed as depicted and described on the Amended GDP around the Properties in the areas depicted on the Amended GDP. Owner shall install berms in the areas where berms are depicted on said Amended GDP. The berms for Berm D shall have a maximum height of 30 feet and a minimum height of 10 feet. As depicted on the Amended GDP, the berms for Berm D shall be installed at specified heights. The Amended GDP designates the berms for Berm D in four numbered sections. Section 1 shall be installed to a height of 20 feet. Section 2 shall be installed to a height of 30 feet and not encroach on the cemetery and/or stream. Section 3 shall be installed to a height of 10 feet. Section 4 shall be

installed to a minimum height of 20 feet. No spoil pile shall exceed the height of the highest berm north of Chapel Road. Berm C which is located on the Property south of Chapel Road and north of Nieswander Road shall be installed after permitting of the above-described Property for mining and at least two years (24 calendar months) prior to the extraction of material for processing. The berms shall be landscaped to minimize impacts to the viewshed of the surrounding community and shall be installed after permitting of the Properties for mining and before any extraction of material for processing, and at least two years (24 calendar months) prior to the extraction of material for processing and in the locations depicted on the Amended GDP. The landscaping shall have a mix of deciduous and coniferous plantings placed in a random manner to be consistent with existing vegetation patterns. Plantings will include a seed mix recommended by the National Park Service that is currently in use at the adjacent Cedar Creek and Belle Grove National Historical Park. Owner shall adhere to the screening requirements of the Frederick County Code. In addition to requirements of the Frederick County Code, Owner will take all appropriate measures to ensure survival of plantings. The landscaping shall be subject to reasonable approval of the Zoning Administrator of Frederick County and upon consultation with the State Forester. With respect to Berm A, located on Tax Parcel 90-A-2, not owned by the Owner, the berm will be constructed by the Owner as the tenant under a 100-year lease of Parcel 90-A-2, with authority under the lease to construct Berm A. There shall be no extraction of material for processing outside the berms. The field between Berm D Section 1 and Westernview shall not be used for parking or storage of mining equipment, and any vehicles and/or equipment shall be staged in this area only while they are engaged in maintenance, monitoring and/or exploration activities.

- 2.3 The existing overburden stock pile on the southeast corner of the current Middletown plant site shall be reduced in height to the greater of 30 feet or the height of the adjacent tree line (lying to the east) within 5 years of the approval of the rezoning. [COMPLETED]
- 2.4 Normal hours of operation for the portion of the Property north of Chapel Road shall be 6:00 a.m. to 10:00 p.m. Monday through Friday. No operations shall take place on any major holiday.

3. Historic Resources

- 3.1 The Owner shall create an 8 acre historic reserve as shown on the GDP, within which archeological resources and other historic activities have been identified. Further, the Owner shall place restrictions on the reserve land for how the reserve will be used by the Properties' owner and future owners. A copy of said restrictions are attached and incorporated as "Exhibit 3". Said reserve land shall be dedicated to the Cedar Creek Battlefield Foundation, Inc. within 60 days of final rezoning. [NOTE: the aforementioned 8 acre historic reserve property is not to be included in the property to be rezoned.] [COMPLETED]

- 3.2 The Owner shall complete a Phase I Archaeological Survey of parcels 23 and 109. The Phase I Archaeological Survey of parcel 23 shall be completed within 12 months of the approval of the rezoning. For the remaining tracts of land, the Owner shall complete a Phase I Archaeological Survey of particular tract of land before any mining activities commence on that property. The Owner may commence mining activities on a particular portion of the Properties before the completion of the Phase I survey for all of the Properties, but under any and all circumstances, no mining operations shall commence on any portion of the Properties until after the Phase I Archeological Survey has been completed on said portion of the Properties. Said survey shall locate, identify, and comprehensively record all historic sites, buildings, structures, and objects on the parcels. Such survey shall be conducted in accordance with the guidelines for a Phase 1 Survey as defined in the Virginia Department of Historic Resources “GUIDELINES FOR CONDUCTING CULTURAL RESOURCE SURVEY IN VIRGINIA - Chapter 7: Guidelines for Archaeological Investigations in Virginia,” 1999 (Rev. Jan. 2003). [COMPLETED]
- 3.3 Two cemeteries have been identified on the Properties. The first cemetery is located adjacent to Chapel Road and is in an area that is not designated for mining and is also outside of the berming area. That cemetery is currently undergoing a historical restoration. After the historical restoration, the Owner will follow the recommendations of the Owner’s historian. [COMPLETED]

The second cemetery is located in the area where berming is slated to be installed. The Owner proffers the berming will be located in such a way as to not encroach on the cemetery. This cemetery is also currently undergoing a historical restoration. After the historical restoration, the Owner will follow the recommendations of the Owner’s historian. In addition, the cemetery is accessed through a right-of-way which is of record providing access to the cemetery from Route 625. The Owner proffers to improve said right-of-way so that it can be used for access by the descendants of those in the cemetery within 12 months of completion of the cemetery restoration. Once said right-of-way has been improved, the Owner will provide continued maintenance and have use of same.

4. Ground Water – [ONGOING]

- 4.1 The Owner shall install a minimum of three monitoring wells to effectively establish and monitor the groundwater level in order to avoid detrimental impacts to surrounding properties. Said wells shall be installed prior to any land disturbance of the portion of the Properties identified as parcel 109 by the GDP, and shall be located within 500 feet of the Properties’ boundaries. A minimum of one monitoring well shall be installed within 500 feet of the parcel 109 Properties’ boundary. The exact location of the monitoring wells is depicted on the Overall Plan of the GDP. In addition to the provisions set forth above, the Owner agrees to install at least one monitoring well within six (6) months of the approval of this Amended Proffer Statement.

- 4.2 Subject to and consistent with the provisions of paragraph 9.2, the Owner shall remediate any adverse impacts to wells located on surrounding properties caused by mining operations on the Properties. Costs associated with any required remediation shall be borne by the Owner.

Furthermore, the Owner agrees to participate in a pre-blast survey and well monitoring survey, as further described herein. The intent of the aforementioned surveys is to provide a mechanism to remediate any adverse impacts to wells and/or structures, which are caused by the mining operations on the Properties.

5. Dust Control – [ONGOING]

- 5.1 Dust from drills, muck piles, material handling, screens, crushers, conveyors, feeders, hoppers, stockpiles, load-outs, and traffic areas shall be controlled by wet suppression or equivalent, and controlled by and consistent with the terms of the Department of Environmental Quality (“VDEQ”) general air permit. The Owner shall remediate any adverse impacts to surrounding properties caused by dust associated with the mining operations on the Properties.

6. Blasting Control – [ONGOING]

- 6.1 All blasting associated with mining operations on the Properties shall be limited by the mining permit approved by the DMM of the VDMME. Peak Particle Velocities (PPV) associated with blasting on the Properties shall not exceed the levels stipulated by said permit. In addition, the Owner agrees to have an approved blasting plan in place at all times. An example of the current blasting plan is attached. Further, in addition, the Owner agrees that there will be no block holing or adobe blasting conducted on the Properties. Any damage to surrounding properties caused by blasting on the Properties shall be remediated at the Owner’s expense.

Provided Owner has received a written request from a property owner within fifteen hundred feet (1,500’) of the Property rezoned herein, the Owner shall establish and maintain a notification methodology that provides notice to the requesting property owner of any and all blasting that will occur north of Chapel Road as part of the extraction of material for processing or site development. Such methods may include but not be limited to, telephone calls, text messages or emails.

7. Traffic – [ONGOING]

- 7.1 The Owner’s current number of truck loads leaving the site on a daily basis is approximately 63, and the Owner has had higher numbers of recorded truck loads leaving the plant to a total of 114 truck loads per day. The Owner, in its proffer, is agreeing to restrict truck traffic to the Properties to 86 truck loads per day averaged over the prior 30 days, but intends to also have an ability to increase the number of truck loads in the event of an emergency or circumstances, which

could be caused by issues driven by the Owner's customers, suppliers, and/or carriers. Examples of such shall include, but are not limited to, an interruption of rail service to the site and/or any sites that are serviced by rail from the Owner's Properties and/or any other interruption of the ability to deliver materials at the Owner's site or any other sites which are owned, controlled, or by business relationship connected with the Owner's site. To that end, and in any circumstance, the Owner agrees to restrict truck traffic to the Properties to a maximum of 200 truck loads per day averaged over the prior 30 days through the scale house hauling mined materials on and/or off the proposed quarry site from the existing quarry entrance. The maximum number of truck loads will be regulated by the Owner and its successors and/or assigns. A record of the actual number of truck loads per day shall be kept current (and maintained for one year) by the Owner at its scale house office. Said record shall be made available in a form which confirms the number of trips and the form will be produced to Frederick County officials upon demand with reasonable notice. The Owner proffers there will be no truck loads from the Properties on Sundays and the hours of truck loading on Saturdays will be no later than 7:00 p.m. The Owner further proffers it will instruct all truckers as to the proper route of travel from the Properties to Route 11, which shall exclude both Belle Grove and Chapel Roads.

8. Pre-Blast Surveys – [ONGOING]

8.1 The Owner will offer voluntary pre-blast surveys of properties that are within 1,500 feet of the boundaries of parcel 23 and parcel 109. The aforementioned surveys will be conducted by an independent engineering firm, which will investigate and document the pre-blast conditions of the participants' residences and/or outbuildings. The Owner and its successors and assigns will contact all citizens who have property within 1,500 feet of the boundaries of parcel 23 and parcel 109, and monitor the tax roles for Frederick County on an annual basis in order to contact any citizens who have recently purchased the aforementioned property. This contact will be made by the Owner and its successor and assigns to invite citizens who have property within 1,500 feet of the boundaries of parcel 23 and parcel 109 to participate in the pre-blast surveys. Contact will be made by registered return-receipt letters, mailed annually from the time of the rezoning. All citizens who have property within 1,500 feet of the boundaries of parcel 23 and parcel 109 can, and are encouraged to, participate in the survey by contacting the Owner and scheduling a mutually agreeable time for the independent engineering firm to visit the party's residence to document and survey the pre-blast condition of the party's residences/outbuildings following the procedures set forth in the attached and incorporated "Exhibit 4". If the property owner agrees to participate, an independent engineering firm shall visit and inspect the party's residences/outbuildings to monitor the condition of the same. A record of those pre-blast conditions will be kept by the independent engineering firm with copies retained by the Owner and the participating property owner. In the event of a change in condition, which is alleged by the participating property owner as a result of mining operations, the engineering firm will then conduct a follow-up visit and investigation and use the pre-blast information as a control and basis for

subsequent analysis. Said analysis shall be used to determine the cause of any negative change in condition. If it is determined there is a change in condition in the residences/outbuildings, which has been caused by the Owner's mining activities on the Properties, then the Owner agrees to remediate and/or repair said negative change in condition to restore it to its status prior to blasting operations. In addition, the Owner agrees to establish seismic monitoring of the proposed quarry site to monitor all blasting activities and keep records of said seismic monitoring as required by the VDMME. A stationary seismograph reader shall be installed at a strategic location north of Chapel Road. Such location shall be chosen in coordination with and at the direction of a licensed engineer well versed in this function.

- 8.2 The Owner will offer voluntary well monitoring surveys of properties that are within 1,500 feet of the boundaries of parcel 23 and parcel 109. The aforementioned surveys will be conducted by an independent well drilling firm or hydrogeologist, which will investigate and document the pre-mining conditions of the participants' wells. The Owner and its successors and assigns will contact all citizens who have property within 1,500 feet of the boundaries of parcel 23 and parcel 109, and monitor the tax roles for Frederick County on an annual basis in order to contact any citizens who have recently purchased the aforementioned property. This contact will be made by the Owner and its successor and assigns to invite citizens who have property within 1,500 feet of the boundaries of parcel 23 and parcel 109 to participate in the well monitoring surveys. Contact will be made by sending annually registered return-receipt letters. All citizens who have property located within 1,500 feet of the boundaries of parcel 23 and parcel 109 can and are encouraged to participate in the survey by scheduling a mutually agreeable time for the independent well drilling firm to visit the party's residence to document and survey the pre-blast condition of the party's well following the procedures set forth in the attached and incorporated "Exhibit 5A and 5B". A record of these pre-mining conditions will be kept by the independent well drilling firm, with copies retained by the Owner and the participating property owner. In the event a change of condition is alleged by the property owner as a result of mining operations, the Owner will provide an interim replacement water supply as necessary to supply the property owner with water. The well drilling firm will then conduct a follow-up visit and investigation and use pre-blast information as a control and basis for subsequent analysis. If it is determined that the status of the neighboring property owner's well has deteriorated from the condition it was in at the time of the pre-blast survey, then the Owner agrees to restore the well to its condition existing at the time of the pre-blast survey and/or provide the adjoining property owner a replacement well of the same condition (or better) of that which existed at that time of the pre-blast survey.
- 8.3 In addition to the above, the Owner agrees to maintain in force an insurance policy or other sufficient security for the period of time covering the active mining operations on the Properties and to maintain in effect for a period of one year from the date of cessation of said mining operations, and to cover the costs of any remediation and/or repair, which is required pursuant to the terms of sections

9.1 and 9.2 above. Said policy or surety shall be in the amount of no less than One Million and 00/100 Dollars (\$1,000,000.00) per occurrence. Frederick County may review from time to time the amount of the policy or surety to evaluate whether the minimum amount of \$1,000,000.00 is sufficient to protect the cost of any remediation and/or repair, which is required pursuant to the terms of sections 9.1 and 9.2. In the event Frederick County believes that the amount of the policy or surety needs to be increased for the reasons set forth above, then the Owner and Frederick County shall reach an agreement as to the proper amount of policy or surety. The approval of said increase shall not be unreasonably withheld, conditioned or denied by either party. The Owner shall annually provide to the County a Certificate of Insurance from the insurance carrier.

9. Noise Abatement – [ONGOING]

9.1 Operations on the Properties will not exceed the VDMME Engineering’s decibel guidelines. The Owner will make all reasonable efforts to locate mining machinery in the quarry pit or behind berms.

10. Lighting – [ONGOING]

10.1 There shall be no affixed lighting structures above-ground on the berms other than as may be required for or provided by regulations that affect the plant operations, including but not limited to, Mine Safety Health Administration (“MSHA”), VDMME, and any other governmental or regulatory body that oversees mining operations. Lighting used for devices or machines that convey materials or for pit crushing facilities and other mining activities is permitted. Conveying and pit crushing facilities shall also be interpreted as including such other devices or activities that perform similar or related functions that may come into use and/or existence at some time in the future while the extractive mining use is still in effect on the Properties. In addition to the above, all lighting will be installed in such a manner that there will be no spillover beyond any property line of the Owner onto adjacent properties not owned by the Owner. All lighting shall be turned off after working hours.

11. Air Permit – [ONGOING]

11.1 The Owner shall maintain its existing general air permit controlling emissions in accordance with the VDEQ standards and also see that the existing general air permit covers all activities conducted on the rezoned Properties.

12. Environment – [ONGOING]

12.1 In addition to compliance with the VPDES water discharge permit already in place, the Owner agrees to work with a recognized environmental entity of the Owner’s choosing during its operations to ensure that the water emissions from water flowing from the quarry operations on the Properties is of a quality

consistent with the water quality in Cedar Creek so as to maintain an environment conducive to natural habitats. No additional water discharge points will be added.

- 12.2 The Owner agrees that all areas currently in trees on property owned by the Owner, which is outside of the rezoned Properties and identified on the GDP as “Middletown Woods”, shall be maintained using best management practices. The Owner also agrees that the existing fence line/tree line along Section 1 of Berm D will remain and be maintained using best management and farm practices.
- 12.3 The Owner proffers to keep its mining operations at least 200 feet from the edge of Cedar Creek.

13. Phasing

- 13.1 The Owner agrees that mining activities on the Properties shall occur with the following phasing:

After the rezoning is approved, the Owner will start creating berms on the newly rezoned Properties and the Owner shall start quarrying in the area identified as parcel 23. Mining in parcel 23 shall occur from the time period commencing with the approval of the rezoning for a period of time which is estimated to be twenty years. [COMPLETED IN PART – The berm referenced is installed and mining is continuing but not yet completed.]

For the newly zoned area, which is north of the existing EM zoned property, and south of Chapel Road, mining activities will commence no earlier than ten years from the date that the rezoning referenced herein is approved.

For the newly zoned area, which lies north of Chapel Road, mining will commence no earlier than twenty years from the date that the rezoning referenced herein is approved.

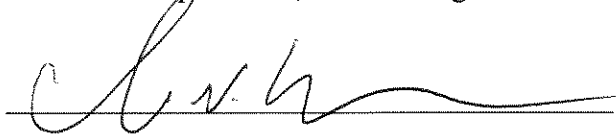
[signature on following page]

Respectfully submitted,

O-N MINERALS (CHEMSTONE) COMPANY

By: Ian Karkaria

Its: Director of Operations, Eastern Region



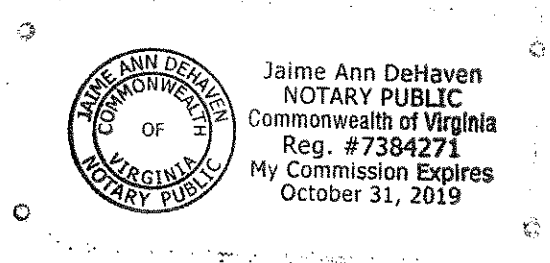
COMMONWEALTH OF VIRGINIA, AT LARGE
FREDERICK COUNTY, To-wit:

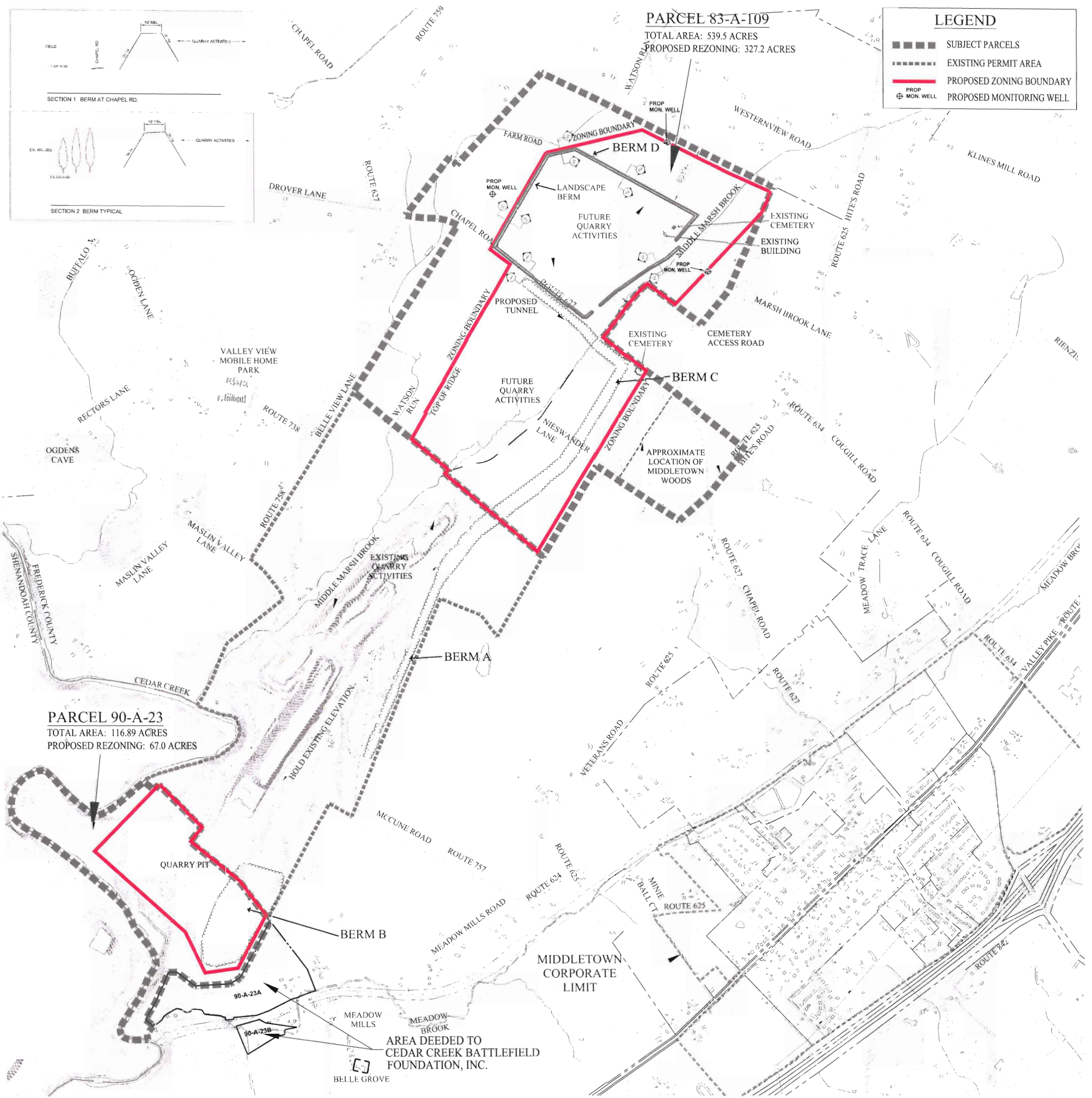
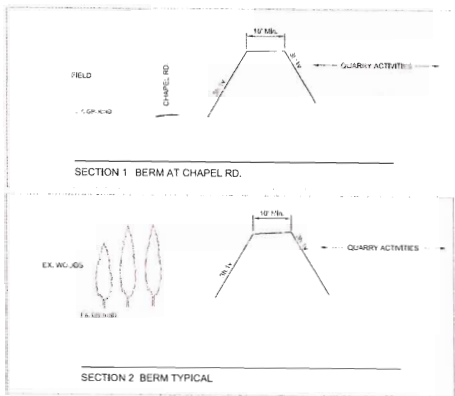
The foregoing instrument was acknowledged before me this 1st day of June, 2018, by Ian Karkaria, Director of Operations, Eastern Region of O-N Minerals (Chemstone) Company.



NOTARY PUBLIC

My commission expires: October 31, 2019
Registration number: #7384271





PREPARED BY
PENNONI ASSOCIATES INC.



117 East Piccadilly Street
Winchester, VA 22601
T 540.667.2139
F 540.665.0493

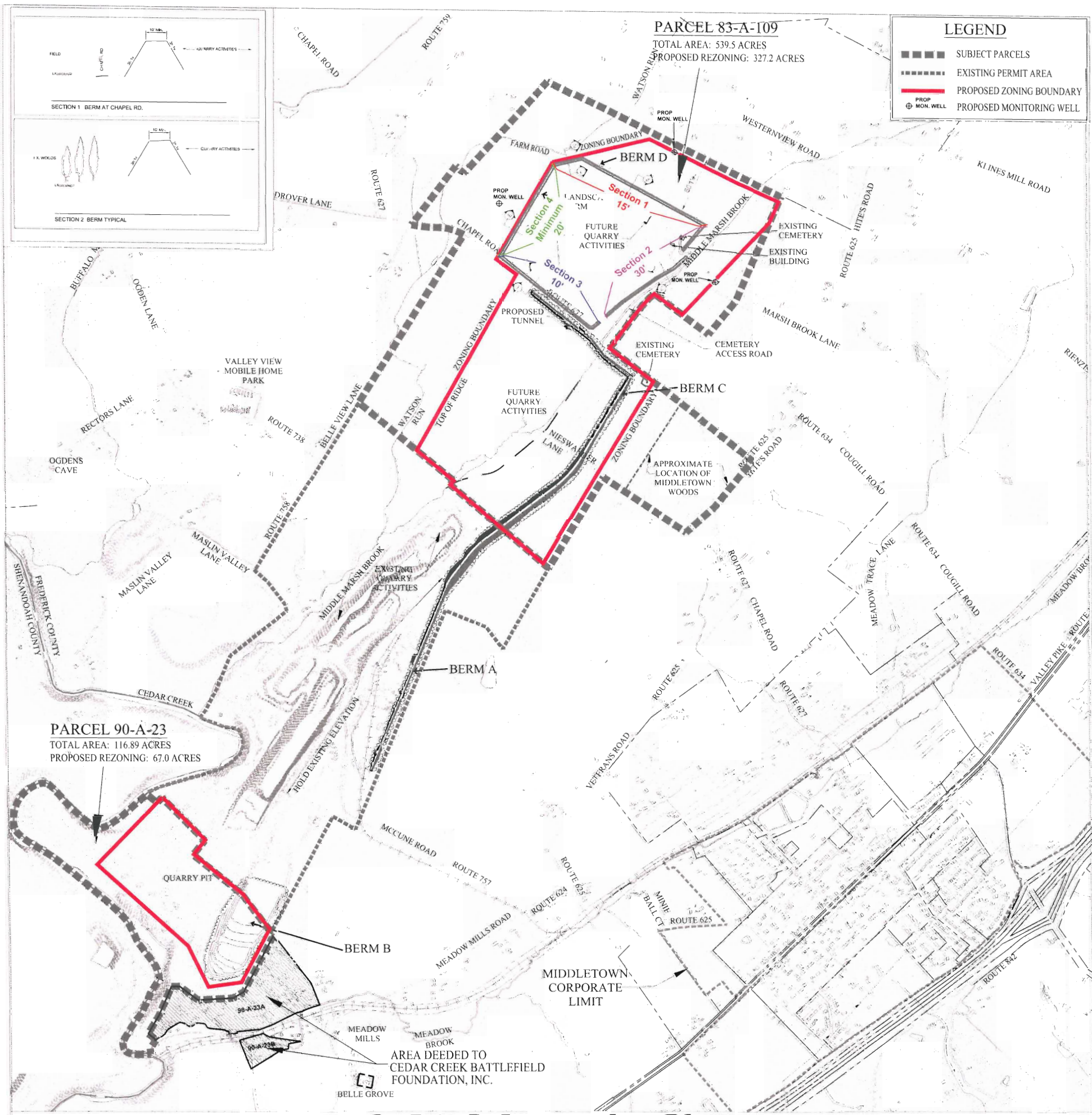
O-N Minerals Chemstone

GENERALIZED DEVELOPMENT PLAN

FREDERICK COUNTY, VIRGINIA

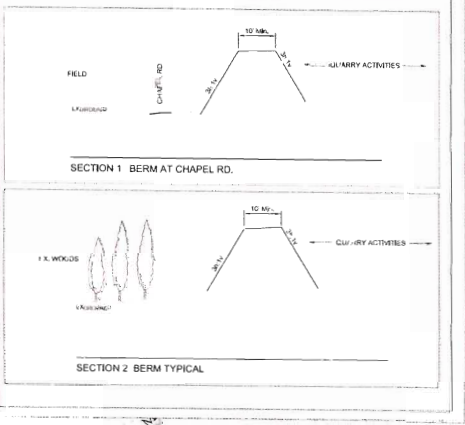
MAY 2008
REVISED February 14, 2018





LEGEND

- SUBJECT PARCELS
- ▤ EXISTING PERMIT AREA
- PROPOSED ZONING BOUNDARY
- ⊕ PROP. MON. WELL



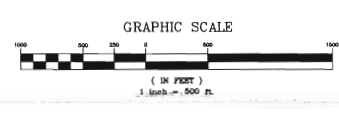
PARCEL 90-A-23
 TOTAL AREA: 116.89 ACRES
 PROPOSED REZONING: 67.0 ACRES

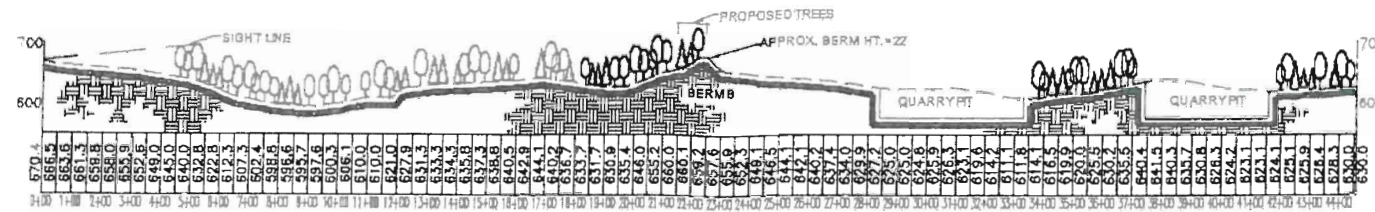
PARCEL 83-A-109
 TOTAL AREA: 539.5 ACRES
 PROPOSED REZONING: 327.2 ACRES

O-N Minerals Chemstone
GENERALIZED DEVELOPMENT PLAN ATTACHMENT
FREDERICK COUNTY, VIRGINIA
 MAY 2008
 REVISED FEBRUARY 14, 2018

PREPARED BY
PENNONI ASSOCIATES INC.

 117 East Piccadilly Street
 Winchester, VA 22601
 T 540.667.2139
 F 540.665.0493

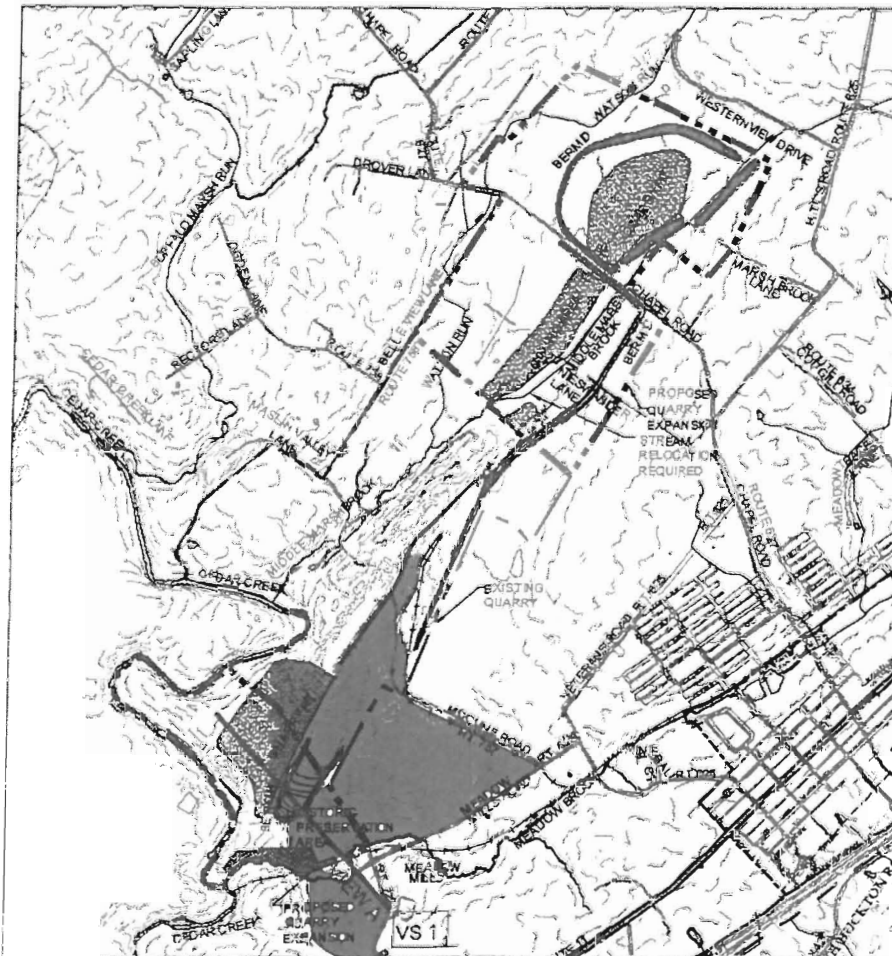




• VEGETATION SHOWN IS EXISTING UNLESS OTHERWISE NOTED.

VIEWSHED 1A

HORIZONTAL SCALE: 1" = 600'
VERTICAL SCALE: 1" = 300'



KEY MAP

NO SCALE

O-N Minerals Chemstone

Frederick County, Virginia

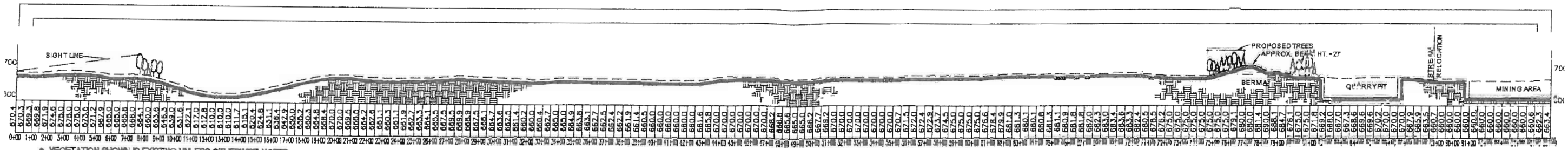
MAY 2008

Patton Harris Rust & Associates, pc
Engineers, Surveyors, Planners, Landscape Architects.



117 East Piccadilly Street
Winchester, VA 22501
T 540-667-2139
F 540-865-0493

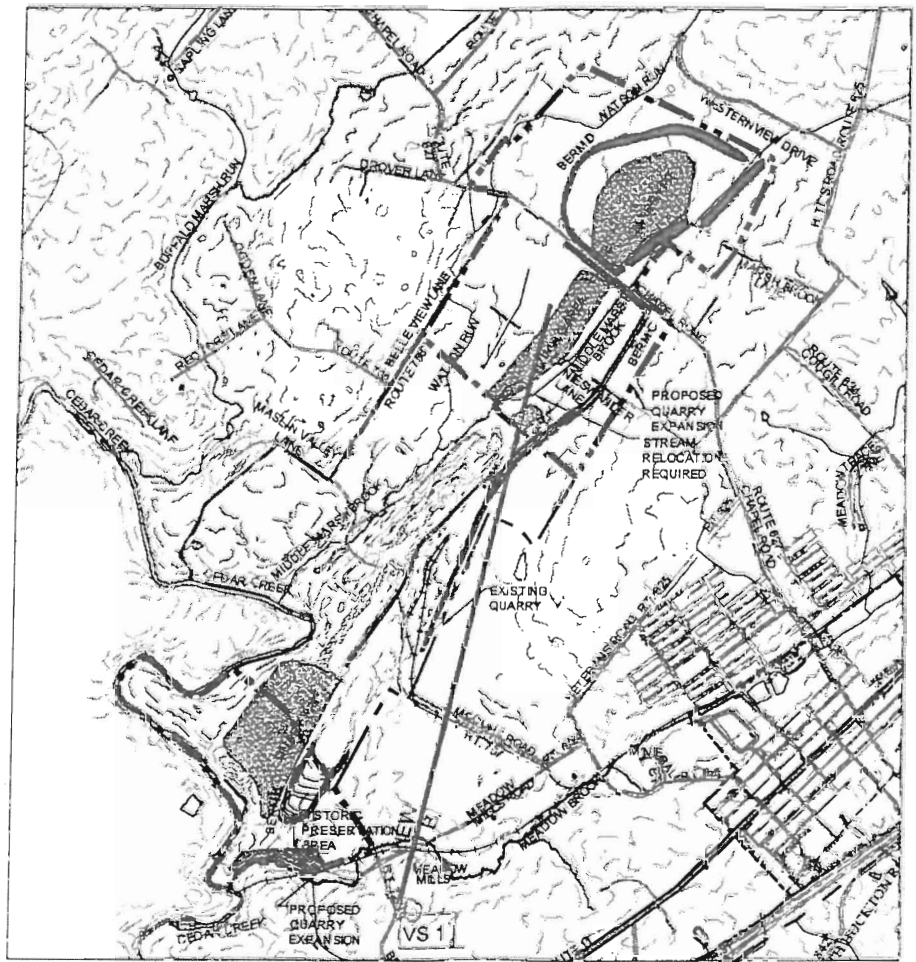




* VEGETATION SHOWN IS EXISTING UNLESS OTHERWISE NOTED.

