



AGENDA

**FREDERICK COUNTY BOARD OF SUPERVISORS
WEDNESDAY, APRIL 10, 2019
6:00 - CLOSED SESSION
7:00 P.M. - REGULAR MEETING
BOARD ROOM, COUNTY ADMINISTRATION BUILDING
107 NORTH KENT STREET, WINCHESTER, VIRGINIA**

6:00 P.M. – Closed Session

The Board of Supervisors will convene in closed session pursuant to Section 2.2-3711 A (3) for discussion or consideration of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body.

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

Invocation

Pledge of Allegiance

Adoption of Agenda

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

Consent Agenda

Attachment

A. Minutes

- 1. Regular Meeting of March 27, 2019 ----- A

B. Committee Reports

- 1. Code & Ordinance Committee Report of 3/28/19 ----- B
- 2. Public Works Committee Report of 3/26/19 ----- C
- 3. Transportation Committee Report of 3/25/19 ----- D

- C. Summer & Holiday Board Meeting Schedule ----- E

Board of Supervisors Comments

County Officials

- A. Committee Appointments----- F
1. Handley Regional Library Board
Unexpired 4-year term ending 11/30/19
 2. Extension Leadership Council
Back Creek District -- Unexpired 4-year term ending 1/14/20

Committee Business

- A. Code & Ordinance Committee (See Attachment B for more info)

1. **Amendment Frederick County Code, Chapter 90 (Fire Prevention and Protection), Article I (General Provisions), to conform with most recent practices and changes to the Virginia Fire Prevention Code.**

The proposed revisions update the County's adoption of the Virginia Statewide Fire Prevention Code (VSFPC) to add, delete, and update definitions as appropriate, update requirements relating to fire hydrants, and make provision for fire personnel-accessible key boxes for certain structures. *The Committee has forwarded the proposed ordinance amendment to the Board of Supervisors for public hearing with a recommendation of approval.*

2. **Amendment to Frederick County Code, Chapter 158 (Vehicles and Traffic), Article II (Stopping, Standing, and Parking), Section 158-4 (General restrictions), to add provision regarding violation of parking restrictions on County-owned/operated property.**

This proposed amendment would restrict parking on County-owned or County-controlled property to parking that is consistent with any posted signs on the property. The new subsection would further impose a fine for a violation of such parking restrictions. *The Committee has forwarded the proposed ordinance amendment to the Board of Supervisors for public hearing with a recommendation of approval.*

- B. Transportation Committee (See Attachment D for more info)

1. **Northern Y-Revenue Sharing**

The Northern Y has reached the 30% design and cost estimate for the connection from Crossover Boulevard to Route 522 (Northern Y). *The Committee recommends the Board proceed with seeking additional revenue sharing and continue on the project contingent upon the developer indicating a willingness to provide the matching funds for the revenue sharing funds and a backstop agreement to fund any shortfalls that may arise.*

Public Hearing: Proposed Amendment to the Frederick County Code, ----- G
Chapter 155 Taxation, Article XIV Transient Occupancy Tax,
Section 155-51 Tax Imposed.

The proposed amendment would increase the Transient Occupancy Tax rate from its current rate of 2.5% to 3.5%. The Proposed Amendment would take effect on July 1, 2019.

Adoption of Fiscal Year 2019-2020 Budget ----- H

Adoption of Fiscal Year 2019-20 Budget, and Appropriations and Setting of 2019 Tax Rates (Note: The Public Hearing on this matter was held March 27, 2019.)

Planning Commission Business

A. CPPA #02-18 Brucetown Road Area Amendment ----- I

This is a draft amendment to the Northeast Land Use Plan of the 2035 Comprehensive Plan. This request is presented to the Board of Supervisors as a discussion item; Staff is seeking direction from the Board of Supervisors as to whether this item is ready to be sent to public hearing.

B. CPPA #01-19 Blackburn Property Workforce Housing ----- J

This is a draft amendment to the Kernstown Area Plan of the 2035 Comprehensive Plan. This request is presented to the Board of Supervisors as a discussion item. Staff is seeking direction from the Board of Supervisors as to whether this item is ready to be sent forward for public hearing.

Board Liaison Reports

Citizen Comments

Board of Supervisors Comments

Adjourn

A

MINUTES
REGULAR MEETING
FREDERICK COUNTY BOARD OF SUPERVISORS
WEDNESDAY, MARCH 27, 2019
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; Shannon G. Trout and Robert W. Wells were present.

Staff present: Kris C. Tierney, County Administrator; Jay E. Tibbs, Deputy County Administrator; Roderick B. Williams, County Attorney; Cheryl Shiffler, Director of Finance; C. William Orndoff, Jr., Treasurer; Finance Director; Jennifer Place, Budget Analyst; Karen Vacchio, Public Information Officer; Mike Marciano, Human Resources Director; Scott Varner, Director of Information Technologies; Dennis Linaburg, Fire and Rescue Chief; 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

Pastor Ross Halbersma of New Hope Alliance Church delivered the invocation.

PLEDGE OF ALLEGIANCE

Vice Chairman Lofton led the Pledge of Allegiance.

ADOPTION OF AGENDA - APPROVED

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

CITIZENS COMMENTS - None

ADOPTION OF AMENDED CONSENT AGENDA – APPROVED

Upon motion of Supervisor Dunn, seconded by Supervisor Slaughter, the Resolution Proclaiming Census Day was removed from the consent agenda on a voice vote.

Upon motion of Supervisor Dunn, seconded by Vice Chairman Lofton, the amended consent agenda was adopted on a roll call vote as follows:

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

- Minutes: Budget Work Session of March 6, 2019 - CONSENT AGENDA APPROVAL

- Minutes: Budget Work Session of March 13, 2019 – CONSENT AGENDA APPROVAL
- Minutes: Regular Meeting of March 13, 2019 - CONSENT AGENDA APPROVAL
- Finance Committee Report of 3/20/19 - CONSENT AGENDA APPROVAL, Appendix 1
- Parks & Recreation Commission Report of 3/13/19 - CONSENT AGENDA APPROVAL, Appendix 2
- Public Safety Committee Report of 3/14/19 - CONSENT AGENDA APPROVAL, Appendix 3
- Request from the Commissioner of the Revenue for Refund and Corresponding Supplemental Appropriation for Randy M Manning LLC - \$5,311.26 and Stanley Steemer Carpet Cleaner - \$4,222.62– CONSENT AGENDA APPROVAL
- Closing of County Offices for Annual Apple Blossom Festival - CONSENT AGENDA APPROVAL
- Resolution Proclaiming National Telecommunicator’s Week - CONSENT AGENDA APPROVAL

PROCLAMATION
NATIONAL TELECOMMUNICATOR’S WEEK

WHEREAS, emergencies can occur at any time that require police, fire or emergency medical services; and

WHEREAS, when an emergency occurs, the prompt response of police officers, firefighters and paramedics is critical to the protection of life and preservation of property; and

WHEREAS, the safety of our police officers and firefighters is dependent upon the quality and accuracy of information obtained from citizens who telephone the Frederick County Department of Public Safety Communications Center; and

WHEREAS, Public Safety Dispatchers are the first and most critical contact our citizens have with emergency services; and

WHEREAS, Public Safety Dispatchers are the single vital link for our police officers and firefighters by monitoring their activities by radio, providing them information and ensuring their safety; and

WHEREAS, Public Safety Dispatchers of Frederick County, Virginia have contributed substantially to the apprehension of criminals, suppression of fires and treatment of patients; and

WHEREAS, each dispatcher has exhibited compassion, understanding and professionalism during the performance of their job in the past year.

NOW THEREFORE BE IT RESOLVED, that the Board of Supervisors of Frederick County, Virginia does hereby proclaim the week of April 14-20, 2019 to be National Telecommunicator’s Week in Frederick County, in honor of the men and women whose diligence and professionalism keep our county and citizens safe.

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RESOLUTION PROCLAIMING CENSUS DAY - ADOPTED

Supervisor Dunn moved that wording in the proposed Census Awareness Day resolution be changed from "...a count of all the people" to "...a count of all the citizens." Supervisor Wells seconded the motion. Supervisor McCarthy noted that the Census is mandated and defined by the Constitution and the Board should not change the description of the Census in the proposed resolution. The motion to change the wording failed on a roll call vote as follows:

| | | | |
|-------------------------|-----|-------------------------|-----|
| Blaine P. Dunn | Aye | Shannon G. Trout | No |
| Gary A. Lofton | Aye | Robert W. Wells | Aye |
| J. Douglas McCarthy | No | Charles S. DeHaven, Jr. | No |
| Judith McCann-Slaughter | No | | |

Supervisor Trout moved for approval of the originally proposed resolution proclaiming Census Awareness Day. Supervisor McCarthy seconded the motion which carried on voice vote.

Census Awareness Day

WHEREAS, every ten years, Article 1, Section 2 of the United States Constitution mandates a count of all the people living in the United States and its territories; and

WHEREAS, the 2020 Census will address every household in the nation with a simple questionnaire with the goal of counting everyone once, only once, and in the right place; and

WHEREAS, data obtained by the survey will be used to help determine how approximately \$675 billion will be distributed from the federal government to state, local, and tribal governments annually; and

WHEREAS, up to \$2,000 of federal funding will be lost for each person not counted; as well as upwards of \$20,000 of federal funding lost every ten years; and

WHEREAS, a complete count requires that we bring together leaders from all communities of the Commonwealth, so that every Virginian regardless of racial, social, or economic background is counted; and

WHEREAS, Governor Ralph S. Northam has established the Virginia Complete Count Commission, which is comprised of 40 members to collaborate with community partners and local Complete Count Committees to ensure an accurate 2020 Census count;

NOW, THEREFORE, BE IT RESOLVED THAT the County of Frederick hereby proclaims April 1st, 2019, as Census Awareness Day.

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BOARD OF SUPERVISORS COMMENTS

Supervisor Wells announced the upcoming Solid Waste Forum scheduled for April 2, 2019.

COUNTY OFFICIALS:

COMMITTEE APPOINTMENTS - None

COMMITTEE BUSINESS:

FINANCE COMMITTEE

Supervisor Slaughter moved for approval of the Sheriff's request for a General Fund supplemental appropriation in the amount of \$17,818.14 representing (2) auto claims to be used toward a replacement vehicle and vehicle maintenance. 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 | Aye |
| J. Douglas McCarthy | Aye | Charles S. DeHaven, Jr. | Aye |
| Judith McCann-Slaughter | Aye | | |

Supervisor Slaughter moved that the Board set a public hearing regarding Amendment to Frederick County Code, Chapter 155 (Taxation), to add an Article III-A (Exemption for Surviving Spouses of Certain Persons Killed in the Line of Duty). 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 | Aye |
| J. Douglas McCarthy | Aye | Charles S. DeHaven, Jr. | Aye |

Judith McCann-Slaughter Aye

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PUBLIC HEARINGS (NON-PLANNING ISSUES) –

A. PURSUANT TO VIRGINIA CODE § 15.2-1800, REGARDING THE CONVEYANCE OF THE COUNTY’S INTEREST IN REAL PROPERTY LOCATED AT 441 LINDEN DRIVE, IN THE CITY OF WINCHESTER, VIRGINIA, IDENTIFIED AS CITY TAX PARCEL NUMBER 130-1-1 – AUTHORIZED STAFF TO STUDY OFFERS AND MAKE A RECOMMENDATION TO THE BOARD

Mr. Tierney said the old Frederick County Middle School had been returned to the County as surplus in December 2017 and was subsequently put out for bid with one bid being received and rejected. He continued saying the property was listed with a realtor in October 2018, and now multiple offers have been received. He requested that the Board authorize staff to field the offers and return the best off to the Board for consideration following the public hearing.

Chairman DeHaven opened the public hearing.

There were no speakers.

Chairman DeHaven closed the public hearing.

Supervisor Wells moved that the Board authorize staff to study the offers and return the best offer to the Board for consideration. Supervisor Slaughter seconded the motion.

Supervisor Trout suggested that the Board should consider retaining the property for possible use by the Parks and Recreation Commission for an aquatic center.

The motion carried on a voice vote.

B. FISCAL YEAR 2019-2020 BUDGET

The Board of Supervisors of Frederick County invites comments on the Proposed Budget for the fiscal year ending June 30, 2020.

Mr. Tierney presented the FY 2019-2020 budget proposal.

Chairman DeHaven opened the public hearing.

The speakers were as follows:

Kitty Hockman-Nicholas of the Lord Fairfax Soil & Water Conservation District discussed water conservation and requested an additional \$4000.00 be allocated to the District.

Marietta Cather-Walls of the Lord Fairfax Soil & Water Conservation District noted the importance of conserving water in our area and reiterated the request for an increase of \$4000.00 in funds allocated to the District.

Michael Elwell of Northwestern Community Services said the organization is a public non-profit that tries to meet all needs. He announced new programs including a permanent housing program and an innovative receiving program at Winchester Medical Center.

Faith Power, Executive Director of the Laurel Center, said the Center serves victims of domestic violence and thanked the Board for the financial support given in the past. She said the Center served over 200 County residents last year, has served 89 so far this quarter, and that the cost to house each client is \$72.00 per day.

Lauren Cummings of the Northern Shenandoah Valley Substance Abuse Coalition thanked the Board for its financial support. She highlighted some of the Coalition's programs including the Drug Court.

Deborah Laboy, Opequon District, said she is a Frederick County School Bus Driver and thanked the Board for funding 30 new buses last year. She said there are still 28 buses needing replacement and praised the maintenance staff who keep the fleet running.

Amada Feaster, Shawnee District, said she is a teacher at James Wood High School and noted her building needs upgrades. She said she sees a trend of the Board welcoming new businesses but not supporting the development with additional public safety and education spending. She said the Board needs to start addressing the salary gap to avoid losing teachers to Loudoun County.

Kerry Mueller, Red Bud District, thanked Supervisor Slaughter for her suggestions for funneling more money to school needs. She referenced the Core Values adopted by the Board of Supervisors in 2009. She said the current proposed budget does not align with the Core Values adding that requiring categorical funding of the schools would shortchange the students.

Joseph Neidrick, Red Bud District, said the County is growing but the budget decision-makers are not. He said the County had the highest growth rate in Virginia in 2017, has added 30,000 people in 18 years, and all of this requires more schools and more resources. He said that current real estate tax rate is not enough and that raising the rate would not injure those on a fixed income.

Serena Omps, Stonewall District, said she is a County native and teacher at Millbrook High School. She said adding 15 minutes to her commute would mean a salary increase of \$25,000 per year. She said a slight tax increase will help the school system, and an increase of six or seven cents would allow the County the flexibility to plan to address many issues, including school related issues.

Dawn Spitzer, Gainesboro District, compared her earlier teaching experience in Washington County, Maryland, to her current job as an eleventh grade English teacher at Millbrook High School. She said the current number of students on her roster is unmanageable and overwhelming and that additional teachers are needed. She said the schools' requested funding is critically needed to address over-crowding and class-size issues.

Jeri Swogger, Gainesboro District, highlighted the number of available building lots in the County noting that currently, about 700 residential building permits are requested each year. She said the growth means more people who require more services. She said the Board cannot

celebrate economic and business growth without providing for the services and school funding increases that are demanded because of that economic growth. She concluded saying it is maddening for the schools to have unnecessary budget constraints during a time of economic prosperity.

Jennifer Muldowney, Red Bud District, said as principal of Greenwood Mill Elementary School she wished to thank the Sheriff's office for adding two School Resource Officers and she hopes additional Officers will be funded. She said the schools repeatedly face budget cuts for needs and are losing veteran teachers.

Shaniqua Williams, Shawnee District, said she is president of the Frederick County Education Association. She referenced the Superintendent's budget request and asked the Board to fund the currently proposed County budget including Supervisor Slaughter's proposal which will help the schools address critical needs.

John Lamanna, Stonewall District resident and Chairman of the School Board, thanked the Board for recent dialog on the budget. He thanked Supervisor Slaughter for her work on the budget proposal and asked the Board to support it. He noted that the current proposal does not fund school salary increases at a rate comparable to those of non-school County employees. He noted his concern that the Board may require categorical funding saying the Board currently receives a quarterly financial report, and that further oversight of a separate elected board is not necessary. He called for continued collaboration to meet the increasing needs of the school system.

John Wright, Red Bud District resident and president of the Frederick County Firefighters' Association, spoke in favor of the current budget proposal. He noted the cuts in the number of requested professional firefighter positions and said the Board must commit to a strategic plan to phase in the recommendations of the recently completed fire and rescue study to address continued safety needs in the community. He acknowledged the school officials in attendance and asked the Board to work to maintain the high level of education in the County.

Terry Martin, Opequon District, said he retired from the military and became a teacher. He referenced a story about being sent to war without being prepared and compared it to asking the schools to do their job without preparing them. He said Aylor Middle School is currently four staff members short, and when the new Aylor building is opened, an addition will already be needed to handle the student enrollment. He asked the Board to fully fund the Superintendent's request.

Laura Jarrell, Opequon District, said she was speaking for the 25% of the County's population under the age of 18. She said she has grave concerns about how the Board funds the schools adding that school budget requests are not arbitrary since they address critical needs. She said Board decisions aimed at saving money will end up costing more citing the new Aylor Middle School building which she said will likely be overcrowded before it opens.

Brian Nuri, Opequon District, noted a 20-year-old Washington Post article on growth that stated that Washington D.C. was coming to Frederick County. He said there are 2000 housing units already platted in the Stephens City area and that higher taxes are needed to pay for the required

services. He asked the Board to think about the future and address the needs that should have been planned for 20 years ago.

Kristen Koontz, Red Bud District, said she is a teacher in Loudoun County. She said she spoke for all the children and asked the Board to at least keep the tax rate where it is rather than lower it.

Dr. David Sovine, Superintendent of Frederick County Public Schools and Shawnee District resident, thanked those who spoke in favor of more funding for the schools. He thanked Supervisor McCann-Slaughter for her proposal for additional school funding saying it is an incremental step in providing sufficient funding, and he asked the Board to support the proposal. He said wise and forward-thinking communities invest in their youth, and he respectfully requested the Board to invest in the schools.

Chairman DeHaven closed the public hearing.

PLANNING COMMISSION BUSINESS - None

BOARD LIAISON REPORTS – None

CITIZEN COMMENTS – None

BOARD OF SUPERVISORS COMMENTS

Supervisor Wells reminded everyone about the upcoming Solid Waste Forum scheduled for April 2, 2019. He thanked the attendees and speakers for participating in the meeting.

Supervisor Dunn thanked the meeting attendees. He noted the recent County growth and said there needs to be a change in how money is raised, adding that taxes have been increased recently. He discussed impact fees and proffer law revision.

Supervisor Trout said there had been 21 individuals speaking in favor of a tax increase to fund schools. She referenced tax rates in surrounding localities. She said it is not too late to raise the tax rate this year and asked the Board to consider raising the rate this year. Supervisor Trout said the budget process does not allow for citizen input early in the budget preparation and she would like to see the process revised.

Chairman DeHaven thanked all those in attendance for coming to the meeting.

ADJOURN

On motion of Vice Chairman Lofton, seconded by Supervisor McCarthy, the meeting was adjourned at 8:43 p.m.