VIEWSHED 1B

HORIZONTAL SCALE: 1" = 600'
 VERTICAL SCALE: 1" = 300'



KEY MAP

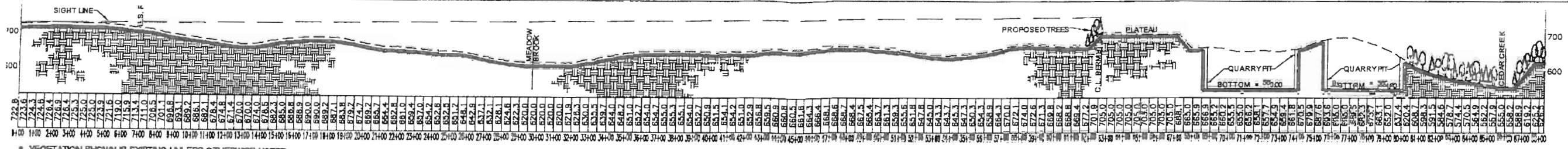
NO SCALE

O-N Minerals Chemstone

Frederick County, Virginia
 MAY 2008

Patton Harris Rust & Associates, PC
 Engineers, Surveyors, Planners, Landscape Architects
 117 East Piccadilly Street
 Winchester, VA 22601
 T 540-667-2139
 F 540-885-0493

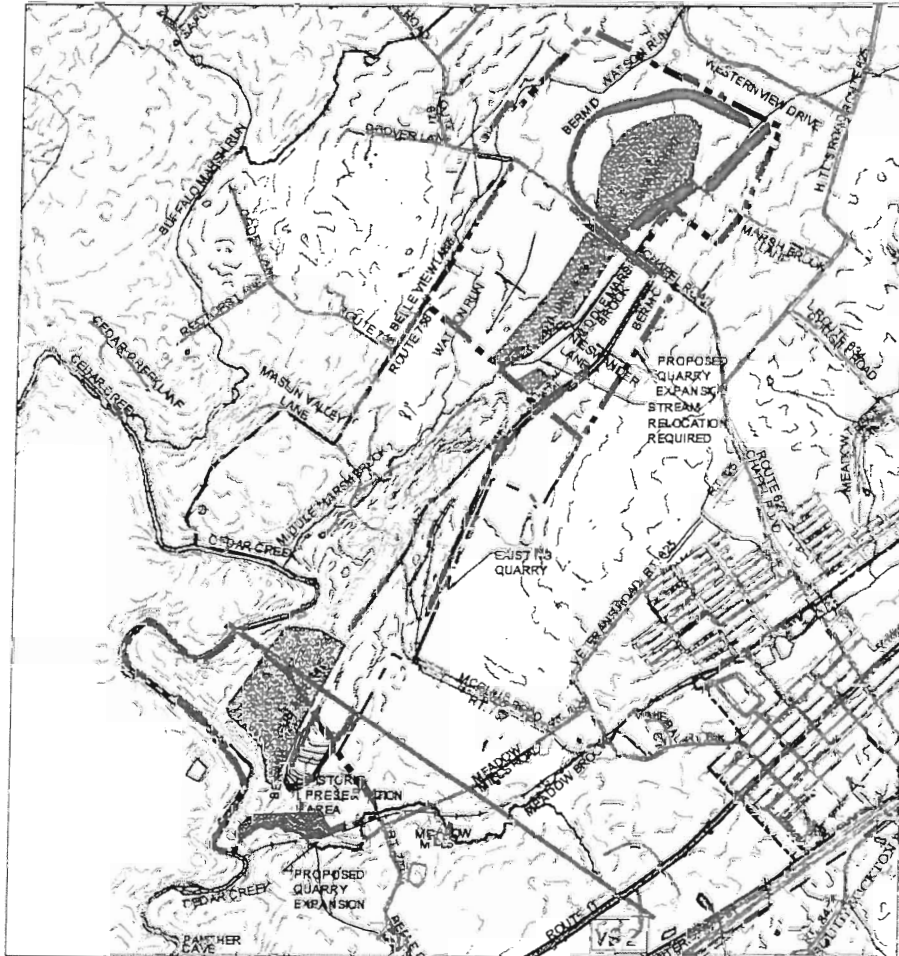




• VEGETATION SHOWN IS EXISTING UNLESS OTHERWISE NOTED.

VIEWSHED 2

HORIZONTAL SCALE: 1" = 600'
VERTICAL SCALE: 1" = 300'



KEY MAP

NO SCALE

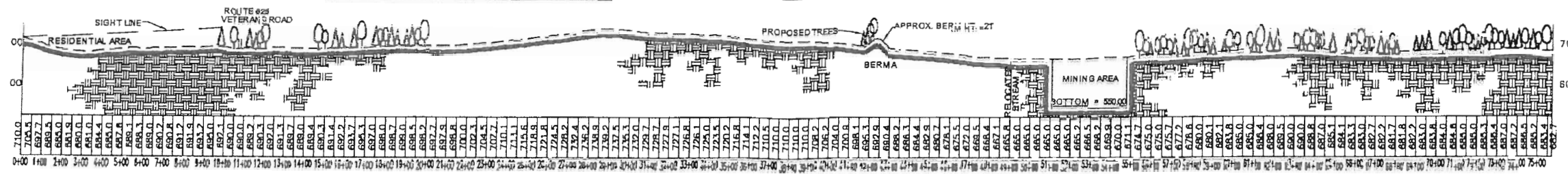
O-N Minerals Chemstone

Frederick County, Virginia

MAY 2008

Patton Harris Ruat & Associates, PC
Engineers, Surveyors, Planners, Landscape Architects.
PHRA 117 East Piccadilly Street
Wichester, VA 22801
T 540-667-2139
F 540-665-0493

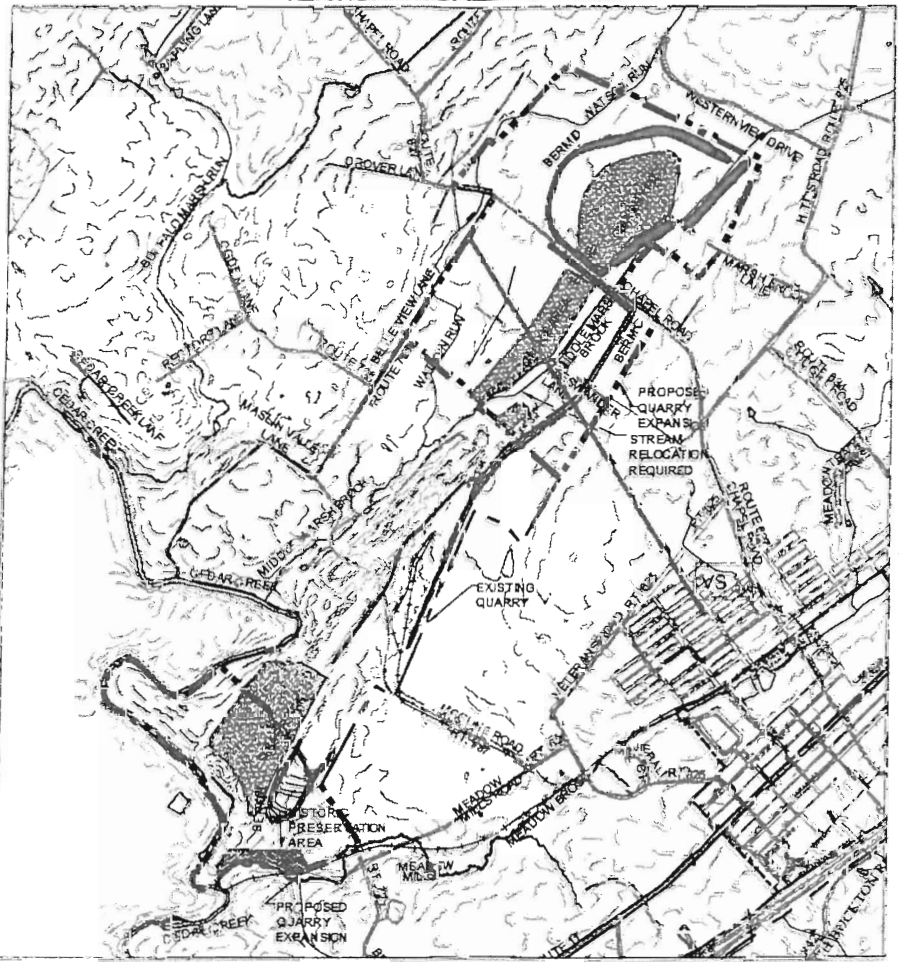




* VEGETATION SHOWN IS EXISTING UNLESS OTHERWISE NOTED.

VIEWSHED 3

HORIZONTAL SCALE: 1" = 600'
 VERTICAL SCALE: 1" = 300'



KEY MAP

NO SCALE

O-N Minerals Chemstone

Frederick County, Virginia

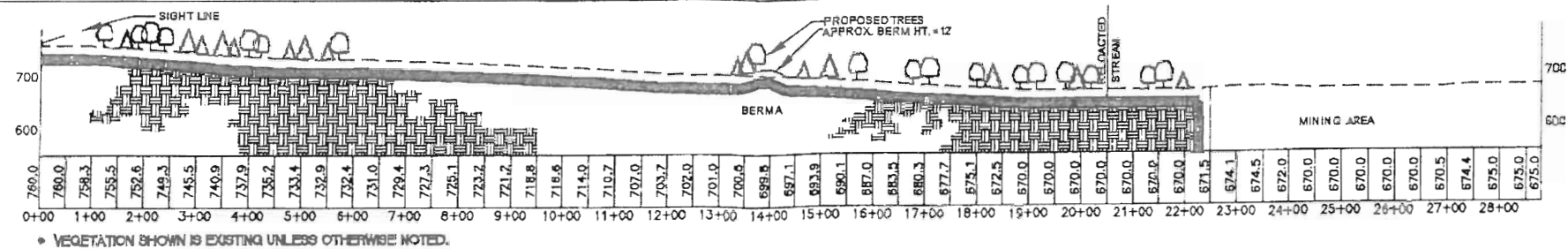
MAY 2008

Patton Harris, Rust & Associates, pc
 Engineers, Surveyors, Planners, Landscapes, Architects.

P-H-R-A

117 East Floodily Street
 Winchester, VA 22601
 T 540-667-2139
 F 540-665-0493

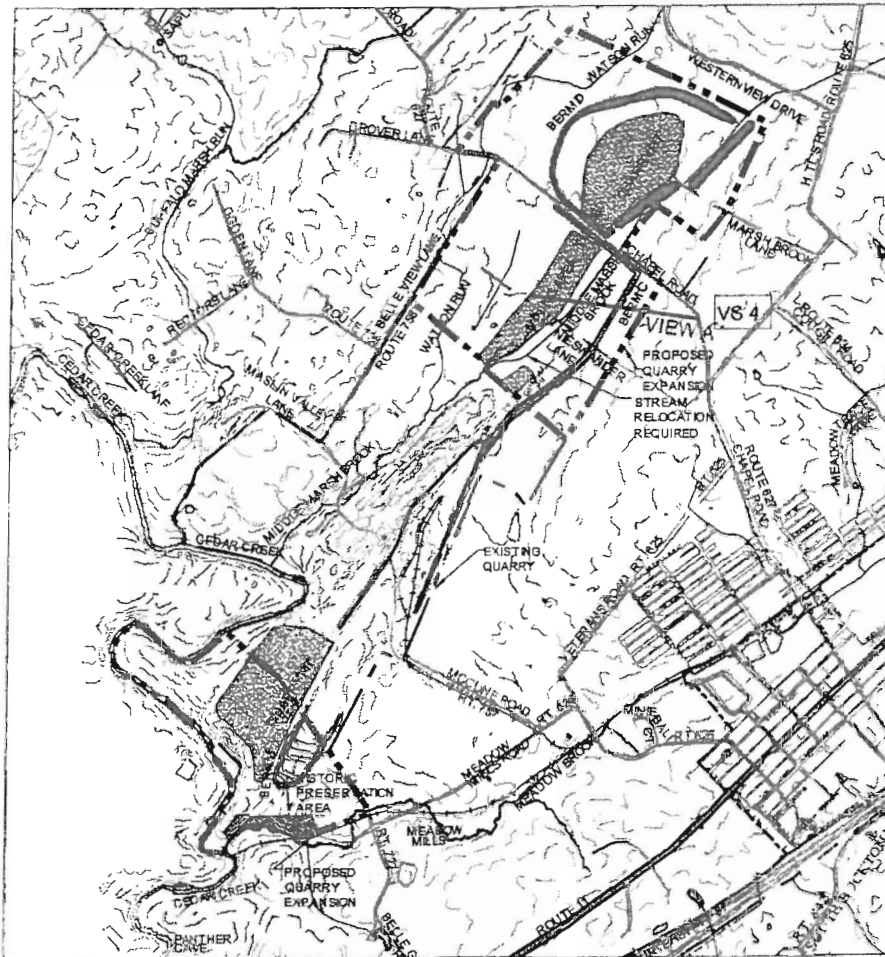




• VEGETATION SHOWN IS EXISTING UNLESS OTHERWISE NOTED.

VIEWSHED 4A

SCALE: 1" = 300'



KEY MAP

NO SCALE

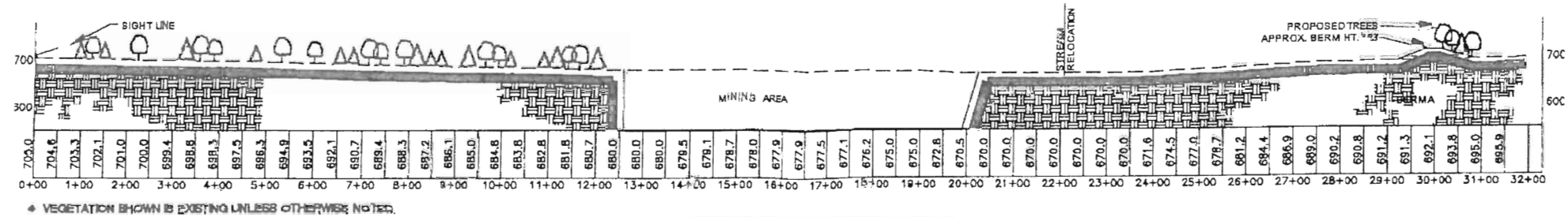
O-N Minerals Chemstone

Frederick County, Virginia
MAY 2008

Patton Harris Rust & Associates, pc
Engineers, Surveyors, Planners, Landscape Architects.

PHRA
117 East Piccadilly Street
Winchester, VA 22601
T 540-667-2139
F 540-965-0493





VIEWSHED 5A

SCALE: 1" = 300'



KEY MAP

NO SCALE

O-IN Minerals Chemstone

Frederick County, Virginia

MAY 2008

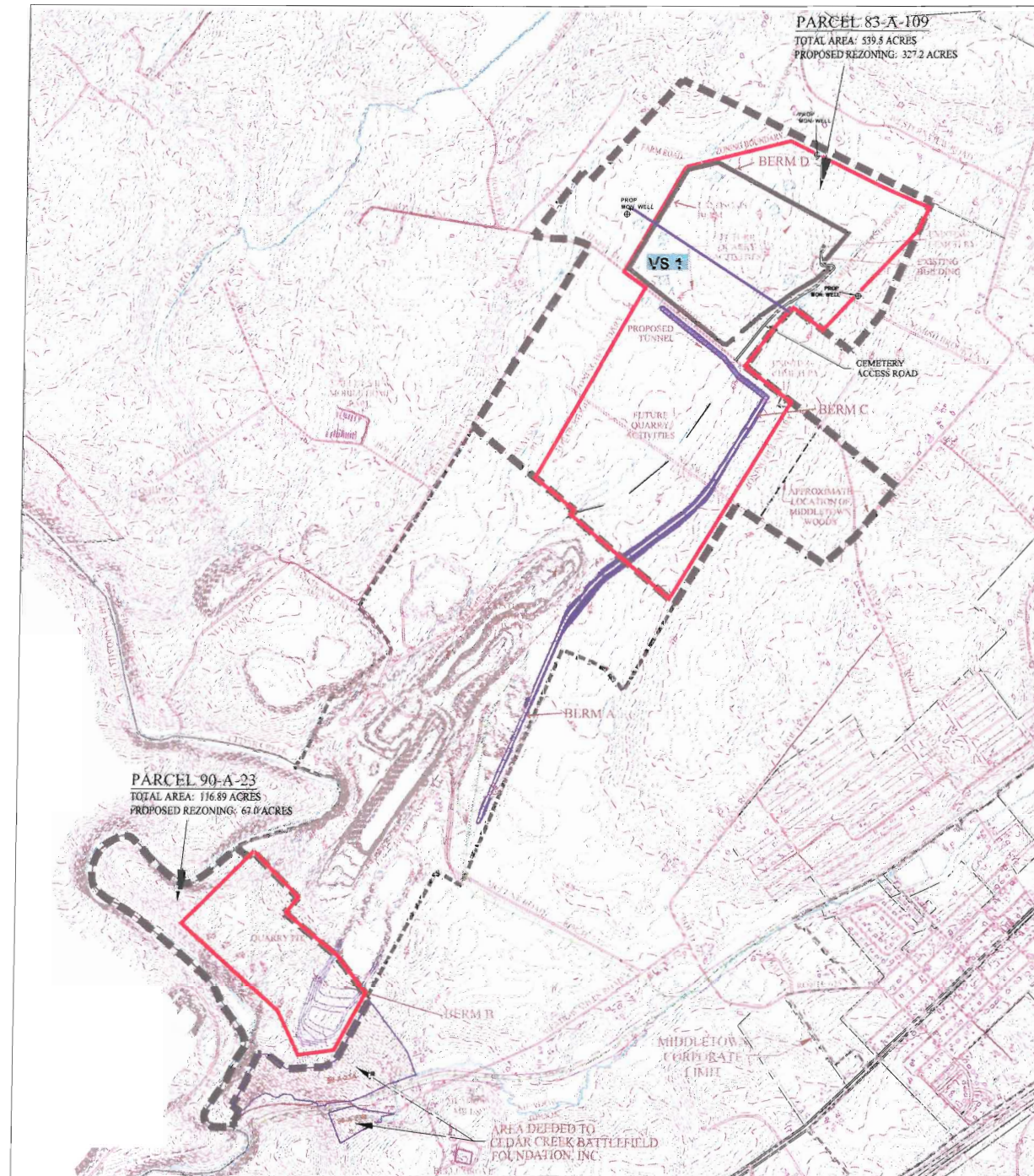
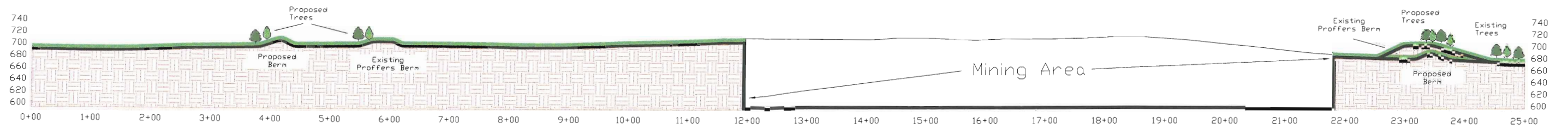
Pattor Harris Rust & Associates, PC
Engineers, Surveyors, Planners, Landscape Architects.



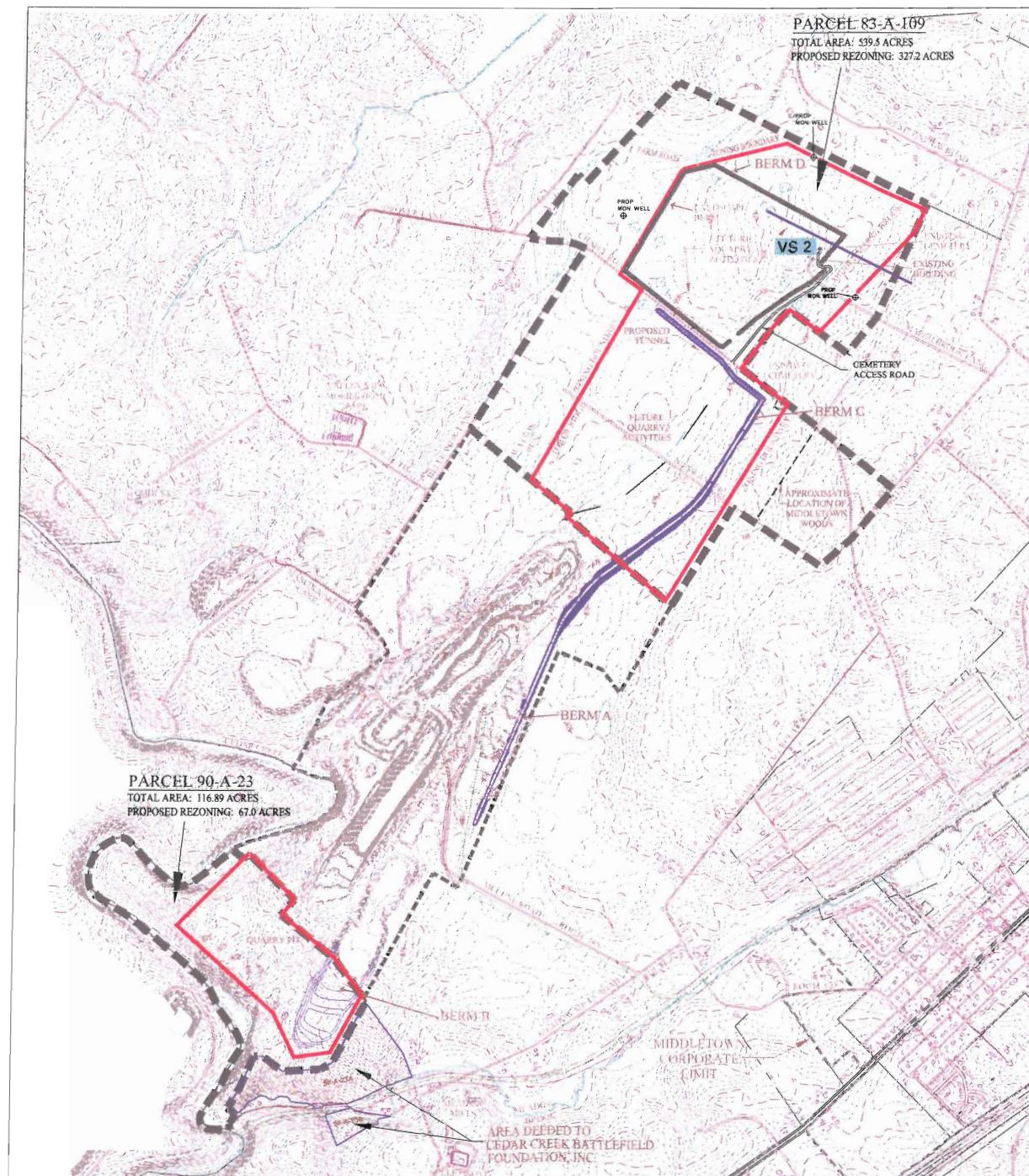
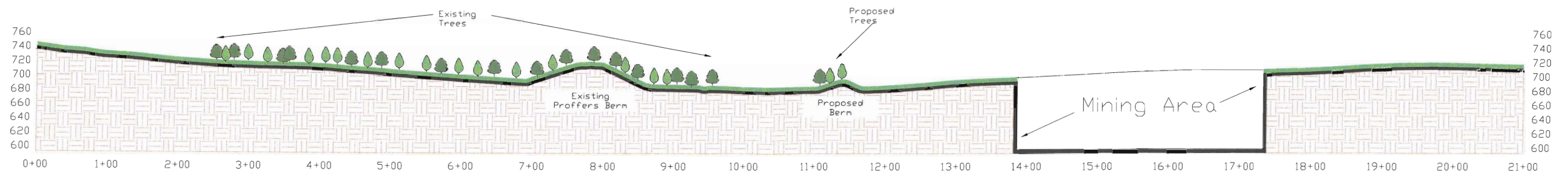
117 East Plover Hill Street
Walden, VA 22601
T 540-667-2139
F 540-865-0493



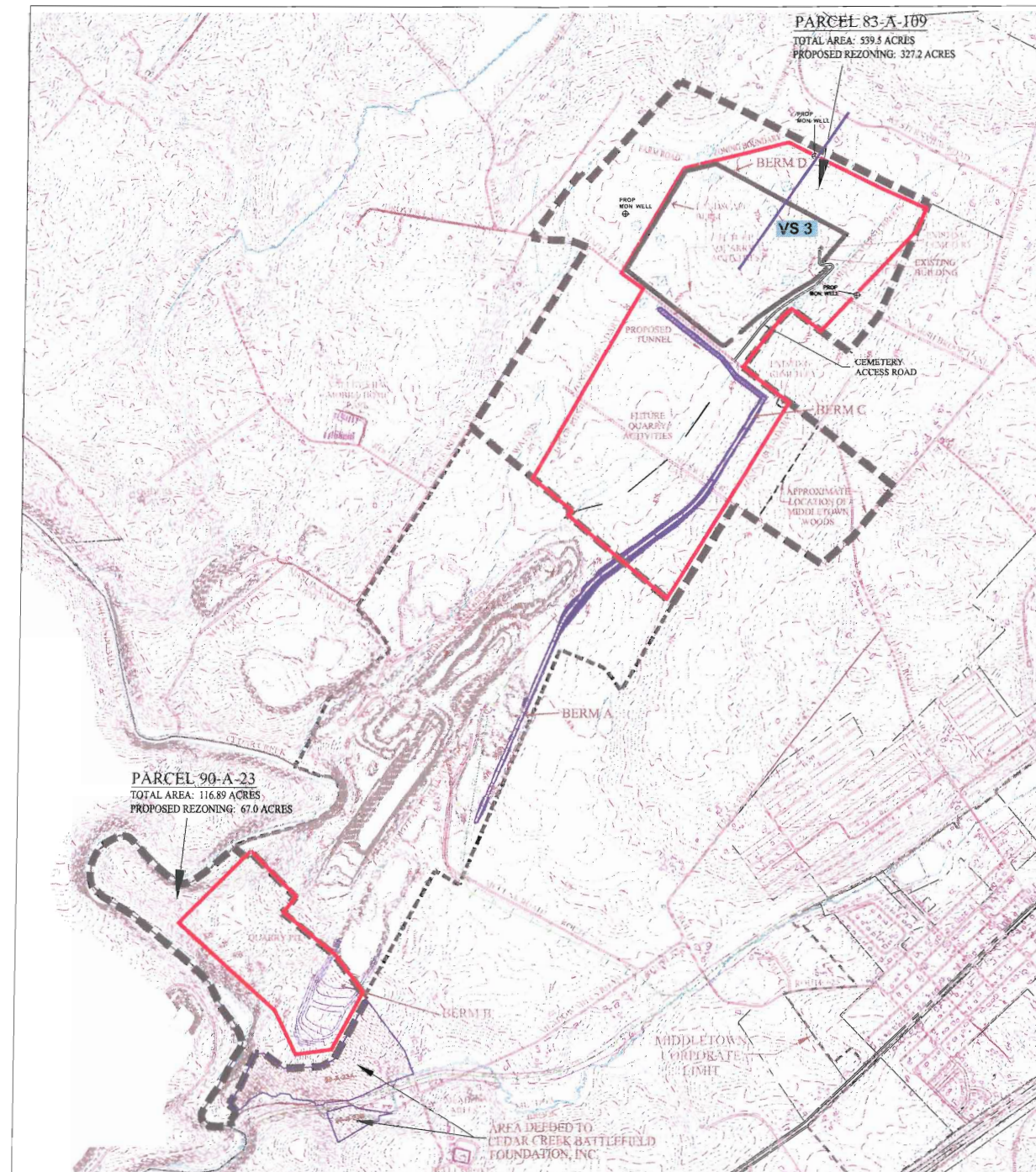
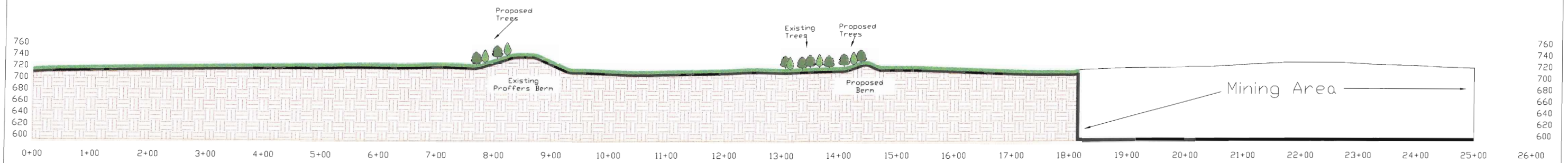
North Viewshed 1



North Viewshed 2



North Viewshed 3



080008915

0241

DEED OF GIFT

THIS DEED OF GIFT is made and dated this 25th day of July, 2008 by and between O-N MINERALS (CHEMSTONE) COMPANY, a Delaware Corporation, whose address is P.O. Box 71, Strasburg, Virginia 22657, hereinafter referred to as GRANTOR, and CEDAR CREEK BATTLEFIELD FOUNDATION, INC., a Virginia corporation, whose address is P.O. Box 229, Middletown, Virginia 22645, hereinafter referred to as GRANTEE.

WITNESSETH:

That for and in consideration of the conveyance hereby made, and other good and valuable considerations, the receipt of which is hereby acknowledged, Grantor hereby does grant, bargain, convey and sell with Special Warranty of Title, unto the Grantee all the Grantor's right, title, and interest in those certain tracts or parcels of real property having the following Legal Description:

All that certain tract or parcel of land with all easements and appurtenances thereunto belonging, lying, and being in the Back Creek Magisterial District, Frederick County, Virginia, containing 8 acres more or less, the metes and bounds whereof are shown on a certain plat of survey by Carl J. Rinker & Associates dated July 9, 2008, which plat shall be recorded with this Deed of Gift as "Exhibit A" thereto ("Property").

Reference is hereby made to "Exhibit A" and the attachments and references therein contained for a further and more particular description of the Property hereby conveyed.

This conveyance is made subject to all duly recorded and enforceable restrictions, easements, and rights of way and is also subject to the following conditions:

Document prepared by:
Thomas Moore Lawson, Esquire
P.O. Box 2740
Winchester, VA 22604

Return to:
Thomas Moore Lawson, Esquire
P.O. Box 2740
Winchester, VA 22604

Tax Map No. portion of 90-A-23
Consideration: \$0.00

Grantee's Address:
P.O. Box 229
Middletown, VA 22645

This deed is exempt from all recordable taxes by virtue of Section 58.1-811 (D) of the Code of Virginia.



- There shall be no structures built on the Property unless first approved by Grantor;
- The Property shall be maintained in a neat and orderly condition at all times and any trees maintained using best management practices;
- Grantor further reserves the right to take any action reasonably required to maintain the Property in the event the Grantee fails to do so. This right shall include, but not be limited to, the right to enter upon the Property to do such work on the Property as may be required to effect the conditions on the Property described herein.

In addition, this conveyance is made subject to the following first right of refusal. With the agreement of Grantee as evidenced by its signature below, Grantor hereby reserves a first right of refusal for any future sale, transfer or conveyance of the Property (or portion thereof) by the Grantee except a sale, transfer or conveyance to an entity that is (a) related to the Grantee and (b) a charitable entity established for the preservation of historic properties.


In the event that Grantee receives a bona fide offer or tenders a bona fide offer for the sale, transfer or conveyance of the Property (or any portion thereof) to any person or entity, then Grantee shall forthwith send to Grantor a notice in writing of its desire or intention to sell, transfer or convey the Property (or a portion thereof) accompanied by a copy of the offer. Upon receipt of that notice, Grantor shall have thirty (30) days from the date of its receipt of the notice to notify Grantee of its desire and agreement to purchase the Property (or the portion thereof) under the terms and conditions as contained in that offer. If Grantor gives Grantee notice of its intent to purchase the Property (or a portion thereof) as described above, Grantee shall sell the Property (or portion thereof) to Grantor under the terms and conditions contained in the offer.

If Grantor elects not to purchase the Property (or portion thereof) or does not respond to the notice and offer from the Grantee, then Grantee may sell the Property (or portion thereof), but only in accordance with the terms and conditions contained in the bona fide offer.

If the transaction contemplated by the bona fide offer is not completed within ninety (90) days after the expiration of the last day upon which Grantor has the right to give notice of its intent to purchase, then Grantee shall not thereafter sell or offer the Property (or any portion thereof) unless and until it again complies with the above requirements.

WITNESS the following signatures and seals:

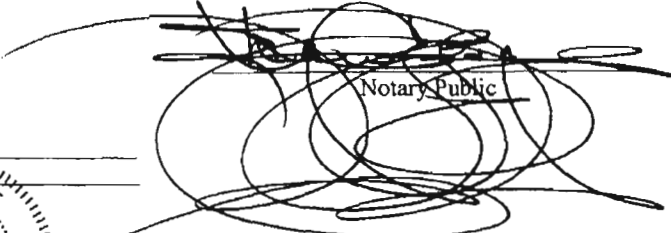
GRANTOR:
O-N MINERALS (CHEMSTONE) COMPANY


By: James E. Bottom
Its: Area Operations Manager

COMMONWEALTH OF VIRGINIA

~~CITY~~/COUNTY of FREDERICK, to-wit:

The foregoing instrument was acknowledged before me this 25th day of July, 2008, by James E. Bottom, Area Ops. Mgr. of O-N Minerals (Chemstone) Company.


Notary Public

My commission expires _____
Registration No. _____



CEDAR CREEK BATTLEFIELD FOUNDATION, INC.

By: Stanley M. Hirschberg, M.D.
Its: Stanley M. Hirschberg, M.D.
President

COMMONWEALTH OF VIRGINIA

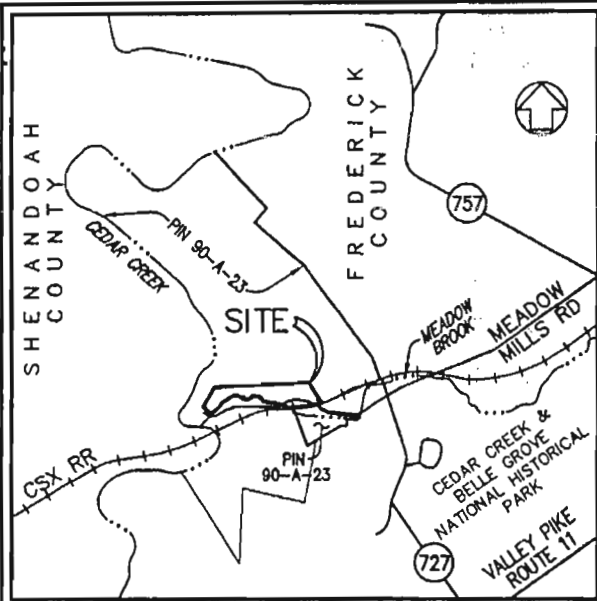
CITY/COUNTY of Frederick, to-wit:

The foregoing instrument was acknowledged before me this 24th day of July, 2008, by Stanley Hirschberg, M.D. President of Cedar Creek Battlefield Foundation, Inc.

Sharon I. Hausenfluck
Notary Public

My commission expires: 4.30.09
Registration No.: 357188





VICINITY MAP
SCALE: 1" = 2,000'

SURVEYOR'S CERTIFICATION:

I, CARL J. RINKER, A DULY LICENSED LAND SURVEYOR IN THE COMMONWEALTH OF VIRGINIA, HEREBY CERTIFY TO THE BEST OF MY KNOWLEDGE AND BELIEF, THAT THE PROPERTY CONTAINED IN THIS SUBDIVISION IS THE SAME PROPERTY CONVEYED TO O-N MINERALS (CHEMSTONE) COMPANY BY DEED RECORDED IN DEED BOOK 582 AT PAGE 122 AMONG THE LAND RECORDS OF FREDERICK COUNTY, VIRGINIA.



APPROVED BY:

FREDERICK COUNTY SUBDIVISION ADMINISTRATOR

[Signature] 22 July 09

NOTES:

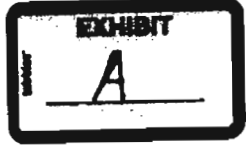
1. FREDERICK COUNTY TAX MAP: 90-A-23. CURRENT OWNERSHIP: O-N MINERALS (CHEMSTONE) COMPANY, DB 582, PG 122. CURRENT ZONING: RA.
2. MERIDIAN AND BOUNDARY INFORMATION SHOWN HEREIN ARE BASED ON THAT CERTAIN BOUNDARY SURVEY ATTACHED TO THE DEED RECORDED IN DB 582, PG 122.
3. THIS PLAT WAS PREPARED WITHOUT BENEFIT OF A TITLE REPORT AND THEREFORE DOES NOT NECESSARILY SHOW ALL ENCUMBRANCES OR OTHER MATTERS AFFECTING THE PROPERTY.
4. PURSUANT TO AN EXAMINATION OF HUD FLOOD INSURANCE RATE MAP, COMMUNITY PANEL 510063 0175B, EFFECTIVE JULY 17, 1978, A PORTION OF THE SUBJECT PROPERTY LIES IN ZONE A (AREAS OF 100-YEAR FLOOD; BASE FLOOD ELEVATIONS AND FLOOD HAZARD FACTORS NOT DETERMINED). 100 YEAR FLOODPLAIN LIMITS SHOWN HEREIN HAVE BEEN DIGITALLY SCALED FROM THE REFERENCED FIRM PANEL.
5. THIS PARCEL HAS NOT BEEN APPROVED FOR SANITARY WASTE DISPOSAL, APPROVAL MUST BE OBTAINED PRIOR TO BUILDING PERMITS FOR STRUCTURES REQUIRING SUCH FACILITIES.
6. EXISTING SUBJECT AND ADJOINING PROPERTY AREAS REPRESENTED HEREIN ARE DERIVED FROM INFORMATION OBTAINED FROM THE FREDERICK COUNTY GIS WEBSITE MAY 20, 2008.
7. REFERENCE IS HEREBY MADE TO THE "RIGHT-OF-WAY AND TRACK MAP, THE WINCHESTER AND STRASBURG RAILROAD COMPANY" (ORIGINAL DATE JUNE 30, 1918), CURRENTLY (UP)DATED JUNE 10, 2008, FILE NUMBER V08641 (V-321/8) PROVIDED BY CSX REAL PROPERTY, INC. GIS DEPARTMENT AND REVIEWED IN CONJUNCTION WITH PREPARATION OF THIS PLAT.

OWNER'S CONSENT:

THE ABOVE AND FOREGOING SUBDIVISION OF THE PROPERTY OF O-N MINERALS (CHEMSTONE) COMPANY AS APPEARS ON THE ACCOMPANYING PLATS, IS WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRES OF THE UNDERSIGNED OWNERS, PROPRIETORS AND TRUSTEES, IF ANY.

[Signature]
SPENCER C. STINSON, General Manager
PRINTED NAME & TITLE

July 18, 2008 (DATE)



NOTARY PUBLIC

STATE OF Virginia
CITY/COUNTY OF Frederick

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE

ON 7-18-08 BY Spencer Stinson
(DATE) (NAME)

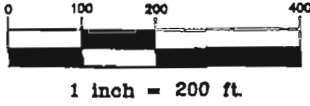
[Signature]
(NOTARY PUBLIC)

MY COMMISSION EXPIRES 4-30-2009
Registration No 357188 (DATE)

O-N MINERALS (CHEMSTONE) COMPANY
RURAL SUBDIVISION OF THE LAND OF
BACK CREEK MAGISTERIAL DISTRICT
FREDERICK COUNTY, VIRGINIA
SCALE: AS SHOWN DATE: JUNE 25, 2008
REVISED: JULY 9, 2008

Carl J. Rinker & Associates
74 Philips Court
Strasburg, VA
540-459-4715

GRAPHIC SCALE



AREA TABULATION:

| | |
|---------------------|------------|
| (OLD) 90-A-23 | 153.50 AC |
| (SEE NOTE 6) | |
| PARCEL A | -8.0139 AC |
| (REMAINDER) 90-A-23 | 145.486 AC |

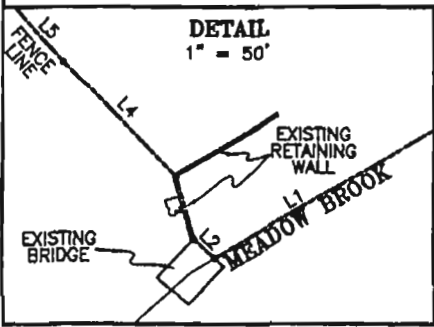
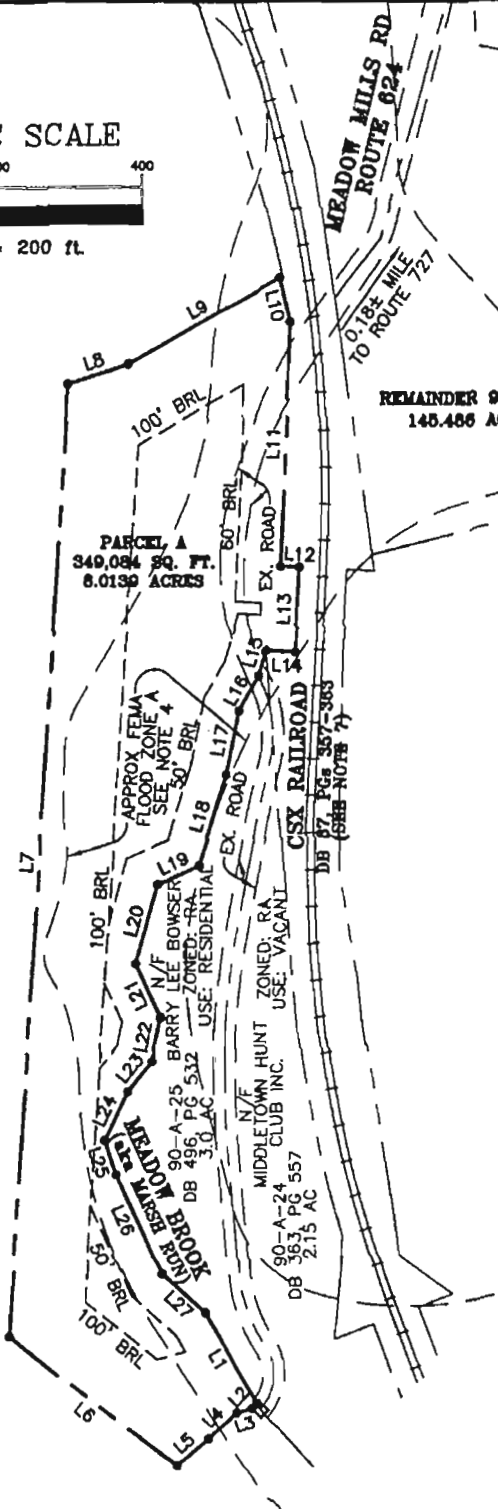


REMAINDER 90-A-23
145.486 ACRES

PARCEL A
349,084 SQ. FT.
8.0139 ACRES

REMAINDER 90-A-23
145.486 ACRES

| LINE | BEARING | DISTANCE |
|------|-------------|----------|
| L1 | S59°38'45"W | 142.52' |
| L2 | N47°42'49"W | 9.59' |
| L3 | N15°52'44"W | 22.16' |
| L4 | N44°25'50"W | 53.96' |
| L5 | N42°01'49"W | 57.18' |
| L6 | N37°55'35"E | 292.45' |
| L7 | S86°35'28"E | 1303.64' |
| L8 | S18°05'05"E | 87.01' |
| L9 | S29°06'54"E | 236.43' |
| L10 | S76°09'02"W | 61.82' |
| L11 | N87°47'09"W | 328.51' |
| L12 | S02°43'57"W | 26.00' |
| L13 | N87°05'42"W | 116.90' |
| L14 | N02°54'34"E | 41.00' |
| L15 | N73°35'59"W | 34.99' |
| L16 | N61°11'46"W | 55.17' |
| L17 | N79°13'29"W | 88.69' |
| L18 | N73°10'45"W | 129.48' |
| L19 | N24°46'35"W | 63.00' |
| L20 | N74°55'35"W | 111.16' |
| L21 | S64°37'31"W | 81.52' |
| L22 | N78°12'17"W | 61.62' |
| L23 | N51°30'49"W | 52.51' |
| L24 | N64°44'51"W | 73.52' |
| L25 | S71°26'56"W | 50.03' |
| L26 | S62°38'51"W | 151.36' |
| L27 | S41°51'08"W | 79.70' |



MINOR RURAL SUBDIVISION
OF THE LAND OF
O-N MINERALS (CHEMSTONE) COMPANY
BACK CREEK MAGISTERIAL DISTRICT
FREDERICK COUNTY, VIRGINIA
SCALE: AS SHOWN DATE: JUNE 25, 2008
REVISED: JULY 9, 2008

Carl J. Rinker & Associates
74 Phillips Court
Strasburg, VA
540-459-4715

VIRGINIA: FREDERICK COUNTY.SCT.

This instrument of writing was produced to me on

7-25-08 at 4:28 Pm
and with certificate acknowledgement thereto annexed
was admitted to record. Tax imposed by Sec. 58.1-802 of

\$ Exempt, and 58.1-501 have been paid, if assessable.

Rebecca P. Hogan, Clerk

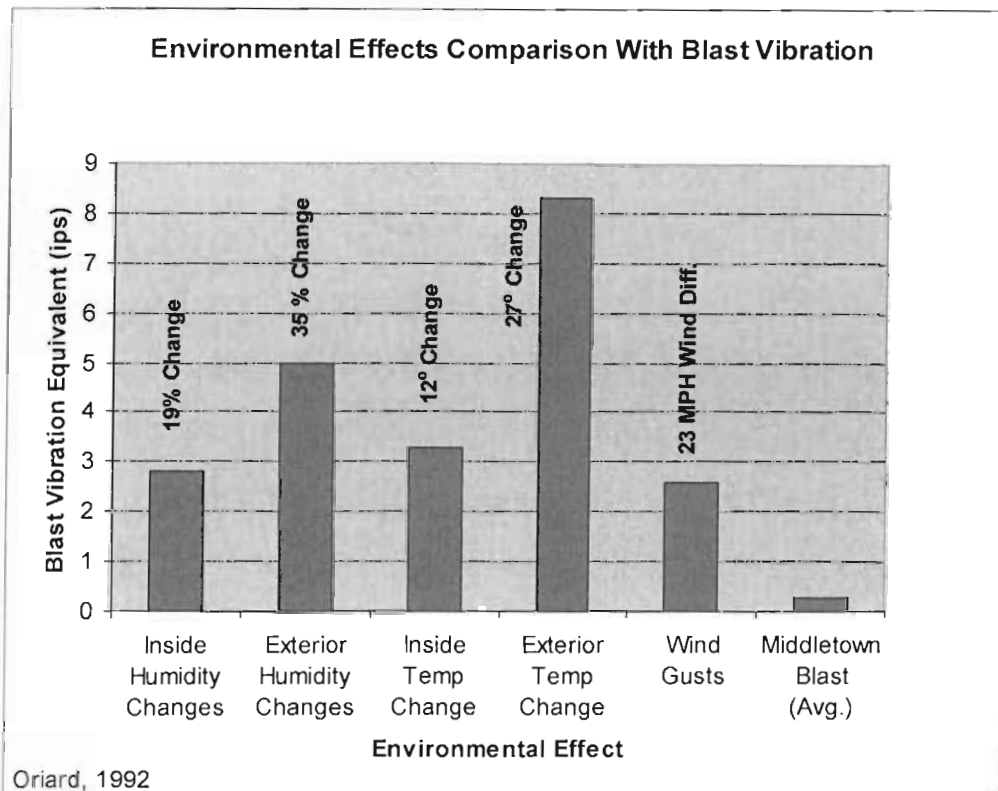
Methodology and Purpose of Pre-Blast Surveys at the Middletown Operation

WHAT IS THE PURPOSE OF A PRE-BLAST SURVEY?

As the name implies, the pre-blast survey is a visual inspection of selected structures located adjacent to proposed blasting activities. While off-site effects of commercial blasting such as that proposed for the Middletown expansion are expected to pose no threat to existing structures, it has been historically documented that when the perception of blasting reaches new or additional property owners, it is human nature to pay additional attention to one's property.

Decades of research performed by the US Bureau of Mines as well as other investigative groups, have fully documented not only the impact of blasting on structures, but also the impact of ambient environmental conditions. While blast effects typically remain well below the effects of various environmental forces, stress caused by everyday exposure to various weather events regularly places strain on construction materials above their ability to resist impact. In other words, these studies have documented what every homeowner already knows, houses, over time, will develop cracks and defects.





With the property owner paying close attention to the structure upon the perception of blasting operations, minor, threshold cracks that may have previously gone unnoticed now become the focus of attention. The question becomes; "were they there before the blasting started"?

The pre-blast survey has become a standard practice for mine and quarry expansion to remove as much doubt regarding the effect, or lack of effect, of blasting on the community as possible. By documenting the condition of a structure before it is exposed to transient ground vibration energy from blasting, a baseline of condition can be developed to aid both the property owner, as well as the mine operator, in determining cause and effect associated with blasting.

HOW IS A PRE-BLAST SURVEY CONDUCTED?

The pre-blast survey is a relatively simple process requiring no effort on behalf of the property owner other than providing access to his or her home for about one to two hours. The inspector will ask to be given access to both exterior and interior walls, floor and ceiling surfaces, looking for any observable cracks, separations, settlement or other feature that would be considered a change from standard building conditions. Most of the cracks found in residential structures are easily observed at window and door openings, wall junctions and ceiling tape joints.

Whenever a crack is found, the inspector will document the location of the crack and its characteristics by taking a photograph or videotape of each observed area. In addition to the photograph, a written

description of each crack will be made, providing the location of the crack, length/width features and any other observations deemed of interest.

After reviewing all interior surfaces, a similar survey of the exterior of the structure will be performed, using the same simple technique of inspecting observable surfaces and documenting any change in condition with photographs and or videotape. In addition, basic information regarding the structure (age, additions, major repairs, etc.) will be requested similar to what is done for a home purchase inspection.

At the conclusion of the survey, the inspector will create a written report containing all of the photographic documentation, as well as the written narrative identifying the location and characteristics of each photograph. A copy of this report will be provided to the property owner. For a typical 3,000 ft² residential home, a complete survey can be completed in less than two hours.

HOW MANY TIMES WILL MY PROPERTY BE SURVEYED?

In most cases, a single survey is performed when it is projected that approaching blast operations will become perceptible to the property owner. Because of the impact of environmental forces on any structure over time, it is not appropriate to survey structures if prolonged periods of time will elapse prior to the commencement of blasting in the area.

In operations such as Middletown, it would be expected that perception of blasting activities would occur when blasting operations are at a distance of approximately 3,000 feet from blasting operations. Given the phasing of mining activities at Middletown, this would mean that some existing and future structures might not require a pre-blast survey for many years.

Sometimes arrangements are made with property owners to have all adjoining properties surveyed upon the receipt of the new mine permit as a means of providing everyone with a general baseline of structure condition at the commencement of general mining activities associated with the permit. An agreement is then made to allow for a second survey when blasting activities reach perceptible levels if a time period greater than six months has elapsed since the initial survey.

As all blasting operations are monitored with approved seismic monitoring equipment, no additional surveys will be required.

HOW DO I KNOW THE SURVEY IS IMPARTIAL?

This is one of the cases where anything that is done with regard to the pre-blast survey that is substandard or incorrectly done will aid the property owner. The primary error that is made with regard to a survey is to miss an existing crack or condition that should be documented. Logic would indicate that this only works in the property owner's favor as, in essence, the structure contains pre-existing cracks that have not been documented, leaving the possibility that they may be claimed as blast related at a later date. I know of no manipulation of a pre-blast survey that can be done that would aid the mine operator in any way.

The pre-blast survey is an effective tool in providing the property owner and the mine operator with a baseline reference for the condition of the community prior to blasting. While it needs to be stressed that

continued exposure to environmental forces will, over time, show some change in the condition of any structure, the pre-blast survey is still an effective means of establishing guidelines prior to blasting activities.

WELL GUARANTEE AGREEMENT

Carmeuse Lime & Stone, its successors or assigns (hereinafter referred to as "MINE OWNER") guarantees to the undersigned Owner that it will replace or replenish the Owner's existing privately owned domestic-use water well(s) under the following circumstances:

Any water well negatively impacted in such a way as to render it unsuitable for its existing use, on property within 1,500 feet of any parcels being actively quarried and dewatered by MINE OWNER located at its Middletown plant (hereinafter referred to as the MINE OWNER Facility) by depleting a well, lowering the water surface below the pump or negatively intercepting the groundwater flow to the well. If at some future date MINE OWNER expands the MINE OWNER Facility and the active mining operations into other adjoining properties not currently zoned for earth materials extraction, then this Well Guarantee Agreement will be automatically expanded to include all parcels within 1,500 feet from those areas.

MINE OWNER will repair the problem by lowering the pump, deepening the well, drilling a replacement well, and/or installing an appropriate water quality treatment system at no cost to the Owner.

The undersigned Owner, in accepting this guarantee, agrees to the following conditions:

The Owner grants permission to MINE OWNER or its representative to inspect and evaluate the current condition of the well as part of a baseline water well inspection survey.

The Owner grants permission to MINE OWNER or its representative to perform water level measurements of the well or collect water quality samples (in addition to the baseline water well inspection survey) on an as needed basis for the purpose of creating background data for the well, and to assess potential complaints.

The Owner agrees to notify within twenty-four (24) hours of discovery of the reduction of water supply, depletion of the well or degradation in water quality so that MINE OWNER and a third-party hydrogeologist (as a Licensed Professional Geologist in the State of Virginia) can verify and/or document any occurrences noted during quarrying at the MINE OWNER Facility that may have contributed to the reduction of water supply or well depletion.

The third-party hydrogeologist shall document the reduction of water supply, depletion of the well or degradation in water quality. Further, the hydrogeologist will make a determination as to the cause of the reduction of water supply, depletion of the well or degradation in water quality only for purposes of determining the appropriate repair or remediation. MINE OWNER shall be responsible for supplying temporary potable water for human consumption, and potentially, water hauling for other uses (as appropriate) until the problem is corrected. MINE OWNER shall be allowed by the Owner to evaluate the well and conduct such reasonable tests as it deems necessary to verify the cause of the reduction of water supply, depletion of the well or degradation in water quality.

MINE OWNER agrees to bear all reasonable expenses that result from said reduction of water supply or well depletion; including, but not limited to temporary potable water supply for human consumption, household use, water hauling for other potential uses (as appropriate), well and pump modification, new well construction, and legal fees expended in implementing this Well Guarantee Agreement. The owner shall notify MINE OWNER prior to undertaking remedial activities or incurring expenses that later may be borne by MINE OWNER.

Repair costs due to worn or defective pumps, electrical cabling, and piping are specifically



excluded from this guarantee.

The terms of the Well Guarantee Agreement are binding during the active life of the said MINE OWNER Facility, including one year following cessation of mining activities. Upon the expiration of one year following completion of quarrying activities at the MINE OWNER Facility, this Well Guarantee Agreement shall be considered null and void.

Owner:
Date:
MINE OWNER:
Title:
Date:

Local homeowners within 1,500 feet of the property line of the proposed expansion will be invited to take part in a pre-expansion survey of their domestic water wells.

Within ___ days after rezoning is approved, each property owner within the 1,500 ft. radius of the proposed expansion will be sent an informational newsletter explaining the purpose of the Survey. A second letter, which will include a short scheduling form for owners to fill out and return to Carmeuse Lime & Stone, will be sent out within ___ days after the newsletter, and a public information meeting will be held as a follow up. As the scheduling forms are received, the property owners will be contacted by Carmeuse personnel to coordinate a day and time that is convenient to conduct the survey.

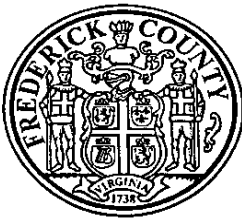
The Survey generally will consist of a short, in-person or phone, interview with the resident, property owner, or other knowledgeable party to gain information on the history of their well. The interview will followed by a physical inspection of the well. This includes obtaining the water level, pump setting depth and total depth. Existing driller's logs will also be examined. All sampling will be conducted in accordance with _____ governing approved testing procedures for potable water wells.

Field parameters measured at the time of collection include pH, Specific Conductance, Temperature, and Turbidity. The samples will be packed in ice and transported under chain-of-custody to a third party, accredited analytical laboratory for analysis. The samples will be analyzed at the laboratory for pertinent biological and chemical constituents. These include Total Coliform, Alkalinity, Chloride, Sulfate, Nitrate, Phosphorus, Potassium, Sodium, Magnesium, Calcium, Iron, and Manganese.

Each well will also be tested to determine its Specific Capacity, which will be used as a baseline for well yield estimations at that particular location. Well water at each respective well will be purged at a measured flow rate (variable for each well) for a specific time interval (also variable for each well) using the existing pumping system currently in place. The water level in each well will be measured during the testing period. Typically the well will be purged at a flow rate of less than 5 to 10 gallons per minute for approximately 30 minutes or less. The Specific Capacity for each test will be calculated using the average pumping rate during the test divided by the water level drawdown incurred at the well during the test.

Copies of the resulting reports will be provided to the property owner, as well as being maintained by Carmeuse and the designated third party performing the evaluation.





ORDINANCE

Action:

| | | |
|-----------------------|---|--|
| PLANNING COMMISSION: | November 15, 2017
February 21, 2018 | Public Hearing Held; Postponed for 90 days
Recommended Denial |
| BOARD OF SUPERVISORS: | March 14, 2018
April 25, 2018
May 23, 2018
June 13, 2018 | Postponed to April 25, 2018
Postponed to May 23, 2018
Postponed to June 13, 2018 |

AN ORDINANCE AMENDING

THE ZONING DISTRICT MAP

REZONING #05-17 O-N MINERALS/dba CARMEUSE LIME & STONE

WHEREAS, REZONING #05-17, submitted O-N Minerals (Chemstone) Company to rezone 394.2± acres from the EM (Extractive Manufacturing) District with proffers to the EM (Extractive Manufacturing) District with revised proffers. The Middletown site was originally rezoned to the EM (Extractive Manufacturing) District with Rezoning #03-06 for O-N Minerals (Chemstone) which was approved in 2008. The Applicant is seeking to revise the proffers pertaining to viewshed plans, berms, landscaping and cemetery access with a final revision date of June 1, 2018 was considered. The subject properties are located west of the Town of Middletown. Specifically, the Middle Marsh Property is located east of Belle View Lane (Route 758), and west and adjacent to Hites Road (Route 625) and is further traversed by Chapel Road (Route 627). The Northern Reserve is bounded to the south by Cedar Creek and is west and adjacent to Meadow Mills Road (Route 624). The properties are located in the Back Creek Magisterial District and are identified by Property Identification Nos. 83-A-109 and 90-A-23 (portions of); and

WHEREAS, the Planning Commission held a public hearing on this rezoning on November 15, 2017 and postponed the application for 90 days and; the Planning Commission then held a public meeting on this rezoning on February 21, 2018 and recommended denial; and

WHEREAS, the Board of Supervisors held a public hearing on this rezoning on March 14, 2018 and postponed the application to the April 25, 2018 meeting with a continued public hearing; and

WHEREAS, the Board of Supervisors on April 25, 2018 postponed the application to the May 23, 2018 meeting with a continued public hearing; and

WHEREAS, the Board of Supervisors held a public hearing on this rezoning on May 23, 2018 and postponed the application to the June 13, 2018 meeting with a continued public hearing; and

WHEREAS, the Board of Supervisors held a public hearing on this rezoning on June 13, 2018; and

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

NOW, THEREFORE, BE IT ORDAINED by the Frederick County Board of Supervisors, that Chapter 165 of the Frederick County Code, Zoning, is amended to rezone two (2) parcels of land, 394.2± acres from the EM (Extractive Manufacturing) District with proffers to the EM (Extractive Manufacturing) District with revised proffers with a final revision date of June 1, 2018. The conditions voluntarily proffered in writing by the Applicant and the Property Owner are attached.

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

Passed this 13th day of June 2018 by the following recorded vote:

Charles S. DeHaven, Jr., Chairman

Gary A. Lofton

J. Douglas McCarthy

Robert W. Wells

Shannon G. Trout

Judith McCann-Slaughter

Blaine P. Dunn

A COPY ATTEST

Kris C. Tierney
Frederick County Administrator

PROPOSED PROFFER STATEMENT

REZONING: RZ# 03-06
Rural Areas (RA) to Extractive Manufacturing (EM)

PROPERTY: 394.2 Acres +/-;
Portions of Tax Map Parcels 83-A-109 ("parcel 109") and 90-A-23
("parcel 23") (the "Properties")

RECORD OWNER: O-N Minerals (Chemstone) Company

APPLICANT: O-N Minerals (Chemstone) Company ("Applicant")

PROJECT NAME: Chemstone - Middletown

ORIGINAL DATE
OF PROFFERS: June 13, 2005

REVISION DATE(S): January 16, 2006 February 8, 2006 August 28, 2006
March 18, 2008 April 18, 2008 May 14, 2008
May 20, 2008 May 22, 2008 May 27, 2008

The undersigned Applicant hereby proffers that the use and development of the portions of the above-referenced parcels, which are requested to be rezoned, the portions requested to be rezoned being shown on the attached and incorporated plat identified as "Exhibit 1," shall be in strict conformance with the following conditions, which shall supersede all other proffers on the Properties that may have been made prior hereto. In the event that the above-referenced EM conditional rezoning is not granted as applied for by the Applicant, these proffers shall be deemed withdrawn and shall be null and void. Further, these proffers are contingent upon final rezoning of the Properties with "final rezoning" defined as that rezoning which is in effect on the day following the last day upon which the Frederick County Board of Supervisors' (the "Board") decision granting the rezoning may be contested in the appropriate court. If the Board's decision is contested, and the Applicant elects not to submit development plans until such contest is resolved, the term rezoning shall include the day following entry of a final court order affirming the decision of the Board which has not been appealed, or, if appealed, the day following which the decision has been affirmed on appeal.

The headings of the proffers set forth below have been prepared for convenience or reference only and shall not control or affect the meaning or be taken as an interpretation of any provision of the proffers. The improvements proffered herein shall be provided at the time of development of that portion of the Properties adjacent to or including the improvement or other proffered requirement, unless otherwise specified herein. Any proffered conditions that would prevent the Applicant from conforming with State and/or Federal regulations shall be considered null and void. The term "Applicant" as referenced herein shall include within its meaning all future owners and successors in interest. When used in these proffers, the "Generalized

Development Plan,” shall refer to the plan entitled “Generalized Development Plan, O-N Minerals (Chemstone)” dated May, 2008 (the “GDP”). The Applicant attaches and incorporates the GDP, which includes a plan titled “Generalized Development Plan”; a plan titled “Overall Plan”; four plans titled “Phase I Plan”, “Phase II Plan”, “Phase III Plan”, and “Phase IV Plan”; and twelve viewshed plats titled “Viewshed 1A, Viewshed 1B, Viewshed 2, Viewshed 3, Viewshed 4A, Viewshed 4B, Viewshed 5A, Viewshed 5B, Viewshed 6, Viewshed 7, Viewshed 8 and Viewshed 9”. The aforementioned documents are and shall be incorporated by reference herein as “Exhibit 2.” The Applicant proffers that its development of the Properties will be in substantial conformity with the GDP.

1. Land Use

1.1 The Properties shall be developed with extractive manufacturing land uses pursuant to the mining permit approved by the Division of Mineral Mining (“DMM”) of the Virginia Department of Mines, Minerals and Energy (“VDMME”), and shall therefore conform to the Mineral Mining Law and Reclamation Regulations for Mineral Mining of the Commonwealth of Virginia.

1.2 The Applicant hereby proffers not to engage in the following uses on the Properties:

Oil and natural gas extraction;
Asphalt and concrete mixing plants;
Brick, block and precast concrete products;
Cement and lime kilns; and
Coal and natural gas-fired power plants or facilities which sell power to the local utility or power grid*

*This is not to be interpreted as a restriction against using power plants on the Properties as necessary to support extractive mining activities.

2. Site Development

2.1 Properties’ access via public secondary roads shall be limited to the existing quarry entrance on McCune Road (Route 757). Access by vehicles needed for periodic maintenance of the Properties shall not be limited.

2.2 Earthen berms shall be installed around the active quarry pits in the location shown on the GDP. The berms shall have a maximum height of 30 feet and a minimum height of 10 feet. The berms (Berm A and Berm B) depicted on the Phase I Plan of the GDP shall be installed within 10 years of the approval of the rezoning. The berms (Berm C and Berm D) depicted on the Phase II Plan of the GDP shall be installed no later than 10 years prior to the commencement of mining north of Chapel Road. The berms shall be landscaped to minimize impacts to the viewshed of the surrounding community. Such landscaping shall consist of a mix of deciduous and coniferous plantings placed in a random manner to be consistent with existing vegetation patterns. The description of the plants to be

installed on the berms are more specifically described in the attached and incorporated "Exhibit 3." The landscaping shall be subject to reasonable approval by the Zoning Administrator of Frederick County and upon consultation with the State Forester. With respect to Berm A, located on Tax Parcel 90-A-2, not owned by the Applicant, the berm will be constructed by the Applicant as the tenant under a 100-year lease of Parcel 90-A-2, with authority under the lease to construct Berm A.

- 2.3 The existing overburden stock pile on the southeast corner of the current Middletown plant site shall be reduced in height to the greater of 30 feet or the height of the adjacent tree line (lying to the east) within 5 years of the approval of the rezoning.

3. Historic Resources

- 3.1 The Applicant shall create an 8 acre historic reserve as shown on the GDP and on Exhibit 1, within which archaeological resources and other historic activities have been identified. Further, the Applicant shall place restrictions on the reserve land for how the reserve will be used by the Properties' owner and future owners. A copy of said restrictions are attached and incorporated as "Exhibit 4." Said reserve land shall be dedicated to the Cedar Creek Battlefield Foundation, Inc. within 60 days of final rezoning. [NOTE: the aforementioned 8 acre historic reserve property is not to be included in the property to be rezoned.]
- 3.2 The Applicant shall complete a Phase I Archaeological Survey of parcels 23 and 109. The Phase I Archaeological Survey of parcel 23 shall be completed within 12 months of the approval of the rezoning. For the remaining tracts of land, the Applicant shall complete a Phase I Archaeological Survey of a particular tract of land before any mining activities commence on that property. The Applicant may commence mining activities on a particular portion of the Properties before the completion of the Phase I survey for all of the Properties, but under any and all circumstances, no mining operations shall commence on any portion of the Properties until after the Phase I Archeological Survey has been completed on said portion of the Properties. Said survey shall locate, identify, and comprehensively record all historic sites, buildings, structures, and objects on the parcels. Such survey shall be conducted in accordance with the guidelines for a Phase 1 Survey as defined in the Virginia Department of Historic Resources "GUIDELINES FOR CONDUCTING CULTURAL RESOURCE SURVEY IN VIRGINIA - Chapter 7: Guidelines for Archaeological Investigations in Virginia," 1999 (Rev. Jan. 2003).
- 3.3 Two cemeteries have been identified on the Properties. The first cemetery is located adjacent to Chapel Road and is in an area that is not designated for mining and is also outside of the berming area. That cemetery is currently undergoing a historical restoration. After the historical restoration, the Applicant will follow the recommendations of the Applicant's historian.

The second cemetery is located in the area where berming is slated to be installed. The Applicant proffers the berming will be located in such a way as to not encroach on the cemetery. This cemetery is also currently undergoing a historical restoration. After the historical restoration, the Applicant will follow the recommendations of the Applicant's historian. In addition, the cemetery is accessed through a right-of-way which is of record providing access to the cemetery from Route 625. The Applicant proffers to improve said right-of-way so that it can be used for access by the descendants of those in the cemetery within 12 months of completion of the cemetery restoration. Once said right-of-way has been improved, the Applicant will provide continued maintenance and have use of same.

4. Rights to Water Supply

4.1 The Applicant shall guarantee the Frederick County Sanitation Authority ("FCSA") rights to the water resources available on the Properties in accordance with the existing agreements between the Applicant and FCSA.

5. Ground Water

5.1 The Applicant shall install a minimum of three monitoring wells to effectively establish and monitor the groundwater level in order to avoid detrimental impacts to surrounding properties. Said wells shall be installed prior to any land disturbance of the portion of the Properties identified as parcel 109 by the GDP, and shall be located within 500 feet of the Properties' boundaries. A minimum of one monitoring well shall be installed within 500 feet of the parcel 109 Properties' boundary. The exact location of the monitoring wells is depicted on the Overall Plan of the GDP.

5.2 Subject to and consistent with the provisions of paragraph 9.2, the Applicant shall remediate any adverse impacts to wells located on surrounding properties caused by mining operations on the Properties. Costs associated with any required remediation shall be borne by the Applicant.

Furthermore, the Applicant agrees to participate in a pre-blast survey and well monitoring survey, as further described herein. The intent of the aforementioned surveys is to provide a mechanism to remediate any adverse impacts to wells and/or structures which are caused by the mining operations on the Properties.

6. Dust Control

6.1 Dust from drills, muck piles, material handling, screens, crushers, conveyors, feeders, hoppers, stockpiles, load-outs, and traffic areas shall be controlled by wet suppression or equivalent, and controlled by and consistent with the terms of the Department of Environmental Quality ("VDEQ") general air permit. The Applicant shall remediate any adverse impacts to surrounding properties caused by dust associated with the mining operations on the Properties.

7. Blasting Control

7.1 All blasting associated with mining operations on the Properties shall be limited by the mining permit approved by the DMM of the VDMME. Peak Particle Velocities (PPV) associated with blasting on the Properties shall not exceed the levels stipulated by said permit. In addition, the Applicant agrees to have an approved blasting plan in place at all times. An example of the current blasting plan is attached. Further, in addition, the Applicant agrees that there will be no block holing or adobe blasting conducted on the Properties. Any damage to surrounding properties caused by blasting on the Properties shall be remediated at the Applicant's expense.

8. Traffic

8.1 The Applicant's current number of truck loads leaving the site on a daily basis is approximately 63, and the Applicant has had higher numbers of recorded truck loads leaving the plant to a total of 114 truck loads per day. The Applicant, in its proffer, is agreeing to restrict truck traffic to the Properties to 86 truck loads per day averaged over the prior 30 days, but intends to also have an ability to increase the number of truck loads in the event of an emergency or circumstances, which could be caused by issues driven by the Applicant's customers, suppliers, and/or carriers. Examples of such shall include, but are not limited to, an interruption of rail service to the site and/or any sites that are serviced by rail from the Applicant's Properties and/or any other interruption of the ability to deliver materials at the Applicant's site or any other sites which are owned, controlled, or by business relationship connected with the Applicant's site. To that end, and in any circumstance, the Applicant agrees to restrict truck traffic to the Properties to a maximum of 200 truck loads per day averaged over the prior 30 days through the scale house hauling mined materials on and/or off the proposed quarry site from the existing quarry entrance. The maximum number of truck loads will be regulated by the Applicant and its successors and/or assigns. A record of the actual number of truck loads per day shall be kept current (and maintained for one year) by the Applicant at its scale house office. Said record shall be made available in a form which confirms the number of trips and the form will be produced to Frederick County officials upon demand with reasonable notice. The Applicant proffers there will be no truck loads from the Properties on Sundays and the hours of truck loading on Saturdays will be no later than 7:00 p.m. The Applicant further proffers it will instruct all truckers as to the proper route of travel from the Properties to Route 11, which shall exclude both Belle Grove and Chapel Roads.