B

CODE & ORDINANCE COMMITTEE REPORT to the BOARD OF SUPERVISORS
Thursday, March 28, 2019
4:00 p.m.
107 NORTH KENT STREET, WINCHESTER, VIRGINIA

ATTENDEES:

Committee Members Present: Shannon Trout, Chair; Blaine P. Dunn; J. Douglas McCarthy; Derek Aston, Stephen Butler, and James Drown

Staff present: Roderick B. Williams, County Attorney; Jay E. Tibbs, Deputy County Administrator; Lt. Mark Showers, Frederick County Fire & Rescue; and Fire Chief Dennis Linaburg.

ITEMS FOR BOARD OF SUPERVISORS ACTION:

- 1. Amendment Frederick County Code, Chapter 90 (Fire Prevention and Protection), Article I (General Provisions), to conform with most recent practices and changes to the Virginia Fire Prevention Code.**

The proposed revisions update the County's adoption of the Virginia Statewide Fire Prevention Code (VSFPC) to add, delete, and update definitions as appropriate, update requirements relating to fire hydrants, and make provision for fire personnel-accessible key boxes for certain structures.

This item was originally discussed at the February 21, 2019 Code and Ordinance Committee meeting and the Committee forwarded it to the Public Safety Committee with a recommendation of approval.

Upon a motion by Mr. McCarthy, seconded by Mr. Dunn the Code and Ordinance Committee forwarded the proposed ordinance amendment to the Board of Supervisors for public hearing with a recommendation of approval. The motion was unanimously approved.

- 2. Amendment to Frederick County Code, Chapter 158 (Vehicles and Traffic), Article II (Stopping, Standing, and Parking), Section 158-4 (General restrictions), to add provision regarding violation of parking restrictions on County-owned/operated property.**

This proposed amendment would restrict parking on County-owned or County-controlled property to parking that is consistent with any posted signs on the property. The new subsection would further impose a fine for a violation of such parking restrictions.

This item was originally discussed at the February 21, 2019 Code and Ordinance Committee meeting and the Committee forwarded it to the Public Safety Committee with a recommendation of approval.

Upon a motion by Mr. Dunn, seconded by Mr. McCarthy, the Code and Ordinance Committee forwarded the proposed ordinance amendment to the Board of Supervisors for public hearing with a recommendation of approval. The motion was approved by a 5-1 vote with Mr. Aston voting no.

ITEMS FOR BOARD OF SUPERVISORS INFORMATION:

Mr. Dunn advised that he would like the Committee to consider ordinances pertaining to tractor trailer parking on county streets and he would like to bring back revisions to the noise ordinance.

There being no further business, the meeting was adjourned at 4:16 p.m.

Respectfully submitted,



Deputy County Administrator

cc: Code & Ordinance Committee



COUNTY OF FREDERICK

Roderick B. Williams
County Attorney

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

MEMORANDUM

TO: Public Safety Committee

FROM: Roderick B. Williams
County Attorney

DATE: February 14, 2019

RE: County Code Chapter 90, Article I – Fire Prevention and Protection, General Standards

The Fire & Rescue Department has prepared the attached draft revision of this Article of the County Code to reflect the most recent changes to the Virginia Statewide Fire Prevention Code (VSFPC). The draft would update the County's adoption of the VSFPC, add, delete, and update definitions as appropriate, update requirements relating to fire hydrants, and make provision for fire personnel-accessible key boxes for certain structures. If the Committee is favorably disposed to the draft, a recommendation to approve and action to forward the draft to the Code & Ordinance Committee would be appropriate.

Attachment

cc: Dennis Linaburg, Chief, Fire & Rescue Department
Jay Bauserman, Fire Marshal

**ITEM FORWARDED BY PUBLIC SAFETY COMMITTEE
TO CODE & ORDINANCE COMMITTEE, 2/21/2019**



ORDINANCE
_____, 2019

The Board of Supervisors of Frederick County, Virginia hereby ordains that Article I (General Standards) of Chapter 90 (Fire Prevention and Protection) of the Code of Frederick County, Virginia be, and the same hereby is, amended as follows (deletions are shown in ~~strike through~~ and additions are shown in **bold underline**):

ARTICLE I GENERAL STANDARDS

§ 90-1 Purpose; adoption of Statewide Fire Protection Code.

- A. The purpose of this chapter is to consolidate into one document the necessary requirements for the prevention or the minimizing of the loss of lives and property that may result from fire in Frederick County.
- B. The Virginia Statewide Fire Prevention Code (VSFPC), as set forth in § 27-94 et seq. of the Code of Virginia (1950, as amended), and as may be subsequently amended, shall be enforced in the County. Except as specifically modified by this chapter, all the provisions and requirements of the Statewide Fire Prevention Code are hereby adopted, mutatis mutandis, and made part of this chapter as if fully set forth and shall be known as the Frederick County Fire Prevention Code (**FCFPC**). No person within the County shall violate or fail, neglect or refuse to comply with any provision of the Frederick County Fire Prevention Code and in no event shall the penalty imposed for the violation of any provision or requirement adopted herein exceed the penalty imposed for a similar offense under such § 27-94 et seq. of the Code of Virginia (1950, as amended), and as may be subsequently amended.

§ 90-2 Administration, enforcement, and appointment of Fire Marshal; interpretation; applicability; appeals.

- A. There is hereby established in and for the County the position of Fire Marshal, who shall be responsible for the **administration and** enforcement of this chapter **and, in addition, such official shall have the powers outlined in Section 27-98.1 of the Code of Virginia.** ~~and the~~ **The** Board of Supervisors authorizes the appointment of such Fire Marshal as designated by the **Department System** Chief of the Frederick County Department of Fire and Rescue. The investigation

into the origin and cause of every fire and explosion occurring within the limits for which he/she is appointed, investigation and prosecution of all offenses involving hazardous materials, fires, fire bombings, bombings, attempts or threats to commit such offenses, false alarms relating to such offenses, possession and manufacture of explosive devices, substances, and fire bombs, and environmental crimes shall be the responsibility of the Fire Marshal, **and/or his/her a** designated representative, ~~the Assistant Fire Marshal, and legal counsel.~~

- B. The requirements in this chapter shall be administered and enforced by the Frederick County Fire Marshal or **his a** designated representative as referred to as the "Authority Having Jurisdiction."
- C. Subject to the provisions of Subsection E, the Fire Marshal or **his a** designated representative shall interpret this section, where necessary, and that interpretation shall be binding and final.
- D. This chapter shall apply to all matters affecting or relating to structures, processes and premises as set forth in Sections 101 and 102 of the ~~VSFPC~~ **(FCFPC)**, except that this chapter shall not apply within the boundaries of any incorporated town in the County **that has a duly appointed Fire Code Official.**
- E. Appeals concerning the administration, enforcement, interpretation, and/or application of this chapter by the Fire Marshal or **his/her a** designated representative shall first lie to the County Board of Building Code Appeals created under § 52-8 of this Code and then to the State Building Code Technical Review Board. Appeals hereunder to the County Board of Building Code Appeals shall be subject to the payment of the same fees as apply to appeals of matters involving the Virginia Uniform Statewide Building Code. Appeals from the application of the VSFPC by the State Fire Marshal shall be made directly to the State Building Code Technical Review Board as provided in § 36-108 et seq. of the Code of Virginia (1950, as amended), and as may be subsequently amended.

§ 90-3 Definitions and word usage.

- A. Definitions of words defined in this article are intended for use only with sections of this article. Definitions set forth in any document referenced by this article are intended for use only with that document only. Words not specifically defined in this article or other referenced documents shall be interpreted as being the ordinary usage of the word as set forth in the most recent edition of Webster's Third New International Dictionary of the English Language, Unabridged.
- B. As used in this article, the following terms shall have the meanings indicated:

APPROVED

Acceptable to the Frederick County Fire Marshal or ~~his~~ a designated representative.

~~ASSISTANT FIRE MARSHAL~~

~~A sworn law enforcement officer to serve as the Fire Marshal's designated representative.~~

~~AUTOMATIC FIRE EXTINGUISHING SYSTEM~~

~~Any system which is designed and installed to detect a fire and subsequently discharge an extinguishing agent without human activation or direction.~~

CURB CUT

Reduced curb height to facilitate vehicle passage over or across a curb. A curb cut can be an abrupt reduction or may be a tapering reduction for the length of the curb on each side of the means of access.

DWELLING

A single unit providing complete and independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

~~EXISTING CONDITION~~

~~Any situation, circumstance or physical makeup of any structure, premises or process which was ongoing or in effect prior to the original adoption of this article.~~

FIRE CODE OFFICIAL

The same as "Fire Marshal" and any of his/her designated representatives.

FIRE DEPARTMENT

The Frederick County Fire and Rescue Department, the local volunteer fire company that is the first due company in an area, and any fire company that actually responds to a call for service at a particular location.

FIRE DEPARTMENT CONNECTION (FDC)

A connection, through which the fire department can pump supplemental water into a sprinkler system, standpipe, or other system, furnishing water for fire extinguishment to supplement existing water supplies.

FIRE DOOR

~~A tested, listed or approved door and door assembly constructed and installed for the purpose of preventing the spread of fire through openings in walls, partitions or other horizontal or vertical construction.~~

FIRE HYDRANT

A valved connection on a piped water supply system, having one or more outlets and which is used to supply hose and Fire Department pumpers with water.

FIRE LANE

The road or other passageway developed to allow the passage of fire apparatus.

FIRE MARSHAL

A The sworn law enforcement official responsible for investigating the causes of fires and explosions, enforcing fire prevention laws set forth in the VSFPC, life safety inspections, the review of fire protection system plans, and fire education to the public **having the responsibilities set out in Section 90-2(A) of this Code.**

FIRE PROTECTION SYSTEM

~~Any fire alarm device or system or fire extinguishing device or system or their combination which is designed and installed for detecting, controlling or extinguishing a fire or otherwise alerting occupants or the Fire Department, or both, that a fire has occurred.~~

Approved devices, equipment, and/or systems used to detect a fire, activate an alarm, extinguish or control a fire, and/or control or manage smoke and products of a fire, and/or any combination thereof.

GRADE

~~The reference plane representing the average elevation of the finished ground level adjoining the building at all exterior walls.~~

KEY BOX

A secure device with a lock operable only by a fire department master key, and containing building entry keys and other keys that may be required for access in an emergency.

MEANS OF ACCESS

The method or arrangement by which entry or approach is made to a building area by Fire Department apparatus and personnel.

PRIVATE DRIVE

The same as a "private street."

PRIVATE DWELLING

The same as a "dwelling."

PRIVATE ROAD

The same as a "private street."

PRIVATE STREET

Any accessway normally intended for vehicular use in the movement between points within a building site area or between a building site and a street.

RISER

The vertical supply pipes in a sprinkler system.

ROADWAY

Any street, private street or fire lane.

SPRINKLER SYSTEM

For fire protection purposes, an integrated system of underground and overhead piping designed in accordance with fire protection engineering standards. The installation includes at least one automatic water supply that supplies one or more systems. The portion of the sprinkler system above ground is a network of specially sized or hydraulically designed piping installed in a building, structure, or area, generally overhead, and to which sprinklers are attached in a systematic pattern. Each system has a control valve located in the system riser or its supply piping. Each sprinkler system includes a device for actuating an alarm when the system is in operation. The system is usually activated by heat from a fire and discharges water over the fire area.

STANDPIPE

A pipe and attendant hose valves and hose (if provided) used for conveying water to various parts of a building for fire-fighting purposes.

STORY

~~That portion of a building included between the upper surface of the floor and the upper surface of the floor or roof next above.~~

STREET

A public thoroughfare (street, avenue or boulevard) which has been dedicated for vehicular use by the public and can be used for access by Fire Department vehicles.

STRUCTURE

Any building, monument or other object that is constructed with the ground as its foundation or normal resting place.

~~SUPERVISED AUTOMATIC FIRE EXTINGUISHING SYSTEM~~

~~Any automatic fire extinguishing system which is constantly monitored so as to determine its operating condition at all times.~~

§ 90-4 General requirements.

The following requirements shall apply to all construction or land development activities in areas of the County to which this article applies:

A. Means of access for Fire Department apparatus.

- (1) The means of access for Fire Department apparatus and personnel shall consist of fire lanes, private streets, streets, parking lot lanes or a combination thereof.
- (2) Parking in any means of access shall not be permitted within 15 feet of a fire hydrant, ~~sprinkler or standpipe~~ **any fire department** connection, or in any other manner which will obstruct or interfere with the Fire Department's use of the hydrant or connection.
- (3) "No parking **Parking Fire Lane**" signs or another designation **approved by the Fire Marshal's Office and** indicating that parking is prohibited shall be provided at all normal and emergency access points to structures and within 15 feet of each fire hydrant, ~~sprinkler or standpipe~~ **or any fire department** connection.

B. Fire lanes.

- (1) The Fire Marshal or ~~his/her a~~ **his/her a** designated representative, ~~in concert with the local volunteer fire company,~~ may designate both public and private fire lanes as required for the efficient and effective use of fire apparatus. Said fire lanes shall be marked in a manner prescribed by the Fire Marshal or ~~his/her a~~ **his/her a** designated representative. Parking in a designated fire lane shall be controlled by Chapter 158, Vehicles and Traffic, of the Frederick County Code.
- (2) Fire lanes shall be at least 20 feet in width, with the road edge closest to the structure at least 10 feet from the structure, be constructed of a hard all-weather surface adequately designed to support any fire apparatus likely to be operated in such fire lane or be of subsurface construction designed to support the same loads as the above surfaces and be covered with no more than three inches of soil or sod, or both, and be designed with radii of

sufficient length to allow for safe turning by any fire apparatus likely to be operated on such fire lane.

(3) Fire lanes connecting to public streets, roadways or private streets shall be provided with curb cuts extending at least two feet beyond each edge of the fire lane.

(4) Chains or other barriers may be provided at the entrance to fire lanes or private streets, provided that they are installed according to the requirements of the Authority Having Jurisdiction.

C. Parking lot lanes. Parking lot lanes shall have a minimum of 15 feet clear width between rows of parked vehicles for vehicular access and movement.

D. Location of structures **shall comply with regulations set forth in the Frederick County Fire Prevention Code (FCFPC).**

~~(1) At least three perimeter walls of all industrial, commercial, public or semipublic or residential structures with three or more dwelling units per structure shall be within 200 feet of a street, fire lane, or private street.~~

~~(2) Structures exceeding 30 feet in height shall not be set back more than 50 feet from a street, fire lane or private street.~~

~~(3) When any combination of private fire protection facilities, including but not limited to fire resistive roofs, fire separation walls, space separation and automatic fire extinguishing systems, is provided, and approved by the Fire Marshal or his/her designated representative as an acceptable alternative, Subsection D(2) shall not apply.~~

~~(4) The Fire Marshal or his/her designated representative may, in concert with the local volunteer fire company, require at least two means of access for fire apparatus to all commercial and industrial structures. Those accessways shall meet the requirements of Subsection B(3).~~

~~(5) Landscaping or other obstructions shall not be placed around structures or hydrants in a manner so as to impair or impede accessibility for fire fighting and rescue operations.~~

E. Water supply.

(1) Water supply systems shall be designed so as to be capable of supplying at least 1,000 gallons per minute **at with a minimum of 20 pounds per square inch (psi) residual**. Water supplies shall be made available and operational before combustibles are on site during construction.

(2) In areas developed with single-family detached or duplex dwelling units, there shall be a fire hydrant within 400 feet of all units. In areas developed with three to five dwelling units per structure, there shall be a hydrant within 300 feet of all units. In areas developed with six or more dwelling units per structure, there shall be at least two hydrants within 300 feet of all units. In areas developed with industrial or commercial development(s), there shall be a hydrant within 300 feet of all portions of any structure. ~~Where one hydrant is dedicated to the operation of a standpipe system, there shall be at least one other hydrant meeting the distance requirements set forth above. The hydrant dedicated to the operation of the standpipe system shall not be farther than 50 feet from the standpipe. Distance measurements under this section shall be along center-line roadway surfaces or along surfaces meeting the requirements of a fire lane (designated or undesignated) where appropriate, but in all cases access to each hydrant shall be directly from a roadway and/or fire lane.~~

(a) Distance measurements in this subsection shall be along center-line roadway surfaces or along surfaces meeting the requirements of a fire lane (designated or undesignated) where appropriate, but in all cases access to each hydrant shall be directly from a roadway and/or fire lane.

(b) Commercial buildings that have a FDC shall have one hydrant dedicated to the operation of the FDC, which shall not be farther than 50 feet from the FDC and there shall be at least one other hydrant meeting the distance requirements set forth in this subsection.

(3) ~~Fire hydrants shall be marked in accordance with the Frederick County Sanitation Authority policy.~~ **Fire hydrant tops and caps shall indicate the available gallons per minute (GPM) in accordance with National Fire Protection Association (NFPA) 291.**

(4) ~~Fire hydrants located in parking areas shall be protected by barriers that will prevent physical damage from vehicles.~~ **In parking areas where curbing is not present vehicle impact protection shall be required as per FCFPC.**

(5) Fire hydrants shall be located within three feet of the curblines of fire lanes, streets or private streets when installed along such accessways.

(6) Fire hydrants shall be installed in accordance with the standards of the Frederick County Sanitation Authority **(which trades/operates as Frederick Water).**

(7) Threads on fire hydrant outlets shall conform to Frederick County Sanitation Authority **(which trades/operates as Frederick Water)** policy.

(8) Fire hydrants shall be supplied by not less than a six-inch diameter main.
Each six-inch line shall supply no more than one hydrant.

F. **All valves controlling the water supply for automatic sprinkler systems, pumps, tanks, water levels and temperatures, critical air pressures and water-flow switches on all sprinkler systems shall be electronically supervised by listed fire alarm control unit. Exceptions:**

(1) **Automatic sprinkler systems protecting one- and two-family dwellings.**

(2) **Limited area systems serving fewer than 20 sprinklers.**

(3) **Automatic sprinkler systems installed in accordance with NFPA 13R where a common supply main is used to supply both domestic water and the automatic sprinkler system, and a separate shutoff valve for the automatic sprinkler system is not provided.**

(4) **Jockey pump control valves that are sealed or locked in the open position.**

(5) **Control valves to commercial kitchen hoods, paint spray booths or dip tanks that are sealed or locked in the open position.**

(6) **Valves controlling the fuel supply to fire pump engines that are sealed or locked in the open position.**

(7) **Trim valves to pressure switches in dry, preaction and deluge sprinkler systems that are sealed or locked in the open position.**

~~F.~~**G.** Fire protection during construction. Trash, debris and other combustible material shall be removed from the construction site as often as necessary to maintain a firesafe construction site.

~~G.~~**H.** Plans. ~~Complete as-built building floor plans, site plans and plans of fire-suppression systems shall be submitted to the Chief Building Official and Fire Marshal, or their respective designated representatives, prior to issuance of the final certificate of occupancy.~~ **The fire code official shall have the authority to require construction documents and calculations for all fire protection systems and to require permits be issued for the installation, rehabilitation or modification of any fire protection system. Construction documents for fire protection systems shall be submitted for review and approval prior to system installation.**

I. **Key Boxes. Where access to or within a structure or an area is restricted because of secured openings or where immediate access is necessary for life-saving or fire-fighting purposes, the fire code official is authorized to**

require a key box to be installed in an approved location. The key box shall be of an approved type listed in accordance with UL 1037, and shall contain keys or other devices to gain necessary access as required by the fire code official.

§ 90-5 Violations and penalties.