9. Pre-Blast Surveys

9.1 The Applicant will offer voluntary pre-blast surveys of properties that are within 1,500 feet of the boundaries of parcel 23 and parcel 109. The aforementioned surveys will be conducted by an independent engineering firm, which will

investigate and document the pre-blast conditions of the participants' residences and/or outbuildings. The Applicant and its successors and assigns will contact all citizens who have property within 1,500 feet of the boundaries of parcel 23 and parcel 109, and monitor the tax roles for Frederick County on an annual basis in order to contact any citizens who have recently purchased the aforementioned property. This contact will be made by the Applicant and its successor and assigns to invite citizens who have property within 1,500 feet of the boundaries of parcel 23 and parcel 109 to participate in the pre-blast surveys. Contact will be made by registered return-receipt letters, mailed annually from the time of the rezoning. All citizens who have property within 1,500 feet of the boundaries of parcel 23 and parcel 109 can, and are encouraged to, participate in the survey by contacting the Applicant and scheduling a mutually agreeable time for the independent engineering firm to visit the party's residence to document and survey the pre-blast condition of the party's residences/outbuildings following the procedures set forth in the attached and incorporated "Exhibit 5." If the property owner agrees to participate, the Applicant's and/or its engineering firm shall visit and inspect the party's residences/outbuildings to monitor the condition of the same. A record of those pre-blast conditions will be kept by the independent engineering firm with copies retained by the Applicant and the participating property owner. In the event of a change in condition, which is alleged by the participating property owner as a result of mining operations, the engineering firm will then conduct a follow-up visit and investigation and use the pre-blast information as a control and basis for subsequent analysis. Said analysis shall be used to determine the cause of any negative change in condition. If it is determined there is a change in condition in the residences/outbuildings, which has been caused by the Applicant's mining activities on the Properties, then the Applicant agrees to remediate and/or repair said negative change in condition to restore it to its status prior to blasting operations. In addition, the Applicant agrees to establish seismic monitoring of the proposed quarry site to monitor all blasting activities and keep records of said seismic monitoring as required by the VDMME.

- 9.2 The Applicant will offer voluntary well monitoring surveys of properties that are within 1,500 feet of the boundaries of parcel 23 and parcel 109. The aforementioned surveys will be conducted by an independent well drilling firm or hydrogeologist, which will investigate and document the pre-mining conditions of the participants' wells. The Applicant and its successors and assigns will contact all citizens who have property within 1,500 feet of the boundaries of parcel 23 and parcel 109, and monitor the tax roles for Frederick County on an annual basis in order to contact any citizens who have recently purchased the aforementioned property. This contact will be made by Applicant and its successor and assigns to invite citizens who have property within 1,500 feet of the boundaries of parcel 23 and parcel 109 to participate in the well monitoring surveys. Contact will be made by sending annually registered return-receipt letters. All citizens who have property located within 1,500 feet of the boundaries of parcel 23 and parcel 109 can and are encouraged to participate in the survey by scheduling a mutually agreeable time for the independent well drilling firm to visit the party's residence

to document and survey the pre-blast condition of the party's well following the procedures set forth in the attached and incorporated "Exhibit 6A and 6B." A record of these pre-mining conditions will be kept by the independent well drilling firm, with copies retained by the Applicant and the participating property owner. In the event a change of condition is alleged by the property owner as a result of mining operations, the Applicant will provide an interim replacement water supply as necessary to supply the property owner with water. The well drilling firm will then conduct a follow-up visit and investigation and use pre-blast information as a control and basis for subsequent analysis. If it is determined that the status of the neighboring property owner's well has deteriorated from the condition it was in at the time of the pre-blast survey, then the Applicant agrees to restore the well to its condition existing at the time of the pre-blast survey and/or provide the adjoining property owner a replacement well of the same condition (or better) of that which existed at that time of the pre-blast survey.

- 9.3 In addition to the above, the Applicant agrees to maintain in force an insurance policy or other sufficient security for the period of time covering the active mining operations on the Properties and to maintain in effect for a period of one year from the date of cessation of said mining operations, and to cover the costs of any remediation and/or repair, which is required pursuant to the terms of sections 9.1 and 9.2 above. Said policy or surety shall be in the amount of no less than One Million and 00/100 Dollars (\$1,000,000.00) per occurrence. Frederick County may review from time to time the amount of the policy or surety to evaluate whether the minimum amount of \$1,000,000.00 is sufficient to protect the cost of any remediation and/or repair, which is required pursuant to the terms of sections 9.1 and 9.2. In the event Frederick County believes that the amount of the policy or surety needs to be increased for the reasons set forth above, then the Applicant and Frederick County shall reach an agreement as to the proper amount of policy or surety. The approval of said increase shall not be unreasonably withheld, conditioned or denied by either party. The Applicant shall annually provide to the County a Certificate of Insurance from the insurance carrier.

10. Reclamation

- 10.1 It is intended that pursuant to the terms of the agreement reached with the FCSA that at the time of cessation of mining activities, the Properties' quarry pits shall be used by the FCSA as water reservoirs. The control of the water levels in the quarry pits shall be handed over to the FCSA. It is intended that the quarry pits at that time will contain quantities of water monitored and directed by the FCSA, and which will be conducive to the general betterment of natural habitat.

11. Noise Abatement

- 11.1 Operations on the Properties will not exceed the VDMME Engineering's decibel guidelines. The Applicant will make all reasonable efforts to locate mining machinery in the quarry pit or behind berms.

12. Lighting

12.1 There shall be no affixed lighting structures above-ground on the berms other than as may be required for or provided by regulations that affect the plant operations, including but not limited to, Mine Safety Health Administration (“MSHA”), VDMME, and any other governmental or regulatory body that oversees mining operations. Lighting used for devices or machines that convey materials or for pit crushing facilities and other mining activities is permitted. Conveying and pit crushing facilities shall also be interpreted as including such other devices or activities that perform similar or related functions that may come into use and/or existence at some time in the future while the extractive mining use is still in effect on the Properties. In addition to the above, all lighting will be installed in such a manner that there will be no spillover beyond any property line of the Applicant onto adjacent properties not owned by the Applicant.

13. Air Permit

13.1 The Applicant shall maintain its existing general air permit controlling emissions in accordance with the VDEQ standards and also see that the existing general air permit covers all activities conducted on the rezoned Properties.

14. Environment

14.1 In addition to compliance with the VPDES water discharge permit already in place, the Applicant agrees to work with a recognized environmental entity of the Applicant’s choosing during its operations to ensure that the water emissions from water flowing from the quarry operations on the Properties is of a quality consistent with the water quality in Cedar Creek so as to maintain an environment conducive to natural habitats. No additional water discharge points will be added.

14.2 The Applicant agrees that all areas currently in trees on property owned by the Applicant, which is outside of the rezoned Properties and identified on the GDP as “Middletown Woods”, shall be maintained using best management practices.

14.3 The Applicant proffers to keep its mining operations at least 200 feet from the edge of Cedar Creek.

15. Phasing

15.1 The Applicant agrees that mining activities on the Properties shall occur with the following phasing and as set forth on the Phasing Plans of the GDP:

After the rezoning is approved, the Applicant will start creating berms on the newly rezoned Properties and the Applicant shall start quarrying in the area identified as parcel 23. Mining in parcel 23 shall occur from the time period

commencing with the approval of the rezoning for a period of time which is estimated to be twenty years.

For the newly zoned area, which is north of the existing EM zoned property, and south of Chapel Road, mining activities will commence no earlier than ten years from the date that the rezoning referenced herein is approved.

For the newly zoned area, which lies north of Chapel Road, mining will commence no earlier than twenty years from the date that the rezoning referenced herein is approved.

SIGNATURES APPEAR ON THE FOLLOWING PAGES

Respectfully submitted,

O-N MINERALS (CHEMSTONE) COMPANY

By: SPENCER C. STINSON

Its: General Manager

[Signature]

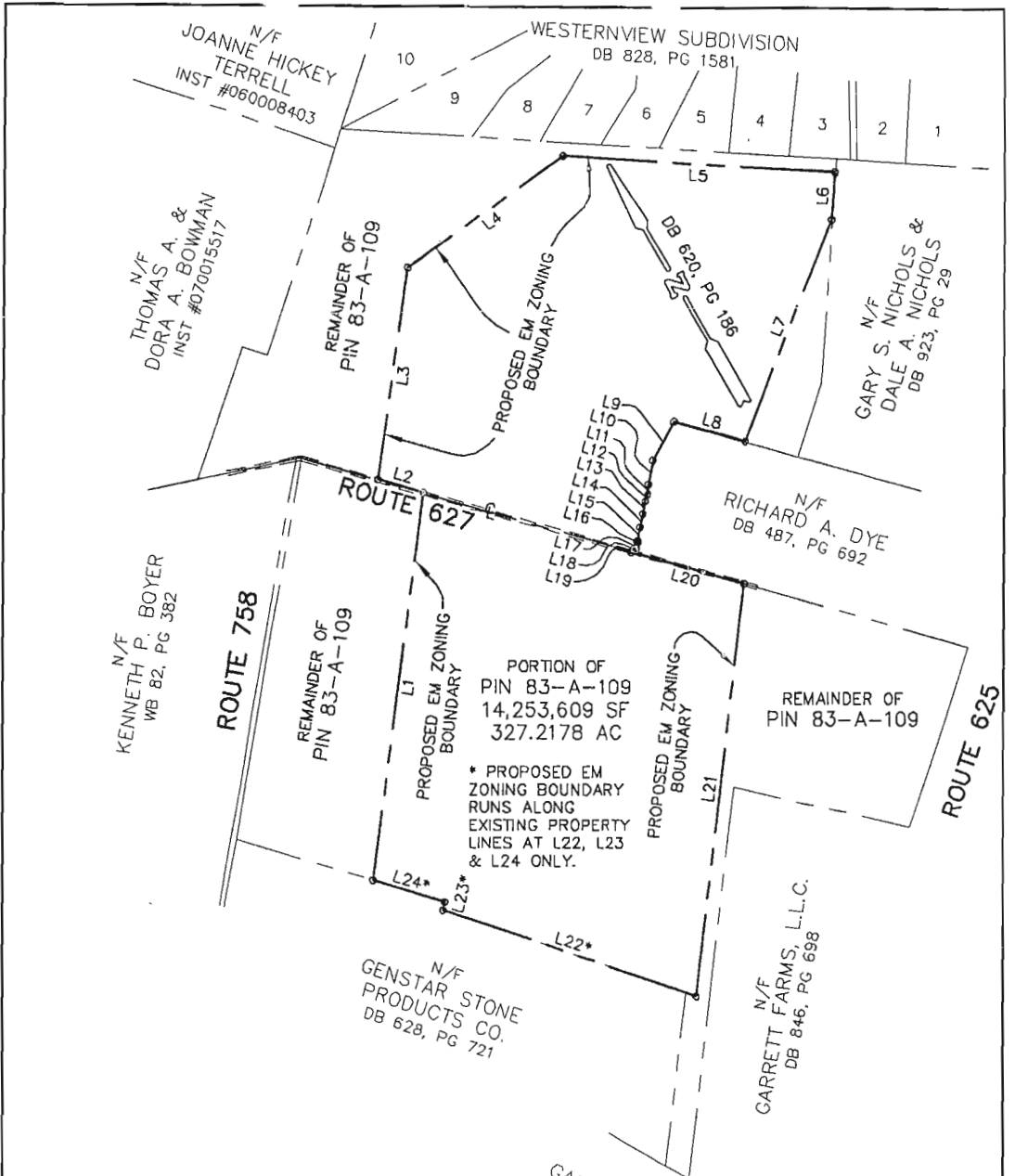
COMMONWEALTH OF VIRGINIA, AT LARGE
FREDERICK COUNTY, To-wit:

The foregoing instrument was acknowledged before me this 28th day of May,
2008, by Spencer C. Stinson.

Jennifer M. K. Kittlaus
NOTARY PUBLIC

My commission expires:
Registration number:

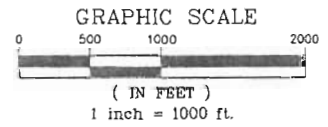




| LINE TABLE | | |
|------------|-------------|----------|
| LINE | BEARING | LENGTH |
| L1 | N37°20'21"E | 2908.33' |
| L2 | N44°12'04"W | 353.46' |
| L3 | N37°45'19"E | 1587.57' |
| L4 | N83°55'47"E | 1427.97' |
| L5 | S56°50'54"E | 2031.06' |
| L6 | S33°19'31"W | 359.18' |
| L7 | S51°08'46"W | 1771.57' |
| L8 | N44°54'24"W | 547.10' |
| L9 | S57°53'12"W | 326.61' |
| L10 | S40°29'59"W | 180.07' |
| L11 | S34°14'59"W | 75.78' |
| L12 | S50°29'59"W | 52.91' |
| L13 | S39°59'45"W | 100.50' |
| L14 | S42°59'56"W | 100.41' |
| L15 | S41°44'59"W | 101.79' |
| L16 | S08°30'00"W | 15.91' |
| L17 | S44°44'59"W | 48.70' |
| L18 | N60°27'01"W | 19.00' |
| L19 | S70°47'59"W | 33.21' |
| L20 | S44°23'32"E | 873.66' |
| L21 | S36°28'58"W | 3079.05' |
| L22 | N41°30'31"W | 1997.30' |
| L23 | N42°39'21"E | 62.27' |
| L24 | N43°20'04"W | 558.68' |

NOTES:

- FREDERICK COUNTY PIN: 83-A-109
- PROPERTY OUTLINE AND MERIDIAN SHOWN HEREON ARE BASED ON THE PLAT ATTACHED TO DEED OF BARGAIN AND SALE RECORDED IN DB 620, PG 186 AMONG THE LAND RECORDS OF FREDERICK COUNTY, VIRGINIA. INFORMATION SHOWN HEREON IS NOT BASED ON A CURRENT FIELD RUN SURVEY. ADJOINING PROPERTY OWNERS ARE BASED ON INFORMATION OBTAINED FROM FREDERICK COUNTY GIS WEBSITE, MAY, 2008.
- NO TITLE REPORT.

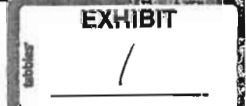


"ZONING BOUNDARY EXHIBIT A"
 A PORTION OF THE
 PROPERTY CONVEYED TO
CHEMSTONE CORPORATION
 DEED BOOK 620, PAGE 186
 BACK CREEK MAGISTERIAL DISTRICT
 FREDERICK COUNTY, VIRGINIA

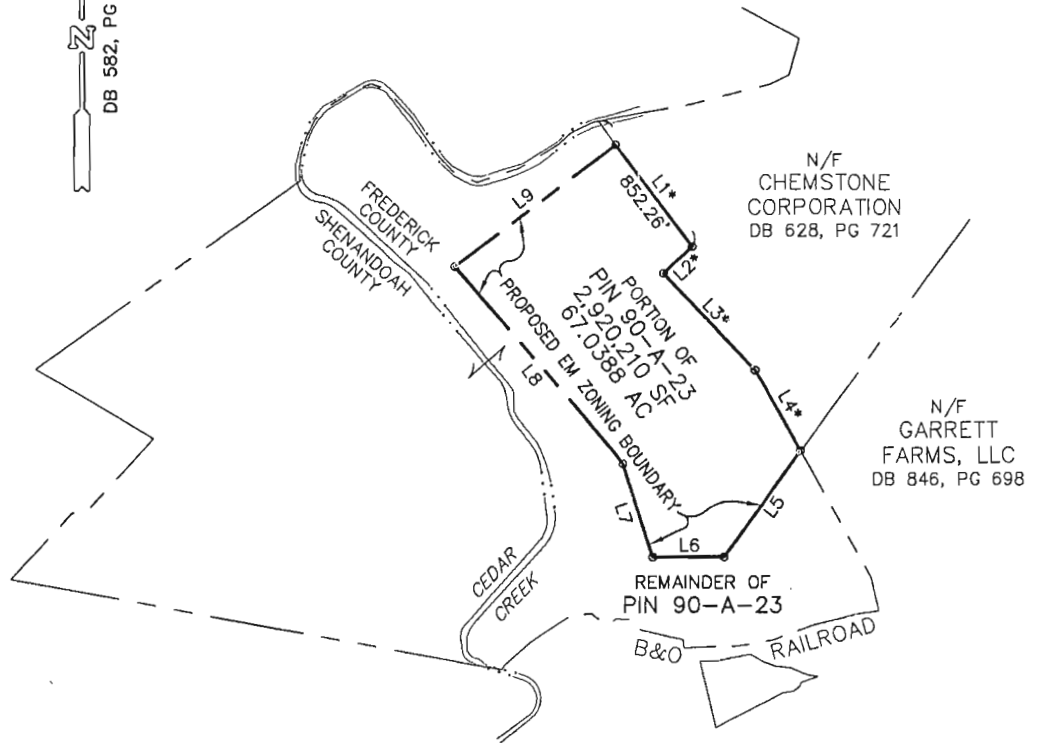
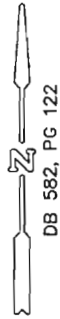
SCALE: 1" = 1000'
 DATE: FEB. 15, 2006
 REVISED: MAY 20, 2008
Patton Harris Rust & Associates, pc
 Engineers. Surveyors. Planners. Landscape Architects.



117 East Plccadilly Street, Suite 200
 Winchester, Virginia 22601
 T 540.667.2139
 F 540.665.0493



PROJECT\11279\2-0\SURVEY\WORK AREA\1127920_EXHA.DWG



*PROPOSED EM ZONING BOUNDARY RUNS ALONG EXISTING PROPERTY LINES AT L1, L2, L3 & L4 ONLY.

| LINE TABLE | | |
|------------|-------------|----------|
| LINE | BEARING | LENGTH |
| L1 | S37°00'10"E | 1046.22' |
| L2 | S46°56'50"W | 262.12' |
| L3 | S43°05'07"E | 889.86' |
| L4 | S29°32'22"E | 615.38' |
| L5 | S35°51'02"W | 863.68' |
| L6 | S89°56'36"W | 475.26' |
| L7 | N17°59'22"W | 645.46' |
| L8 | N40°11'14"W | 1720.29' |
| L9 | N52°18'45"E | 1336.75' |

NOTES:

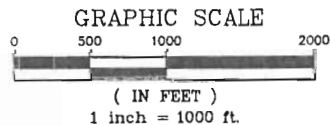
1. FREDERICK COUNTY PIN: 90-A-23.
2. PROPERTY OUTLINE AND MERIDIAN SHOWN HEREON ARE BASED ON THE PLAT ATTACHED TO DEED RECORDED IN DB 582, PG 122 AMONG THE LAND RECORDS OF FREDERICK COUNTY, VIRGINIA. INFORMATION SHOWN HEREON IS NOT BASED ON A CURRENT FIELD RUN SURVEY. ADJOINING PROPERTY OWNERS ARE BASED ON INFORMATION OBTAINED FROM FREDERICK COUNTY GIS WEBSITE, MAY, 2008.
3. NO TITLE REPORT.

"ZONING BOUNDARY EXHIBIT B"
 A PORTION OF THE
 PROPERTY CONVEYED TO
CHEMSTONE CORPORATION
 DEED BOOK 582, PAGE 122
 BACK CREEK MAGISTERIAL DISTRICT
 FREDERICK COUNTY, VIRGINIA

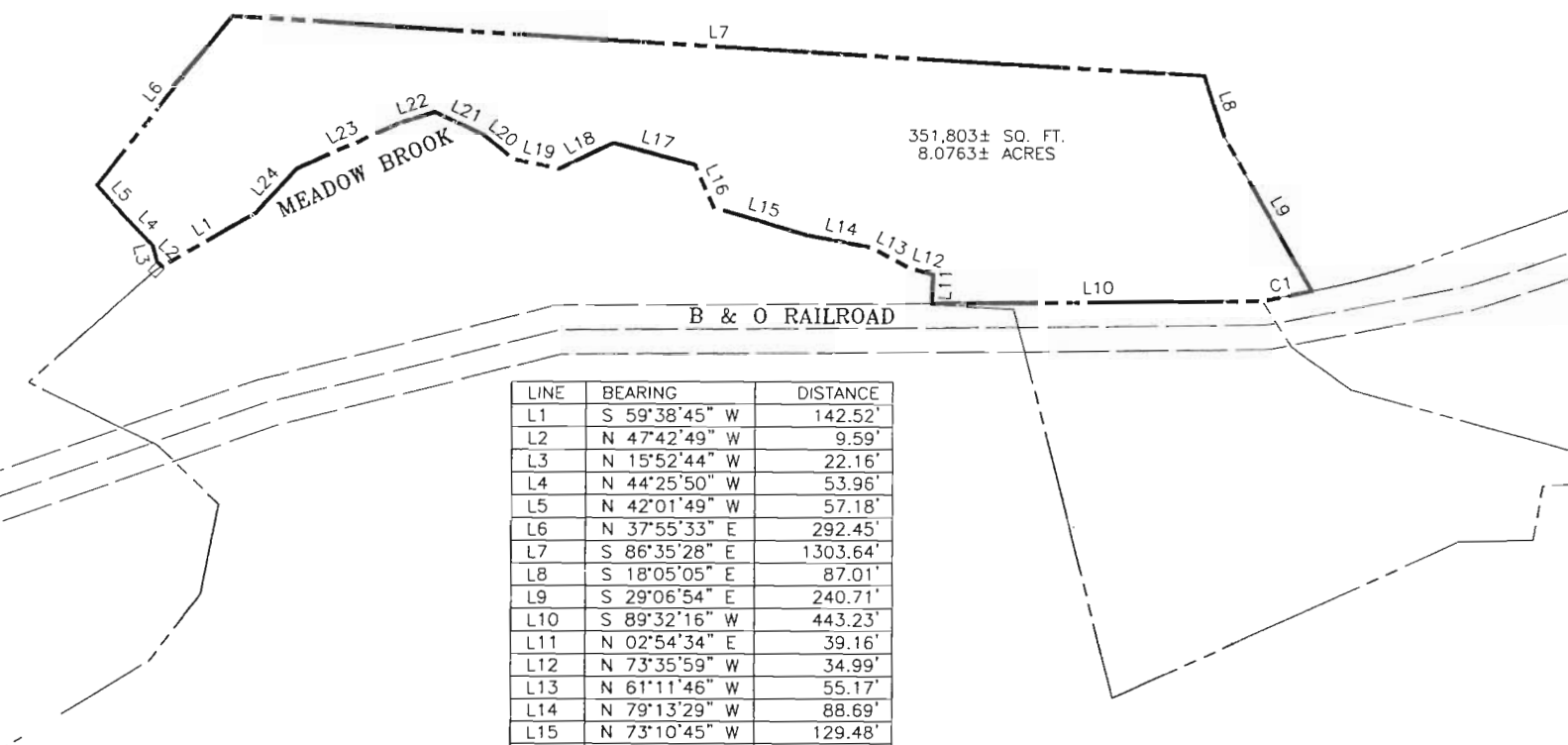
SCALE: 1" = 1000' DATE: MAY 20, 2008

Patton Harris Rust & Associates, pc
 Engineers. Surveyors. Planners. Landscape Architects.

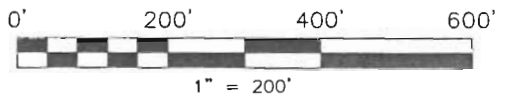
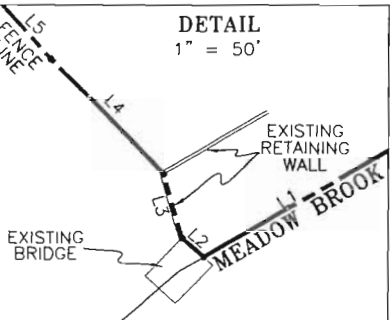
117 East Piccadilly Street, Suite 200
 Winchester, Virginia 22601
 T 540.667.2139
 F 540.665.0493



| CURVE | RADIUS | ARC LENGTH | DELTA ANGLE | CHORD BEARING | CHORD LENGTH |
|-------|----------|------------|-------------|---------------|--------------|
| C1 | 1876.78' | 66.33' | 02°01'30" | S 78°41'59" W | 66.33' |



| LINE | BEARING | DISTANCE |
|------|---------------|----------|
| L1 | S 59°38'45" W | 142.52' |
| L2 | N 47°42'49" W | 9.59' |
| L3 | N 15°52'44" W | 22.16' |
| L4 | N 44°25'50" W | 53.96' |
| L5 | N 42°01'49" W | 57.18' |
| L6 | N 37°55'33" E | 292.45' |
| L7 | S 86°35'28" E | 1303.64' |
| L8 | S 18°05'05" E | 87.01' |
| L9 | S 29°06'54" E | 240.71' |
| L10 | S 89°32'16" W | 443.23' |
| L11 | N 02°54'34" E | 39.16' |
| L12 | N 73°35'59" W | 34.99' |
| L13 | N 61°11'46" W | 55.17' |
| L14 | N 79°13'29" W | 88.69' |
| L15 | N 73°10'45" W | 129.48' |
| L16 | N 24°46'35" W | 63.00' |
| L17 | N 74°55'35" W | 111.16' |
| L18 | S 64°37'31" W | 81.52' |
| L19 | N 78°12'17" W | 61.62' |
| L20 | N 51°30'49" W | 52.51' |
| L21 | N 64°44'51" W | 73.52' |
| L22 | S 71°26'56" W | 50.03' |
| L23 | S 65°36'51" W | 151.36' |
| L24 | S 41°51'08" W | 79.70' |



**CHEMSTONE
PROPOSED
OFF-CONVEYANCE**
8.076 ACRES ±

BACK CREEK MAGISTERIAL DISTRICT
FREDERICK COUNTY, VIRGINIA
SCALE: AS SHOWN DATE: DECEMBER 2003
URBAN ENGINEERING & ASSOCIATES, INC.

CIVIL ENGINEERS • LANDSCAPE ARCHITECTS • LAND SURVEYORS
600 PEGASUS COURT, SUITE 101
WINCHESTER, VIRGINIA 22602 (540) 450-0211

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
AND RIGHT OF FIRST REFUSAL

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS AND RIGHT OF FIRST REFUSAL (the "Declaration") is made as of the ____ day of _____, 2008, by and between O-N MINERALS (CHEMSTONE COMPANY), a Delaware corporation, its successors and assigns (the "Declarant") (Grantor for indexing purposes), and CEDAR CREEK BATTLEFIELD FOUNDATION, INC., a Virginia corporation, its successors and assigns (the "Association") (Grantee for indexing purposes).

RECITALS:

A. The Declarant is the owner of certain real property, which is intended to be a historical reserve and to be conveyed to Grantee as such and with the following covenants, conditions and restrictions and also be subject to a right of first refusal.

NOW, THEREFORE, the Declarant, for and in consideration of the premises and the covenants contained herein, grants, establishes and conveys to Grantee a certain tract of land, which is further described in the attached and incorporated plat ("Property"), which shall be maintained as a historic reserve and further establishes the following covenants:

1. There shall be no occupied dwellings on the Property;
2. The Property shall be maintained with all grass neatly mowed at all times and any trees maintained using best management practices;



3. The Declarant further reserves the right to take any action reasonably required to maintain the Property in the event the Grantee fails to do so. This right shall include but not be limited to the right to enter upon the Property to do such work on the Property as may be required to effect the provisions of this Declaration.

IT IS FURTHER agreed and understood that the Property shall be conveyed with the Grantor retaining a right of first refusal to purchase the Property in the event the Grantee conveys or sells all or a portion of the Property to an entity, which is not related to the Grantee and which is not a charitable entity established for the preservation of historic properties. The parties do agree to execute any and all such other documents as may be required to effect provisions of this agreement, including but not limited to, a memorandum confirming the right of first refusal to be recorded in the land records of Frederick County, Virginia.

[REMAINDER OF THE PAGE LEFT INTENTIONALLY BLANK]

WITNESSETH, the following signatures and seals:

O-N MINERALS (CHEMSTONE COMPANY)
a Delaware corporation

By: _____ (Seal)

Its: _____

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF _____, TO WIT:

The foregoing instrument was acknowledged before me this _____ day of _____,
2008 by _____, _____ of O-N Minerals (Chemstone
Company).

Notary Public

My Commission expires: _____.
Registration No.: _____

CEDAR CREEK BATTLEFIELD FOUNDATION, INC.
a Virginia corporation

By: _____ (Seal)

Its: _____

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF _____, TO WIT:

The foregoing instrument was acknowledged before me this ____ day of _____,
2008 by _____, _____ of Cedar Creek Battlefield Foundation,
Inc.

Notary Public

My Commission expires: _____.
Registration No.: _____

BERM PLANTING (as recommended by the Virginia State Forester)

EXISTING BERMS: Where existing berms do not have adequate ground cover to prevent them from eroding, they should be planted with various native grasses, shrubs, and trees. A successful mixture of buckwheat, rye and other grasses has been developed by quarry employees that has proven to be effective in vegetating these slopes. In spots where prior vegetating efforts have failed, it is recommended that erosion control methods such as landscape fabric and jute mats be installed prior to revegetating these spots. It may also be necessary to reshape the berm in these spots to retard water movement down the slope and to hold water for vegetation survival and growth by constructing planting terraces with existing rock and soil.

RECOMMENDED TREE AND SHRUB SPECIES: Native species should be chosen to provide optimum survival, the least maintenance, and to further blend into the existing landscape. A list of suggested trees and shrubs for landscape plantings in the Shenandoah Valley is included. Actual species chosen need to be selected for the specific location they are to be planted, and their availability. Not all of these are available for purchase through nurseries.

In general, these species should be intermixed to provide more of a camouflage effect along the face and ridgeline of the berms. Coniferous species should be planted where year-round screening is desired. Coniferous species, with their ability to survive better on hot dry slopes, should also be chosen for screening on south and west facing slopes.

PLANTING RECOMMENDATIONS: Where possible, the topsoil removed in the initial stages of new quarry construction should be spread to the depth of 6 – 12 inches over all level surfaces that will be planted. For instance, the tops of the berms. The recommended planting terraces along the face of the berms should also be filled with topsoil prior to planting with trees and shrubs. Bare rooted plants are recommended because of their low cost, ease of planting, and good survivability. They should be planted in March or April of each year.

INVASIVE SPECIES: Numerous invasive species now threaten native plants in eastern forests. If allowed to grow and spread unimpeded, they will crowd out native trees and have a negative impact on wildlife populations that depend on the native trees and shrubs for their food.

Ailanthus (tree of heaven, paradise tree), paulownia, autumn olive and multiflora rose are the most common non-native invasive shrubs and trees in this locality.





Ailanthus

Has a distinct rancid odor in the leaves, twigs, and bark.



Paulownia

Large leaves 8" – 14" in diameter.



Autumn Olive

Aluminum sheen to the underside of the leaves.

Large crop of red berries each fall.



Multiflora Rose

Multiple stems from each plant. Numerous, short curved thorns.

RECOMMENDATIONS: Once every 2 – 3 years, inspect all berms and associated land for invasive species.

Where found, individual plants of these species should be either dug or pulled out of the ground, or deadened with herbicide applications to prevent the spread of their seed to these spots.

One such herbicide recommended is RoundUp®. Cutting the tree down and painting concentrated RoundUp® herbicide on the stump within 2-3 minutes of cutting is very effective with invasive trees and requires a very little amount of herbicide.

Very large trees can be girdled with a chainsaw or a hatchet, and a mixture of RoundUp® and water can be applied to the girdle to deaden the tree. This will also have the benefit

of creating wildlife snags until the trees rot down. A foliar spray of RoundUp® can effectively control individual small stems and clumps of small stems.

Instructions for timing of herbicide applications and mixing for the various methods of application will be found on the herbicide label. These instructions should be followed precisely to obtain the desired results and to protect the environment.

NATIVE TREES (mostly) SUGGESTED FOR LANDSCAPING IN THE NORTHERN SHENANDOAH VALLEY OF VIRGINIA

No particular order of preference

Gerald R. Crowell, Va. Dept. of Forestry 2/2008

Not all of these will grow on every site. First, decide why you want a tree; shade, screening, to enhance the landscape, fall coloration, flowering, wildlife food, etc. Second, choose the final mature height you want the tree to reach. Then, research each species as to the desirability of planting in a particular location with regard to purpose, soil type, and available sunlight.

DECIDIOUS:

LITTLE ‘UNS (TO 20 FEET)

Alder, Hazel *Alnus serrulata*
Hawthorn *Crataegus* sps.
Serviceberry *Amelanchier* sps.
Viburnum *Viburnum* sps
Buckthorn, European *Rhamnus cathartica*
Fringetree *Chionanthus virginicus*
Elderberry *Sambucus canadensis*
Burningbush *Euonymus atropurpureus*
Redbud, Eastern *Cercis canadensis*

MEDI ‘UM’S (20 – 40 FEET)

Hornbeam, American *Carpinus caroliniana*
Hophornbeam, Eastern *Ostrya virginiana*
Chinkapin *Castanea pumila*
Pawpaw *Asimina triloba*
Sassafras *Sassafras albidum*
Persimmon *Diospyros virginiana*

BIG ‘UNS (40 – 80+ FEET)

Willow, black *Salix nigra*
Hickory *Carya* sps.
Birch, yellow *Betula alleghaniensis*

DECIDIOUS BIG 'UNS (continued)

Birch, black, sweet *Betula lenta*

Birch, River *Betula nigra*

Oak *Quercus* sps. Except for *Q. falcata*, *Q. nigra*, *Q. phellos*, *Q. virginiana*

Hackberry *Celtis occidentalis*

Poplar, yellow, tulip *Liriodendron tulipifera*

Sycamore *Platanus occidentalis*

Maple, sugar *Acer saccharum*

Maple, red *Acer rubrum*

Basswood *Tilia Americana*

Blackgum *Nyssa sylvatica*

EVERGREEN:

LITTLE 'UNS (to 20 feet)

Rhododendron *Rhododendron maximum*

Mountain Laurel *Kalmia latifolia*

MEDI 'UM'S (20-40 FEET)

NONE

BIG 'UNS (40 – 80+ FEET)

Pine, Pitch *Pinus rigida*

Pine, shortleaf *Pinus echinata*

Pine Table Mountain *Pinus pungens*

Baldcypress *Taxodium distichum*

Arborvitae, Northern whitecedar *Thuja occidentalis*

Eastern red cedar *Juniperus virginiana*

Norway spruce *Picea abies*

Leyland Cypress *Cupressocyparis leylandii*

NOT RECOMMENDED FOR LANDSCAPE TREES:

Ash (*Fraxinus* sps), due to Emerald Ash Borer

White pine (*Pinus strobus*); be careful, it is off-site on many shale soils and limestone clay soils in the Valley

Elm (*Ulmus* sps), due to elm yellows and Dutch Elm Disease

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
AND RIGHT OF FIRST REFUSAL

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS AND RIGHT OF FIRST REFUSAL (the "Declaration") is made as of the ____ day of _____, 2008, by and between O-N MINERALS (CHEMSTONE COMPANY), a Delaware corporation, its successors and assigns (the "Declarant") (Grantor for indexing purposes), and CEDAR CREEK BATTLEFIELD FOUNDATION, INC., a Virginia corporation, its successors and assigns (the "Association") (Grantee for indexing purposes).

RECITALS:

A. The Declarant is the owner of certain real property, which is intended to be a historical reserve and to be conveyed to Grantee as such and with the following covenants, conditions and restrictions and also be subject to a right of first refusal.

NOW, THEREFORE, the Declarant, for and in consideration of the premises and the covenants contained herein, grants, establishes and conveys to Grantee a certain tract of land, which is further described in the attached and incorporated plat ("Property"), which shall be maintained as a historic reserve and further establishes the following covenants:

1. There shall be no occupied dwellings on the Property;
2. The Property shall be maintained with all grass neatly mowed at all times and any trees maintained using best management practices;



3. The Declarant further reserves the right to take any action reasonably required to maintain the Property in the event the Grantee fails to do so. This right shall include but not be limited to the right to enter upon the Property to do such work on the Property as may be required to effect the provisions of this Declaration.

IT IS FURTHER agreed and understood that the Property shall be conveyed with the Grantor retaining a right of first refusal to purchase the Property in the event the Grantee conveys or sells all or a portion of the Property to an entity, which is not related to the Grantee and which is not a charitable entity established for the preservation of historic properties. The parties do agree to execute any and all such other documents as may be required to effect provisions of this agreement, including but not limited to, a memorandum confirming the right of first refusal to be recorded in the land records of Frederick County, Virginia.