Any person, firm or corporation who shall violate any of the provisions of this article shall, upon conviction, be punishable by a maximum fine of \$2,500 or by imprisonment for not more than 12 months, or both such fine and imprisonment.

Enacted this _____ day of _____, 2019.

| | | | |
|-----------------------------------|-------|------------------|-------|
| 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



COUNTY OF FREDERICK

Roderick B. Williams
County Attorney

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

MEMORANDUM

TO: Public Safety Committee

FROM: Roderick B. Williams
County Attorney

DATE: February 14, 2019

RE: Frederick County Code – Parking on County Property

County Administration has identified instances of vehicles parking in the parking lot behind the County Administration building for extended periods of time. Such parking practices take up valuable parking spots from citizens who are conducting business in the County Administration Building. New proposed subsection “O” of County Code § 158-4, reflected in the attached draft, would restrict parking on County-owned or County-controlled property to parking that is consistent with any posted signs on the property. The new subsection would further impose a fine for a violation of such parking restrictions.

The draft also would correct a typographical error in subsection N, related to enforcement of parking violations under the County Code.

If the Committee is favorably disposed to the draft, a recommendation to approve and action to forward the draft to the Code & Ordinance Committee would be appropriate.

Attachment

cc: Kris C. Tierney, County Administrator
Jay E. Tibbs, Deputy County Administrator
Lenny Millholland, Sheriff

**ITEM FORWARDED BY PUBLIC SAFETY COMMITTEE
TO CODE & ORDINANCE COMMITTEE, 2/21/2019**



ORDINANCE
___ , 2019

The Board of Supervisors of Frederick County, Virginia hereby ordains that Section 158-4 (General Restrictions) of Article II (Stopping, Standing and Parking) of Chapter 158 (Vehicles and Traffic) of the Code of Frederick County, Virginia be, and the same hereby is, amended by enacting amended Section 158-4 (General Restrictions) of Article II (Stopping, Standing and Parking) of Chapter 158 (Vehicles and Traffic) of the Code of Frederick County, as follows (deletions shown in ~~strike through~~ and additions shown in **bold underline**):

CHAPTER 158 VEHICLES AND TRAFFIC

Article II Stopping, Standing and Parking

§158-4 General restrictions

A. Double-parking. It shall be unlawful for any person to park any vehicle on any street or highway alongside another vehicle parked at the curb or at the edge of the street or highway, it being the purpose of this subsection to prevent double-parking. The penalty for any violation of this restriction shall be a fine in the amount of \$40.

B. Perpendicular or diagonal parking. It shall be unlawful for any person to park any vehicle on any street or highway in any manner other than parallel to the street or highway, except in a marked parking space. The penalty for any violation of this restriction shall be a fine in the amount of \$40.

C. Parking vehicle against traffic. It shall be unlawful for any person to park any vehicle against traffic on any street or highway. The penalty for any violation of this restriction shall be a fine in the amount of \$40.

D. Parking vehicle without a current state license or a current state inspection sticker. It shall be unlawful for any person to park any vehicle on any street or highway without the vehicle displaying a current state license or a current state inspection sticker. The penalty for any violation of this restriction shall be a fine in the amount of \$40.

E. Parking so as to stop or obstruct traffic. It shall be unlawful for any person to park any vehicle in such a manner as to stop or obstruct traffic on any street or highway. The penalty for any violation of this restriction shall be a fine in the amount of \$40.

F. Parking vehicle within 20 feet of a corner or intersection. It shall be unlawful for any person to park any vehicle within 20 feet of a corner or intersection on any street or highway. The penalty for any violation of this restriction shall be a fine in the amount of \$40.

G. Parking so as to block driveway. It shall be unlawful for any person to park any vehicle in such a manner as to prevent vehicular access to any driveway or entrance to any property. The penalty for any violation of this restriction shall be a fine in the amount of \$40.

H. Parking vehicle on sidewalk or walking trail. It shall be unlawful for any person to park any vehicle on any sidewalk that is open to public use or on any walking trail that is open to public use. The penalty for any violation of this restriction shall be a fine in the amount of \$40.

I. Parking vehicle within 15 feet of a fire hydrant. It shall be unlawful for any person to park any vehicle within 15 feet of a fire hydrant. The penalty for violation of this restriction shall be a fine in the amount of \$40.

J. Parking vehicle in fire lane. It shall be unlawful for any person to park any vehicle in any fire lane where indicated by adequate painting, markers, or signs. The penalty for violation of this restriction shall be a fine in the amount of \$40.

K. Parking vehicle without proper permit in space reserved for persons with disabilities. It shall be unlawful for any person to park any vehicle in any parking space reserved for persons with disabilities and which parking space is so indicated by adequate painting, markers, or signs, unless such vehicle displays a proper permit to do so. It shall also be unlawful for any person to park any vehicle, regardless of whether the vehicle displays a proper permit to park in a parking space reserved for persons with disabilities, in any area adjacent to any parking space reserved for persons with disabilities, which area is reserved for access, but not parking, by persons with disabilities. The penalty for violation of this restriction shall be a fine in the amount of \$100.

L. Parking vehicle contrary to the directions of an official highway sign. It shall be unlawful for any person to park any vehicle in a manner contrary to the directions of an official highway sign. The penalty for violation of this restriction shall be a fine in the amount of \$40.

M. The terms "street" or "highway," as used herein, shall have the same meaning as the term "highway" as set forth in § 46.2-100 of the Code of Virginia.

N. In any prosecution charging a violation of this section, proof that the vehicle described in the complaint, summons, parking ticket, citation, or warrant was parked in violation of this section, together with proof that the defendant was at the time the registered owner of the vehicle, as required by Chapter 6 **of Title 46.2** (~~§ 46.2-600 et seq.~~) of the Code of Virginia, shall constitute prima facie evidence that the registered owner of the vehicle was the person who committed the violation.

O. Parking at County-owned or County-controlled properties. It shall be unlawful for a person to park any vehicle on property owned or controlled by the County of Frederick in a manner that is contrary to any sign posted at or on the property. The penalty for a violation of this restriction shall be a fine in the amount of \$40.

Enacted this _____ day of _____, 2019.

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

Kris C. Tierney
Clerk, Board of Supervisors
County of Frederick, Virginia

C

PUBLIC WORKS COMMITTEE REPORT to the BOARD OF SUPERVISORS
Tuesday, March 26, 2019
8:00 a.m.
107 NORTH KENT STREET, SUITE 200, WINCHESTER, VIRGINIA

PUBLIC WORKS COMMITTEE ATTENDEES:

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

Staff present: Joe C. Wilder, Director of Public Works; Mike Stewart, Senior Project Manager; Kevin Alderman, Shawneeland District Manager; Rod Williams, County Attorney; Kris Tierney, County Administrator; Mark Fleet, Building Official; Gloria Puffinburger, Solid Waste Manager; Wayne Corbett, Deputy Treasurer; Dennis Lineburg, Fire and Rescue Chief; Kenny Scott, Assistant Fire Marshal; Billy Pifer, Assistant Fire Marshal

Attachment 1 – Agenda Packet

ITEMS FOR INFORMATION ONLY

1-Update Landfill and Public Works Projects.

We informed the committee that the projects at the Landfill are still on-going. The new leachate lagoon has been completed and is receiving leachate run-off. The new pump stations and leachate system shall be completed by the early summer.

We also updated the committee on several Public Works projects. We are awarding a contract to Perry Engineering Company, Inc. in the amount of \$17,592,682.83 to construct Crossover Boulevard. The project scope involves building a road connecting the city of Winchester and Route 522 South with a new bridge over Interstate 81. The project will begin construction in May and the project should be completed September 2021.

We are finishing up the bid package for the building addition at the Frederick County Esther Boyd Animal Shelter. As a reminder, over the last two years the animal shelter has received several large donations. It was recommended by the Public Works Committee and Board of Supervisors to build a training center at the shelter using the donated funds. We have been working on a building design for the past year and we are almost ready to go to bid. We plan to advertise the project for bid in April with bids due in May. We will then update the committee and seek project funding approval by the Board of Supervisors.

2-Update on the Waste Forum.

We let the committee know that the Public Works Department will be holding a Solid Waste Forum on Tuesday, April 2, 2019, at 7:00 pm at the Public Safety Building. It is open to the public and all are welcome to attend. We will have several power point presentations and informational tables to assist all in learning about Frederick County's Solid Waste collection system and the Regional Landfill.

3-Discuss the slope failure – Shawneeland Sanitary District.

We gave an update to the committee concerning a slope failure adjacent to Cherokee Lake. An area about ¼ acre has slid several feet down the slope towards our emergency spillway of Cherokee Dam. However, no impact of any soil/rock material has impacted the dam in any way. We have been monitoring the slide and Marsh & Legge Land Surveyors and our contract geotechnical engineer, Viola Engineering has evaluated the slide area. At this time, we will continue to monitor the slide area and if impacts are made to the spillway, we will clean up the material and stabilize the area. Currently, there is no safety issue to the public. The area was also inspected by the state dam official and he noted no impacts or issues with the dam.

4-Discuss fire safety inspection fees.

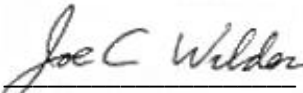
A discussion was held related to the proposed fire safety inspections fees. Fire and Rescue administrative staff brought forth a recommendation from the Public Safety Committee concerning the establishment of a fee schedule for fire safety inspections. In general, there was discussion among the Public Works Committee members that a fee schedule is needed, but the amounts of permit fees need more evaluation and research to achieve a final draft fee

schedule. To that end, a motion was made by Supervisor Lofton to recommend the establishment of a fire safety inspection fee schedule (TBD). The motion was seconded by committee member Whit Wagner. The motion was unanimously approved. Fire and Rescue staff was then instructed to go back and relook at a final fee schedule that considers building hazard classifications, base fees, reinspection fees, staff time involved and the types of businesses and industry that will need inspections and possible conflicts. Once the Fire & Rescue staff have re-evaluated the fee schedule, they will come back to the Public Works Committee for review and comment.

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
Erin Swisshelm, Assistant County Attorney
Mike Stewart, Senior Project Manager
Kevin Alderman, Shawneeland District Manager
Wayne Corbett, Deputy Treasurer
Dennis Linaburg, Fire and Rescue Chief
file



MEMORANDUM

TO: Public Works Committee
FROM: Joe C. Wilder, Director of Public Works *JCW*
SUBJECT: Meeting of March 26, 2019
DATE: March 20, 2019

There will be a meeting of the Public Works Committee on Tuesday, March 26, 2019 at 8:00 a.m. **in the conference room located on the second floor of the north end of the County Administration Building at 107 North Kent Street, Suite 200.** The agenda thus far is as follows:

1. Update on Landfill Projects and Public Works projects.
2. Update on Waste Forum.
(Attachment 1)
3. Discuss slope failure – Shawneeland Sanitary District.
4. Discuss fire safety inspection fees.
(Attachment 2)
5. Miscellaneous Reports:
 - a. Tonnage Report: Landfill
(Attachment 3)
 - b. Recycling Report
(Attachment 4)
 - c. Animal Shelter Dog Report:
(Attachment 5)
 - d. Animal Shelter Cat Report
(Attachment 6)

JCW/kco

Attachments: as stated

WASTE FORUM

THE PATH OF TRASH



**TUESDAY
APRIL 2
2019**

Frederick County Public Safety Building
1080 Coverstone Drive
7 p.m. to 8:30 p.m.

For more details, please visit
www.fcva.us or phone (540) 665-5643



Frederick
County
Public
Works



John J. Bauserman
Deputy Chief/Fire Marshal
Life Safety Division

MEMORANDUM

1080 Coverstone Drive
Winchester, VA 22602

TO: Chairman J. Douglas McCarthy, Public Works Committee

FROM: John J. Bauserman, Deputy Chief/Fire Marshal, Life Safety Division

SUBJECT: Proposed Expansion to the Frederick County Fire Prevention Code Fee Schedule

DATE: March 19, 2019

On Thursday, March 14, 2019 a special meeting was held by the Public Safety Committee for follow-up discussion of proposed expansion to the Fire Prevention Code Fee Schedule. At this meeting Mr. Cunningham moved to forward the proposed fee schedule to the Public Works Committee for more review and refinement and then have the revised schedule returned to the Public Safety Committee for review. The motion was seconded by Ms. Lake and passed on a 3 to 2 vote.

The Fire Marshal's Office is seeking approval to expand the current fee schedule to offset the cost of conducting inspections and permitting. In accordance with Section 27-97 of the Code of Virginia, the Frederick County Board of Supervisors adopted the Statewide Fire Prevention Code as the Frederick County Fire Prevention Code (FCFPC) in June of 2012. This code allows the Frederick County Fire Marshal's Office to establish a life safety/fire prevention fee schedule.

Per the Frederick County Fire Prevention Code **Section 107.10 Local fees** *...fees may be levied by the local governing body in order to defray the cost of enforcement and appeals under the FCFPC.*

The primary focus of inspections that the Fire Marshal's Office currently conducts are concentrated towards businesses that are required to have an annual fire inspection to maintain compliance with state or federal agencies. Examples would be nursing homes, daycares, and public/private schools. We also do inspections on large life hazard occupancies, to include hotels, motels, and restaurants. While all these inspections are important, there is a need to expand our inspection services to include **all** commercial businesses in Frederick County promoting the overall safety to our residents, visitors and firefighters.

Please reference the attached document for a detailed informational breakdown of the proposed process and associated fees.

PUBLIC SAFETY COMMITTEE REPORT to the BOARD OF SUPERVISORS
Thursday March 14, 2019
8:30 a.m.
1080 COVERSTONE DRIVE, WINCHESTER, VIRGINIA

ATTENDEES:

Committee Members Present: Chairman Bob Wells, Walt Cunningham, Judy McCann-Slaughter, Helen Lake and Blain Dunn. Citizen member Chuck Torpy was not present.

Staff present: Deputy Chief Larry Oliver, Deputy County Administrator Jay Tibbs, Deputy Chief/Fire Marshal Jay Bauserman, Major Steve Hawkins, Fire Chief Denny Linaburg, County Attorney Rod Williams and Fire Marshal Kenny Scott.

ITEMS REQUIRING ACTION BY BOARD OF SUPERVISORS:

1. None

ITEMS FOR INFORMATION ONLY:

1. **Follow-up discussion of proposed expansion to the Fire Prevention Code fee schedule (see attached):**

Chairman Wells started the meeting by stating this was a procedural meeting to discuss the potential continuation of the Fire Marsal inspection fee schedule that Deputy Chief Bauserman and Fire Marshal Kenny Scott presented at the Public Safety Committee on February 21, 2019.

Mr. Walt Cunningham stated that the fee schedule would bring in much needed revenue to Frederick County and that it should move forward to the Public Works Committee for further discussion.

Mr. Blaine Dunn disagreed with forwarding this proposal to the Public Works Committee. He stated the proposed program was too broad in scope and wanted to see a more refined fee schedule.

Ms. Judy Slaughter stated she would like the inspections to stay as a community service. She expressed her preference for a phased approach that also looked at risk reduction. She believed the current fee schedule would have a big impact on small business owners.

Ms. Helen Lake stated that the proposed fee schedule should be moved to the Public Works Committee where it could get more refined in structure and then to be brought back to a future Public Safety Committee meeting.

Mr. Cunningham moved to forward the proposed fee schedule to the Public Works Committee for more review and refinement and then have the revised schedule returned to the Public Safety Committee for review. The motion was seconded by Ms. Lake and passed on a 3 to 2 vote.

Respectfully submitted,

Public Safety Committee

Bob Wells
Judy McCann-Slaughter

Blaine Dunn
Helen Lake

Chuck Torpy
Walt Cunningham

Procedure & Fees

Presented by Frederick County Fire Marshal's Office



Introduction

- In 2012 Frederick County Board of Supervisor adopted the Virginia Statewide Fire Prevention Code and all future amendments in its entirety and renamed it the Frederick County Fire Prevention Code (per VA State Statute 27-97).
- With the adoption it allowed the Frederick County Fire Marshal's Office to conduct annual life safety inspections (106.3 Inspections) and issue operational permits (section 107 Permits And Fees).
- Also that adoption allows Frederick County to levy fees for those inspections (107.10 Local fees).

§ 27-97. Adoption of Fire Prevention Code. The Board of Housing and Community Development is hereby empowered to adopt and promulgate a Statewide Fire Prevention Code which shall be cooperatively developed with the Fire Services Board pursuant to procedures agreed to by the two Boards. The Fire Prevention Code shall prescribe regulations to be complied with for the protection of life and property from the hazards of fire or explosion and for the handling, storage, sale and use of fireworks, explosives or blasting agents, and shall provide for the administration and enforcement of such regulations. The Fire Prevention Code shall require manufacturers of fireworks or explosives, as defined in the Code, to register and report information concerning their manufacturing facilities and methods of operation within the Commonwealth in accordance with regulations adopted by the Board. In addition to conducting criminal background checks pursuant to § 27-97.2, the Board shall also establish regulations for obtaining permits for the manufacturing, storage, handling, use, or sales of fireworks or explosives. In the enforcement of such regulations, the enforcing agency may issue annual permits for such activities to any state regulated public utility. Such permits shall not apply to the storage, handling, or use of explosives or blasting agents pursuant to the provisions of Title 45.1.

The Fire Prevention Code shall prohibit any person, firm, or corporation from transporting, manufacturing, storing, selling, offering for sale, exposing for sale, or buying, using, igniting, or exploding any fireworks except for those persons, firms, or corporations that manufacture, store, market and distribute fireworks for the sole purpose of fireworks displays permitted by an enforcement agency or by any locality.

The Fire Prevention Code shall supersede fire prevention regulations heretofore adopted by local governments or other political subdivisions. Local governments are hereby empowered to adopt fire prevention regulations that are more restrictive or more extensive in scope than the Fire Prevention Code provided such regulations do not affect the manner of construction, or materials to be used in the erection, alteration, repair, or use of a building or structure, including the voluntary installation of smoke alarms and regulation and inspections thereof in commercial buildings where such smoke alarms are not required under the provisions of the Code. The Fire Prevention Code shall prohibit any person not certified by the State Fire Marshal's Office as a fireworks operator or pyrotechnician to design, set up, or conduct or supervise the design, setup, or conducting of any fireworks display, either inside a building or structure or outdoors and shall require that at least one person holding a valid certification is present at the site where the fireworks display is being conducted. Certification shall not be required for the design, storage, sale, use, conduct, transportation, and set up of permissible fireworks or the supervision thereof or in connection with any fireworks display conducted by a volunteer fire department provided one member of the volunteer fire department holds a valid certification.

In formulating the Fire Prevention Code, the Board shall have due regard for generally accepted standards as recommended by nationally recognized organizations including, but not limited to, standards of the International Code Council, the National Fire Protection Association, and recognized organizations issuing standards for the protection of the public from the hazards of explosives and blasting agents. Such standards shall be based on the companion document to the model building code referenced by the Uniform Statewide Building Code.

The Fire Prevention Code shall require that buildings constructed prior to 1973 be maintained in accordance with state fire and public building regulations in effect prior to March 31, 1986, and that any building which is (i) more than 75 feet or more than six stories high and (ii) used, in whole or in part, as a dormitory to house students by any public or private institution of higher education shall be required to comply with the provisions of § 36-99.3. The Fire Prevention Code shall also require annual fire drills in all buildings having floors used for human occupancy located more than 75 feet above the lowest level of fire department vehicle access. The drills shall be conducted by building staff personnel or the owner of the building in accordance with a plan approved by the appropriate fire official and shall not affect other current occupants. The Board

may modify, amend or repeal any Code provisions as the public interest requires. Any such Code changes shall be developed in cooperation with the Fire Services Board pursuant to procedures agreed to by the two Boards.

106.3 Inspections. The fire official is authorized to conduct such inspections as are deemed necessary to determine the extent of compliance with the provisions of this code and to approve reports of inspection by approved agencies or individuals in accordance with the fire official's written policy. All reports of such inspections by approved agencies or individuals shall be prepared and submitted in writing for review and approval. Inspection reports shall be certified by a responsible officer of such approved agency or by the responsible individual. The fire official is authorized to engage such expert opinion as deemed necessary to report upon unusual, detailed or complex technical issues in accordance with local policies.

107.10 Local fees. In accordance with § 27-98 of the Code of Virginia, fees may be levied by the local governing body in order to defray the cost of enforcement and appeals under the SFPC. However, for the city of Chesapeake no fee charged for the inspection of any place of religious worship designated as Assembly Group A-3 shall exceed \$50. For purposes of this section, "defray the cost" may include the fair and reasonable costs incurred for such enforcement during normal business hours but shall not include overtime costs, unless conducted outside of the normal working hours established by the locality. A schedule of such costs shall be adopted by the local governing body in a local ordinance. A locality shall not charge an overtime rate for inspections conducted during the normal business hours established by the locality. Nothing herein shall be construed to prohibit a private entity from conducting such inspections, provided the private entity has been approved to perform such inspections in accordance with the written policy of the fire official for the locality.

Introduction (Cont.)

- The code allows Frederick County to establish a fee schedule and how we are to base those fees. The Fire Marshal has chosen to use square footage which will mirror what the Building Official's Office is currently doing (107.13 Fee Schedule).
- We have consulted with the County Attorney to address any concerns or questions that may come up as a result of implementing these fees.

107.13 Fee schedule. The local governing body may establish a fee schedule. The schedule shall incorporate unit rates, which may be based on square footage, cubic footage, estimated cost of inspection or other appropriate criteria.

The Process

- Step 1 - Notify the commercial businesses via radio, newspaper, social media, email and mass mailing.
- Step 2 - A Life Safety application will be sent out and shall be returned within 30 days of receipt.
- Step 3 - Upon return of the Life Safety application, information will be entered into Code Pal to generate an invoice to be sent out. Payment will be required with in 30 days.

The Process (Cont.)

- Step 4 - A Life Safety inspection will then be scheduled and conducted on that business.
- Step 5 - If violations are noted then a re-inspection(s) will be scheduled at a later time based on the severity of the violation.
- Step 6 - After a second re-inspection, if the business still fails or refuses to make repairs then a summons will be issued to start criminal proceedings as warranted.

Life Safety Inspection Fees (107.13 fee schedule)

- \$100 - Businesses up to 12,000 sq. ft
- \$200 - Businesses 12,001 sq. ft - 100,000 sq. ft
- \$300 - Businesses 100,001 sq. ft - 250,000 sq. ft
- \$400 - Businesses 250,001 sq. ft and above

- Re-inspections fees shall be half the original assessed cost.

- Inspections being conducted on County owned buildings shall be exempt from fees.

107.13 Fee schedule. The local governing body may establish a fee schedule. The schedule shall incorporate unit rates, which may be based on square footage, cubic footage, estimated cost of inspection or other appropriate criteria.

Operational Permits and Fees

(section 108 operational permits)

- The Fire Marshal's Office currently issue Operational Permits.
- Proposed fee changes:
 - Commercial Burning - \$100 per site
 - Commercial Blasting - \$200 per site
 - Explosive Storage - \$200 per magazine
 - Fireworks Outdoor Sales - \$200
 - Fireworks Retail Sales - \$200
 - Fireworks Aerial Displays - \$200
 - (new) Mobile Food Preparation Vehicles (Food Trucks) - \$100
 - (new) Tent(s) - \$100 per tent
- Re-inspection fees shall be half the initial assessed value per re-inspection.

Current operational permit fees:

Commercial Burning - \$25 per site
Commercial Blasting - \$15 per site
Explosive Storage - \$100 per magazine
Fireworks Outdoor Sales - \$0
Fireworks Retail Sales - \$0
Fireworks Aerial Displays - \$0

Section 108

OPERATIONAL PERMITS

108.1 General. Operational permits shall be in accordance with Section 108. The fire official may require notification prior to (i) activities involving the handling, storage or use of substances, materials or devices regulated by the SFPC; (ii) conducting processes which produce conditions hazardous to life or property; or (iii) establishing a place of assembly.

108.1.1 Permits required. Operational permits may be required by the fire official in accordance with Table 107.2. The fire official shall require operational permits for the manufacturing, storage, handling, use and sale of explosives. Issued permits shall be kept on the premises designated therein at all times and shall be readily available for

inspection by the fire official.

Exceptions:

1. Operational permits will not be required by the State Fire Marshal except for the manufacturing, storage, handling, use and sale of explosives in localities not enforcing the SFPC.
2. Operational permits will not be required for the manufacturing, storage, handling or use of explosives or blasting agents by the Virginia Department of State Police provided notification to the fire official is made annually by the Chief Arson Investigator listing all storage locations.

Cost Recovery and Start Up

- Based on operational permits of approximately 1400 businesses and projected re-inspections, the estimated recovery will be a minimum of \$250,000 after first year.
- The majority of the up front costs associated with implementing fees will be the following:
 - Code Pal Software - Approximately \$14,000 the first year
 - Part time employee - \$12 an hour, working approximately 27 hours a week

After Approval

- Hire part-time permit technician to issue permits, schedule inspections, subsequent data entry, and invoicing.
- Purchase Code Pal software. Several meetings have taken place with Code Pal and Treasurer's Office (AS-400) to confirm that Code Pal and AS-400 can seamlessly communicate with each other.
- Treasurer's Office will work with Fire Marshal's Office to build the AS-400 to work with Code Pal to meet our needs for inspections and billing (minimum of 90 days).
- Our goal for full implementation is 2020.

Questions???

Thank You



MEMORANDUM

TO: Public Works Committee
FROM: Joe C. Wilder, Director of Public Works *JCW*
SUBJECT: Monthly Tonnage Report - Fiscal Year 18/19
DATE: March 15, 2019

The following is the tonnage for the months of July 2017 through June 2018, and the average monthly tonnage for fiscal years 03/04 through 18/19.

FY 03-04: AVERAGE PER MONTH: 16,348 TONS (UP 1,164 TONS)
FY 04-05: AVERAGE PER MONTH: 17,029 TONS (UP 681 TONS)
FY 05-06: AVERAGE PER MONTH: 17,785 TONS (UP 756 TONS)
FY 06-07: AVERAGE PER MONTH: 16,705 TONS (DOWN 1,080 TONS)
FY 07-08: AVERAGE PER MONTH: 13,904 TONS (DOWN 2,801 TONS)
FY 08-09: AVERAGE PER MONTH: 13,316 TONS (DOWN 588 TONS)
FY 09-10: AVERAGE PER MONTH: 12,219 TONS (DOWN 1,097 TONS)
FY 10-11: AVERAGE PER MONTH: 12,184 TONS (DOWN 35 TONS)
FY 11-12: AVERAGE PER MONTH: 12,013 TONS (DOWN 171 TONS)
FY 12-13: AVERAGE PER MONTH: 12,065 TONS (UP 52 TONS)
FY 13-14: AVERAGE PER MONTH: 12,468 TONS (UP 403 TONS)
FY 14-15: AVERAGE PER MONTH: 13,133 TONS (UP 665 TONS)
FY 15-16: AVERAGE PER MONTH: 13,984 TONS (UP 851 TONS)
FY 16-17: AVERAGE PER MONTH: 14,507 TONS (UP 523 TONS)
FY 17-18: AVERAGE PER MONTH: 15,745 TONS (UP 1,238 TONS)
FY 18-19: AVERAGE PER MONTH: 15,721 TONS (DOWN 24 TONS)

| MONTH | FY 2017-2018 | FY 2018-2019 |
|-----------|--------------|--------------|
| JULY | 15,465 | 17,704 |
| AUGUST | 17,694 | 18,543 |
| SEPTEMBER | 16,813 | 14,799 |
| OCTOBER | 15,853 | 18,158 |
| NOVEMBER | 16,109 | 15,404 |
| DECEMBER | 12,644 | 14,426 |
| JANUARY | 13,295 | 13,973 |
| FEBRUARY | 13,100 | 12,764 |
| MARCH | 15,510 | |
| APRIL | 15,469 | |
| MAY | 18,755 | |
| JUNE | 18,228 | |

RECYCLING REPORT - FY 18/19

| <u>MONTH</u> | <u>GLASS</u> | <u>PLAST</u> | <u>AL</u>
<u>CANS</u> | <u>STEEL</u>
<u>CANS</u> | <u>PAPER</u> | <u>OCC</u> | <u>SHOES/TEX</u> | <u>ELEC</u> | <u>SCRAP</u> | <u>TOTAL</u> |
|-----------------|-------------------|------------------|--------------------------|-----------------------------|-------------------|------------------|------------------|------------------|-------------------|-------------------|
| JUL | | 40,320 | 1,945 | 4,620 | 78,140 | 98,621 | 9,500 | 68,580 | 292,300 | 594,026 |
| AUG | | 38,580 | 4,855 | 7,925 | 90,020 | 98,500 | 9,220 | 24,680 | 300,180 | 573,960 |
| SEP | | 32,600 | 3,120 | 6,560 | 65,600 | 88,380 | 5,380 | 52,200 | 211,500 | 465,340 |
| OCT | | 37,778 | 4,140 | 7,580 | 99,480 | 92,960 | | 51,340 | 255,960 | 549,238 |
| NOV | | 49,965 | 5,432 | 12,245 | 82,740 | 126,335 | | 25,960 | 246,374 | 549,051 |
| DEC | | 35,340 | 3,710 | 8,650 | 71,280 | 118,920 | 3,600 | 28,040 | 171,800 | 441,340 |
| JAN | | 50,800 | 2,415 | 7,500 | 91,800 | 114,400 | 8,604 | 53,180 | 172,520 | 501,219 |
| FEB | | 31,600 | 4,675 | 9,707 | 101,335 | 102,520 | 5,020 | 26,980 | 117,220 | 399,057 |
| MAR | | | | | | | | | | 0 |
| APR | | | | | | | | | | 0 |
| MAY | | | | | | | | | | 0 |
| JUN | | | | | | | | | | 0 |
| TOTAL | 0 | | | | | | | | | 0 |
| FY 17-18 | 0 | 465,080 | 53,224 | 94,530 | 1,043,120 | 1,080,087 | 37,260 | 536,420 | 2,874,709 | 6,184,430 |
| FY 16-17 | 372,600 | 430,435 | 41,002 | 89,976 | 1,082,737 | 1,009,153 | 37,220 | 495,500 | 2,687,241 | 6,245,864 |
| FY 15-16 | 919,540 | 428,300 | 52,077 | 97,252 | 1,275,060 | 974,493 | 48,820 | 480,400 | 2,376,344 | 6,652,286 |
| FY 14-15 | 895,600 | 407,703 | 40,060 | 97,515 | 1,272,660 | 893,380 | 49,440 | 532,283 | 1,890,729 | 6,079,370 |
| FY 13-14 | 904,780 | 417,090 | 39,399 | 99,177 | 1,281,105 | 902,701 | 37,800 | 611,580 | 1,639,225 | 5,932,937 |
| FY 12-13 | 913,530 | 410,338 | 45,086 | 102,875 | 1,508,029 | 878,450 | 39,700 | 502,680 | 1,321,938 | 5,722,626 |
| FY 11-12 | 865,380 | 398,320 | 43,884 | 99,846 | 1,492,826 | 840,717 | 37,920 | 484,600 | 1,432,678 | 5,696,171 |
| FY 10-11 | 949,185 | 378,452 | 42,120 | 98,474 | 1,404,806 | 824,873 | 41,700 | 467,920 | 1,220,107 | 5,427,637 |
| FY 09-10 | 1,123,671 | 370,386 | 42,844 | 96,666 | 1,235,624 | 671,669 | 21,160 | 435,680 | 1,348,398 | 5,346,098 |
| FY 08-09 | 762,810 | 322,928 | 23,473 | 55,246 | 1,708,302 | 564,957 | 28,780 | 404,760 | 1,097,151 | 4,968,407 |
| FY 07-08 | 794,932 | 284,220 | 15,783 | 40,544 | 1,971,883 | 545,692 | 0 | 498,110 | 1,172,880 | 5,324,044 |
| FY 06-07 | 600,464 | 200,720 | 11,834 | 29,285 | 1,684,711 | 441,321 | 0 | 382,574 | 550,070 | 3,900,979 |
| FY 05-06 | 558,367 | 190,611 | 12,478 | 28,526 | 1,523,162 | | | 381,469 | 204,220 | 2,898,833 |
| FY 04-05 | 549,527 | 193,224 | 11,415 | 27,525 | 1,552,111 | | | 273,707 | 25,080 | 2,632,589 |
| FY 03-04 | 541,896 | 174,256 | 11,437 | 31,112 | 1,443,461 | | | 156,870 | 336,230 | 2,695,262 |
| FY 02-03 | 413,627 | 146,770 | 9,840 | 23,148 | 1,381,195 | | | 62,840 | 171,680 | 2,209,100 |
| FY 01-02 | 450,280 | 181,040 | 10,565 | 25,553 | 1,401,206 | | | 54,061 | 58,140 | 2,180,845 |
| FY 00-01 | 436,615 | 198,519 | 10,367 | 24,988 | 1,759,731 | | | | 9,620 | 2,439,840 |
| FY 99-00 | 422,447 | 177,260 | 10,177 | 22,847 | 1,686,587 | | | | 44,180 | 2,363,498 |
| FY 98-99 | 402,192 | 184,405 | 9,564 | 22,905 | 1,411,950 | | | | 48,810 | 2,079,826 |
| FY 97-98 | 485,294 | 136,110 | 13,307 | 29,775 | 1,830,000 | | | | | 2,494,486 |
| FY 96-97 | 373,106 | 211,105 | 23,584 | 46,625 | 1,690,000 | | | | | 2,344,420 |
| FY 95-96 | 511,978 | 167,486 | 28,441 | 44,995 | 1,553,060 | | | | | 2,305,960 |
| TO DATE | 14,247,821 | 6,009,678 | 548,737 | 1,234,855 | 33,150,206 | 8,547,406 | 342,540 | 6,225,034 | 17,634,721 | 87,941,078 |

FREDERICK COUNTY ESTHER BOYD ANIMAL SHELTER FY 2018-2019

DOG REPORT

| MONTH | ON HAND AT
FIRST OF MONTH | RECEIVED
AT KENNEL | BROUGHT IN
BY ACO | BITE
CASES | BORN AT
KENNEL | ADOPTED | RECLAIMED | DISPOSED | DIED AT
KENNEL | ESCAPED/
STOLEN | CARRIED OVER
NEXT MONTH |
|-------|------------------------------|-----------------------|----------------------|---------------|-------------------|---------|-----------|----------|-------------------|--------------------|----------------------------|
| JULY | 36 | 29 | 36 | 1 | 0 | 29 | 35 | 1 | 0 | 0 | 37 |
| AUG | 37 | 41 | 36 | 2 | 0 | 29 | 36 | 2 | 1 | 0 | 48 |
| SEP | 48 | 33 | 41 | 2 | 0 | 29 | 38 | 4 | 0 | 0 | 53 |
| OCT | 53 | 28 | 24 | 2 | 0 | 37 | 19 | 4 | 0 | 0 | 47 |
| NOV | 47 | 28 | 22 | 4 | 0 | 39 | 21 | 1 | 0 | 0 | 40 |
| DEC | 40 | 32 | 11 | 0 | 0 | 37 | 8 | 2 | 0 | 0 | 36 |
| JAN | 36 | 29 | 24 | 2 | 0 | 32 | 22 | 5 | 0 | 0 | 32 |
| FEB | 32 | 19 | 32 | 0 | 0 | 23 | 22 | 2 | 0 | 0 | 36 |
| MAR | | | | | | | | | | | |
| APR | | | | | | | | | | | |
| MAY | | | | | | | | | | | |
| JUN | | | | | | | | | | | |
| TOTAL | 329 | 239 | 226 | 13 | 0 | 255 | 201 | 21 | 1 | 0 | 329 |

In the month of February - 83 dogs in and out of kennel. 6 dogs transferred to other agencies.

FREDERICK COUNTY ESTHER BOYD ANIMAL SHELTER FY 2018-2019

CAT REPORT

| MONTH | ON HAND AT
FIRST OF MONTH | RECEIVED
AT KENNEL | BROUGHT IN
BY ACO | BITE
CASES | BORN AT
KENNEL | ADOPTED | RECLAIMED | DISPOSED | DIED AT
KENNEL | ESCAPED/
STOLEN | CARRIED TO
NEXT MONTH |
|-------|------------------------------|-----------------------|----------------------|---------------|-------------------|---------|-----------|----------|-------------------|--------------------|--------------------------|
| JULY | 122 | 129 | 14 | 4 | 7 | 49 | 2 | 102 | 3 | 0 | 120 |
| AUG | 120 | 122 | 21 | 3 | 3 | 116 | 6 | 65 | 1 | 0 | 81 |
| SEP | 81 | 95 | 9 | 2 | 0 | 52 | 2 | 41 | 2 | 0 | 90 |
| OCT | 90 | 119 | 15 | 2 | 3 | 62 | 1 | 48 | 4 | 0 | 114 |
| NOV | 114 | 85 | 14 | 1 | 6 | 64 | 1 | 60 | 2 | 0 | 93 |
| DEC | 93 | 46 | 4 | 1 | 0 | 40 | 1 | 20 | 0 | 0 | 83 |
| JAN | 83 | 71 | 6 | 1 | 0 | 69 | 2 | 33 | 0 | 0 | 57 |
| FEB | 57 | 46 | 3 | 1 | 0 | 37 | 0 | 17 | 0 | 0 | 53 |
| MAR | | | | | | | | | | | |
| APR | | | | | | | | | | | |
| MAY | | | | | | | | | | | |
| JUN | | | | | | | | | | | |
| TOTAL | 760 | 713 | 86 | 15 | 19 | 489 | 15 | 386 | 12 | 0 | 691 |

In the month of February - 107 cats in and out of shelter. 8 cats transferred to other agencies.

D

TRANSPORTATION COMMITTEE REPORT to the BOARD OF SUPERVISORS
Monday, March 25, 2019
8:30 a.m.
107 NORTH KENT STREET, WINCHESTER, VIRGINIA

ATTENDEES:

Committee Members Present: Gary Lofton, Chairman (Voting), Judith McCann-Slaughter (Voting), Gary Oates (Voting), James Racey (Voting), and Lewis Boyer (Liaison Stephens City).

Committee Members Absent: Barry Schnoor (Voting) and Mark Davis (Liaison Middletown).

Staff Present: Assistant Director-Transportation John Bishop, and Kathy Smith, Secretary.