[REMAINDER OF THE PAGE LEFT INTENTIONALLY BLANK]

WITNESSETH, the following signatures and seals:

O-N MINERALS (CHEMSTONE COMPANY)
a Delaware corporation

By: _____ (Seal)

Its: _____

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF _____, TO WIT:

The foregoing instrument was acknowledged before me this ____ day of _____,
2008 by _____, _____ of O-N Minerals (Chemstone
Company).

Notary Public

My Commission expires: _____.
Registration No.: _____

CEDAR CREEK BATTLEFIELD FOUNDATION, INC.
a Virginia corporation

By: _____ (Seal)

Its: _____

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF _____, TO WIT:

The foregoing instrument was acknowledged before me this ____ day of _____,
2008 by _____, _____ of Cedar Creek Battlefield Foundation,
Inc.

Notary Public

My Commission expires: _____.
Registration No.: _____

Methodology and Purpose of Pre-Blast Surveys at the Middletown Operation

WHAT IS THE PURPOSE OF A PRE-BLAST SURVEY?

As the name implies, the pre-blast survey is a visual inspection of selected structures located adjacent to proposed blasting activities. While off-site effects of commercial blasting such as that proposed for the Middletown expansion are expected to pose no threat to existing structures, it has been historically documented that when the perception of blasting reaches new or additional property owners, it is human nature to pay additional attention to one's property.

Decades of research performed by the US Bureau of Mines as well as other investigative groups, have fully documented not only the impact of blasting on structures, but also the impact of ambient environmental conditions. While blast effects typically remain well below the effects of various environmental forces, stress caused by everyday exposure to various weather events regularly places strain on construction materials above their ability to resist impact. In other words, these studies have documented what every homeowner already knows, houses, over time, will develop cracks and defects.



WELL GUARANTEE AGREEMENT

Carmeuse Lime & Stone, its successors or assigns (hereinafter referred to as "MINE OWNER") guarantees to the undersigned Owner that it will replace or replenish the Owner's existing privately owned domestic-use water well(s) under the following circumstances:

Any water well negatively impacted in such a way as to render it unsuitable for its existing use, on property within 1,500 feet of any parcels being actively quarried and dewatered by MINE OWNER located at its Middletown plant (hereinafter referred to as the MINE OWNER Facility) by depleting a well, lowering the water surface below the pump or negatively intercepting the groundwater flow to the well. If at some future date MINE OWNER expands the MINE OWNER Facility and the active mining operations into other adjoining properties not currently zoned for earth materials extraction, then this Well Guarantee Agreement will be automatically expanded to include all parcels within 1,500 feet from those areas.

MINE OWNER will repair the problem by lowering the pump, deepening the well, drilling a replacement well, and/or installing an appropriate water quality treatment system at no cost to the Owner.

The undersigned Owner, in accepting this guarantee, agrees to the following conditions:

The Owner grants permission to MINE OWNER or its representative to inspect and evaluate the current condition of the well as part of a baseline water well inspection survey.

The Owner grants permission to MINE OWNER or its representative to perform water level measurements of the well or collect water quality samples (in addition to the baseline water well inspection survey) on an as needed basis for the purpose of creating background data for the well, and to assess potential complaints.

The Owner agrees to notify within twenty-four (24) hours of discovery of the reduction of water supply, depletion of the well or degradation in water quality so that MINE OWNER and a third-party hydrogeologist (as a Licensed Professional Geologist in the State of Virginia) can verify and/or document any occurrences noted during quarrying at the MINE OWNER Facility that may have contributed to the reduction of water supply or well depletion.

The third-party hydrogeologist shall document the reduction of water supply, depletion of the well or degradation in water quality. Further, the hydrogeologist will make a determination as to the cause of the reduction of water supply, depletion of the well or degradation in water quality only for purposes of determining the appropriate repair or remediation. MINE OWNER shall be responsible for supplying temporary potable water for human consumption, and potentially, water hauling for other uses (as appropriate) until the problem is corrected. MINE OWNER shall be allowed by the Owner to evaluate the well and conduct such reasonable tests as it deems necessary to verify the cause of the reduction of water supply, depletion of the well or degradation in water quality.

MINE OWNER agrees to bear all reasonable expenses that result from said reduction of water supply or well depletion; including, but not limited to temporary potable water supply for human consumption, household use, water hauling for other potential uses (as appropriate), well and pump modification, new well construction, and legal fees expended in implementing this Well Guarantee Agreement. The owner shall notify MINE OWNER prior to undertaking remedial activities or incurring expenses that later may be borne by MINE OWNER.

Repair costs due to worn or defective pumps, electrical cabling, and piping are specifically



excluded from this guarantee.

The terms of the Well Guarantee Agreement are binding during the active life of the said MINE OWNER Facility, including one year following cessation of mining activities. Upon the expiration of one year following completion of quarrying activities at the MINE OWNER Facility, this Well Guarantee Agreement shall be considered null and void.

Owner:

Date:

MINE OWNER:

Title:

Date:

Local homeowners within 1,500 feet of the property line of the proposed expansion will be invited to take part in a pre-expansion survey of their domestic water wells.

Within ___ days after rezoning is approved, each property owner within the 1,500 ft. radius of the proposed expansion will be sent an informational newsletter explaining the purpose of the Survey. A second letter, which will include a short scheduling form for owners to fill out and return to Carmeuse Lime & Stone, will be sent out within ___ days after the newsletter, and a public information meeting will be held as a follow up. As the scheduling forms are received, the property owners will be contacted by Carmeuse personnel to coordinate a day and time that is convenient to conduct the survey.

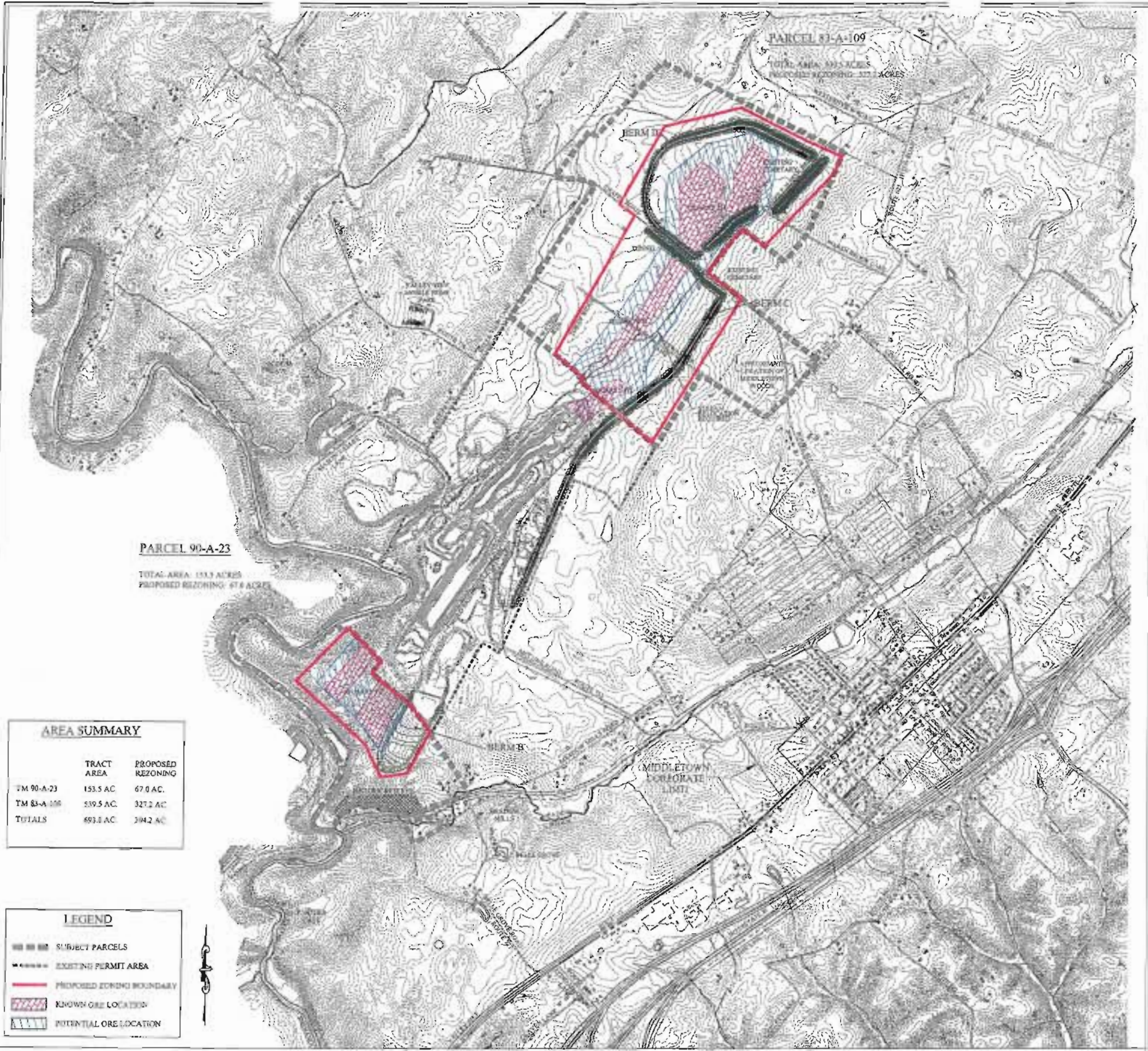
The Survey generally will consist of a short, in-person or phone, interview with the resident, property owner, or other knowledgeable party to gain information on the history of their well. The interview will followed by a physical inspection of the well. This includes obtaining the water level, pump setting depth and total depth. Existing driller's logs will also be examined. All sampling will be conducted in accordance with _____ governing approved testing procedures for potable water wells.

Field parameters measured at the time of collection include pH, Specific Conductance, Temperature, and Turbidity. The samples will be packed in ice and transported under chain-of-custody to a third party, accredited analytical laboratory for analysis. The samples will be analyzed at the laboratory for pertinent biological and chemical constituents. These include Total Coliform, Alkalinity, Chloride, Sulfate, Nitrate, Phosphorus, Potassium, Sodium, Magnesium, Calcium, Iron, and Manganese.

Each well will also be tested to determine its Specific Capacity, which will be used as a baseline for well yield estimations at that particular location. Well water at each respective well will be purged at a measured flow rate (variable for each well) for a specific time interval (also variable for each well) using the existing pumping system currently in place. The water level in each well will be measured during the testing period. Typically the well will be purged at a flow rate of less than 5 to 10 gallons per minute for approximately 30 minutes or less. The Specific Capacity for each test will be calculated using the average pumping rate during the test divided by the water level drawdown incurred at the well during the test.

Copies of the resulting reports will be provided to the property owner, as well as being maintained by Carmeuse and the designated third party performing the evaluation.





PARCEL 90-A-23
 TOTAL AREA: 153.5 ACRES
 PROPOSED REZONING: 67.0 ACRES

PARCEL 93-A-109
 TOTAL AREA: 539.5 ACRES
 PROPOSED REZONING: 327.2 ACRES

AREA SUMMARY

| | TRACT AREA | PROPOSED REZONING |
|---------------|-----------------|-------------------|
| TM 90-A-23 | 153.5 AC | 67.0 AC |
| TM 93-A-109 | 539.5 AC | 327.2 AC |
| TOTALS | 693.0 AC | 394.2 AC |

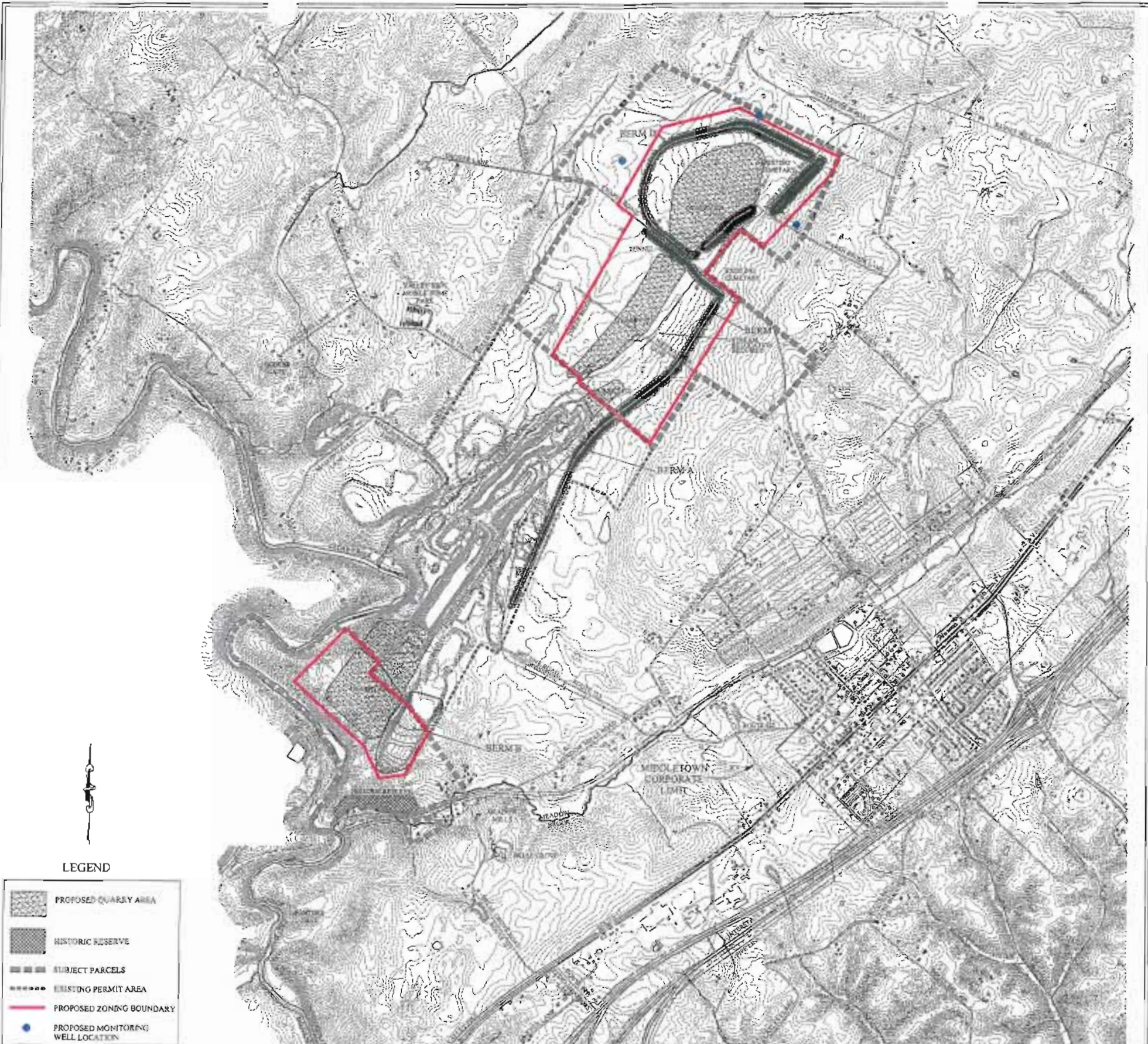
LEGEND

- SUBJECT PARCELS
- EXISTING PERMIT AREA
- PROPOSED ZONING BOUNDARY
- KNOWN ORE LOCATIONS
- POTENTIAL ORE LOCATION

Patten Harris West & Associates, PC
 Engineers, Surveyors, Planners, Landscape Architects
P-H-R-A
 117 East Plentiful Street
 Harrison, VA 22059
 T 800-687-2138
 F 540-365-9955

O-N Minerals Chemstone
GENERALIZED DEVELOPMENT PLAN
 FREDERICK COUNTY, VIRGINIA
 MAY 2008





LEGEND

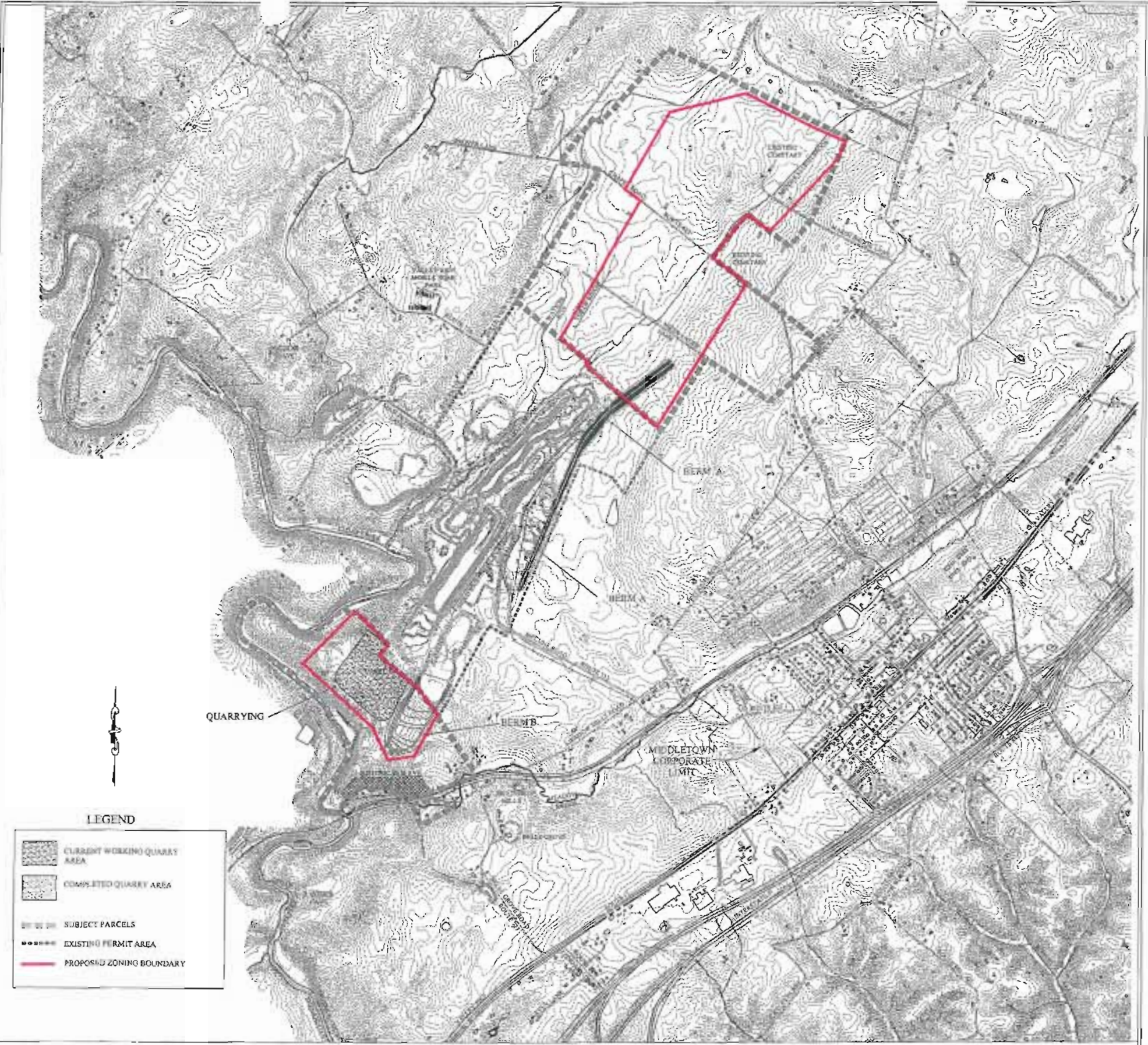
-  PROPOSED QUARRY AREA
-  HISTORIC RESERVE
-  SUBJECT PARCELS
-  EXISTING PERMIT AREA
-  PROPOSED ZONING BOUNDARY
-  PROPOSED MONITORING WELL LOCATION

O-N Minerals Chemstone






OVERALL PLAN
 FREDERICK COUNTY, VIRGINIA
 MAY 2008

Patten Harris Rust & Associates, PC
 Engineers, Surveyors, Planners, Landscape Architects
PHRA
 117 East Plowville Street
 Winchester, VA 22391
 T 540-367-2131
 F 540-365-0493





LEGEND

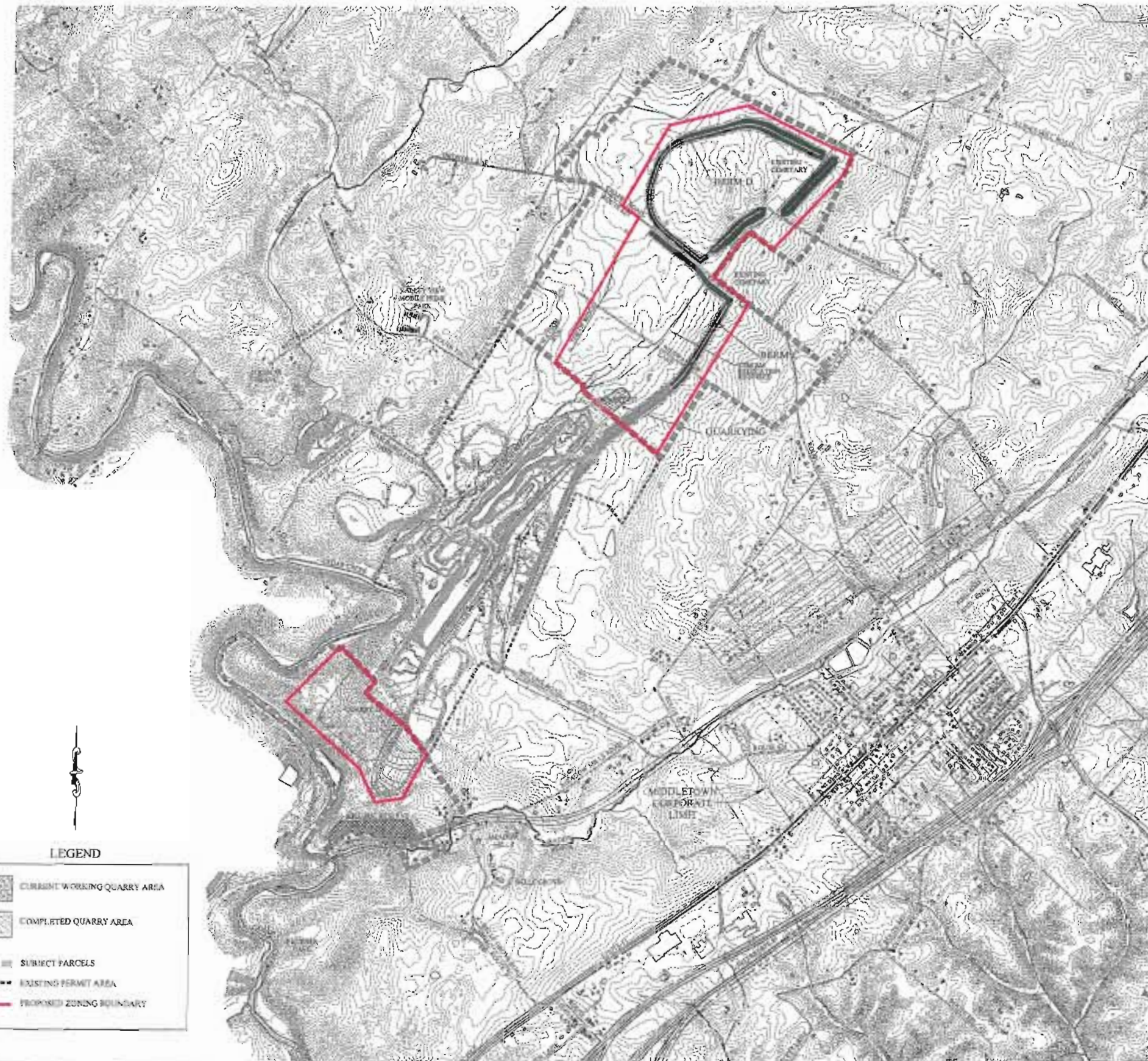
-  CURRENT WORKING QUARRY AREA
-  COMPLETED QUARRY AREA
-  SUBJECT PARCELS
-  EXISTING PERMIT AREA
-  PROPOSED ZONING BOUNDARY

O-N Minerals Chemstone






PHASE I PLAN
 FREDERICK COUNTY, VIRGINIA
 MAY 2008

Patton Harris Rust & Associates, pc
 Engineers, Surveyors, Planners, Landscape Architects
 PHRA
 117 East Placidly Street
 Washington, VA 22601
 T 540-867-2139
 F 540-865-0905





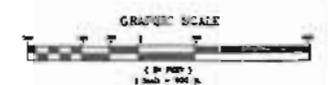
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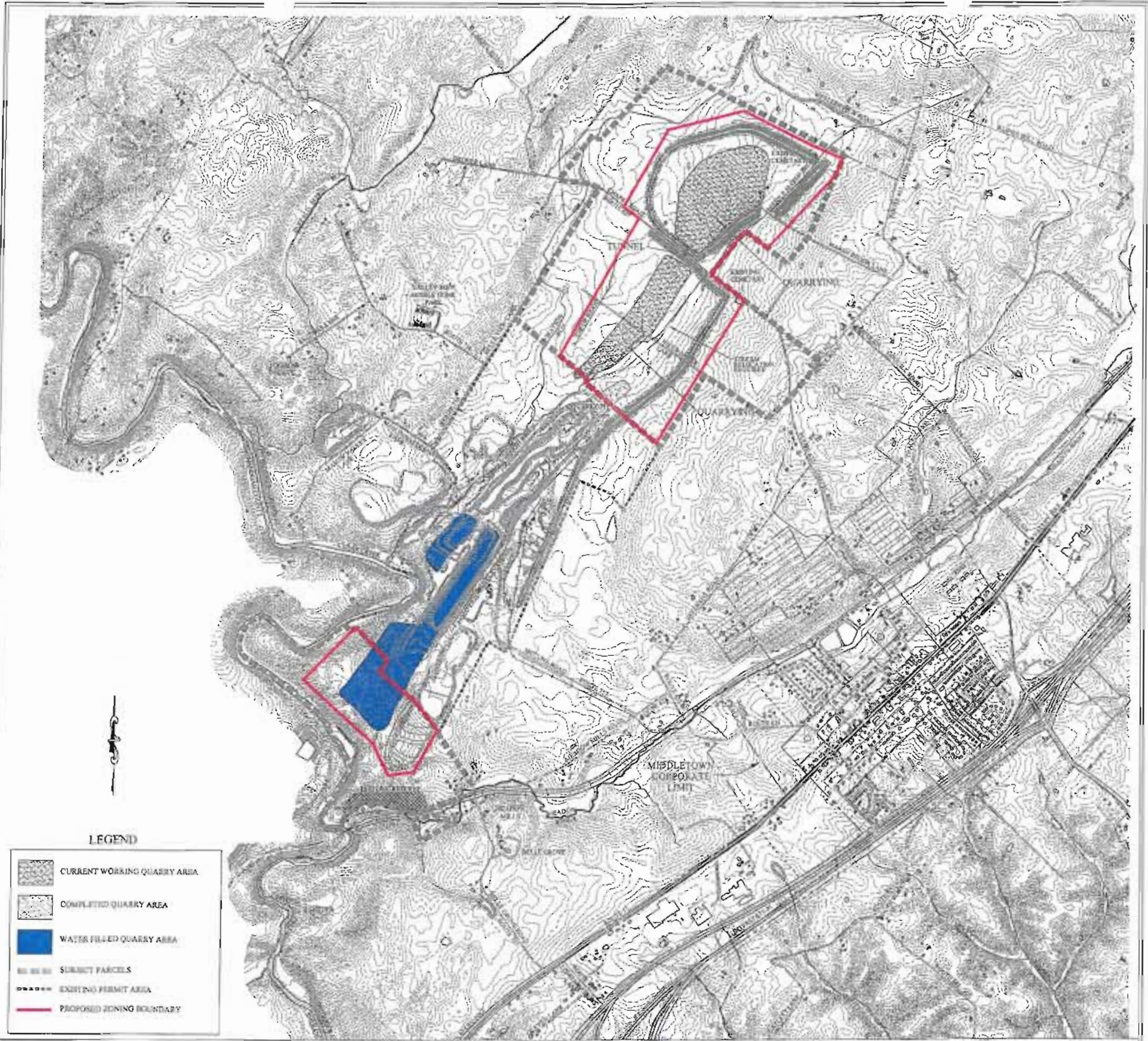
-  CURRENT WORKING QUARRY AREA
-  COMPLETED QUARRY AREA
-  SUBJECT PARCELS
-  EXISTING PERMIT AREA
-  PROPOSED ZONING BOUNDARY

O-N Minerals Chemstone

PHASE II PLAN
 FREDERICK COUNTY, VIRGINIA
 MAY 2008

Paton Harkin Rust & Associates, PC
 Engineers, Surveyors, Planners, Landscape Architects
 111 East Riverside Street
 Winchester, VA 22601
 703-537-2100
 703-537-2488

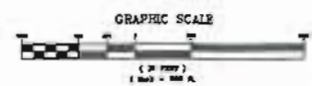


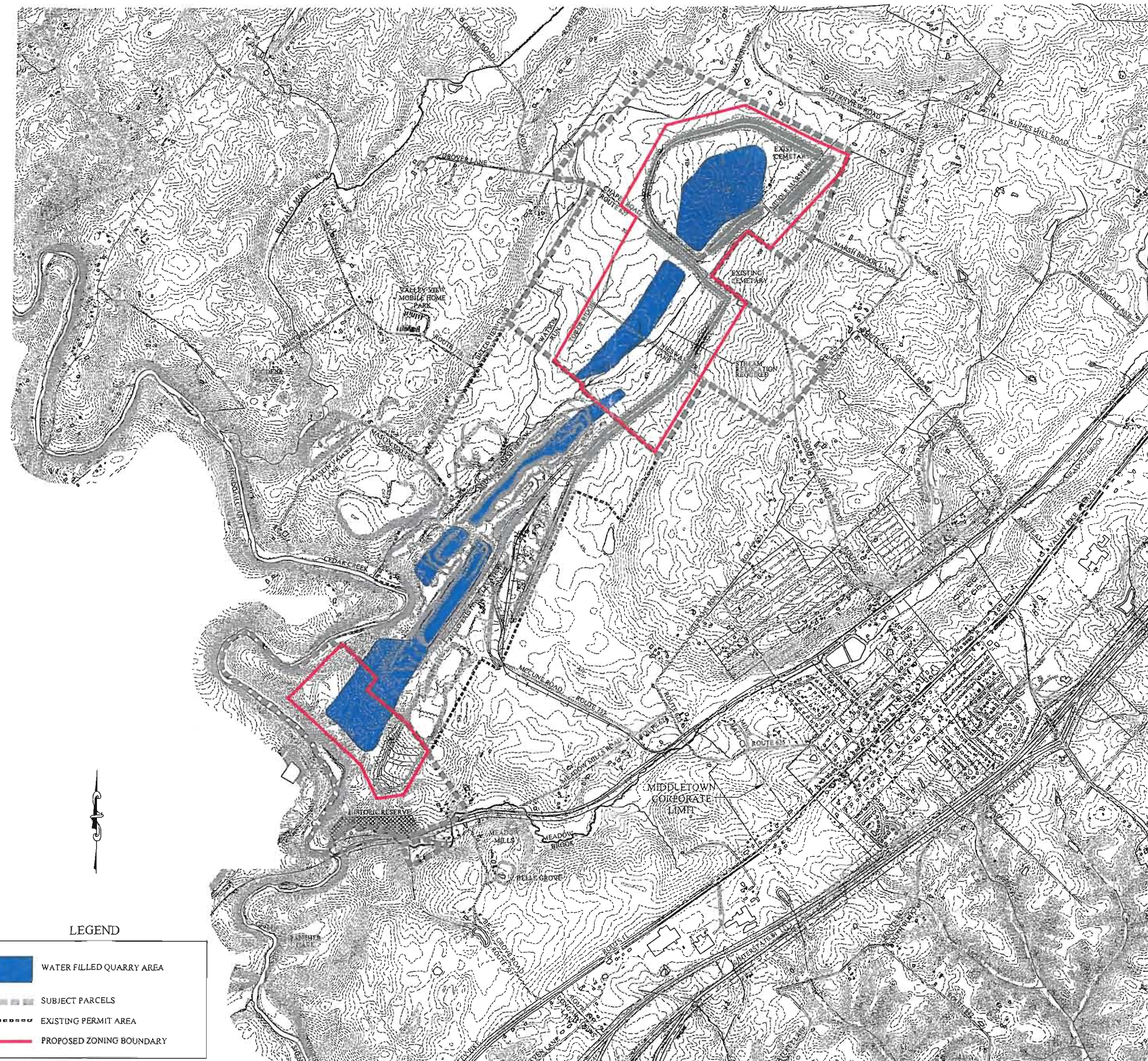


O-N Minerals Chemstone

PHASE III PLAN
 FREDERICK COUNTY, VIRGINIA
 MAY 2008

Patton Harris Rust & Associates, pc
 Engineers, Surveyors, Planners, Landscape Architects
 PHRA
 117 East Plumbly Street
 Winchester, VA 22601
 T 540-857-2129
 F 540-855-0483





LEGEND

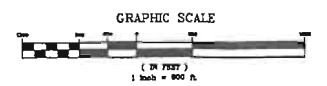
- WATER FILLED QUARRY AREA
- SUBJECT PARCELS
- EXISTING PERMIT AREA
- PROPOSED ZONING BOUNDARY

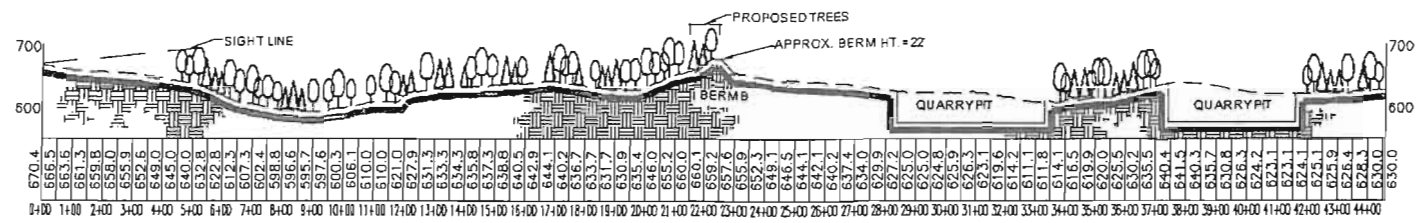
O-N Minerals Chemstone

PHASE IV PLAN
 FREDERICK COUNTY, VIRGINIA
 MAY 2008

Patton Harris Rust & Associates, pc
 Engineers, Surveyors, Planners, Landscape Architects

PHRA 117 East Piccadilly Street
 Winchester, VA 22601
 T 540-667-2139
 F 540-665-0493

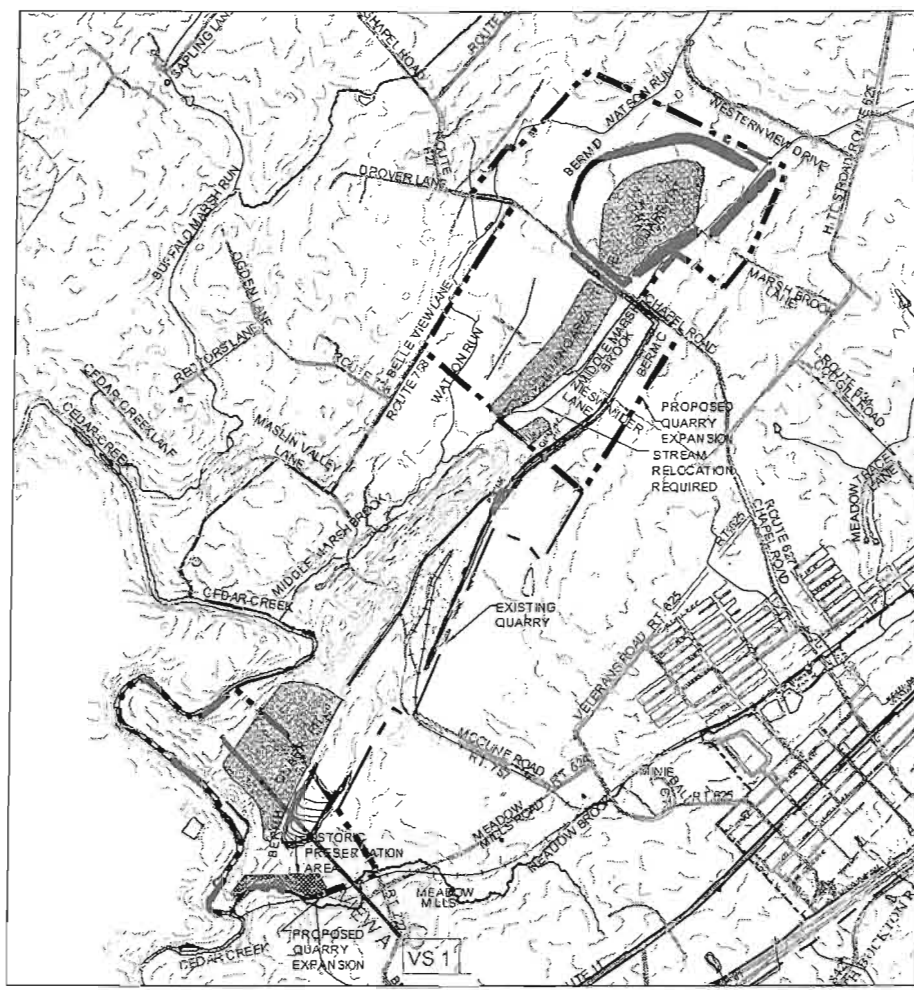




• VEGETATION SHOWN IS EXISTING UNLESS OTHERWISE NOTED.