ACTION ITEM:

3-Northern Y-Revenue Sharing (see attached): The Northern Y has reached the 30% design and cost estimate for the connection from Crossover Boulevard to Route 522 (Northern Y). Since the 30% design has been reached it is to be reviewed by the Committee. The agreement with the private partner contemplates a total project of \$2.4 million to be shared by both parties. The cost estimate was discussed in detail of what is included. The cost estimate has a shortfall of \$1,812,770.40. Under the agreement, either party can choose to contribute to this shortfall or end the project. The County can address the shortfall by the pursuit of additional funding through the revenue sharing project during the fall of 2019. Staff has discussed with the private partner the shortfall and they have indicated that they are unwilling to put forth more funding unless the County is doing so, however Staff was not provided an amount. This project does play an important role for the County's overall Comprehensive Plan.

The Committee voted to recommend the Board proceed with seeking additional revenue sharing and continue on the project contingent upon Glaize indicating a willingness to provide the matching funds for the revenue sharing funds and a backstop agreement to fund any shortfalls that may arise.

ITEMS FOR INFORMATION ONLY:

1-Route 11 Access Break-Kernstown (see attached): Mr. Michael Coughlin, representing, Winchester-81, LLC spoke to the Committee about his client's desire for a limited access break in the Kernstown area. He is requesting that the Committee recommend to the Board of Supervisors to adopt a resolution supporting a full access into the property. It was noted that a resolution was adopted by the Board of Supervisors for an access break at the location on October 11, 2017. Winchester-81, LLC has performed another current analysis which shows that one of the improvements that VDOT is requesting to be done is not necessary. The unnecessary project would be that the southbound lane of Route 11 be widened to the intersection with Commonwealth Court. After discussion, the Committee recommended for Winchester-81, LLC to work together with VDOT's Traffic Impact Analysis (TIA) Planning Division to resolve the issue for both parties then it will be heard by the Committee.

2-Old Charlestown Road Intersection with Route 11-Citizen Concerns (see attached): Staff and Supervisor McCann-Slaughter has received numerous concerns from citizens related to traffic back ups at the intersection of Route 11 and Old Charlestown Road with the upcoming Jordan Springs Elementary School, these concerns have increased. The most recent round of SmartScale applications, VDOT studied the intersection and it is noted a signal meets their warrant requirement. The analysis from that SmartScale application showed a roundabout instead of a signal would be best suited for the traffic flow of the northbound and southbound lanes to prevent delays and safety of the area. Upon scoring of this project VDOT has not recommended it for funding. The Stephenson Village (Snowden Bridge) rezoning proffers do remain available. The development proffered improvements to Old Charlestown Road for a

signal at the intersection. Signalization at the intersection would need to meet VDOT warrants. The Committee recommended that Staff coordinate with VDOT and the developer to seek a resolution to the concerns in the area.

4-SmartScale Update and Breakdown: Staff gave an update on the steps of the SmartScale process with the different components of the program structure. The Office of Intermodal Planning and Investment (OIPI) provides multimodal planning which has grown through the administrations for the different agencies under the Commonwealth Board Transportation. Under the administrative level agency and the VTRANS which is the gate keeper of the SmartScale process.

5-County Projects Updates: Tevis Street Extension/Airport Road/I-81 Bridge: The low bidder on the project was Perry Engineering with a bid of \$17,592,682.83. A preconstruction meeting is scheduled for May 7, 2019 with an expected notice to proceed for May 14, 2019. The project has an expected completion date of September 10, 2021.

Renaissance Drive: The project has the proceeding to 30% design under the new scope. Staff has been in discussions with VDOT regarding the closure of the current Springdale Road rail crossing and detail items on the road design such as transition of the existing curb and gutter section into the ditch.

Northern Y: Please see item 3


Jubal Early Drive Extension and Interchange with Route 37: No activity at this time.

6-Upcoming Agenda Items: Interstate, Primary and Secondary Plan Updates.

TBD: Oakdale Crossing Traffic Calming Study.

7-Other: Staff received an informal request for general VDOT projects in the County area to be updated and posted on the County's web page.

ITEM 3
ATTACHMENT

|  | Pennoni Associates Inc. | | Job No: | FREDC18004 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|--|---|-------------|------------|-------------------|---------|--------------|------|------------|-------|-------------------|-----------|-----|---------------|-------------------|-----------|----|------------|----------------|-------------|-----|---------|----------------|-------------|-----|------------------------|--|-----------|----|------|--|-----------|-----|-------|--|-------------|------|
| | Consulting Engineers | | Date: | 2/25/2019 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | Project: North Tevis Street Extension - UPC 94846 | | Des By: | EDS | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | Subject: Estimate Breakdown | | Chk By: | CLA | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <table border="1"> <thead> <tr> <th>Section</th> <th>Sta. to Sta.</th> <th>Cost</th> <th>Percentage</th> </tr> </thead> <tbody> <tr> <td>R150W</td> <td>41+75 to 45+71.68</td> <td>\$860,015</td> <td>14%</td> </tr> <tr> <td>FLG 64B-A-73B</td> <td>45+71.68 to 47+85</td> <td>\$462,484</td> <td>8%</td> </tr> <tr> <td>FLG 64-A-9</td> <td>47+85 to 56+35</td> <td>\$1,842,826</td> <td>30%</td> </tr> <tr> <td>RT. 522</td> <td>14+26 to 21+20</td> <td>\$2,034,754</td> <td>34%</td> </tr> <tr> <td>Elks Lodge/Access Road</td> <td></td> <td>\$246,805</td> <td>4%</td> </tr> <tr> <td>Pond</td> <td></td> <td>\$606,506</td> <td>10%</td> </tr> <tr> <td colspan="2" style="text-align: right;">Total</td> <td>\$6,053,390</td> <td>100%</td> </tr> </tbody> </table> | | | | | Section | Sta. to Sta. | Cost | Percentage | R150W | 41+75 to 45+71.68 | \$860,015 | 14% | FLG 64B-A-73B | 45+71.68 to 47+85 | \$462,484 | 8% | FLG 64-A-9 | 47+85 to 56+35 | \$1,842,826 | 30% | RT. 522 | 14+26 to 21+20 | \$2,034,754 | 34% | Elks Lodge/Access Road | | \$246,805 | 4% | Pond | | \$606,506 | 10% | Total | | \$6,053,390 | 100% |
| Section | Sta. to Sta. | Cost | Percentage | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| R150W | 41+75 to 45+71.68 | \$860,015 | 14% | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| FLG 64B-A-73B | 45+71.68 to 47+85 | \$462,484 | 8% | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| FLG 64-A-9 | 47+85 to 56+35 | \$1,842,826 | 30% | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| RT. 522 | 14+26 to 21+20 | \$2,034,754 | 34% | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Elks Lodge/Access Road | | \$246,805 | 4% | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Pond | | \$606,506 | 10% | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Total | | \$6,053,390 | 100% | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

Notes:

1. Total linear footage for project, including Sections R150W, FLG 64B-A-73B, FLG 64-A-9, Elks Lodge/Access Road, and Rt. 522, is 2498 LF.
2. Roadway costs per LF includes Mobilization, 12% construction admin. and a 25% contingency.
3. MOT is included in RT. 522.
4. Costs associated with the Proposed Traffic Signal are included in RT. 522.
5. Roadway costs \$1,613.14 per LF for Sections R150W, FLG 64B-A-73B, FLG 64-A-9.



Pennoni Associates Inc.

Consulting Engineers

Project: Northern Tevis Street Extension - UPC 94846

Subject: 30% Submittal Estimate

Job No:

FREDC18004

Date:

2/25/2019

Des By:

EDS

Chk By:

CLA

| ITEM | UNIT | QUANTITY | PRICE | TOTAL |
|--|------|----------|--------------|-----------------------|
| DEMOLITION | | | | |
| DEMOLITION OF EXISTING SINGLE FAMILY HOME | EA | 1 | \$10,000.00 | \$10,000.00 |
| DEMOLITION OF EXISTING ELKS LODGE DRIVEWAY | SY | 1284 | \$12.00 | \$15,406.40 |
| SAWCUT | LF | 700 | \$20.00 | \$14,000.00 |
| FLEXIBLE PAVEMENT PLANING (0-1.5" DEPTH) | SY | 5,762 | \$1.85 | \$10,660.21 |
| REMOVAL OF FENCING | LF | 390 | \$10.00 | \$3,900.00 |
| REMOVE SIDEWALK RAMP | SY | 25 | \$5.00 | \$124.63 |
| REMOVE EXISTING DRIVEWAY | SY | 282 | \$20.00 | \$5,634.22 |
| REMOVE EXISTING STORM PIPE | LF | 650 | \$40.00 | \$26,000.00 |
| REMOVE EXISTING DROP INLET | EA | 5 | \$1,200.00 | \$6,000.00 |
| REMOVE EXISTING STORM STRUCTURE | EA | 2 | \$750.00 | \$1,500.00 |
| REMOVE CURB AND GUTTER | LF | 665 | \$20.00 | \$13,293.00 |
| EARTHWORKS | | | | |
| CLEARING AND GRUBBING | AC | 5 | \$10,000.00 | \$53,754.13 |
| REGULAR EXCAVATION | CY | 19,850 | \$18.00 | \$357,300.00 |
| SELECT MATERIAL, TYPE I | TON | 28,526 | \$10.00 | \$285,257.70 |
| GRADING | SY | 26,000 | \$1.00 | \$26,000.00 |
| ROADSIDE DEVELOPMENT (SEEDING, TOPSPOIL, LIME, FERTILIZER,ETC) | LS | 1 | \$125,000.00 | \$125,000.00 |
| PAVEMENT | | | | |
| STD. COMB. CURB & GUTTER CG-6 | LF | 2,850 | \$22.17 | \$63,193.37 |
| RADIAL COMB. CURB & GUTTER CG-6 | LF | 593 | \$25.00 | \$14,827.50 |
| STD CURB CG-7 | LF | 46 | \$19.93 | \$924.75 |
| STD CG-12 WITH DETECTABLE WARNING SURFACE | SY | 245 | \$597.22 | \$146,199.46 |
| GRASS MEDIAN STRIP, M2 | LF | 382 | \$35.00 | \$13,356.00 |
| CONCRETE MEDIAN STRIP, MS-1A | SY | 138 | \$100.00 | \$13,817.78 |
| HYDRAULIC CEMENT CONC. 4" SIDEWALK | SY | 696 | \$48.27 | \$33,601.82 |
| 1.5" SURFACE COURSE - SM-9.5D | TON | 1,423 | \$75.31 | \$107,174.63 |
| 2" SURFACE COURSE MULTI-USE PATH- SM-9.5AL | TON | 157 | \$75.31 | \$11,821.41 |
| 2.5" INTERMEDIATE COURSE - IM-19D | TON | 2,025 | \$115.00 | \$232,821.46 |
| BASE COURSE - BM-25.0D | TON | 1,491 | \$68.37 | \$101,925.55 |
| AGGREGATE BASE - NO.21B | TON | 1,972 | \$18.40 | \$36,282.99 |
| TACK COAT | GAL | 816 | \$3.50 | \$2,856.93 |
| GUARDRAIL / FENCING | | | | |
| STD GR-MGS1 | LF | 236 | \$20.00 | \$4,720.00 |
| STD GR-MGS2 | EA | 2 | \$2,500.00 | \$5,000.00 |
| DRAINAGE | | | | |
| DRAINAGE | LS | 1 | \$450,000.00 | \$450,000.00 |
| BEST MANAGEMENT PRACTICES (REVENUE SHARING) | LS | 1 | \$425,000.00 | \$425,000.00 |
| TRAFFIC SIGNAL | | | | |
| TRAFFIC SIGNAL - RT.522 AND TEVIS STREET | LS | 1 | \$350,000.00 | \$350,000.00 |
| SIGNAGE / PAVEMENT MARKING | | | | |
| SIGNAGE | LS | 1 | \$48,900.00 | \$48,900.00 |
| PAVEMENT MARKINGS | LS | 1 | \$55,500.00 | \$55,500.00 |
| MAINTENANCE OF TRAFFIC | | | | |
| MOT | LS | 1 | \$300,000.00 | \$300,000.00 |
| MISCELLANEOUS | | | | |
| ROW | LS | 1 | \$350,000.00 | \$350,000.00 |
| E&S | LS | 1 | \$200,000.00 | \$200,000.00 |
| UTILITY RELOCATIONS - GAS, ELECTRIC, POWER | LS | 1 | \$300,000.00 | \$300,000.00 |
| RELOCATION OF ELKS LODGE SIGN | LS | 1 | \$20,000.00 | \$20,000.00 |
| TOTAL BID AMOUNT | | | | \$4,241,753.93 |
| MOBILIZATION | | | | \$242,187.11 |
| CONSTRUCTION ADMINISTRATION @ 12% | | | | \$509,010.47 |
| CONTINGENCIES @ 25% | | | | \$1,060,438.48 |
| GRAND TOTAL | | | | \$6,053,390.00 |

REVENUE SHARING AGREEMENT

THIS AGREEMENT, made and dated this 10th day of April, 2018, is made by and between the **COUNTY OF FREDERICK, VIRGINIA** (the "County"), a political subdivision of Virginia, and **FLG RESIDUAL TRUST PROPERTIES, LLC ("FLG") and CAMPFIELD LLC ("Campfield")** (collectively, FLG and Campfield are referred to as "Glaize"), a Virginia limited liability company.

RECITALS:

1. Glaize is the owner of tax parcel numbers 64-A-9 and 64B-A-73B (the "Property").
2. The Virginia Department of Transportation ("VDOT") administers the Revenue Sharing Program ("Revenue Sharing Program"), in cooperation with participating localities, under the authority of Section 33.2-357, effective Oct. 1, 2014, of the *Code of Virginia*.
3. The County and Glaize intend to fund the Project (defined below) using funds from Glaize and matching revenue sharing funds that the County has obtained from the Commonwealth's Revenue Sharing Program.
4. The parties desire to arrange for the design and construction a street section as follows (the "Project"):

Tevis Street Extension, as a segment from the shared property boundary with parcel 64-A-10 to Route 522, relocation of the Elks lodge entrance, required upgrades to Route 522 as needed to accommodate the new intersection, right of way acquisition, VDOT approved entrance to the adjoining parcels with turn lanes, bicycle and pedestrian accommodations consistent with County requirements and within VDOT standards, required landscaping and streetlights allowable within the scope of the Revenue Sharing Program, and any unforeseen required items to implement the roadway. This segment shall be designed and constructed in a form mutually agreed upon by the County and Glaize that meets or exceeds VDOT standards that are in force at the time of final road design plan approval.

5. The parties desire to finance the Project using funds of up to \$1,200,000.00 Glaize will provide which can be matched on a dollar for dollar basis with VDOT revenue sharing funds (the "Matching Funds") to be provided by VDOT within the rules and scope of the VDOT Revenue Sharing Program. In addition, the County shall provide such additional funds (the "County Funds"), which can be matched on a dollar for dollar basis by VDOT revenue sharing funds as available, as may be necessary in the event costs for the Project

exceed \$2,400,000.00. Expenditure of the County Funds will become applicable only after the Glaise Funds have been fully expended.

6. The Glaise Funds, County Funds, and the Matching Funds are collectively referred to herein as the "Project Funds."

NOW, THEREFORE, WITNESSETH: That for and in consideration of the sum of Ten Dollars, (\$10.00), cash in hand paid by each of the parties hereto unto the other, the receipt and sufficiency of which is hereby acknowledged, the parties do agree as follows:

1. **RECITALS:** The Recitals are made a material part hereof and incorporated herein by reference as if set out in full.

2. **THE PROJECT:**

- a. The Glaise Funds, County Funds, and the Matching Funds shall be applied and expended in order to design and construct the Project described in the Recitals.
- b. In the event that unforeseen design, engineering, right of way, environmental, and/or construction issues are encountered that exceed a project budget of \$2,400,000 (\$1,200,000 in Glaise funds and \$1,200,000 in Matching funds), the County agrees to expend such additional funds as are necessary in order to address such unforeseen design, engineering, right of way, environmental, and/or construction issues.

3. **COUNTY RESPONSIBILITIES:**

- a. The County shall act as fiscal agent and project manager for the Project. The County's responsibilities as fiscal agent and project manager shall include management and oversight of all roadway design, approvals and permitting, construction management, and right-of-way acquisition, as well as invoicing of Project costs to VDOT and to Glaise.
- b. The County shall give notice to Glaise of the intended commencement of construction of the Project not less than fifteen (15) days prior to the commencement of construction.
- c. The County shall arrange for use of Matching Funds once the Glaise \$1,200,000.00 is expended and 100% of project funding after all available VDOT funds are expended.
- d. Upon receipt of the bids for the Project, if the bids show that the Project cost will exceed \$2,400,000.00, the County may elect not to proceed with the Project, in which

case this Agreement shall be deemed terminated and the parties shall have no further obligations to each with respect to the subject matter of this Agreement.

- e. The County may enter into agreements, if necessary, with utility companies, VDOT, or unforeseen others as may be necessary in relation to the Project.
- f. As project manager, the County shall supervise all aspects of the Project, which shall be done in a good and workmanlike fashion in accordance with applicable VDOT standards.
- g. In the event that a mechanic's lien or other claim is filed against the Property arising from or in connection with the Project, the County agrees to promptly bond off any such mechanic's lien or claim with a portion of the Project Funds, to the extent permissible under applicable law.
- h. The County shall return all unspent Glaize Funds to Glaize at the conclusion of the Project.
- i. The County shall request the new roadway to be adopted into the State system within 30 days of receiving final paperwork and clearances required for adoption from VDOT.

4. GLAIZE'S RESPONSIBILITIES:

- a. Glaize shall provide all required right of way dedication of property it controls, permanent grading and drainage easements, and temporary construction easements to the County prior to County award of the construction contract. Costs for provision of these items will be borne by Glaize and not be reimbursable with Matching Funds.
- b. The County shall undergo the design process in two phases, with Phase I being complete at the conclusion of approximately 60% of the design and associated updated cost estimate. Phase II shall be the completion of the design and subsequent bidding and construction of the project. The County will not proceed to Phase II without prior written consent of Glaize. In the event that Glaize fails to authorize Phase II within 45 days of County request, such lack of response shall be deemed a denial to proceed and the County shall have the ability to cancel the Project.
- c. Glaize's contribution to the total amount of incurred for Phase I road design services shall not exceed \$70,000.00. Glaize will pay the County \$35,000.00 toward Phase I costs upon execution of this Agreement. In the event the Project does not proceed to

Phase II, Glaize shall pay the County an additional \$35,000.00 for a total payment of \$70,000.00 for Phase I costs, within 10 days of receipt of written notice terminating this Agreement for failure to proceed to Phase II. Upon payment by Glaize in response to such notice, this Agreement shall thereupon be terminated.