VIEWSHED 1A

HORIZONTAL SCALE: 1" = 600'
 VERTICAL SCALE: 1" = 300'



KEY MAP

NO SCALE

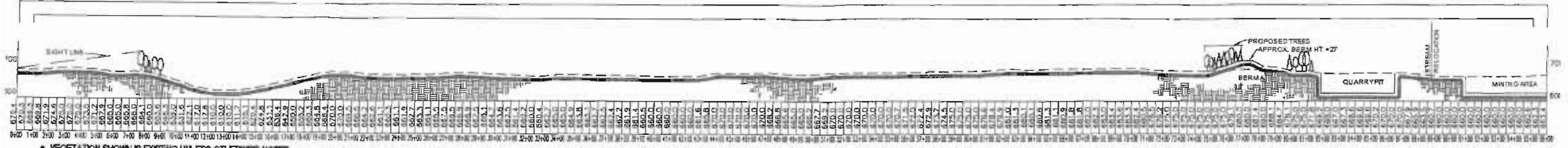
O-N Minerals Chemstone

Frederick County, Virginia

MAY 2008

Patton Harris Rust & Associates, pc
 Engineers, Surveyors, Planners, Landscape Architects.
 PHRA
 117 East Piccadilly Street
 Winchester, VA 22601
 T 540-667-2139
 F 540-665-0493

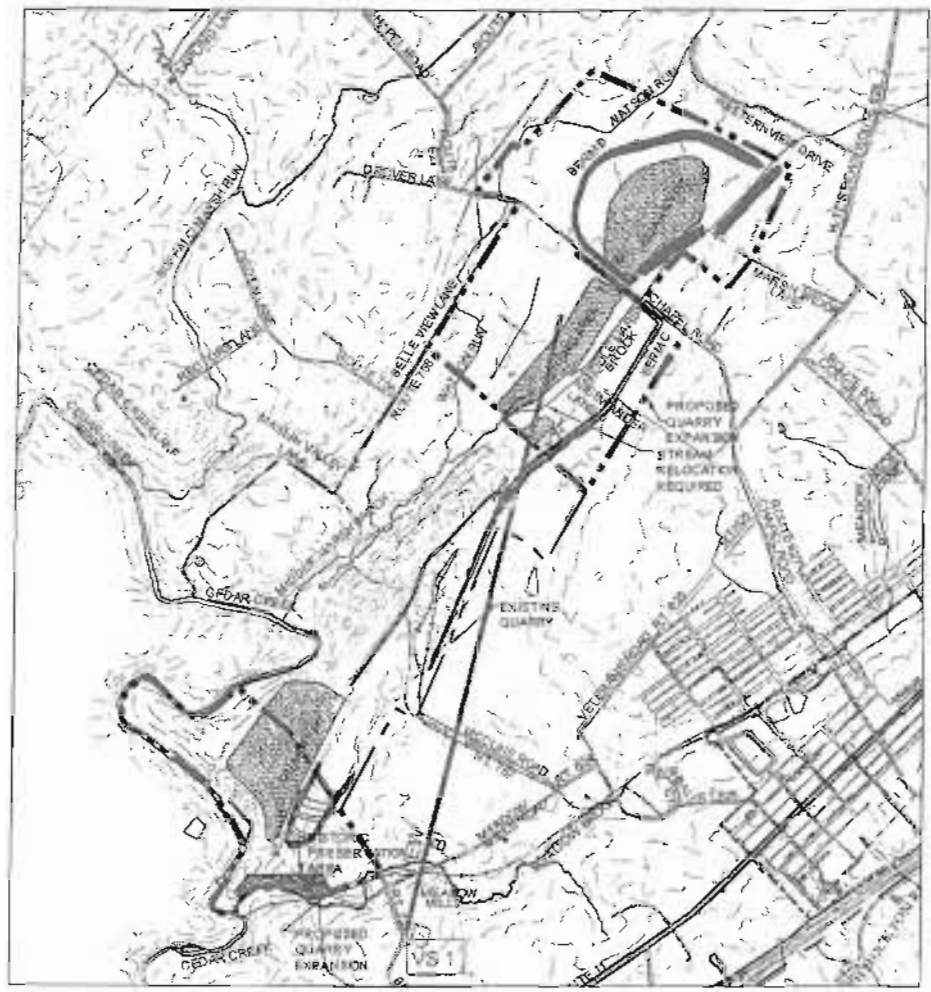




♦ VEGETATION SHOWN IS EXISTING UNLESS OTHERWISE NOTED.

VIEWSHED 1B

HORIZONTAL SCALE: 1" = 600'
 VERTICAL SCALE: 1" = 300'



KEY MAP

NO SCALE

O-N Minerals Chemstone

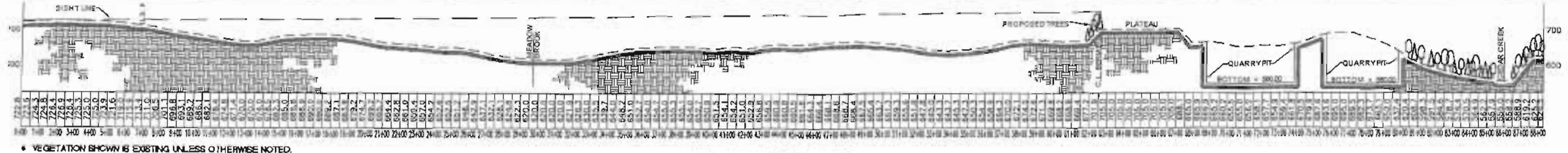
Frederick County, Virginia

MAY 2008

Patton Harris Rust & Associates, pc
 Engineers, Surveyors, Planners, Landscape Architects.

PHRA 117 East Plowery Street
 Winchester, VA 22601
 T: 540-467-2139
 F: 540-466-0465





* VEGETATION SHOWN IS EXISTING UNLESS OTHERWISE NOTED.

VIEWSHED 2

HORIZONTAL SCALE: 1" = 600'
VERTICAL SCALE: 1" = 300'



KEY MAP

NO SCALE

O-N Minerals Chemstone

Frederick County, Virginia

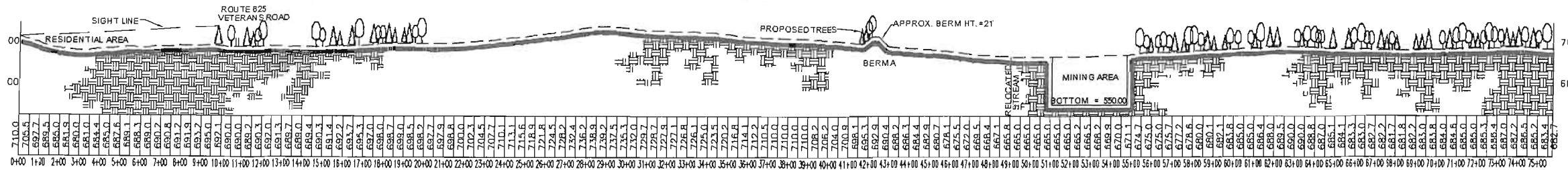
MAY 2008

Patton Herris Rust & Associates, pc
Engineers, Surveyors, Planners, Landscape Architects.

PHRA

117 East Piccadilly Street
Winchester, VA 22601
T 540-667-2139
F 540-665-0483

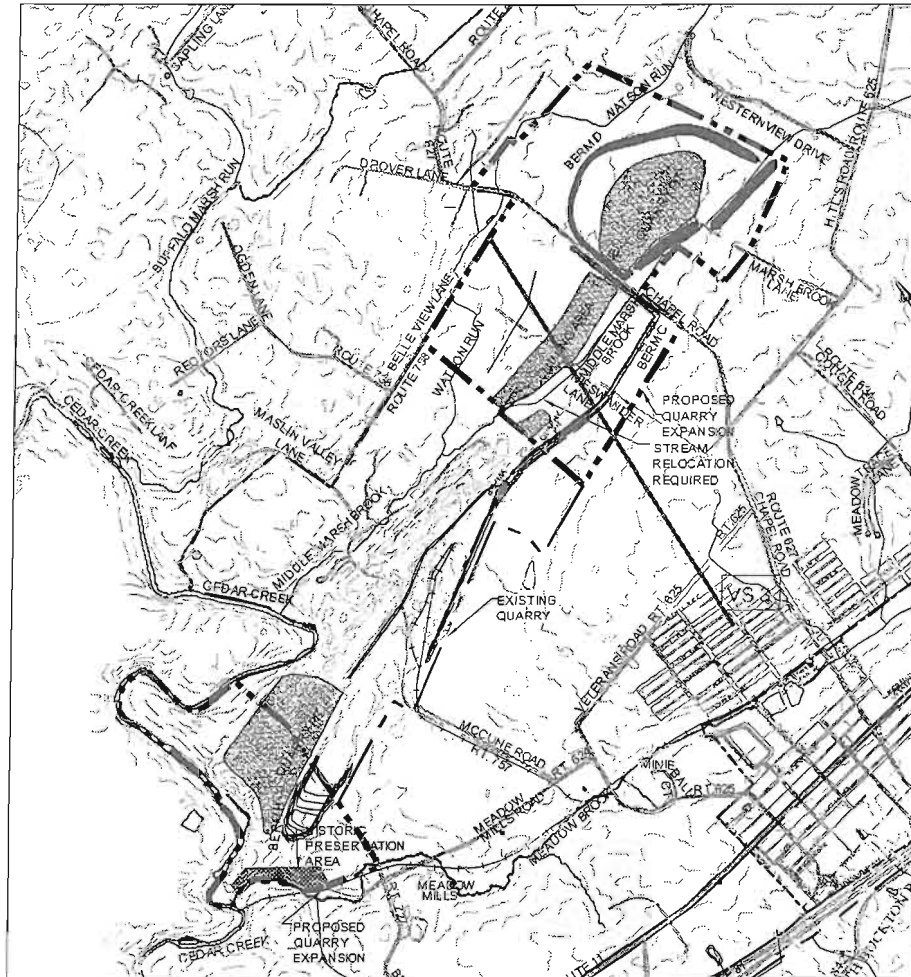




• VEGETATION SHOWN IS EXISTING UNLESS OTHERWISE NOTED.

VIEWSHED 3

HORIZONTAL SCALE: 1" = 600'
 VERTICAL SCALE: 1" = 300'



KEY MAP

NO SCALE

O-N Minerals Chemstone

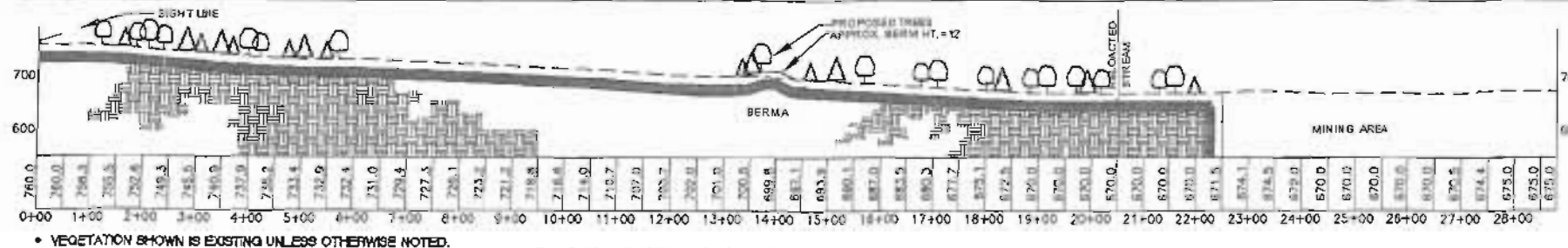
Frederick County, Virginia

MAY 2008

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 Engineers, Surveyors, Planners, Landscape Architects.

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 Winchester, VA 22601
 T 540-667-2139
 F 540-665-0493





VIEWSHED 4A

SCALE: 1" = 300'



KEY MAP

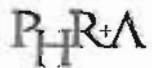
NO SCALE

O-N Minerals Chemstone

Frederick County, Virginia

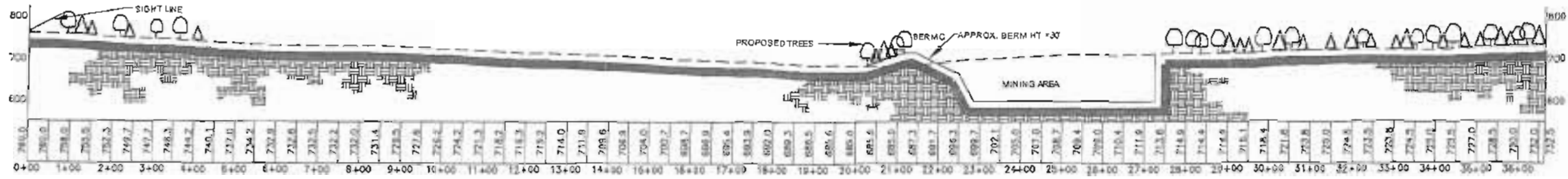
MAY 2008

Patton Harris Rust & Associates, pc
 Engineers, Surveyors, Planners, Landscape Architects



117 East Pincolly Street
 Winchester, VA 22601
 T 540-667-2139
 F 540-665-0493

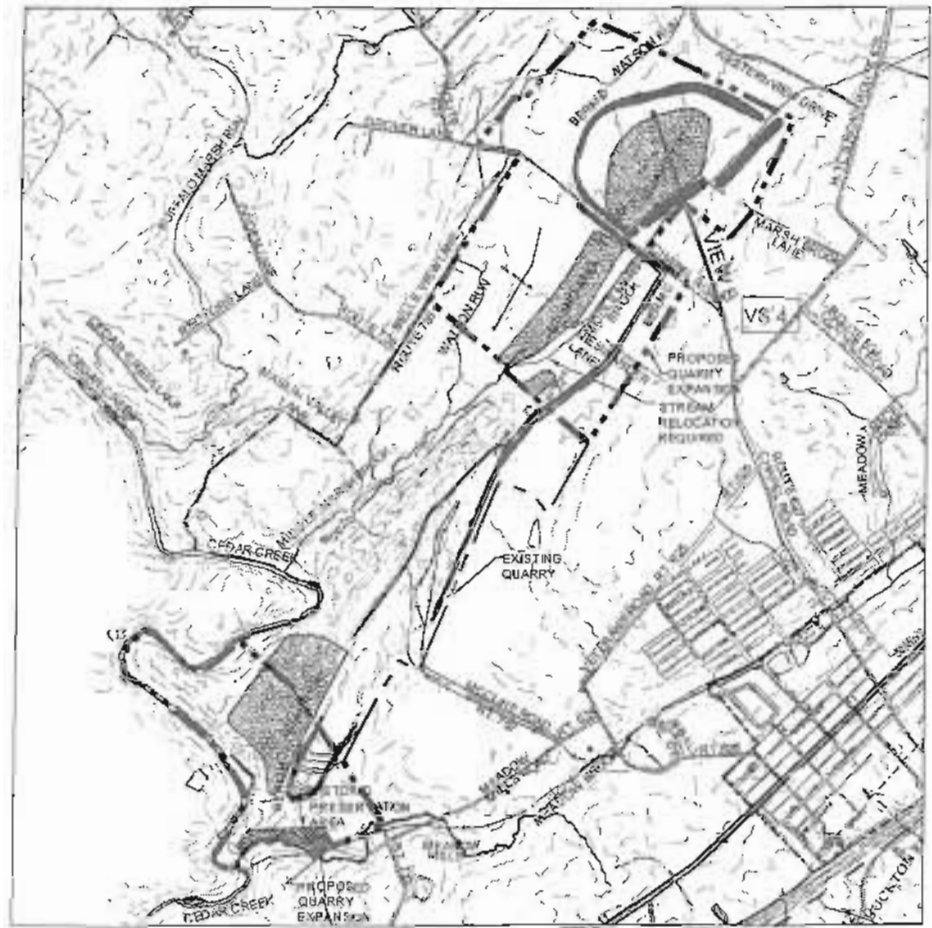




• VEGETATION SHOWN IS EXISTING UNLESS OTHERWISE NOTED.

VIEWSHED 4B

SCALE: 1" = 300'



KEY MAP

NO SCALE

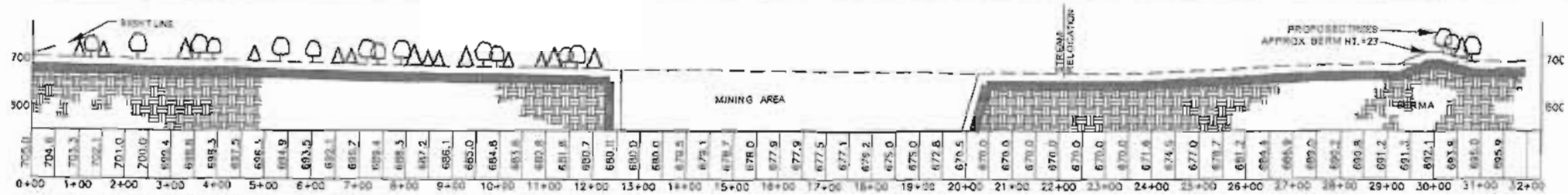
O-N Minerals Chemstone

Frederick County, Virginia

MAY 2008

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 Engineers, Surveyors, Planners, Landscape Architects.
PHRA 117 East Picochilly Street
 Winchester, VA 22301
 T 540-667-3139
 F 540-585-0493





• VEGETATION SHOWN IS EXISTING UNLESS OTHERWISE NOTED.

VIEWSHED 5A

SCALE: 1" = 300'



KEY MAP

NO SCALE

O-N Minerals Chemstone

Frederick County, Virginia

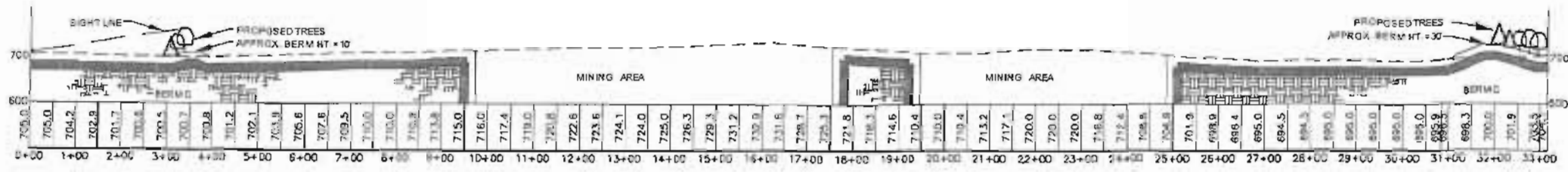
MAY 2008

Patton Harris Rust & Associates, pc
Engineers, Surveyors, Planners, Landscape Architects

PHRA

117 East Fluvanna Street
Winchester, VA 22601
T: 540-667-2136
F: 540-667-1185





• VEGETATION SHOWN IS EXISTING UNLESS OTHERWISE NOTED.

VIEWSHED 5B

SCALE: 1" = 300'



KEY MAP

NO SCALE

O-N Minerals Chemstone

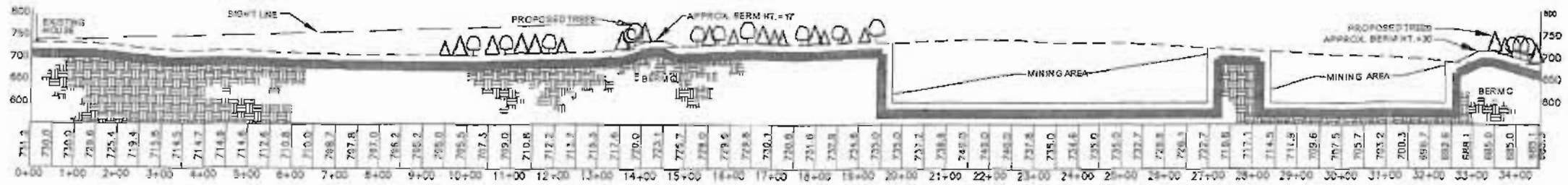
Frederick County, Virginia

MAY 2008

Patton Harris Rust & Associates, PC
 Engineers, Surveyors, Planners, Landscape Architects

PHRA 117 East Potomac Street
 Winchester, VA 22601
 T 540-597-2139
 F 540-685-0003

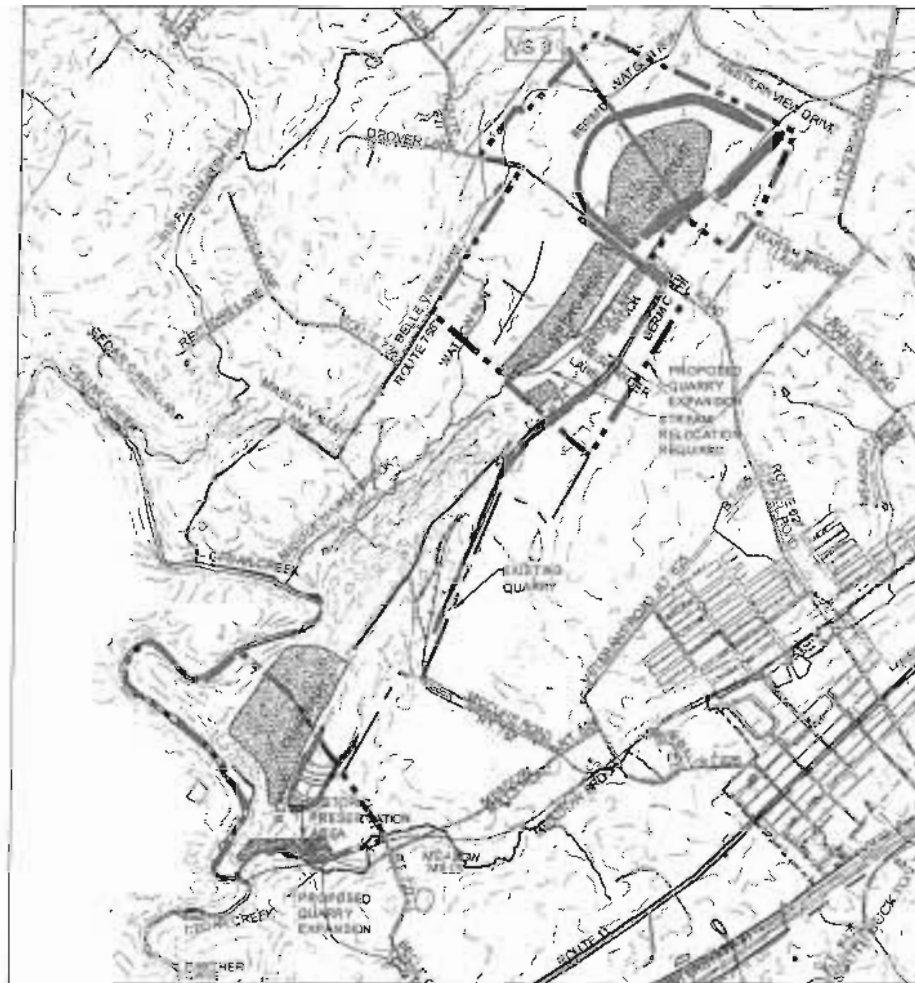




• VEGETATION SHOWN IS EXISTING UNLESS OTHERWISE NOTED.

VIEWSHED 6

SCALE: 1" = 300'



KEY MAP

NO SCALE

O-N Minerals Chemstone

Frederick County, Virginia

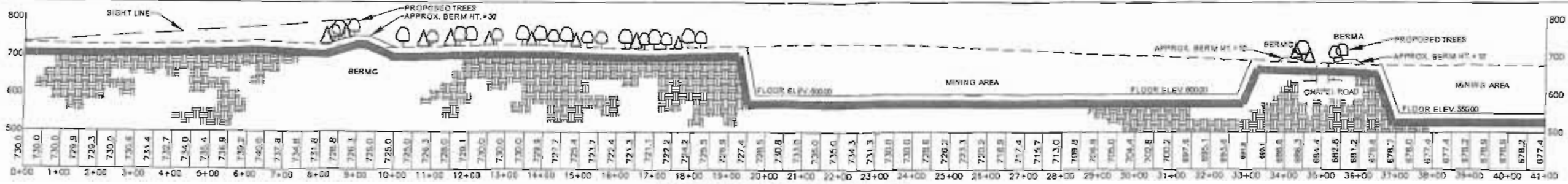
MAY 2008

Patton Harris Rust & Associates, pc
Engineers, Surveyors, Planners, Landscape Architects.

PHR+A

117 East Pocodilly Street
Winchester, VA 22601
T 540-867-2139
F 540-866-0493

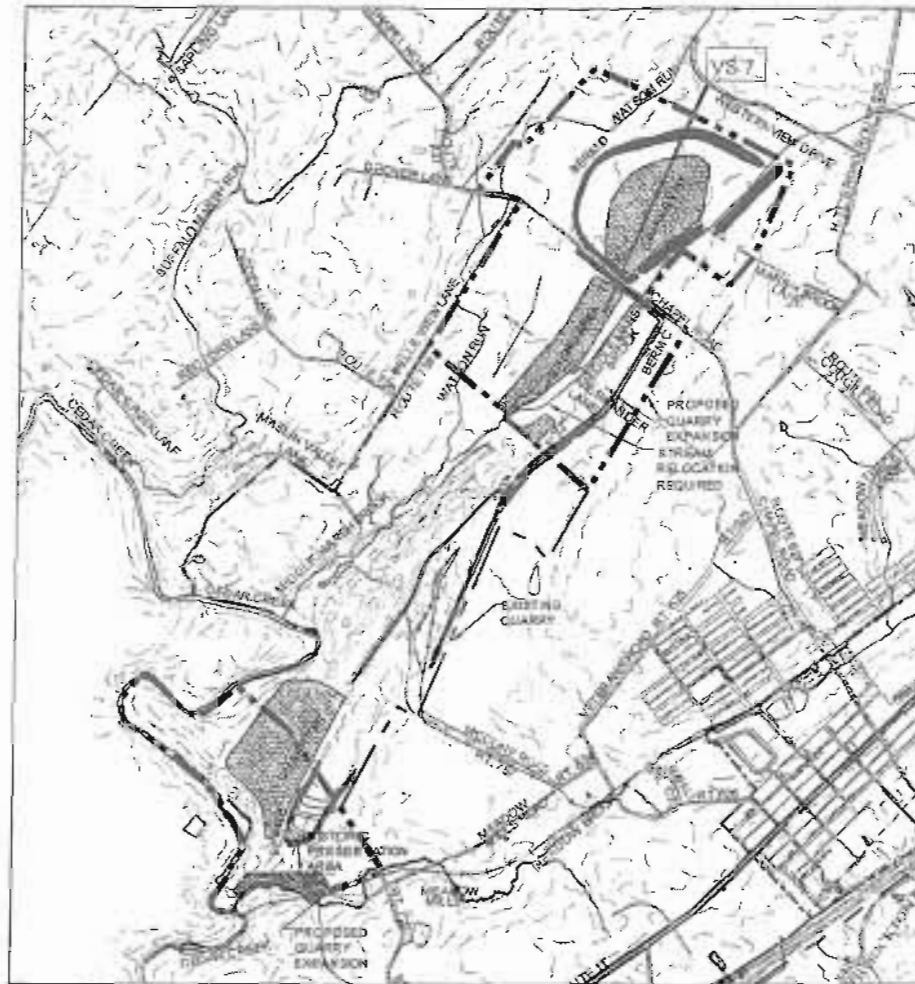




• VEGETATION SHOWN IS EXISTING UNLESS OTHERWISE NOTED.

VIEWSHED 7

SCALE: 1" = 300'



KEY MAP

NO SCALE

O-N Minerals Chemstone

Frederick County, Virginia

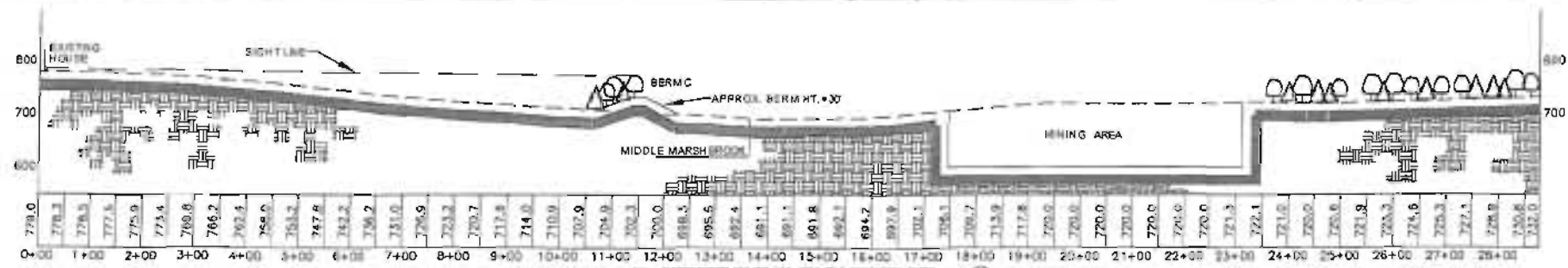
MAY 2008

Patton Harris Rust & Associates, pc
Engineers, Surveyors, Planners, Landscape Architects.



117 East Floodly Street
Winchester, VA 22601
T 540-557-2139
F 540-557-0463

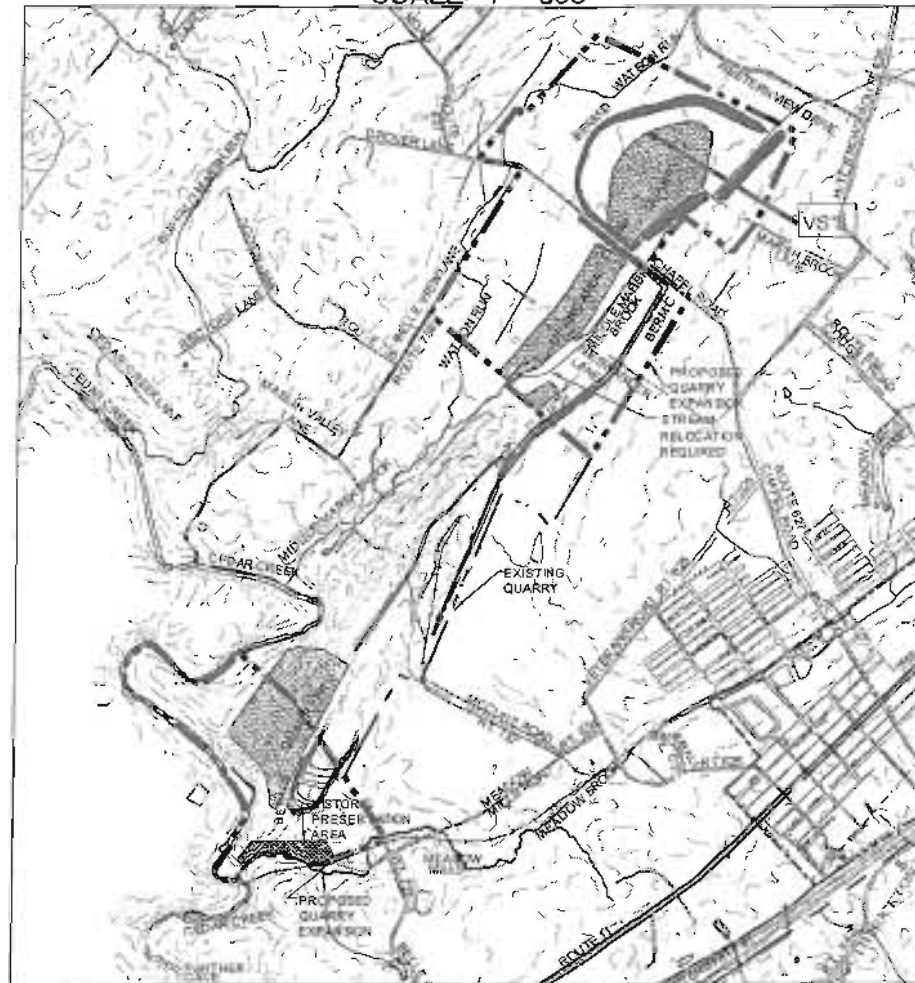




• VEGETATION SHOWN IS EXISTING UNLESS OTHERWISE NOTED.

VIEWSHED 8

SCALE: 1" = 300'



KEY MAP

NO SCALE

O-N Minerals Chemstone

Frederick County, Virginia

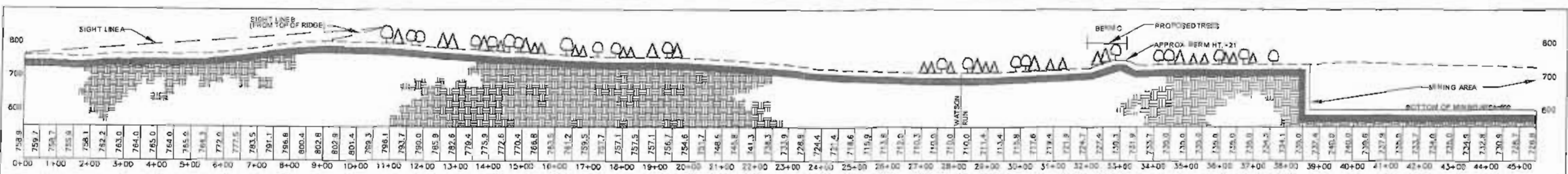
MAY 2008

Palton Harris Rust & Associates, pc
Engineers, Surveyors, Planners, Landscape Architects.