- d. Upon issuing approval to proceed to Phase II of the project, Glaize shall provide to the County a letter of credit payable to the County in the amount of \$1,165,000.00 to secure the payments due from Glaize under the terms of this Agreement. In no event shall any institution issuing a letter of credit on behalf of Glaize be liable to the County for any amount greater than the amount to which Glaize may be liable to the County pursuant to the terms of this Agreement on the date the County makes claim for payment under the terms of any such letter of credit. Upon payment in full of all amounts due from Glaize under the terms of this Agreement the County consents to the release of any such letter of credit without further action from the County.
 - e. Subject to the terms and conditions of this Agreement and so long as the County is not in default, Glaize shall remit one-half of the total amounts properly incurred by the County in the prior calendar month for the performance of services within the project description outlined in the recitals of this Agreement, up to \$1,200,000.00, within 30 days of receipt of an invoice for the same.
 - f. Glaize shall provide full access to the Property for the purposes of construction, surveys, geotechnical work, or any other tasks related to design, engineering, environmental, and construction needs of the Project.
5. **NOTICES:** All notices, demands, or other communications that may be necessary or proper hereunder shall be deemed duly given if personally delivered, or when deposited in the United States mail, postage prepaid, first class, registered or certified, return receipt requested, addressed respectively as follows:

County: Department of Planning and Development
107 North Kent Street, Suite 202
Winchester, VA 22601
Attn: John A. Bishop, AICP

With a copy to: Roderick Williams, Esquire
County Attorney
107 North Kent Street
Winchester, VA 22601

Glaize: J.P. Carr, President
Glaize Developments, Incorporated
112 E. Piccadilly Street
Winchester, VA 22601

With a copy to:


Stephen L. Pettler, Jr.
Harrison and Johnston, PLC
21 South Loudoun Street
Winchester, VA 22601

6. ENTIRE AGREEMENT; AMENDMENTS; TIME:


- a. This Agreement constitutes the entire agreement of the parties and supersedes any prior understandings, whether oral or written, of the parties regarding the subject matter of the Agreement and no amendment to this Agreement shall be effective unless made in writing and signed by both parties.
- b. Time is of the essence with respect to all matters set forth in this Agreement.
- c. This Agreement shall be binding upon and the obligations and benefits hereof shall accrue to the parties hereto and their successors and assigns.

- 7. GOVERNING LAW; VENUE:** This Agreement shall be governed by and interpreted according to the laws of the Commonwealth of Virginia and any dispute hereunder shall be heard only in the Circuit Court of Frederick County, Virginia.

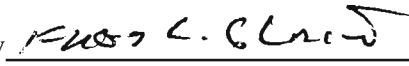
WITNESS the following signatures and seals:

APPROVED AS TO FORM
 4/10/2018
COUNTY ATTORNEY

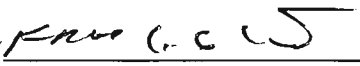
COUNTY OF FREDERICK, VIRGINIA

By  (SEAL)

FLG RESIDUAL TRUST PROPERTIES, LLC

By  (SEAL)

CAMPFIELD LLC

By  (SEAL)

ITEM 1
ATTACHMENT

WINCHESTER-81 PROPERTY ANALYSIS

SUPPLEMENTAL TRANSPORTATION ASSESSMENT



JANUARY 2019

MEMORANDUM

Date: January 17, 2019 Project #: 19471

To: Winchester-81 LLC
C/O Michael Coughlin
Walsh Colucci Lubeley & Walsh, PC
4310 Prince William County Parkway
Prince William, VA 22192

From: Chris Tiesler, PE

Project: Winchester-81 Property Analysis

Subject: Supplemental Transportation Assessment

EXECUTIVE SUMMARY

Kittelison & Associates, Inc. (Kittelison) has prepared this memorandum to document the findings of a supplemental analysis of the Winchester-81 property traffic impact study. The main body of this memorandum provides a thorough presentation and discussion of relevant details related to prior studies, background growth assumptions, access configurations serving the subject Winchester-81 property, and an updated assessment of off-site transportation improvements considered.

Overall, the analysis demonstrates that a full break in limited access on Route 11 provides a net benefit to the overall transportation system relative to the scenarios with no limited access break or only a partial (ingress-only) break. We recommend that a break in limited access be granted to provide full access to the subject site, and the SR-37 westbound off-ramp be widened by year 2030. Key findings from this supplemental assessment are summarized below.

- The full April 2018 transportation impact study identified the weekday p.m. peak hour as the most critical time period.
 - This assessment focuses exclusively on weekday p.m. peak hour performance
 - Traffic conditions during the weekday a.m. and Saturday midday time periods are better than those reported for the weekday p.m. peak hour
- The full April 2018 transportation impact study was required by VDOT to apply a 1.5% annual growth rate to forecast future background volume conditions
 - Long-term historical AADT data on Route 11 empirically demonstrate 0.5% is a more appropriate growth rate for the study area.

- VDOT applied a 0.5% annual growth rate in their STARS Route 11 (Valley Pike/Valley Avenue) Corridor Study
- This assessment also applies a 0.5% annual growth rate
- Several access scenarios have been fully re-evaluated to understand how the amount of direct access provided to the Winchester-81 site impacts intersection operations and Route 11 corridor performance, and how widening the SR-37 westbound off-ramp would affect performance.
 - **Background** (no development on Winchester-81 property)
 - **Full Access**
 - **Ingress-Only with SB left-turn in** (all exiting traffic uses Commonwealth Court)
 - **Ingress-Only with no SB left-turn in** (SB lefts must turn at Commonwealth Court; all exiting traffic uses Commonwealth Court)
 - **No Access** (no limited access break granted – all Winchester-81 traffic accesses site via Commonwealth Court)
- Key findings from opening year 2021 analyses:
 - Commonwealth Court intersection operates at LOS F under all access scenarios *except Full Access*, which operates at LOS C
 - SR-37 WB Off-Ramp intersection with *no off-ramp widening*:
 - LOS C/D under all access scenarios
 - No ramp queue spillback under all access scenarios
 - SR-37 WB Off-Ramp intersection *with ramp widening*:
 - LOS C/D under all access scenarios (generally slightly lower delays due to increased capacity of widened ramp)
 - No ramp queue spillback under all access scenarios
- Key findings from design year 2040 analyses:
 - Commonwealth Court intersection operates at LOS F under all access scenarios *except Full Access*, which operates at LOS D
 - SR-37 WB Off-Ramp intersection with *no off-ramp widening*:
 - LOS D under all access scenarios except Full Access, which operates at LOS E
 - Ramp queue spillback under all access scenarios
 - SR-37 WB Off-Ramp intersection *with ramp widening*:
 - LOS C/D under all access scenarios (generally slightly lower delays due to increased capacity of widened ramp)
 - Ramp queue spillback under all access scenarios *except Full Access*

- Key findings regarding Route 11 corridor performance:
 - As more direct access to the site is provided, traffic demands on Route 11 are reduced. Thus, Route 11 performance is inversely related to Winchester-81 property access.
 - By the design year 2040, the corridor operation conditions naturally deteriorate due to additional background growth being assumed over time.
The Full Access break produces better progression on Route 11 peak direction (southbound) relative to the No Access and Ingress-Only access scenarios.
- Key findings related to SR-37 westbound off-ramp queues:
 - In 2021, none of the access scenario produce queue spillback to mainline SR-37.
 - By the design year 2040, the SR-37 westbound off-ramp queue is forecast to spill back onto mainline SR-37 under all access scenarios if the off-ramp is not widened.
 - If widened, the projected maximum queue is forecast to exceed the available storage under the No Access and Ingress-Only access scenarios.
 - Providing Full Access to the Winchester-81 site produces the shortest queues relative to the other access scenarios and will not cause queues on the off-ramp to spill back onto mainline SR-37 or adversely impact the operations along Route 11 or SR-37 when the off-ramp is widened to a four-lane cross-section.
- Key findings related to off-site transportation improvements:
 - Traffic from the Winchester-81 site adds traffic to the SR-37 westbound off-ramp but does not cause queues to spill back under any access scenario in 2021.
 - The additional background growth in traffic (an additional 9.5% between 2021 and 2040) will eventually cause queues to spill back to mainline SR-37 under all access scenarios unless the off-ramp is widened.
 - If widened, only the Full Access scenario produces an acceptable queue that will not spill back to mainline SR-37.
 - Traffic generated by the Winchester-81 site does not necessitate widening Route 11.
 - Consider that by design year 2040 assuming full access, background traffic growth on southbound represents 12.1% of the total volume, while site-generated traffic contributes only 0.6%.
 - Providing Full Access to the Winchester-81 site minimizes its traffic impact to Route 11 operations and produces the best overall operational results.
 - Widening the SR-37 westbound off-ramp will be necessary under all access scenarios by year 2040. This need is driven mostly by projected long-term growth in background traffic over time, and to a lesser extent by traffic generated by the Winchester-81 site. Sensitivity analyses suggest widening will be required by year 2030 to ensure off-ramp queues do not spill back to mainline SR-37.

- Overall, the signal phasing/timing changes required by any access scenario are relatively minor, and the Full Access scenario produces acceptable design year 2040 operational results at the SR-37 Westbound Ramp Terminal signal and consistently produces the best overall transportation system performance relative to the other access scenarios.
- Providing access to the Winchester-81 site will require modification of the existing traffic signal, which the property owner has agreed to design/construct. The owner will also construct the extension of Commonwealth Court through his own property to facilitate access and the connection between the SR-37 ramp and the current terminus of Commonwealth Court.

INTRODUCTION

Kittelsohn prepared a transportation impact analysis¹ of the Winchester-81 site in April 2018 that comprehensively considered property access configurations and the resultant impacts on the surrounding transportation network. The scope of the study was developed with and approved by the Virginia Department of Transportation (VDOT). Identified performance measures spanned a broad range of network, segment, and intersection metrics focused on the operational performance of the system for both an assumed opening year (2021) and design year (2040). The design year of 2040 was selected to understand the potential long-term impact of a break in the limited access line along the site's frontage, which would be required for two of the three access scenarios considered (ingress-only access, full access). It purposefully avoids mixing objectively-measured performance metrics with subjective assessments of other less easily measured factors.

The study demonstrated that full/direct access to the site at the SR-37 WB Off-Ramp produces the best overall results/outcome for the Winchester-81 site as well as the surrounding transportation network. Restricting access to the Winchester-81 site only serves to increase strain on Route 11 and the adjacent Route 11/Commonwealth Court intersection and would have negative repercussions to development potential, marketability, and overall value of the site itself.

The April 2018 study conclusively demonstrated two key outcomes relied upon throughout the remainder of this document:

- **The weekday p.m. peak hour is the most critical time period** when demands on the transportation network are greatest – even relative to the other peak hours evaluated (weekday a.m. and Saturday midday). If analyses demonstrate adequate performance of the transportation system during this time period, it can be assumed that the system will operate as well or better during all other peak and non-peak periods.
- **Full access to the Winchester-81 site consistently produces the best overall performance relative to the other access scenarios** (ingress-only, no access).

BACKGROUND GROWTH ASSUMPTIONS

The April 2018 study was required by VDOT to apply a 1.5% annual growth rate to existing traffic volumes through the identified design year of 2040. During this same time, VDOT commissioned a study of the Route 11 corridor² from Battle Park Drive to Renaissance Drive through their Strategically Targeted Affordable Roadway Solutions (STARS) Program. This program's goal is to develop comprehensive,

¹ Kittelson & Associates, Inc. *Winchester-81 Property Analysis*. April 2018.

² Virginia Department of Transportation & WSP. *Route 11 (Valley Pike/Valley Avenue) Corridor Study – Final Draft Report*. <https://winfredmpo.org/wp-content/uploads/2018/10/STARS-Final-Draft-Report-Route-11-08062018-002.pdf>

innovative transportation solutions to relieve congestion bottlenecks and solve critical traffic and safety challenges throughout the commonwealth.

Table 1 shows the Average Annual Daily Traffic (ADT) volumes on the Route 11 corridor taken from the STARS report. The presented linear historic growth rates show primarily low growth in the study area. The VDOT STARS project team identified and agreed upon a 0.5% annual growth rate in its analyses. The assumed growth rate of 0.5% per year was applied to the 2017 traffic volumes to generate projected future year traffic volumes.

Table 1. VDOT Historic Traffic Volumes from STARS Report

| Year | Roadway Segment/AADT Volume | |
|------|-----------------------------|---|
| | AADT | Type of Count |
| 1997 | 15110 | Average of Selected Continuous Count Data |
| 1998 | 15673 | Average of Complete Continuous Data |
| 1999 | 15735 | Factored Short Term Traffic Count Data |
| 2000 | 15801 | Average of Selected Continuous Count Data |
| 2001 | 15139 | Average of Complete Continuous Data |
| 2002 | 15854 | Average of Complete Continuous Data |
| 2003 | 16501 | Average of Complete Continuous Data |
| 2004 | 17399 | Average of Selected Continuous Count Data |
| 2005 | 17445 | Average of Complete Continuous Data |
| 2006 | 17304 | Average of Selected Continuous Count Data |
| 2007 | 17219 | Average of Selected Continuous Count Data |
| 2008 | 16305 | Average of Complete Continuous Data |
| 2009 | 15959 | Average of Complete Continuous Data |
| 2010 | 16593 | Average of Complete Continuous Data |
| 2011 | 16615 | Average of Complete Continuous Data |
| 2012 | 16772 | Average of Complete Continuous Data |
| 2013 | 16788 | Average of Complete Continuous Data |
| 2014 | 16432 | Average of Complete Continuous Data |
| 2015 | 16577 | Average of Complete Continuous Data |
| 2016 | 16707 | Average of Complete Continuous Data |

Table 2 shows the long-term historical data on relevant roadways immediately adjacent to the Winchester-81 site. When restricting the analysis to a most recent 10-year timeframe, the annual growth rate on Route 11 is calculated as **negative -0.5%**.

The analysis of empirical data demonstrates that VDOT’s requirement for the Winchester-81 study to apply a 1.5% annual growth rate is too conservative and over-estimates future growth and resultant traffic operations under both the opening (2021) and design year (2040) conditions. The long-term historical data on Route 11 suggests 0.5% annual growth rate is more appropriate. Therefore, this supplemental analysis applies a 0.5% annual growth rate through year 2040.

Table 2. VDOT Historical Average Daily Traffic (ADT) Volumes (2007-2017)

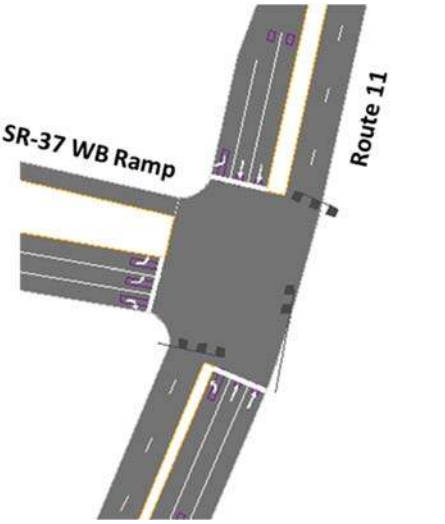
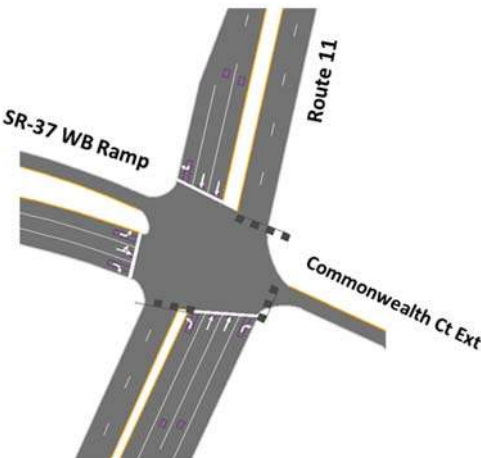
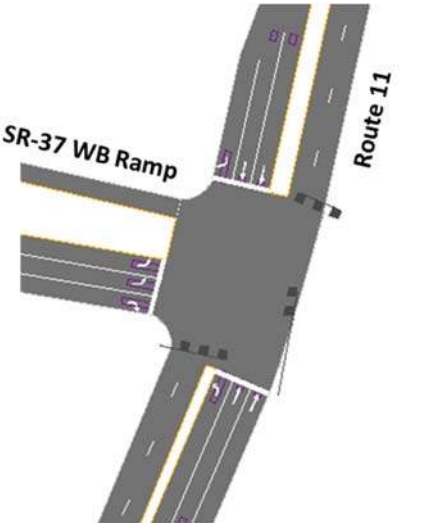
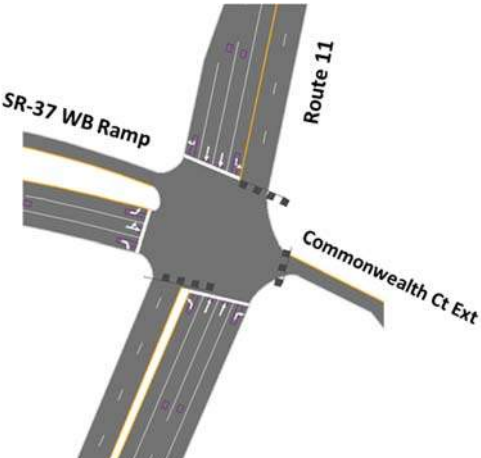
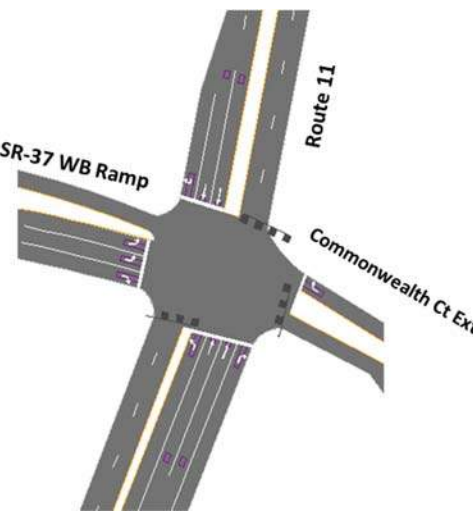
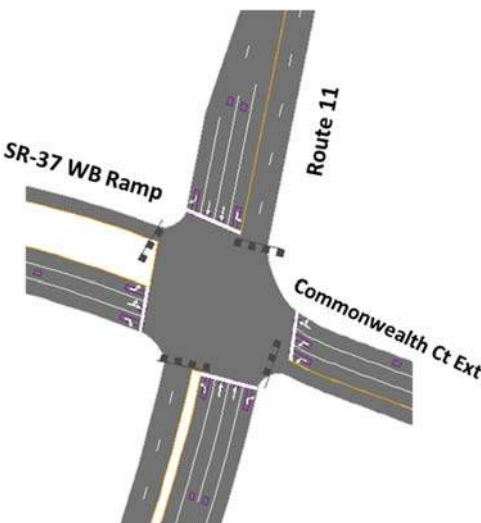
| Year | Route 11 | % Change |
|------------------------------|--------------------|--------------|
| | City Line to SR-37 | |
| 2007 | 17000 | -- |
| 2008 | 16000 | -5.9% |
| 2009 | 16000 | 0.0% |
| 2010 | 17000 | 6.3% |
| 2011 | 17000 | 0.0% |
| 2012 | 17000 | 0.0% |
| 2013 | 17000 | 0.0% |
| 2014 | 16000 | -5.9% |
| 2015 | 17000 | 6.3% |
| 2016 | 17000 | 0.0% |
| 2017 | 16000 | -5.9% |
| Average Annual Growth | | -0.5% |

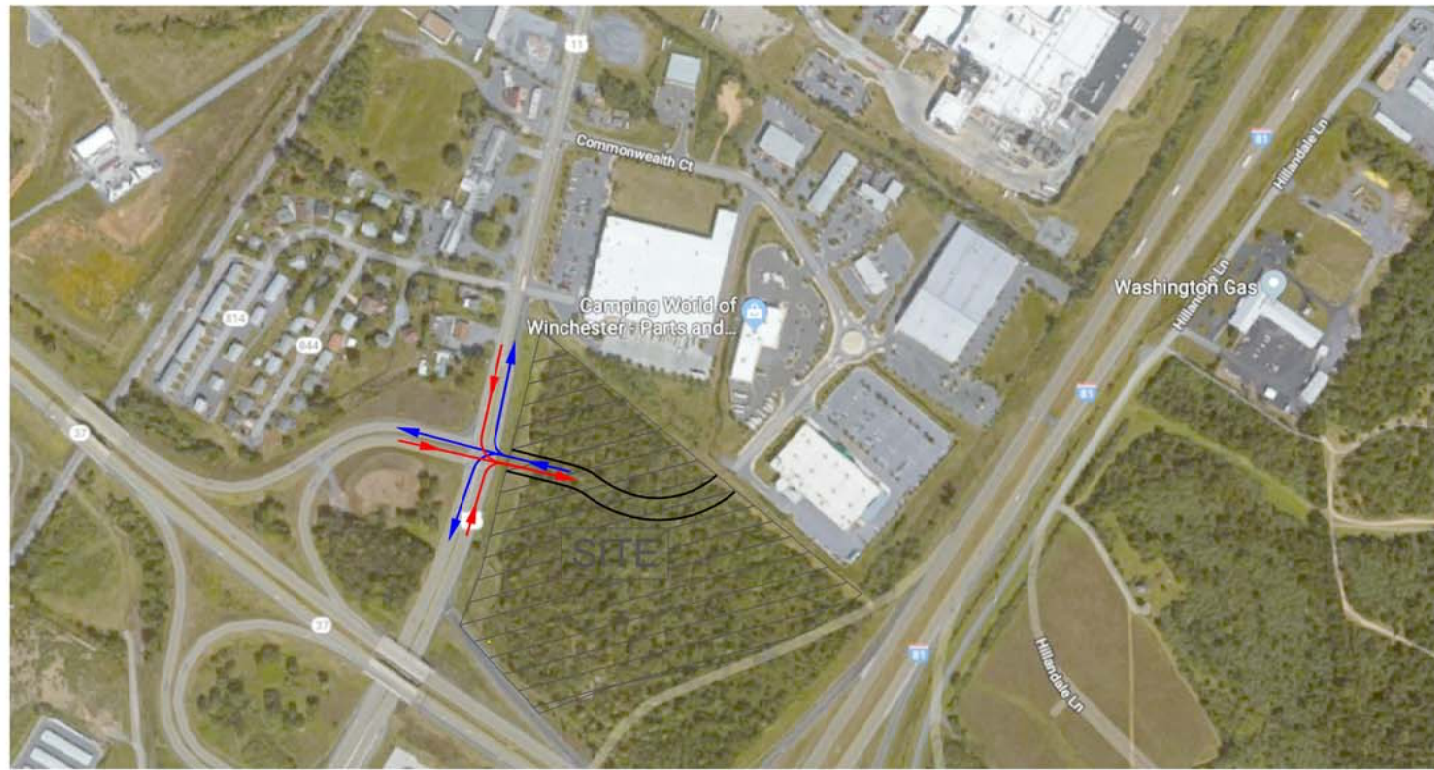
UPDATED TRAFFIC ANALYSES

The analyses of weekday p.m. peak hour total traffic conditions (full build out of the Winchester-81 property) was conducted assuming no ramp widening for analysis years 2021 and 2040. **Table 3** shows the lane configuration assumptions at the westbound off-ramp approach for each access scenario.

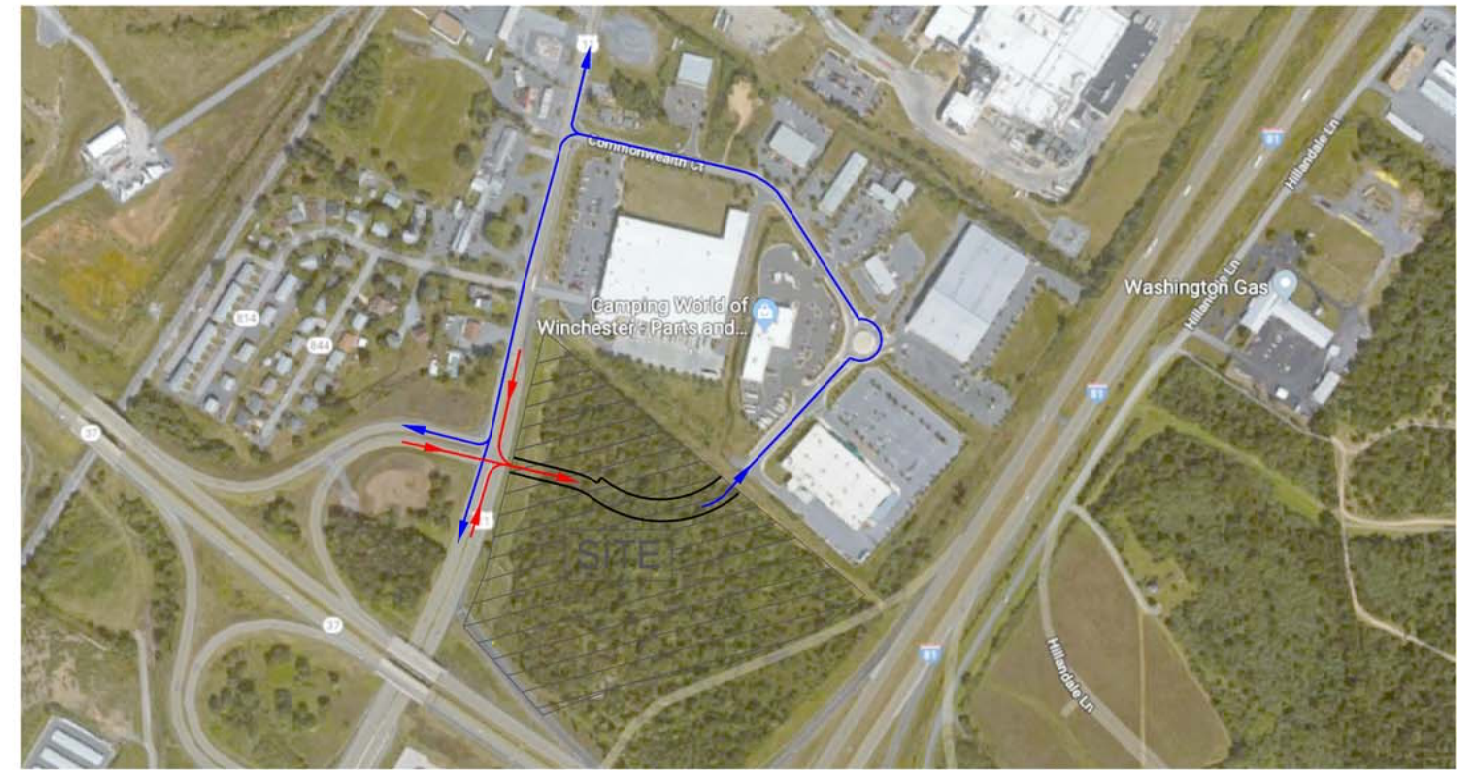
Figure 1 illustrates the various access scenarios and how site-generated traffic would access the Winchester-81 site for each.

Table 3. Lane Configuration Assumptions at Route 11 / SR-37 WB Off-Ramp Intersection

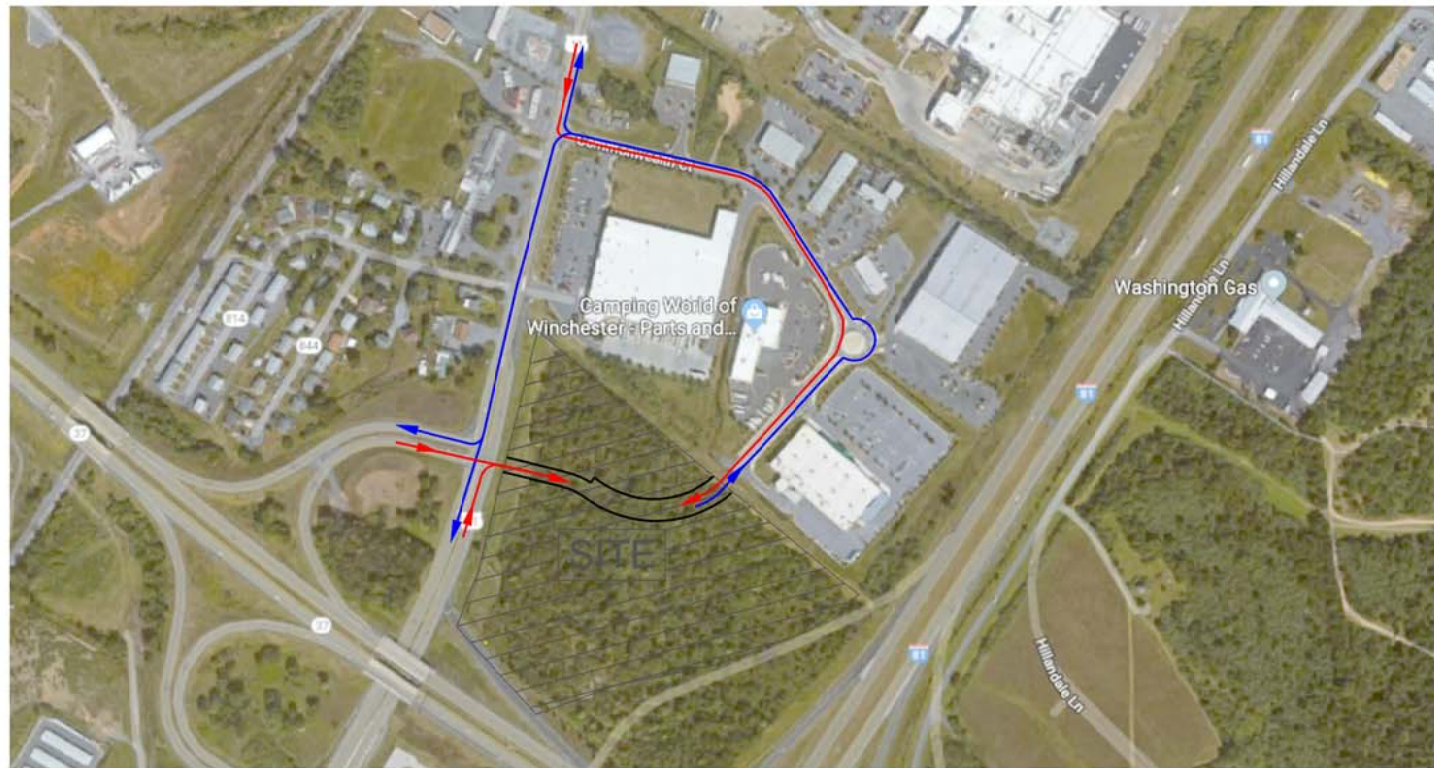
| Access Break | Assumed Lane Configurations | Access Break | Assumed Lane Configurations |
|---|--|--|---|
| <p>No Build/Background</p> <ul style="list-style-type: none"> No development of subject parcel Establish a baseline benchmark |  | <p>Ingress-Only w/out SB Left-In</p> <ul style="list-style-type: none"> Requires break in limited access - NBR into the site; EBT into the site NO outbound traffic is allowed Force all exiting traffic to leave site via Commonwealth and south on Route 11 to return to SR-37 and/or I-81 |  |
| <p>No Access</p> <ul style="list-style-type: none"> No break in limited access All traffic to/from site via Route 11 and Commonwealth Court |  | <p>Ingress-Only w/ SB Left-In</p> <ul style="list-style-type: none"> Requires break in limited access - NBR into the site; EBT into the site; and SBL into the site NO outbound traffic is allowed Force all exiting traffic to leave site via Commonwealth and south on Route 11 to return to SR-37 and/or I-81 |  |
| <p>Ingress-Only (Right In/Right Out Only)</p> <ul style="list-style-type: none"> Requires break in limited access - NBR into the site; and WBR out of the site Force all exiting traffic to leave site via Commonwealth and south on Route 11 to return to SR-37 and/or I-81 No changes at signal phasing or signal timing required This scenario yields similar results to that of No Access break scenario. No detailed analysis is presented in this memo |  | <p>Full Access</p> <ul style="list-style-type: none"> Requires break in limited access All movements are allowed and provide full access in and out of the development Eliminates non-intuitive and out-of-direction travel to access site |  |



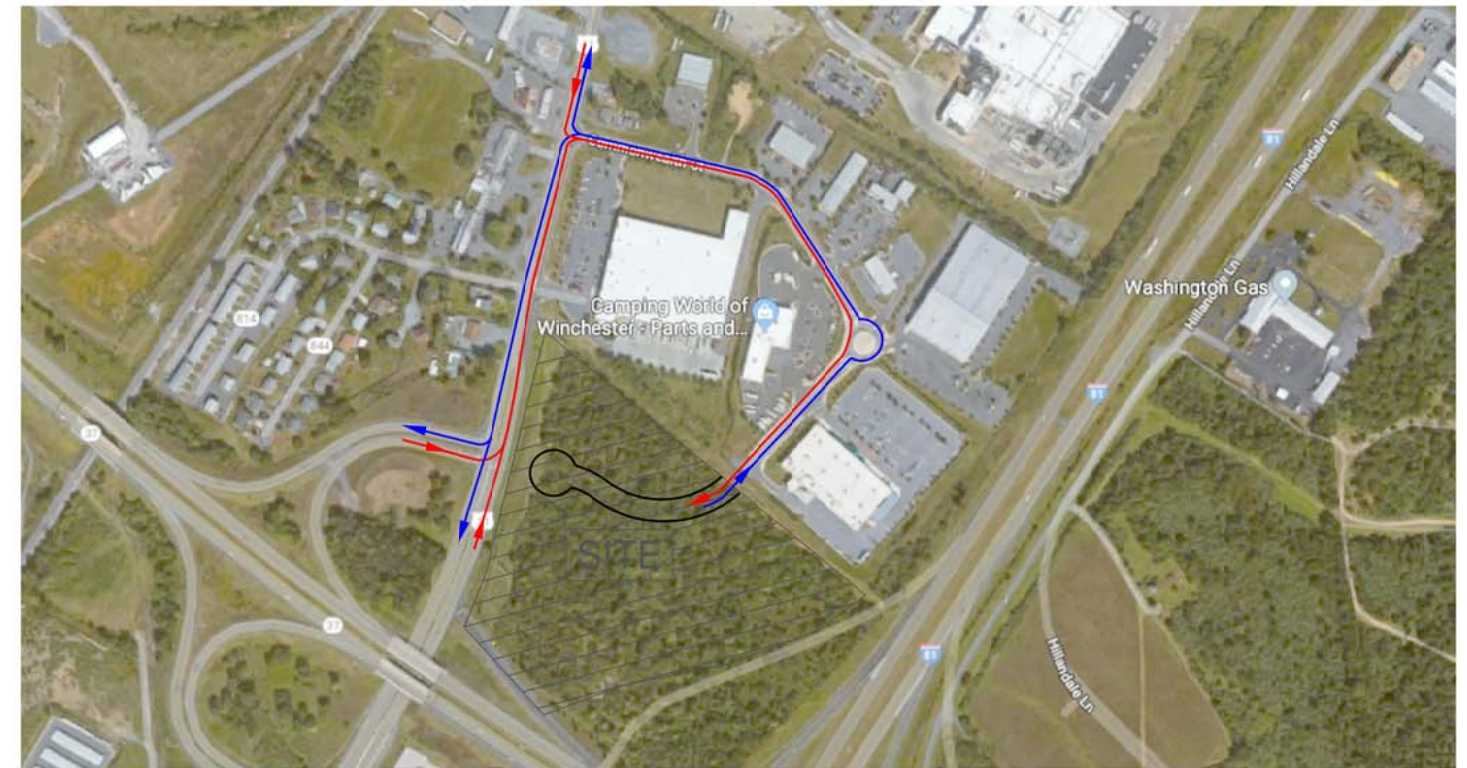
Full Access Break



Ingress-Only with SBL



Ingress-Only without SBL



No Access Break

LEGEND

- INBOUND TRIP ROUTE
- OUTBOUND TRIP ROUTE

**Access Scenarios
Ingress/Egress Comparison
Winchester, Virginia**

Figure 1

H:\1919471 - Winchester, LLC Property\dwgs\19471_Figs_TIA_January 2019.dwg Jan 17, 2019 - 4:30pm - ctesler Layout Tab: AccessScenarios

Intersection Operations

Table 4 provides a comparison of traffic operational results at key intersections. **Attachment A** contains the operational analysis worksheets for all scenarios assuming the SR-37 westbound off-ramp is not widened.

Route 11/Commonwealth Court

The intersection of Route 11 and Commonwealth Court is forecast to operate at LOS F in year 2021 and 2040 under No Access and Ingress-Only scenarios. The intersection will operate at LOS C/D when a full access break is provided.

Route 11/SR-37 WB Ramp Terminal

The intersection of Route 11 and SR-37 WB Off-Ramp is forecast to operate at LOS D or better under all access break scenarios in 2021. In 2040, the intersection will operate at LOS E when a full access break is provided.

Table 4. Intersection Operation Results – PM Peak Hour without SR-37 WB Off-Ramp Widening

| Intersection | 2021 PM No Widened Ramp | | | | |
|----------------------------|-------------------------|-----------|----------------------|---------------------|-------------|
| | Background | No Access | Ingress-Only w/o SBL | Ingress-Only w/ SBL | Full Access |
| Route 11 / Commonwealth Ct | 29.1 (C) | 85.2 (F) | 88.6 (F) | 95.9 (F) | 28.1 (C) |
| Route 11 / SR-37 WB Ramps | 28.0 (C) | 37.1 (D) | 37.4 (D)* | 35.0 (C)* | 50.8 (D)* |
| Intersection | 2040 PM No Widened Ramp | | | | |
| | Background | No Access | Ingress-Only w/o SBL | Ingress-Only w/ SBL | Full Access |
| Route 11 / Commonwealth Ct | 38.0 (D) | 117.5 (F) | 127.0 (F) | 128.1 (F) | 39.3 (D) |
| Route 11 / SR-37 WB Ramps | 32.3 (C) | 52.9 (D) | 47.1 (D)* | 41.6 (D)* | 69.2 (E)* |

*HCM 2000 results since the geometry is not supported by the HCM 2010 methodology.

Route 11 Corridor Operations

Figure 2 illustrates a comparison of Route 11 southbound arterial speed. In 2021, the southbound Route 11 corridor operation conditions are comparable across all access scenarios. By the design year 2040, the corridor operation conditions naturally deteriorate due to additional background growth being assumed over time. Route 11 southbound is forecast to operate with an average arterial speed of 9 mph under the No Access and Ingress-Only Access with SB left-in scenarios, with a decrease of 7 mph compared to the background condition. **Attachment B** contains the corridor operations analysis worksheets for all scenarios assuming the SR-37 westbound off-ramp is not widened.