117 East Floodkill Street
Winchester, VA 22091
T 540-687-2139
F 540-680-0493

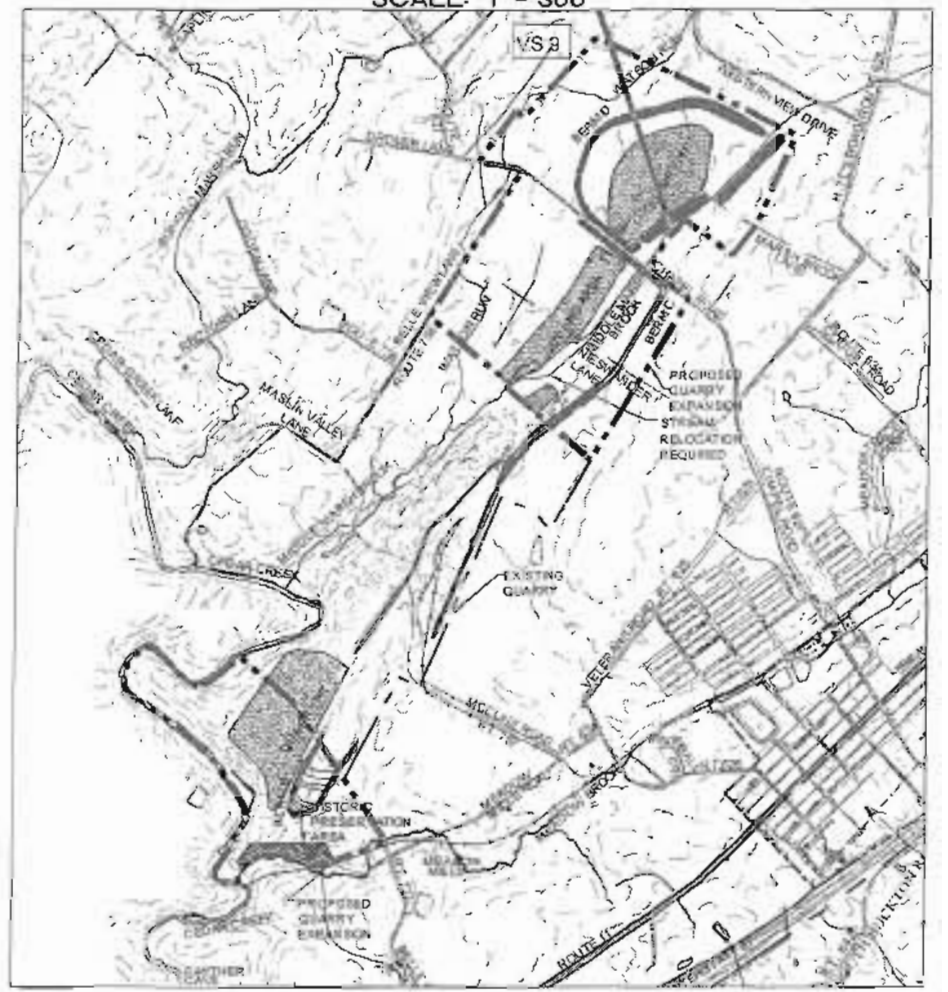




• VEGETATION SHOWN IS EXISTING UNLESS OTHERWISE NOTED.

VIEWSHED 9

SCALE: 1" = 300'



KEY MAP

NO SCALE

O-IN Minerals Chemstone

Frederick County, Virginia

MAY 2008

Patton Harris Rust & Associates, PC
 Engineers, Surveyors, Planners, Landscape Architects.

117 East Ploverly Street
 Winchester, VA 22601
 T 540-667-2130
 F 540-660-0485



**REZONING APPLICATION FORM
FREDERICK COUNTY, VIRGINIA**

To be completed by Planning Staff:

| | | | |
|-------------------------|-----------------|------------------|-------------------------------|
| Zoning Amendment Number | <u>05-17</u> | Fee Amount Paid | \$ <u>10,000⁰⁰</u> |
| PC Hearing Date | <u>11/15/17</u> | Date Received | <u>10/17/17</u> |
| | | BOS Hearing Date | <u>12/13/17</u> |

The following information shall be provided by the applicant:

All parcel identification numbers, deed book and page numbers may be obtained from the **Office of the Commissioner of Revenue, Real Estate Division, 107 North Kent Street, Winchester.**

1. Applicant:

O-N Minerals (Chemstone) Company

Name: d/b/a Carmeuse Lime & Stone Telephone: 540-465-6802

Address: 11 Stanwix Street, 21st Floor
Pittsburgh, PA 15222

2. Property Owner (if different than above):

Name: _____ Telephone: _____

Address: _____

3. Contact person if other than above:

Name: Thomas Moore Lawson, Esq. Telephone: (540) 665-0050

4. Property Information:

- a. Property Identification Number(s): 83-A-109 & 90-A-23
- b. Total acreage to be rezoned: 394.2
- c. Total acreage of the parcel(s) to be rezoned (if the entirety of the parcel(s) is not being rezoned): _____
- d. Current zoning designation(s) and acreage(s) in each designation: Extractive Manufacturing (EM) 394.2 Acres
- e. Proposed zoning designation(s) and acreage(s) in each designation: Extractive Manufacturing (EM) 394.2 Acres
- f. Magisterial District(s): Back Creek

5. Checklist: Check the following items that have been included with this application.

| | | | |
|--|-------------------------------------|---------------------------|-------------------------------------|
| Location map | <input checked="" type="checkbox"/> | Agency Comments | <input checked="" type="checkbox"/> |
| Plat | <input checked="" type="checkbox"/> | Fees | <input checked="" type="checkbox"/> |
| Deed to property | <input checked="" type="checkbox"/> | Impact Analysis Statement | <input checked="" type="checkbox"/> |
| Verification of taxes paid | <input checked="" type="checkbox"/> | Proffer Statement | <input checked="" type="checkbox"/> |
| Plat depicting exact meets and bounds for the proposed zoning district | <input type="checkbox"/> | | <input type="checkbox"/> |
| Digital copies (pdf's) of all submitted documents, maps and exhibits | <input type="checkbox"/> | | <input type="checkbox"/> |

6. The Code of Virginia allows us to request full disclosure of ownership in relation to rezoning applications.

Please list below all owners or parties in interest of the land to be rezoned:

O-N Minerals (Chemstone) Company d/b/a Carmeuse Lime & Stone

7. Adjoining Property: See Attached

| <u>PARCEL ID NUMBER</u> | <u>USE</u> | <u>ZONING</u> |
|-------------------------|------------|---------------|
| <hr/> | <hr/> | <hr/> |
| <hr/> | <hr/> | <hr/> |
| <hr/> | <hr/> | <hr/> |
| <hr/> | <hr/> | <hr/> |
| <hr/> | <hr/> | <hr/> |

8. Location: The property is located at (give exact location based on nearest road and distance from nearest intersection, using road names and route numbers):

The subject parcels are situated generally west of the Town of Middletown. Specifically, the Middle Marsh Property is

located east of Belle View Lane (Route 758), and west and adjacent to Hites Road (Route 625), and is further traversed by Chapel

Road (Route 627). The Northern Reserve is bounded to the south by Cedar Creek, and is west and adjacent to Meadow Mills Road (Route 624).

9. The following information should be provided according to the type of rezoning proposed:

Number of Units Proposed

Single Family homes: _____ Townhome: _____ Multi-Family: _____
 Non-Residential Lots: _____ Mobile Home: _____ Hotel Rooms: _____

Square Footage of Proposed Uses

Office: _____ Service Station: _____
 Retail: _____ Manufacturing: _____
 Restaurant: _____ Warehouse: _____
 Commercial: _____ Other: 78 Acres - quarry pits

10. Signature:

I (we), the undersigned, do hereby respectfully make application and petition the Frederick County Board of Supervisors to amend the zoning ordinance and to change the zoning map of Frederick County, Virginia. I (we) authorize Frederick County officials to enter the property for site inspection purposes.

I (we) understand that the sign issued when this application is submitted must be placed at the front property line at least seven days prior to the Planning Commission public hearing and the Board of Supervisors public hearing and maintained so as to be visible from the road right-of-way until the hearing.

I (we) hereby certify that this application and its accompanying materials are true and accurate to the best of my (our) knowledge.

Applicant(s): Mauli D. Basile Date: 01/18/2017

Date: _____

Owner(s): Mauli D. Basile Date: 01/18/2017

Date: _____

ADJOINING PROPERTY OWNERS

Owners of property adjoining the land will be notified of the Planning Commission and the Board of Supervisors meetings. For the purpose of this application, **adjoining property is any property abutting the requested property on the side or rear or any property directly across a public right-of-way, a private right-of-way, or a watercourse from the requested property.** The applicant is required to obtain the following information on each adjoining property including the parcel identification number which may be obtained from the office of the Commissioner of Revenue. *The Commissioner of the Revenue is located on the 2nd floor of the Frederick County Administrative Building, 107 North Kent Street.*

| Name and Property Identification Number | Address |
|---|-------------------------|
| Name SOMPANDH WANANT | 4834 GAINSBOROUGH DRIVE |
| Property # 84-6-1 | FAIRFAX, VA 22032 |
| Name WILLIAM AND LAURIE HUNTER | 151 WESTERNVIEW DRIVE |
| Property # 84-6-2 | MIDDLETOWN, VA 22645 |
| Name KEVIN AND ELIZABETH BARRINGTON | 205 WESTERNVIEW DRIVE |
| Property # 84-6-3 | MIDDLETOWN, VA 22645 |
| Name DANIEL E. TAYLOR, JR. | 241 WESTERNVIEW DRIVE |
| Property # 84-6-4 | MIDDLETOWN, VA 22645 |
| Name MARK AND NATASHA HOWARD | 277 WESTERNVIEW DRIVE |
| Property # 84-6-5 | MIDDLETOWN, VA 22645 |
| Name DONALD AND DONNA HOPKINS | 325 WESTERNVIEW DRIVE |
| Property # 84-6-6 | MIDDLETOWN, VA 22645 |
| Name MICHAEL AND SANDRA SWIGER | 357 WESTERNVIEW DRIVE |
| Property # 84-6-7 | MIDDLETOWN, VA 22645 |
| Name BARBARA J. BASILE | 379 WESTERNVIEW DRIVE |
| Property # 84-6-8 | MIDDLETOWN, VA 22645 |
| Name JAMES AND SHARON SANTMYERS | 411 WESTERNVIEW DRIVE |
| Property # 84-6-9 | MIDDLETOWN, VA 22645 |

| Name and Property Identification Number | Address |
|---|-----------------------|
| Name KEITH AND LINDA MCNEELY | 443 WESTERNVIEW DRIVE |
| Property # 84-6-10 | MIDDLETOWN, VA 22645 |
| Name HAROLD F. STALCUP | 3458 ZEPP ROAD |
| Property # 84-6-11 | MAURERTOWN, VA 22644 |
| Name PAUL J. CLEVINGER | 451 WESTERNVIEW DRIVE |
| Property # 84-6-12 | MIDDLETOWN, VA 22645 |
| Name LYNNETTE C. DALTON | 430 WESTERNVIEW DRIVE |
| Property # 84-6-13 | MIDDLETOWN, VA 22645 |
| Name JOHN AND MEGAN HANSEN | 342 WESTERNVIEW DRIVE |
| Property # 84-6-14 | MIDDLETOWN, VA 22645 |
| Name SYLVIA A. BOTTOMLY | 300 WESTERNVIEW DRIVE |
| Property # 84-6-15 | MIDDLETOWN, VA 22645 |
| Name EDWIN AND ELIZABETH STREUN | 276 WESTERNVIEW DRIVE |
| Property # 84-6-16 | MIDDLETOWN, VA 22645 |
| Name KURT AND DENISE BORGOYN | 210 WESTERNVIEW DRIVE |
| Property # 84-6-17 | MIDDLETOWN, VA 22645 |
| Name WILLIAM BENSON HANMER III | 120 WESTERNVIEW DRIVE |
| Property # 84-6-18 | MIDDLETOWN, VA 22645 |
| Name GARY S. & DALE A. NICHOLS | 216 MARSH BROOK LANE |
| Property # 84-A-7 | MIDDLETOWN, VA 22645 |
| Name RICHARD A. & JANET S. DYE | 11310 VALE ROAD |
| Property # 84-A-12 | OAKTON, VA 22124 |
| Name H & E, LC | 1832 CHAPEL ROAD |
| Property # 84-A-17 | MIDDLETOWN, VA 22645 |
| Name WILLIAM AND MELYNDA HOEMMEN | 1875 HITES ROAD |
| Property # 84-A-17A | MIDDLETOWN, VA 22645 |
| Name PATRICIA HUDGINS AND ROBERT RENNER | 1786 CHAPEL ROAD |
| Property # 91-A-7 | MIDDLETOWN, VA 22645 |

| Name and Property Identification Number | Address |
|---|-------------------------------------|
| Name JOHN S. SCULLY IV AND WINCHESTER WAREHOUSING | 114 NORTH CAMERON STREET |
| Property # 84-6-22 | WINCHESTER, VA 22601 |
| Name DENNIS F. BOYER | 165 DROVER LANE |
| Property # 83-A-107; 83-A-108; 83-A-108B | MIDDLETOWN, VA 22645 |
| Name THOMAS AND DORA BOWMAN | 1115 CHAPEL ROAD |
| Property # 83-A-106 | MIDDLETOWN, VA 22645 |
| Name JEAN SINGH | 190 NEWELL DRIVE |
| Property # 83-A-103B | MIDDLETOWN, VA 22645 |
| Name GARRETT FARMS, LLC | 224 MEADOW MILLS ROAD |
| Property # 90-A-20; 84-A-16 | MIDDLETOWN, VA 22645 |
| Name MILDRED G. BRUMBACK | 420 BELLE GROVE ROAD |
| Property # 90-A-26 | MIDDLETOWN, VA 22645 |
| Name BARRY L. BOWSER | P.O. BOX 21 |
| Property # 90-A-25 | MIDDLETOWN, VA 22645 |
| Name CEDAR CREEK BATTLEFIELD FOUNDATION INC. | P.O. BOX 229 |
| Property # 90-A-23A | MIDDLETOWN, VA 22645 |
| Name BLUEGRASS MATERIALS COMPANY LLC | 200 WEST FORSYTH STREET, SUITE 1200 |
| Property # 90-A-22 | JACKSONVILLE, FL 32202 |
| Name MIDDLETOWN HUNT CLUB INC. | P.O. Box 121 |
| Property # 90-A-24 | MIDDLETOWN, VA 22645 |
| Name | |
| Property # | |
| Name | |
| Property # | |
| Name | |
| Property # | |
| Name | |
| Property # | |



February 22, 2018

Mr. Thomas Moore Lawson
Lawson and Silek, PLC
P.O. Box 2740
Winchester, Virginia 22604

**RE: Rezoning for O-N Minerals (Chemstone) Company
Property Identification Numbers (PINs): 83-A-109 and 90-A-23**

Dear Mr. Lawson:

Staff has reviewed the proffer statement dated February 14, 2018. Staff's comments are listed below for your consideration.

1. **Generalized Development Plan.** The proffers make reference to one GDP, there were two GDP's submitted with the proffer statement. The inclusion of the GDP that shows the berm construction (Sections 1-4) should be utilized.
2. **Exhibit 2 – Viewshed Plats.** This proffer does not reference the viewshed plats as Exhibit 2. Reference should be made in the proffer statement to the exhibit number. Staff also recommends removing the existing proffered berm details from the viewshed plats and only depicting the 2018 proposed changes.
3. **Site Development – Proffer 2.**
 - Proffer 2.2 states that “a combination of landscaping, earthen berms or fencing shall be installed”. This proffer wording would allow for the berms to be eliminated in lieu of fencing.
 - Proffer 2.2 should provide details for the berm south of Chapel Road.
 - Proffer 2.2 should reference that the revisions (Sections 1-4) only pertain to Berm D.
 - Proffer 2.2 reduces the berm adjacent to the Westernview development from 30' to 15' and proposes to adjust the distance from the residences. This revision could have potentially negative impacts on these residences.

Page 2
Mr. Thomas Moore Lawson
RE: O-N Minerals (Chemstone) Company
February 22, 2018

- Proffer 2.2 berm Section 2 states that the berm could be reduced due to cemetery or stream encroachment – this berm could potentially be reduced to 10’. The berm should be placed in an area that would not encroach on the cemetery and the stream to ensure that a definitive berm height is provided.
- The proffer removes the requirement that the berms be installed 10 years prior to mining north of Chapel Road. The proposed amendment states that the berms would be installed after permitting and one year prior to the extraction of material for processing. It appears that this proffer amendment would allow for a large amount of earthwork and excavating prior to any berms being installed. This could be worded to clarify that the berm would be installed prior to any earthwork/mining operations commencing on the property. Also, approved 10-year provision would have provided timing for the plantings to become established. One year does not appear to provide adequate timing for the berm landscaping to become established.
- A detail for the proposed planting revision should be provided.

4. Proffer 3 – Historic Resources. The approved proffer states that the owner would improve the cemetery ROW once the cemetery restoration is complete. The proposed revision states that the owner would relocate the ROW within 12 months of VDOT approval. This proffer does not commit to building an actual access road for the cemetery, only the relocation of the ROW which could potentially only relocate the easement but not actually build the access. This revision also contains no timing for applying for the Chapel Road entrance. Potentially this access could not be built if the owner never applies for a VDOT entrance.

Please note that this rezoning is scheduled for the Board of Supervisors March 14, 2018 meeting. If you propose to submit amended proffers based on the above comments and the comments received at the Planning Commission’s February 21, 2018 meeting, please submit any proposed revisions by March 1, 2018 for inclusion in the Board of Supervisors agenda. Please feel free to contact me with questions regarding this application.

Sincerely,



Candice E. Perkins, AICP, CZA
Assistant Director

CEP/pd

N



MEMORANDUM

TO: Board of Supervisors

FROM: John A. Bishop, AICP, Assistant Director - Transportation *JAB*

RE: Update of the Interstate, Primary, and Secondary Road Plans

DATE: June 7, 2018

This is a public hearing item to consider the update of the 2018 – 2019 Interstate, Primary, and Secondary Road Improvement Plans.

Summary of Changes:

Updates to the priorities which are being recommended are for the reasons of consistency between the plans and for continuity and support of the Board's SmartScale applications.

Interstate Plan Updates are as follows:

1. Change letter priorities to number priorities to be consistent with Primary Plan.
2. Update of priorities to place Exit 313 at Number 1 and Exit 317 at Number 2.
3. Update language for Exit 307 to acknowledge the need to improve the existing facility ahead of the long-term goal of relocation.

Primary Plan Updates are as follows:

1. Move Route 11 ahead of Route 277 on the priority list due to the fact that the section of highest need on Route 277 is funded and moving toward construction and the growing needs on Route 11 which have resulted in SmartScale applications.
2. Route 277 broken up into segments of logical termini in recognition of the fact that future applications for this roadway would likely need to be for smaller segments.
3. Addition of Route 522 intersection with Costello Drive in recognition and support of the SmartScale application on that facility.

The Transportation Committee reviewed this item on May 21, 2018 and has recommended approval to the Board of Supervisors. The Planning Commission reviewed and recommended approval at their June 6, 2018 meeting. Staff is seeking action from the Board of Supervisors on the plans and their associated resolutions of adoption.

JAB/pd

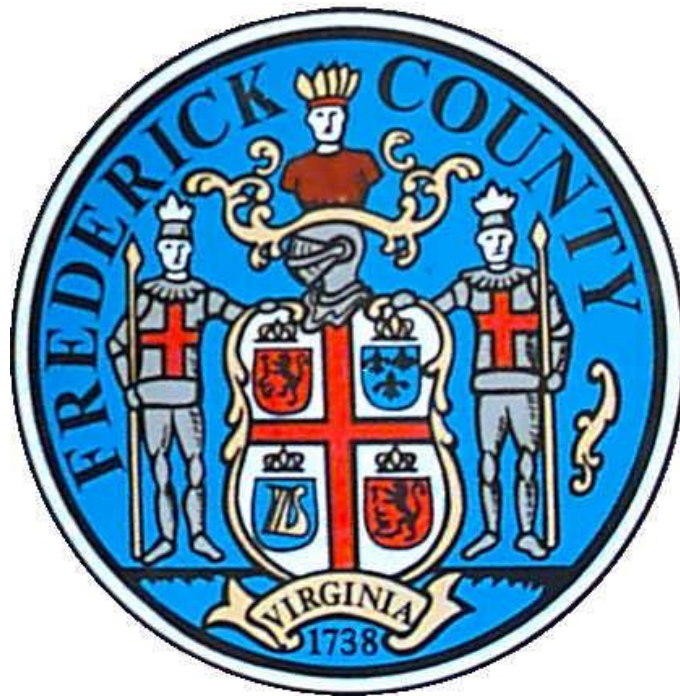
Attachments

2018-2019

INTERSTATE ROAD IMPROVEMENT PLAN

for

FREDERICK COUNTY, VIRGINIA



Frederick County Transportation Committee: 5/21/2018

Frederick County Planning Commission: 6/06/2018

Frederick County Board of Supervisors: 6/13/2018

I-81 Improvements:

Provide additional travel lanes on the main line, evaluate collector-distributor lanes adjacent to the main line, modifications to existing interchange areas, and develop new interchange areas and bridge crossings of the main line as recommended by the WinFred MPO Long Range Plan.

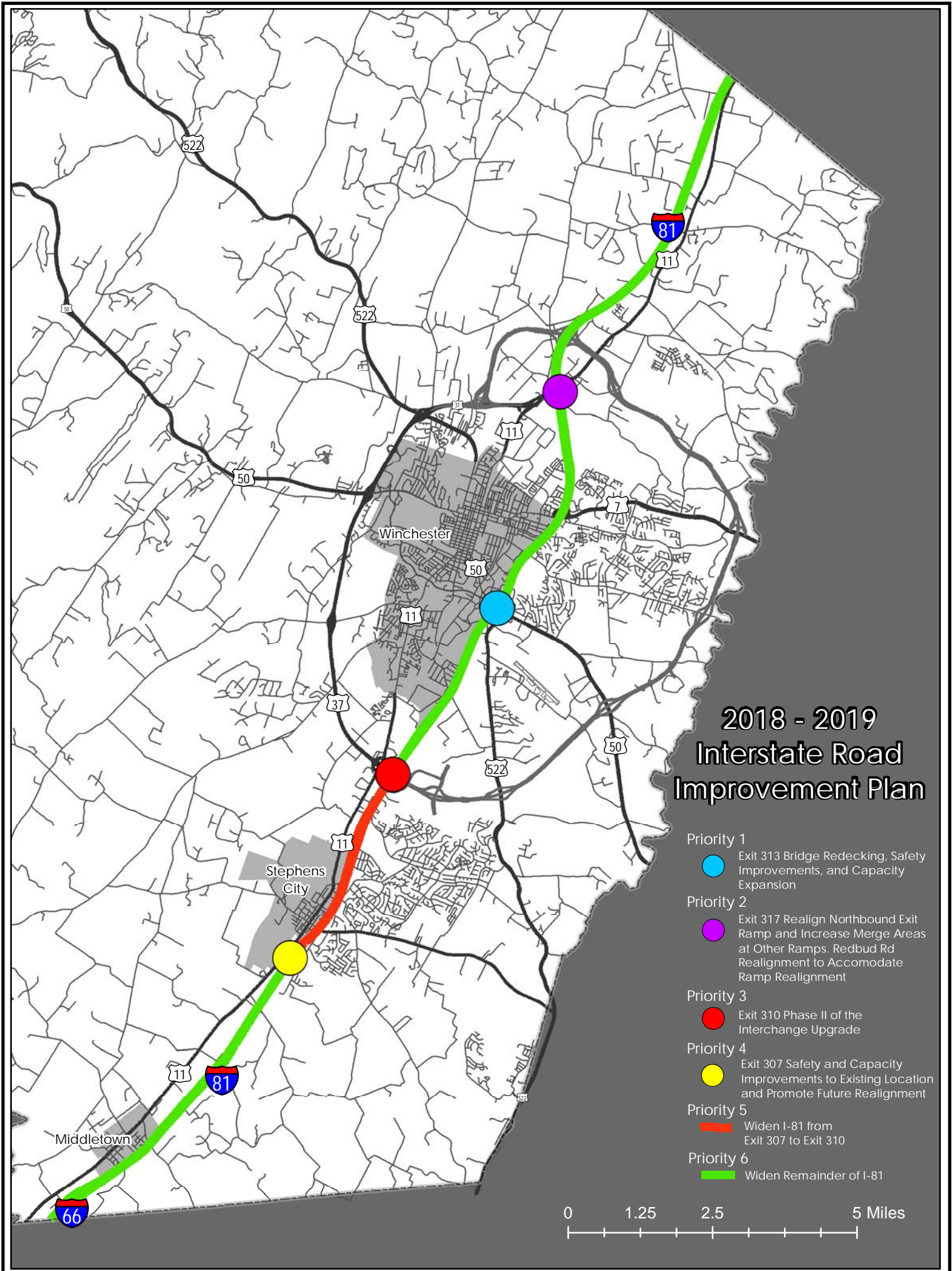
In addition, as the State continues to work toward an ultimate plan for the I-81 widening, the County of Frederick continues to support the study of Eastern Route 37 as a potential corridor on new location as an alternative for that effort.

Moreover, the County of Frederick supports exploration of the potential for rail transportation as a component of the Interstate 81 Corridor improvements.

1. Exit 313 - Bridge re-decking, safety improvements, and capacity expansion.
2. Exit 317 – Realign northbound exit ramp and increase merge areas at the other ramps. Redbud Road realignment to accommodate ramp realignment.
3. Exit 310 - Phase 2 of the FHWA approved interchange modifications.
4. Exit 307 – Safety and capacity improvements to the existing facility while continuing to promote the future relocation further south to the South Frederick Parkway.
5. Widen I-81 from Fairfax Pike to Route 37 North. This should include the relocation of the Route 277 Interchange:

| | |
|-------|--------------------------|
| From: | Route 277, Exit 307 |
| To: | Route 37 North, Exit 310 |
6. Widen Remainder of I-81 in Frederick County:

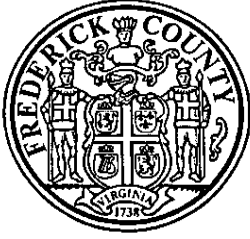
| | |
|-------|--------------------|
| From: | West Virginia line |
| To: | Warren County line |
7. Spot Improvements on I-81 in Frederick County. Provide spot improvements at various interchanges to increase capacity and/or enhance safety for the motoring public.



2018 - 2019 Interstate Road Improvement Plan

- Priority 1**
● Exit 313 Bridge Redecking, Safety Improvements, and Capacity Expansion
- Priority 2**
● Exit 317 Realign Northbound Exit Ramp and Increase Merge Areas at Other Ramps. Redbud Rd Realignment to Accomodate Ramp Realignment
- Priority 3**
● Exit 310 Phase II of the Interchange Upgrade
- Priority 4**
● Exit 307 Safety and Capacity Improvements to Existing Location and Promote Future Realignment
- Priority 5**
— Widen I-81 from Exit 307 to Exit 310
- Priority 6**
— Widen Remainder of I-81

0 1.25 2.5 5 Miles



ORDINANCE 2018-2019 INTERSTATE ROAD IMPROVEMENT PLAN

WHEREAS, the Frederick County Transportation Committee recommended approval of this plan on May 21, 2018; and,

WHEREAS, the Frederick County Planning Commission held a public hearing and recommended approval of this plan at their meeting on June 6, 2018; and,

WHEREAS, the Frederick County Board of Supervisors had previously agreed to assist in the preparation of this plan in accordance with the Virginia Department of Transportation's policies and procedures and participated in a public hearing on the proposed Plan, after being duly advertised so that all citizens of the County had the opportunity to participate in said hearing and to make comments and recommendations concerning the proposed Plan and Priority List; and,

WHEREAS, a representative of the Virginia Department of Transportation appeared before the Board during the public hearing and recommended approval of the 2018 – 2019 Interstate Road Improvement Plan and the Construction Priority List; and,

WHEREAS, the Frederick County Board of Supervisors support the priorities of the interstate road improvement projects for programming by the Commonwealth Transportation Board and the Virginia Department of Transportation;

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

The 2018-2019 Interstate Road Improvement Plan appears to be in the best interest of the citizens of Frederick County and the Interstate Road System in Frederick County; and therefore, the Frederick County Board of Supervisors hereby approves the 2018-2019 Interstate Road

Improvement Plan and Construction Priority List for Frederick County, Virginia as presented at the public hearing held on June 13, 2018.

This resolution was approved by the following recorded vote:

Charles S. DeHaven, Jr., Chairman

Gary A. Lofton

J. Douglas McCarthy

Robert W. Wells

Shannon G. Trout

Judith McCann-Slaughter

Blaine P. Dunn

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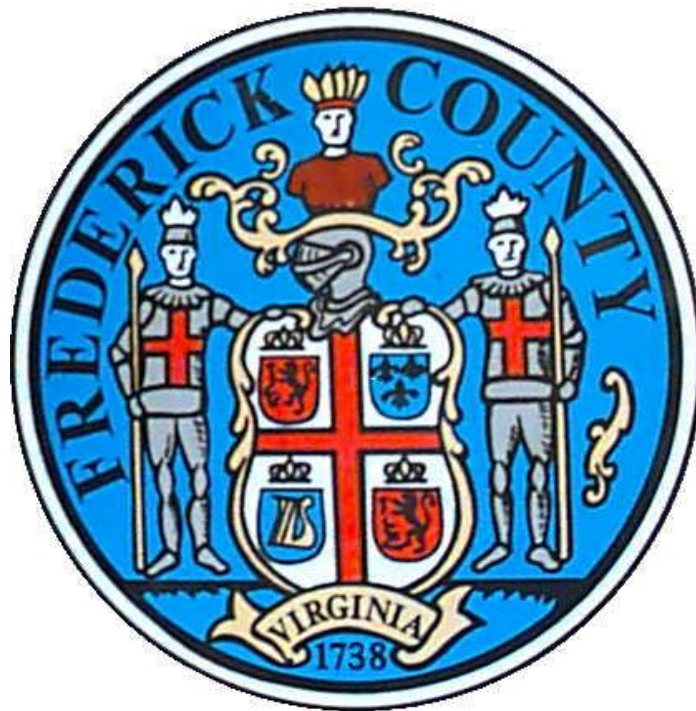
Kris C. Tierney
Frederick County Administrator

2018-2019

PRIMARY ROAD IMPROVEMENT PLAN

for

FREDERICK COUNTY, VIRGINIA



Frederick County Transportation Committee: 5/21/2018

Frederick County Planning Commission: 6/06/2018

Frederick County Board of Supervisors: 6/13/2018

1) Route 37 Bypass

A. Route 37 - Phase 1

Initiate final engineering and design, acquire right-of-way, and establish a construction phase schedule for the southern segment of the Route 37 Eastern Bypass from Interstate I-81 to Front Royal Pike (Route 522 South).

B. Route 37 - Phase 2

Initiate final engineering and design, acquire right-of-way, and establish a construction phase schedule for the preferred alternative between existing Route 37 around Stonewall Industrial Park and Route 7.

C. Route 37 - Phase 3

Initiate final engineering and design, acquire right-of-way, and establish a construction phase schedule for the preferred alternative between Route 7 and Route 522.

2) Route 11 (North and South of Winchester)

A) Establish an Urban Divided Six Lane System:

From: Northern limits of the City of Winchester
To: Intersection of Cedar Hill Road

B) Establish an Urban Divided Four Lane System:

From: Southern limits of the City of Winchester
To: 0.4 miles south of intersection of Route 37 South, Exit 310

C) Establish an Urban Divided Four Lane System:

From: Intersection of Cedar Hill Road
To: West Virginia line

3) Route 277 (East of Stephens City)

Upgrade of the overall corridor to a 4-lane divided system with improved access management and bicycle and pedestrian facilities.

A) Establish an Urban Divided Four Lane System:

From: I-81
To: Double Church Road

B) Establish an Urban Divided Four Lane System:

From: Double Church Road
To: Warrior Drive

C) Establish an Urban Divided Four Lane System:

From: Warrior Drive
To: White Oak Road

D) Establish an Urban Divided Four Lane System:

From: White Oak Road
To: Route 277

4) Route 7 – Establish a 6 Lane Cross Section:

From: Exit 315 Interchange
To: Future Route 37 Interchange

5) Route 50 East and West

A) Establish a 6 Lane Cross Section:

From: The Interchange at Exit 313
To: The Future Route 37 Interchange

B) Establish a 6 Lane Cross Section:

From: The Interchange with Route 37
To: Poorhouse Road

6) South Frederick County Parkway:

From: Relocated Exit 307
To: Intersection with Route 277 approximately 1 mile west of the intersection of Route 277 and Route 522

This is a planned new roadway with limited access points serving a mixture of predominantly commercial and industrial development.

There is a need to study this project in conjunction with the Exit 307 relocation and planning for Route 277 improvements noted in item 3.

Phasing of this project is not yet clearly defined; however general phasing would be from West to East with the clear first phase being from relocated Exit 307 to Warrior Drive.

7) Route 522 and Costello Drive

Add additional left turn lane capacity on Route 522 southbound for turns onto Costello Drive.

8) Commuter Park and Ride Lots

Establish a new park and ride facility along the Berryville Pike (Route 7) corridor. Work with the Northern Shenandoah Valley Regional Commission to determine appropriate locations for park and ride facilities at other strategic locations within the County's Urban Development Area. For Park and Ride locations in Frederick County the primary goal should be that they are situated in such a manner that they reduce traffic in Frederick County in addition to adjacent localities.

2018 - 2019 Primary Road Improvement Plan

Rt 37 Bypass Phases

- Priority 1A
- Priority 1B
- Priority 1C

Rt 11 North & South

- Priority 2A
- Priority 2B
- Priority 2C

Rt 277 East of Stephens City

- Priority 3A
- Priority 3B
- Priority 3C
- Priority 3D

- Rt 7
- Priority 4

- Rt 50
- Priority 5A
- Priority 5B

South Frederick County Parkway

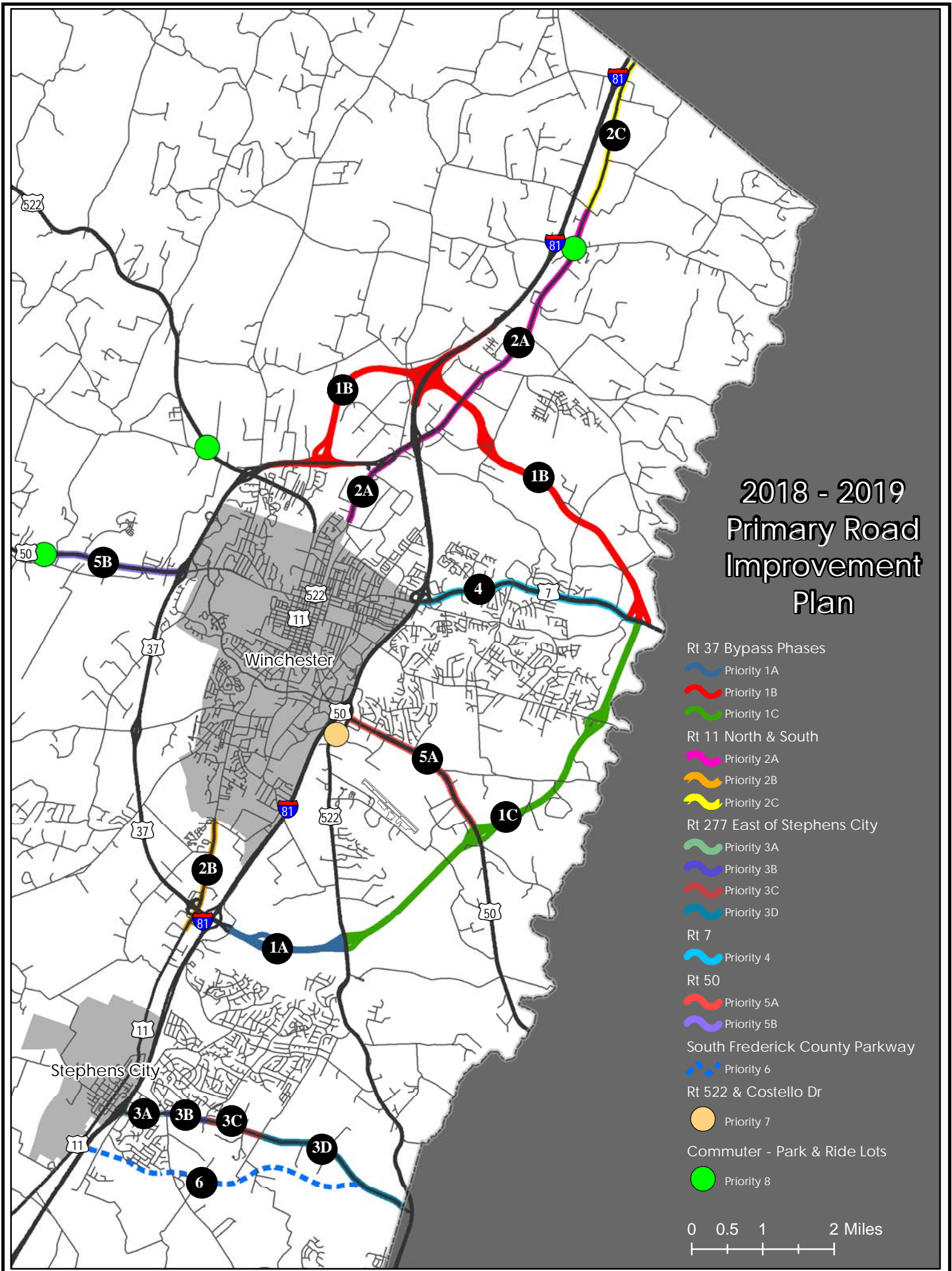
- Priority 6

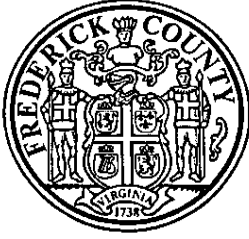
Rt 522 & Costello Dr

- Priority 7

Commuter - Park & Ride Lots

- Priority 8





ORDINANCE 2018-2019 PRIMARY ROAD IMPROVEMENT PLAN

WHEREAS, the Frederick County Transportation Committee recommended approval of this plan on May 21, 2018; and,

WHEREAS, the Frederick County Planning Commission held a public hearing and recommended approval of this plan at their meeting on June 6, 2018; and,

WHEREAS, the Frederick County Board of Supervisors had previously agreed to assist in the preparation of this plan in accordance with the Virginia Department of Transportation's policies and procedures and participated in a public hearing on the proposed Plan, after being duly advertised so that all citizens of the County had the opportunity to participate in said hearing and to make comments and recommendations concerning the proposed Plan and Priority List; and,

WHEREAS, a representative of the Virginia Department of Transportation appeared before the Board during the public hearing and recommended approval of the 2018 – 2019 Primary Road Improvement Plan and the Construction Priority List; and,

WHEREAS, the Frederick County Board of Supervisors support the priorities of the primary road improvement projects for programming by the Commonwealth Transportation Board and the Virginia Department of Transportation;

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

The 2018-2019 Primary Road Improvement Plan appears to be in the best interest of the citizens of Frederick County and the Primary Road System in Frederick County; and therefore, the Frederick County Board of Supervisors hereby approves the 2018-2019

Primary Road Improvement Plan and Construction Priority List for Frederick County, Virginia as presented at the public hearing held on June 13, 2018.

This resolution was approved by the following recorded vote:

Charles S. DeHaven, Jr., Chairman

Gary A. Lofton

J. Douglas McCarthy

Robert W. Wells

Shannon G. Trout

Judith McCann-Slaughter

Blaine P. Dunn

A COPY ATTEST

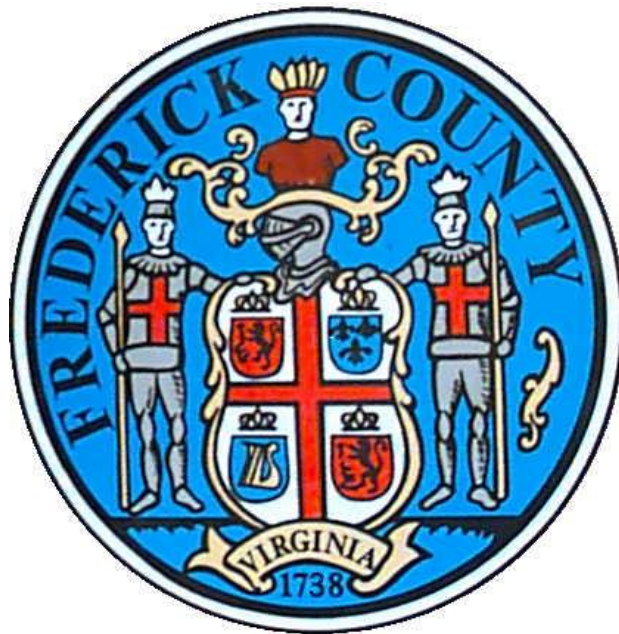
Kris C. Tierney
Frederick County Administrator

2018/19-2023/24

SECONDARY ROAD IMPROVEMENT PLAN

for

FREDERICK COUNTY, VIRGINIA



Frederick County Transportation Committee: 5/21/2018

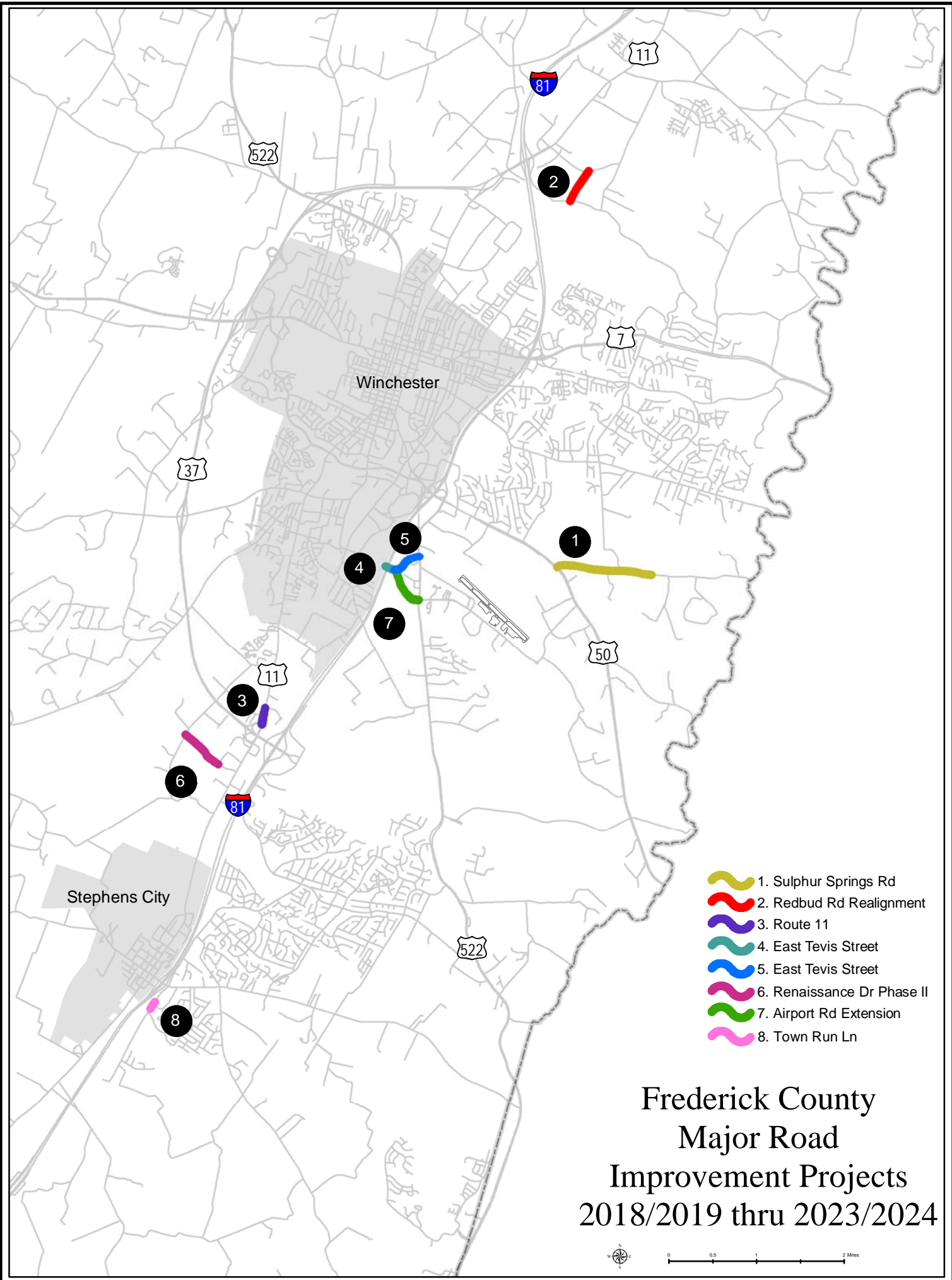
Frederick County Planning Commission: 6/06/2018

Frederick County Board of Supervisors: 6/13/2018

MAJOR ROAD IMPROVEMENT PROJECTS 2018/2019 through 2023/2024

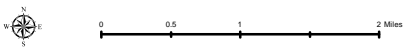
Major road improvement projects command the reconstruction of hardsurfaced roads to enhance public safety. Improvements required for road width, road alignment, road strength, and road gradient are considered major road improvements projects.

| ROUTE | ROAD NAME | FROM | TO | AVERAGE DAILY TRAFFIC COUNT | DISTANCE | MAGISTERIAL DISTRICT | ESTIMATED COST | ADVERTISEMENT DATE | COMMENTS |
|-------|------------------------------|----------------------------------|---------------------------|-----------------------------|------------|----------------------|------------------------------|--------------------|--|
| 655 | Sulphur Springs Road | Route 50 | .30 Mi East Rt. 656 | 5800 | 1.1 miles | SH | \$8,205,445 | 2018 | \$6,071,860 Allocated SSYP Smart-Scale |
| 661 | Red Bud Road | .47 Mi South Route 11 | Int. Snowden Bridge Blvd. | 2000 | 0.5 miles | ST | \$2,000,000 | 2022 | |
| 11 | Valley Pike | Route 11 | .35 Mi East | 3200 | 0.35 miles | ST | \$1,701,000 Revenue Sharing | UN/SH | R/S Funds |
| | East Tevis Street | Roundabout (Includes Roundabout) | Winchester City Limit | N/A | 0.44 miles | SH | \$13,543,656 Revenue Sharing | 2018 | R/S Funds |
| | East Tevis Street Northern Y | Route 522 | I-81 | N/A | 0.35 miles | SH | \$5,786,290 Revenue Sharing | 2018 | R/S Funds |
| | Airport Road Ext | Route 522 | Roundabout | N/A | 0.43 Miles | SH | \$8,431,762 Revenue Sharing | 2018 | R/S Funds |
| 788 | Renaissance | .24 Mi West Route 11 | Int. Shady Elm Road | N/A | .18 miles | BC | \$4,734,995 | UN/SH | R/S & TPOF Funds |
| 1012 | Town Run Lane | 280 Ft. S. Stickley Drive | 210 Ft. N. Stickley Drive | N/A | .1 Miles | BC | \$150,000 | UN/SH | Funded \$150,000 Thru Plan |
| | Jubal Early Drive Ext. | Existing in the City | Route 37 | N/A | 1.02 Miles | GA | \$18,660,500.00 | UN/SH | R/S Funds |



Frederick County
 Major Road
 Improvement Projects
 2018/2019 thru 2023/2024

-  1. Sulphur Springs Rd
-  2. Redbud Rd Realignment
-  3. Route 11
-  4. East Tevis Street
-  5. East Tevis Street
-  6. Renaissance Dr Phase II
-  7. Airport Rd Extension
-  8. Town Run Ln



NON-HARDSURFACE ROAD IMPROVEMENT PROJECTS 2018/2019 through 2023/2024

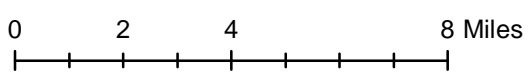
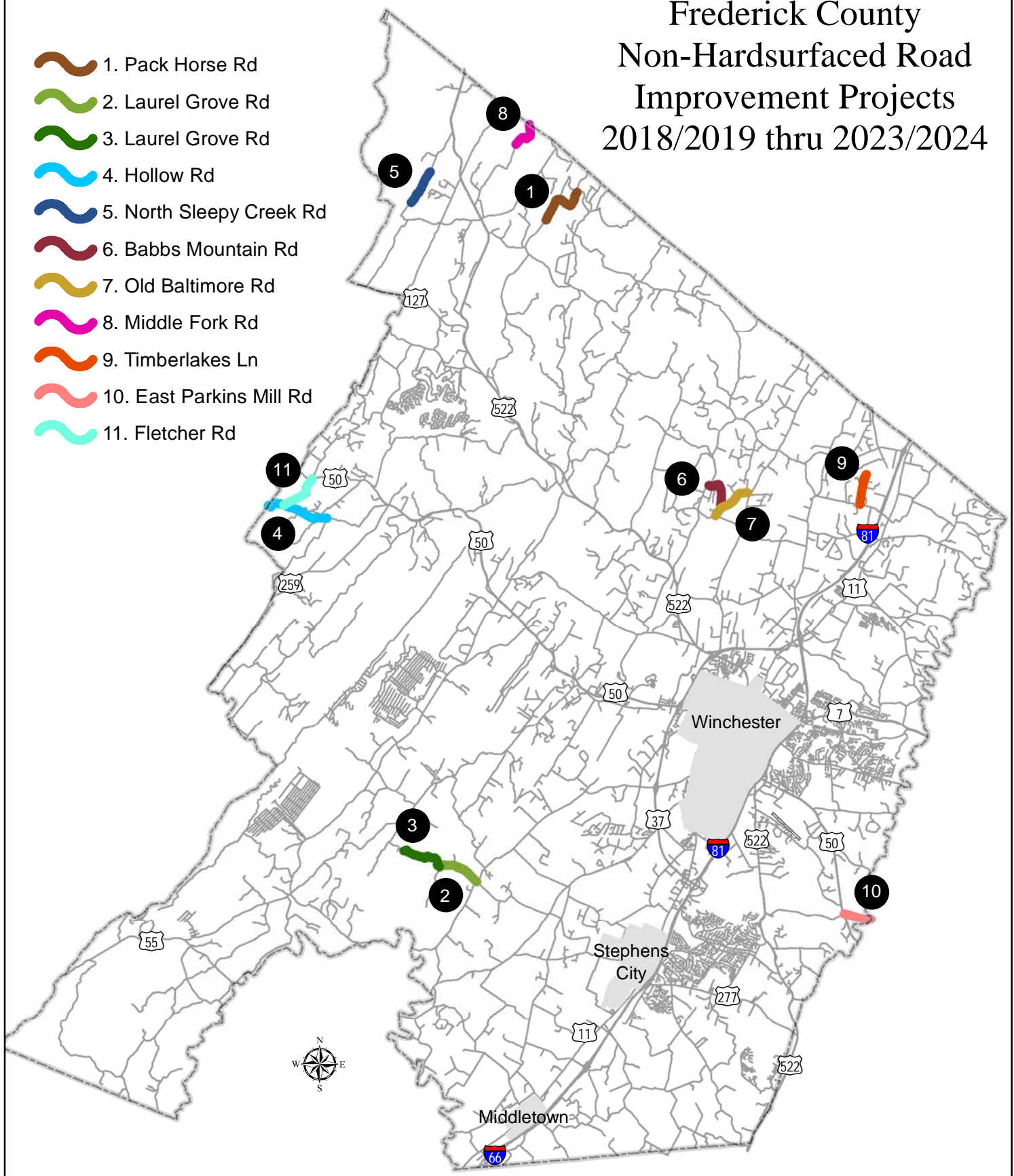
Non-Hardsurface road improvement projects provide impervious resurfacing and reconstruction of non-hardsurfaced secondary roads. Non-Hardsurface improvement projects are prioritized by an objective rating system, which considers average daily traffic volumes; occupied structures; physical road conditions including geometrics, drainage, and accident reports; school bus routing; and the time that project requests have been on the Secondary Road Improvement Plan.

| RANK | ROUTE | ROAD NAME | FROM | TO | AVERAGE DAILY TRAFFIC COUNT | DISTANCE | MAGISTERIAL DISTRICT | ESTIMATED COST | ADVERTISEMENT DATE | COMMENTS |
|------|-------|-------------------------|----------------------|----------------------|-----------------------------|------------|----------------------|----------------|--------------------|-----------------------------|
| 1 | 692 | Pack Horse Road | 1.2 Mi NE of Rt. 600 | Route 671 | 210 | 1.4 miles | GA | \$315,000 | 2018 | CTB Unpaved Roads Funding |
| 2 | 629 | Laurel Grove Road | Route 622 | 1.25 Mi W of Rt. 622 | 200 | 1.25 miles | BC | \$292,500 | 2019 | CTB Unpaved Roads Funding |
| 3 | 629 | Laurel Grove Road | 1.25 Mi W of Rt. 622 | 2.5 Mi W of Rt. 622 | 200 | 1.25 miles | BC | \$292,500 | 2019 | CTB Unpaved Roads Funding |
| 4 | 707 | Hollow Road | WV state line | Rt. 610 Muse Road | 190 | 1.8 miles | GA | \$405,000 | 2020 | CTB Unpaved Roads Funding |
| 5 | 734 | North Sleepy Creek Road | 1.27 MI S of RT 522 | 2.27 MI S of RT 522 | 50 | 0.9 miles | GA | \$225,000 | 2020 | District Grant Unpaved Road |
| 6 | 730 | Babbs Mountain Road | Route 654 | Route 677 | 130 | 0.9 miles | GA | \$202,500 | 2020 | District Grant Unpaved Road |
| 7 | 677 | Old Baltimore Road | Route 676 | Route 672 | 90 | 1.23 miles | GA | \$270,000 | 2021 | District Grant Unpaved Road |
| 8 | 695 | Middle Fork Road | 522 | WV Line | 50 | .9 miles | GA | \$238,500 | 2022 | District Grant Unpaved Road |
| 9 | 811 | Timberlakes Lane | 671 | *671 | 280 | 0.25 miles | ST | \$66,250 | 2023 | District Grant Unpaved Road |
| 10 | 644 | East Parkins Mill Road | 50 | Clarke Co. Line | 200 | 0.81 miles | SH | \$214,650 | 2024 | District Grant Unpaved Road |
| 11 | 733 | Fletcher Road | 50 | 707 | 170 | 1.3 miles | GA | \$346,500 | 2024 | District Grant Unpaved Road |

**NOTE: Projects are placed on the scheduled list based upon VDOT revenue projections. Changes to those projections can lead to projects being delayed or removed from the scheduled list.*

Frederick County Non-Hardsurfaced Road Improvement Projects 2018/2019 thru 2023/2024

- 1. Pack Horse Rd
- 2. Laurel Grove Rd
- 3. Laurel Grove Rd
- 4. Hollow Rd
- 5. North Sleepy Creek Rd
- 6. Babbs Mountain Rd
- 7. Old Baltimore Rd
- 8. Middle Fork Rd
- 9. Timberlakes Ln
- 10. East Parkins Mill Rd
- 11. Fletcher Rd

















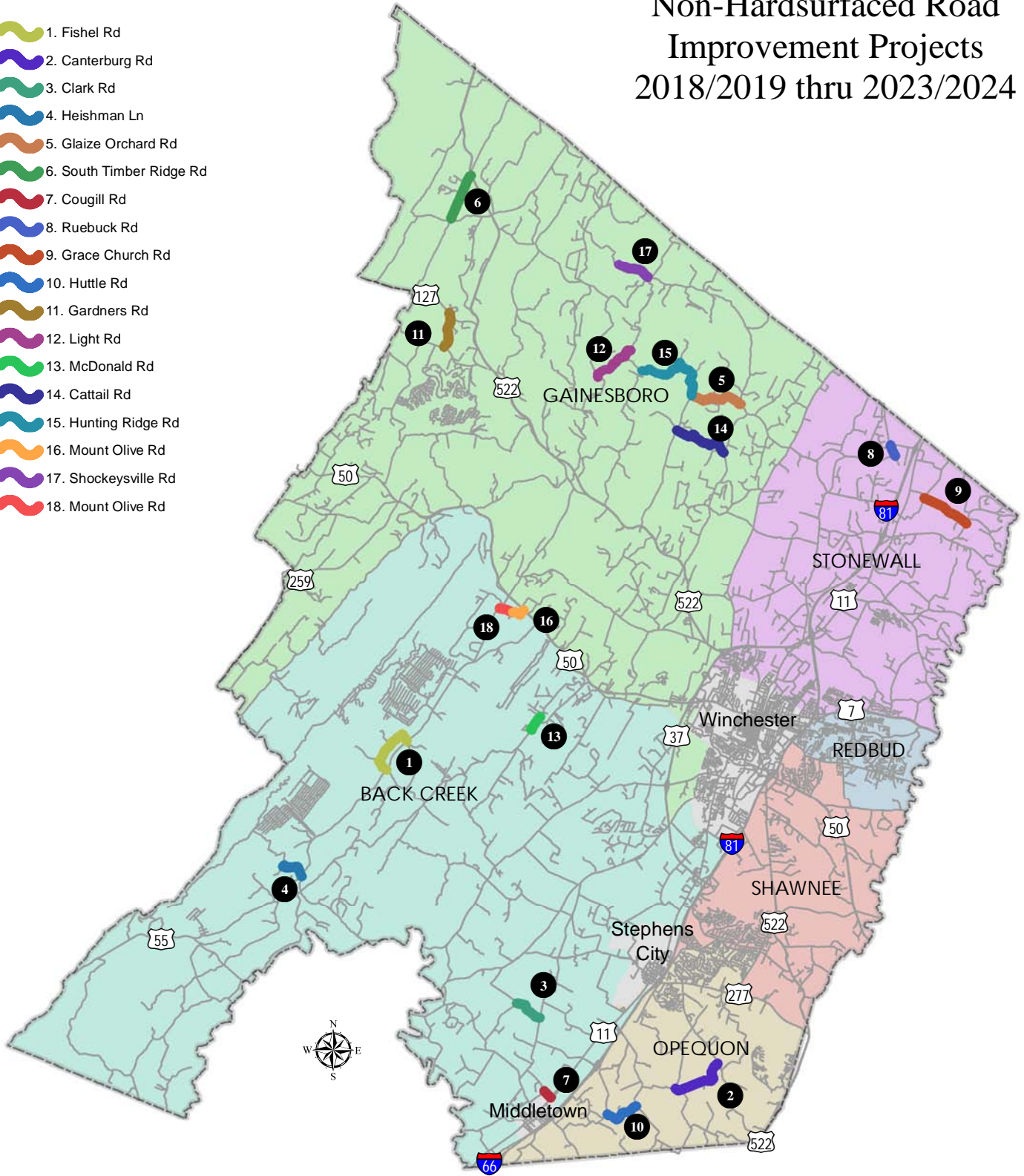
**UNSCHEDULED
NON-HARDSURFACE ROAD IMPROVEMENT PROJECTS
2018/2019 through 2023/2024**

| <u>RANK</u> | <u>ROAD NAME</u> | <u>ROUTE</u> | <u>FROM</u> | <u>TO</u> | <u>AVERAGE DAILY
TRAFFIC COUNT</u> | <u>DISTANCE (MILES)</u> | <u>MAGISTERIAL
DISTRICT</u> | <u>RATING</u> | <u>COMMENTS</u> |
|-------------|--------------------|--------------|--------------|-----------------------|--|-------------------------|---------------------------------|---------------|-----------------|
| 1 | Fishel Rd | 612 | 600 | 600 | 60 | 1.6 | BC | 66.56 | |
| 2 | Canterburg Rd | 636 | 640 | 641 | 140 | 1.5 | OP | 63.17 | |
| 3 | Clark Rd | 638 | 625 | 759 | 70 | 0.8 | BC | 62.94 | |
| 4 | Heishman Rd | 607 | 600 | 600 | 70 | 0.78 | BC | 62.37 | |
| 5 | Glaize Orchard Rd | 682 | 608 | 654 | 240 | 1.54 | GA | 61.22 | |
| 6 | South Timber Ridge | 696 | 522 | 694 | 220 | 1.3 | GA | 58.58 | |
| 7 | Cougill Rd | 634 | 635 | 11 | 120 | 0.25 | BC | 58.00 | |
| 8 | Ruebuck Road | 670 | 669 | End of maintenance | 160 | 0.35 | ST | 55.00 | |
| 9 | Grace Church Road | 668 | 667 | 671 | 210 | 1.35 | ST | 53.20 | |
| 10 | Huttle Rd | 636 | 709 | 735 | 110 | 1.1 | OP | 53.05 | |
| 11 | Gardners Rd | 700 | 127 | 701 | 110 | 1.0 | GA | 51.50 | |
| 12 | Light Rd | 685 | 600 | 681 | 80 | 1.3 | BC | 51.46 | |
| 13 | McDonald Rd | 616 | 608 | .44 N. of 608 | 60 | 0.45 | BC | 51.33 | |
| 14 | Cattail Rd | 731 | 608 | 654 | 60 | 1.7 | GA | 51.24 | |
| 15 | Hunting Ridge Rd | 608 | 682 | 681 | 90 | 2.44 | GA | 51.01 | |
| 16 | Mount Olive Road | 615 | 50 | Hammack Lane | 110 | 0.37 | BC | 49.00 | |
| 17 | Shockeysville Road | 671 | 690 | .90 miles west of 690 | 120 | 0.9 | GA | 46.67 | |
| 18 | Mount Olive Road | 615 | Hammack Lane | 600 | 110 | 0.4 | BC | 38 | |


Note: Project ratings are updated only when funding is available to promote projects to the scheduled list.

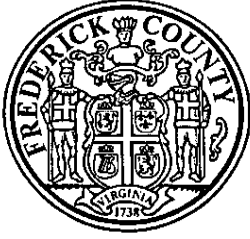
Frederick County Unscheduled Non-Hardsurfaced Road Improvement Projects 2018/2019 thru 2023/2024

-  1. Fishel Rd
-  2. Canterburg Rd
-  3. Clark Rd
-  4. Heishman Ln
-  5. Glaize Orchard Rd
-  6. South Timber Ridge Rd
-  7. Cougill Rd
-  8. Ruebuck Rd
-  9. Grace Church Rd
-  10. Huttle Rd
-  11. Gardners Rd
-  12. Light Rd
-  13. McDonald Rd
-  14. Cattail Rd
-  15. Hunting Ridge Rd
-  16. Mount Olive Rd
-  17. Shockeyville Rd
-  18. Mount Olive Rd



0 2 4 8 Miles





ORDINANCE 2018-2019 SECONDARY ROAD IMPROVEMENT PLAN

WHEREAS, Section 33.2-331 of the 1950 Code of Virginia, as amended, provides the opportunity for each county to work with the Virginia Department of Transportation in developing a Six-Year Road Plan; and,

WHEREAS, the Frederick County Transportation Committee recommended approval of this plan on May 21, 2018; and,

WHEREAS, the Frederick County Planning Commission held a public hearing and recommended approval of this plan at their meeting on June 6, 2018; and,

WHEREAS, the Frederick County Board of Supervisors had previously agreed to assist in the preparation of this plan in accordance with the Virginia Department of Transportation's policies and procedures and participated in a public hearing on the proposed Plan, after being duly advertised so that all citizens of the County had the opportunity to participate in said hearing and to make comments and recommendations concerning the proposed Plan and Priority List; and,

WHEREAS, a representative of the Virginia Department of Transportation appeared before the Board during the public hearing and recommended approval of the 2018 – 2019 Secondary Road Improvement Plan and the Construction Priority List; and,

WHEREAS, the Frederick County Board of Supervisors support the priorities of the secondary road improvement projects for programming by the Commonwealth Transportation Board and the Virginia Department of Transportation;

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

The 2018-2019 Secondary Road Improvement Plan appears to be in the best interest of the citizens of Frederick County and the Secondary Road System in Frederick County; and therefore, the Frederick County Board of Supervisors hereby approves the 2018-2019 Secondary

Road Improvement Plan and Construction Priority List for Frederick County, Virginia as presented at the public hearing held on June 13, 2018.

This resolution was approved by the following recorded vote:

Charles S. DeHaven, Jr., Chairman

Gary A. Lofton

J. Douglas McCarthy

Robert W. Wells

Shannon G. Trout

Judith McCann-Slaughter

Blaine P. Dunn

A COPY ATTEST

Kris C. Tierney
Frederick County Administrator

O



MEMORANDUM

TO: Frederick County Board of Supervisors

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

SUBJECT: Ordinance Amendment – Residential Separation Buffer Waiver – Public Hearing

DATE: June 7, 2018

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 for certain housing types. Residential Separation Buffers are required to adequately buffer different housing types from dissimilar housing types within adjacent separate developments.

On December 13, 2017 the Board of Supervisors approved an amendment to the Zoning Ordinance to modify the required residential separation buffers between townhome units and single-family detached (SFD) units; and townhome units and single-family small lot (attached and detached) units. This approved text amendment changed the required buffer category from a Category B Type Buffer to a Category A Type Buffer. The intent of this modification at the time of approval was to provide flexibility for smaller infill-type lots (generally 5-acres or less) in the RP Zoning District and within the County’s Urban Development Area (UDA), ensuring the desired housing types and density were sited where they are planned for as part of the 2035 Comprehensive Plan.

The table below provides a simple example of the difference between a Category B and a Category A Type Buffer with a “full screen” (*note: a full screen requires a landscape screen (tree & shrub plantings) and a 6 foot (FT) tall fence, wall, mound or berm*).

| | Category A Type Buffer* | Category B Type Buffer* |
|--|-------------------------|-------------------------|
| Inactive Distance Required (FT) | 15’ | 30’ |
| Active Distance Required (FT) | 10’ | 20’ |
| Total Distance Required | 25’ | 50’ |

At their May 9, 2018 meeting, the Board of Supervisors expressed concern with the unintended consequences of reducing the required buffer requirements for certain residential developments from a Category B Type Buffer to a Category A Type Buffer as it pertained to a by-right development presented to the Board as part of an information Master Development Plan (MDP) agenda item. The Board of Supervisors specifically expressed concern with the ability to increase intensity of development (including the number and massing of units) and the potential capital impacts to County services. Planning and Development Staff was directed by the Board of Supervisors to initiate a public hearing process to *reverse* the prior amendment approved in December 2017. The reversal of this amendment approval, and resulting new amendment, would reinstate the requirement for a Category B Type Buffer between townhome units and single-family detached units; and between townhome units and single-family small lot (attached and detached) units.

The Planning Commission held a public hearing on this proposed text amendment on June 6, 2018. At the public hearing, Staff presented the chronology of events relating to the original text amendment, its implementation, and the Board of Supervisors discussion on May 9th. Planning Commissioner Thomas expressed concern with changing the buffer categories without a clear understanding of the “issue” as expressed by the Board. Specifically, he noted the concern raised by the Board regarding increasing the amount of homes that could potentially be sited on a lot and the desire of the County to ensure development was focused within the areas where growth was planned (i.e. the Urban Development Area). Staff clarified the density of a RP zoned site, or 10 dwelling units per acre, was not affected by the change in the buffer requirements. However, staff stated in changing the required buffer distances it may allow for the use of areas previously encumbered by buffers and therefore the reduced buffer could allow for a developer to achieve more units. Commissioner Thomas noted that maybe the issue wasn’t due to the buffers, but the overall density allowed in the RP Zoning District. Staff restated the issue for consideration at the public hearing that night was specific residential separation buffers, but they would communicate those comments regarding density to the Board for future consideration.

Four (4) members of the public representing the building and development community spoke in opposition to the proposed amendment to change the buffer requirement. Each speaker stressed that at the time of the original text amendment there was support from the development community to allow for flexibility, direct growth to planned areas as well as for use on lots where size and configuration was limited. They noted this would allow for “infill” type development where County services were located and prevent development of residential uses in the County’s Rural Areas. One speaker noted they had made financial investments on two (2) projects currently under review by the County and the design was based on previously approved buffer requirements and where the new text amendment would have a negative impact on his project. Another speaker emphasized the deliberate process to originally study and amend the buffer requirements in 2017 and the less thoughtful and haphazard process to revoke the text amendment which did not provide for enough discussion of potential issues with the development community. The speaker concluded by stating that developers may look to other localities to develop

residential projects if the Board chooses to change the ordinance back and forth so unpredictably.

Commissioner Oates commented that the reduction of the buffer requirement, in at least one instance, had a negative effect on a neighboring property owner who now would have to look at townhomes only 25-feet from their property line. He expressed his original concern with changing the buffers in 2017. Chairman Kenney noted that the Planning Commission and Board of Supervisors may not always get it right with text amendments, but the Planning Commission was tasked with considering only the reinstatement of the Category B Type Buffer requirement for certain housing type and that a discussion relating to the County's density in the RP Zoning District was a discussion for later, if directed by the Board of Supervisors.

The Planning Commission voted 6-3 (Absent: Mohn, Molden, Manuel, and Unger) to send the item forward to the Board of Supervisors with a recommendation to approve the revocation of the 2017 text amendment and reinstating the Category B Type Buffer requirement for certain housing types.

The attached document shows the existing ordinance (as amended on December 13, 2017) with the proposed change as directed by the Board of Supervisors (with bold italic highlight for text added). **This proposed amendment is being presented to the Board of Supervisors as a public hearing item. A decision by the Board of Supervisors on this proposed Zoning Ordinance text amendment is sought.**

Attachment: 1. Revised ordinance with additions shown in bold underlined italics.

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.

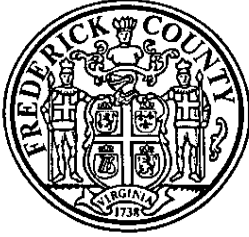
It is the intent of the regulations of this section to encourage proper design of a site in order to protect adjacent existing uses and to protect proposed uses within the site. Certain types of uses must be buffered from other types in order to ensure a desirable living environment. Additionally, appropriate distances must be maintained between commercial, industrial and residential uses and roads.

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. Townhouse | <u>A B</u> | <u>A B</u> | - | B | B |
| 4. Garden apartment or multifamily buildings | C | C | B | - | A |
| 5. Age-restricted multifamily | C | C | C | - | - |

| Buffer Area Width and Plant Requirements | | | | |
|---|--------------------------------------|------------------------------------|-------------------------|------------------------|
| Type | Inactive (Minimum)
(feet) | Active (Maximum)
(feet) | Total
(feet) | Screen
Type |
| A | 15 | 10 | 25 | Full Screen |
| A | 30 | 20 | 50 | Landscape Screen |
| A | 75 | 25 | 100 | No Screen |
| B | 30 | 20 | 50 | Full Screen |
| B | 45 | 30 | 75 | Landscape Screen |
| B | 75 | 25 | 100 | No Screen |
| C | 75 | 25 | 100 | Full Screen |
| C | 100 | 50 | 150 | Landscape Screen |
| C | 150 | 50 | 200 | No Screen |



ORDINANCE AMENDMENT

Action:

PLANNING COMMISSION: June 6, 2018

Recommended Approval

BOARD OF SUPERVISORS: June 13, 2018

AN ORDINANCE AMENDING THE FREDERICK COUNTY CODE 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 reinstate the requirement for a Category B Type Buffer for certain housing types, residential separation buffers in the RP (Residential Performance) Zoning District was considered; and

WHEREAS, the Planning Commission held a public hearing on this ordinance on June 6, 2018; and

WHEREAS, the Board of Supervisors held a public hearing on this ordinance on June 13, 2018; and

WHEREAS, the Frederick County Board of Supervisors finds that the adoption of this ordinance to be in the best interest of the public health, safety, welfare, and in good zoning practice; and

NOW, THEREFORE, BE IT ORDAINED by the Frederick County Board of Supervisors that **Chapter 165 Zoning, is amended to modify ARTICLE II – SUPPLEMENTARY USE REGULATIONS; PARKING; BUFFERS; AND REGULATIONS FOR SPECIFIC USES, PART 203 – BUFFERS AND LANDSCAPING, §165-203.02. BUFFER AND SCREENING REQUIREMENTS**

to amend Chapter 165, Zoning – to reinstate the requirement for a Category B Type Buffer for residential separation buffers between single-family detached (SFD) units and townhome units, and single-family small lot (attached and detached) units and townhome units in the RP (Residential Performance) Zoning District.

Passed this 13th day of June 2018 by the following recorded vote:

Charles S. DeHaven, Jr., Chairman

Gary A. Lofton

J. Douglas McCarthy

Judith McCann-Slaughter

Shannon G. Trout

Blaine P. Dunn

Robert W. Wells

A COPY ATTEST

Kris C. Tierney
Frederick County Administrator