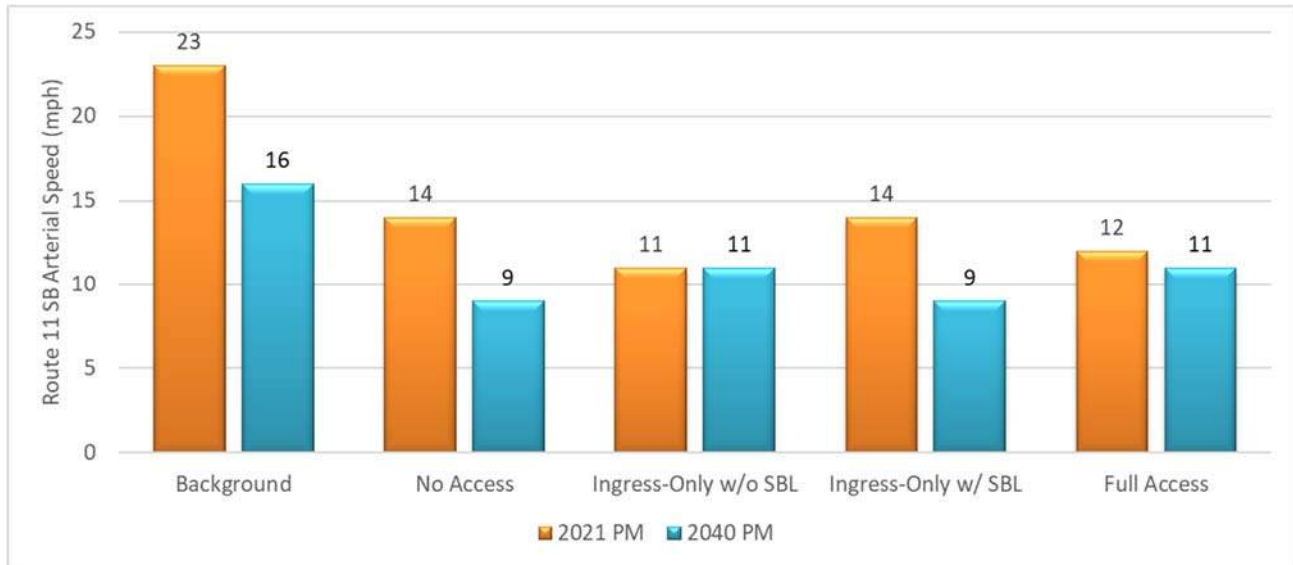


Figure 2. Route 11 Southbound Arterial Speed Comparisons

Site-Generated Traffic vs. Background Growth

Traffic generated by the subject parcel represents a small percentage of overall traffic on Route 11 southbound in the design year when compared to the cumulative increase in traffic volumes due to assumed background growth. It is also noteworthy that as parcel access increases, site-generated traffic impacts on Route 11 southbound decrease. **Table 5** shows the relationship between site-generated traffic and background traffic across the identified access scenarios under year 2040 design year conditions.

Table 5. Percent Contribution to Route 11 Southbound Traffic Volumes – Design Year 2040

| Traffic Generator | Access Scenario | | | |
|--|-----------------|----------------------|---------------------|-------------|
| | No Access | Ingress-Only w/o SBL | Ingress-Only w/ SBL | Full Access |
| Site-Generated Traffic from Subject Site | 13.8% | 8.2% | 8.2% | 0.6% |
| Background Growth | 8.9% | 9.5% | 9.5% | 12.1% |

Queuing Analysis at SR-37 WB Off-Ramp

Figure 3 illustrates a queue comparison for future analysis years. In 2021, the projected queues can be accommodated by the available turning storage lengths under all access scenarios. No queue spill back onto mainline SR-37 (Winchester Bypass) will occur, and adequate sight distance to the back of queue is provided. By the design year 2040, the forecast maximum queues are projected to spill back onto SR-37 under all access scenarios in the off-ramp is not widened.

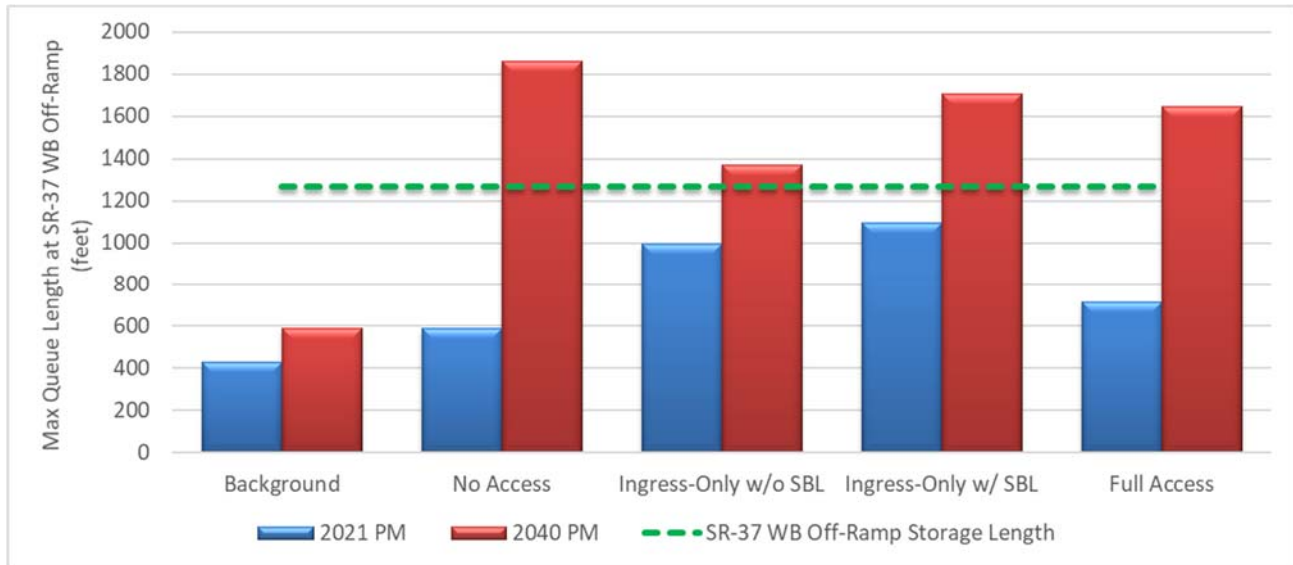


Figure 3. Queue Lengths at SR-37 WB Off-Ramp Comparisons (No Ramp Widening)

OFF-SITE IMPROVEMENTS

The property owner commissioned the Winchester-81 study to set in motion a process to obtain a break in the limited access line along its Route 11 frontage to provide direct access to the site. This access would include construction of an extension of Commonwealth Court through the property to appropriate public street standards, as well as reconstruction/modification of the existing traffic signal at the Route 11/SR-37 WB Ramps intersection to facilitate full access, at the owner’s sole cost.

SR-37 Westbound Off-Ramp Widening

The same intersection- and corridor-level measures of effectiveness (MOEs) consistent with study parameters and forecasting assumptions contained in the Winchester I-81 Property Analysis Report are evaluated with the assumption of the widening of the SR-37 westbound ramp.

Table 6 presents a comparison of traffic operational results at key intersections assuming the SR-37 Westbound Off-Ramp is widened. Widening will not change intersection operations previously reported for the Route 11 / Commonwealth Court intersection. With the ramp widening, the Route 11 / SR-37 WB Ramp intersection is forecast to operate at LOS D or better through design year 2040 under all access scenarios. **Attachment C** contains the operational analysis worksheets for all scenarios assuming the SR-37 westbound off-ramp is widened.

Table 6. Intersection Operation Results – PM Peak Hour with SR-37 WB Off-Ramp Widening

| Intersection | 2021 PM Ramp Widened | | | | |
|----------------------------|----------------------|-----------|----------------------|----------------------|-------------|
| | Background | No Access | Ingress-Only w/o SBL | Ingress-Only w/ SBL | Full Access |
| Route 11 / Commonwealth Ct | 29.1 (C) | 85.2 (F) | 88.6 (F) | 95.9 (F) | 28.1 (C) |
| Route 11 / SR-37 WB Ramps | 28.0 (C) | 37.1 (D) | 28.6 (C)* | 30.2 (C)* | 46.9 (D) |
| Intersection | 2040 PM Ramp Widened | | | | |
| | Background | No Access | Ingress-Only w/ SBL | Ingress-Only w/o SBL | Full Access |
| Route 11 / Commonwealth Ct | 38.0 (D) | 117.5 (F) | 127.0 (F) | 128.1 (F) | 39.3 (D) |
| Route 11 / SR-37 WB Ramps | 32.3 (C) | 52.9 (D) | 33.5 (C)* | 33.3 (C)* | 50.6 (D) |

Figure 4 compares forecast Route 11 southbound arterial speeds across all evaluated access scenarios. The full Access break scenario produces the highest southbound corridor speeds compared to other access scenarios. Provision of full access to the subject site reduces congestion and provides improved progression along southbound Route 11 in both 2021 and 2040 relative to the other access scenarios. **Attachment D** contains the corridor operations analysis worksheets for all scenarios assuming the SR-37 westbound off-ramp is widened.

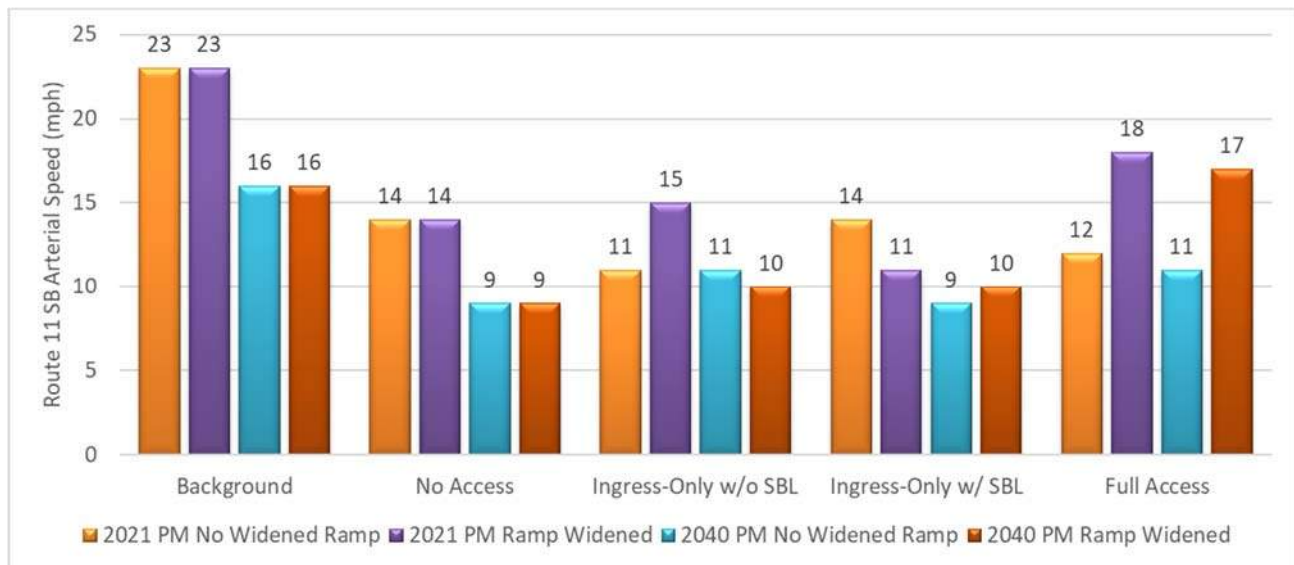


Figure 4. Route 11 Southbound Speed Comparisons – With and Without SR-37 WB Ramp Widening

Figure 5 and **Figure 6** illustrate the forecast queue lengths on the SR-37 westbound off-ramp. In 2021, projected queues can be accommodated by the available turning storage lengths under all access scenarios, though Full Access to the subject site produces the shortest queue compared to the No Access and Ingress-Only scenarios. By the design year 2040, the SR-37 westbound off-ramp queue is forecast to spill back onto mainline SR-37 under all access scenarios if the off-ramp is not widened. If widened, the projected maximum queue is forecast to exceed the available storage under the No Access and Ingress-Only access scenarios. Again, provision of full access to the subject site produces the shortest queues relative to the other access scenarios and will not cause queues on the off-ramp to spill back onto

mainline SR-37 or adversely impact the operations along Route 11 or SR-37 when the off-ramp is widened to a four-lane cross-section.

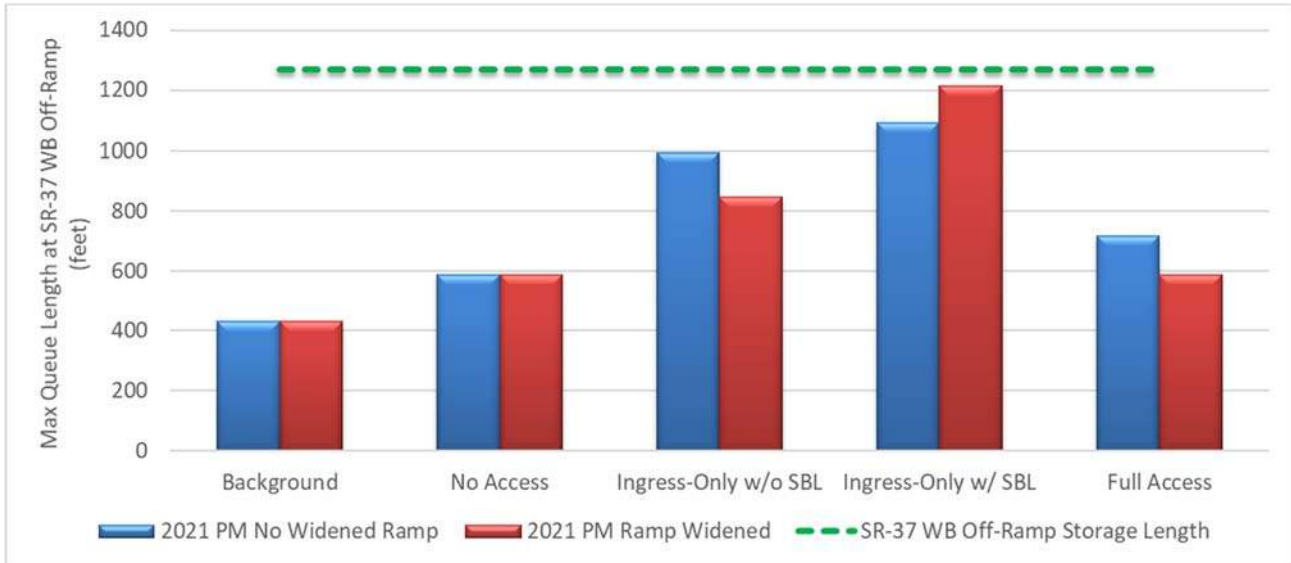


Figure 5. Year 2021 Queue Lengths at SR-37 WB Off-Ramp Comparisons – With and Without SR-37 WB Off-Ramp Widening

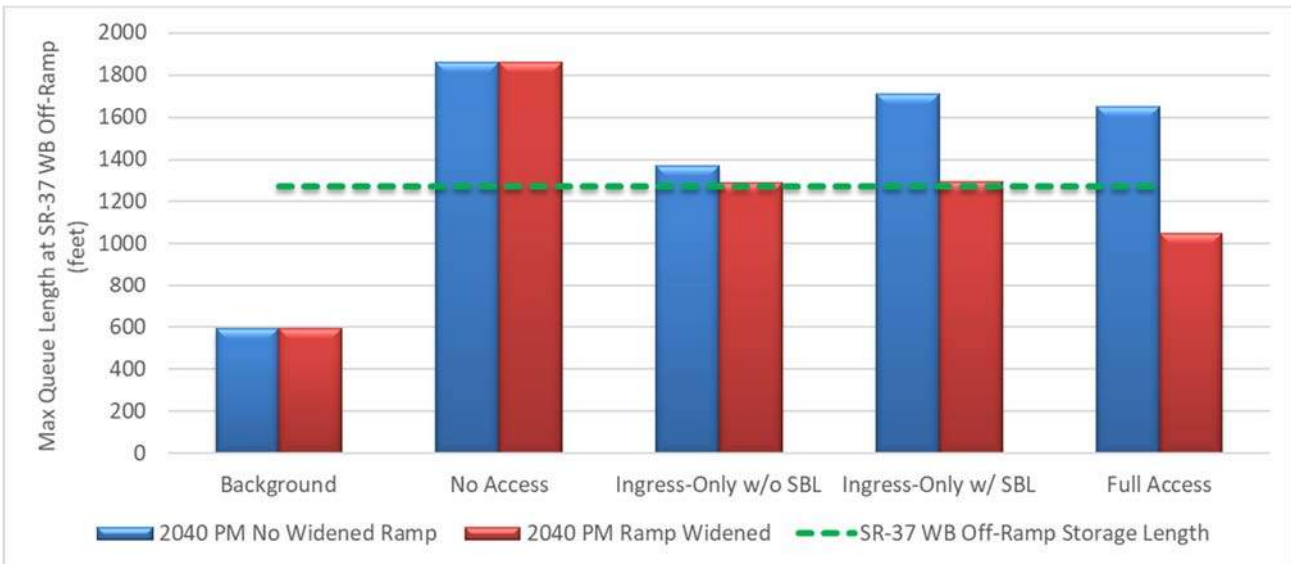


Figure 6. Year 2040 Queue Lengths at SR-37 WB Off-Ramp Comparisons – With and Without SR-37 WB Off-Ramp Widening

Traffic Signal Phasing/Timing

Providing a limited access break would add a signal phase to the SR-37 Westbound Ramp Terminal traffic signal for the Full Access scenario. Ingress-Only access scenarios require some signal timing/green time reallocation between various movements. All signal phasing and timing parameters were adjusted in accordance with VDOT Traffic Engineering Memorandum TE 306.1 to account for new inbound movements. Key findings related to signal phasing/timing for each access scenario are summarized below.

- **Full Access**

- Adds a signal phase to allow outbound movements.
 - Without SR-37 off-ramp widening, the eastbound/off-ramp approach and westbound approach must operate with split phasing (EB and WB movements operate sequentially).
 - With SR-37 off-ramp widening, protected left-turn phasing facilitates concurrent EB/WB left-turn movements, improving the efficiency of the signal operation and operates acceptably through design year 2040.

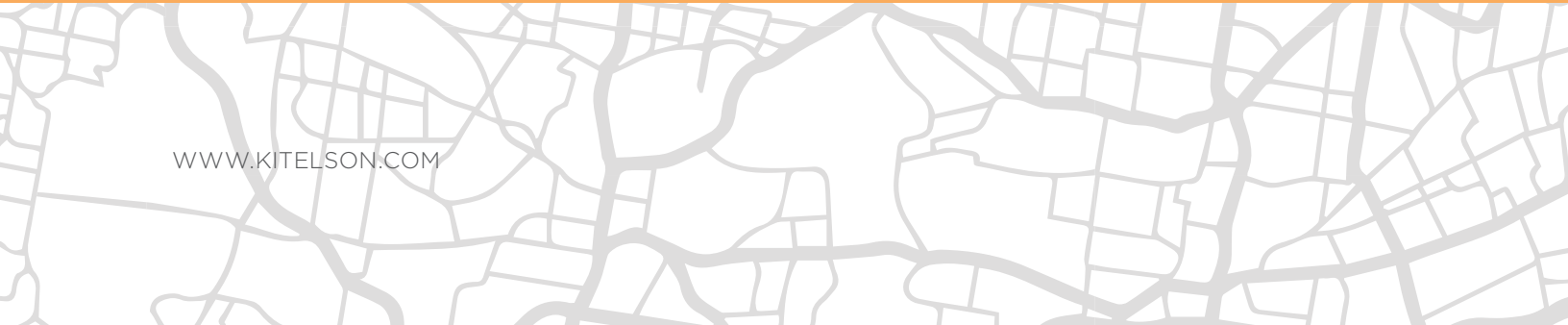
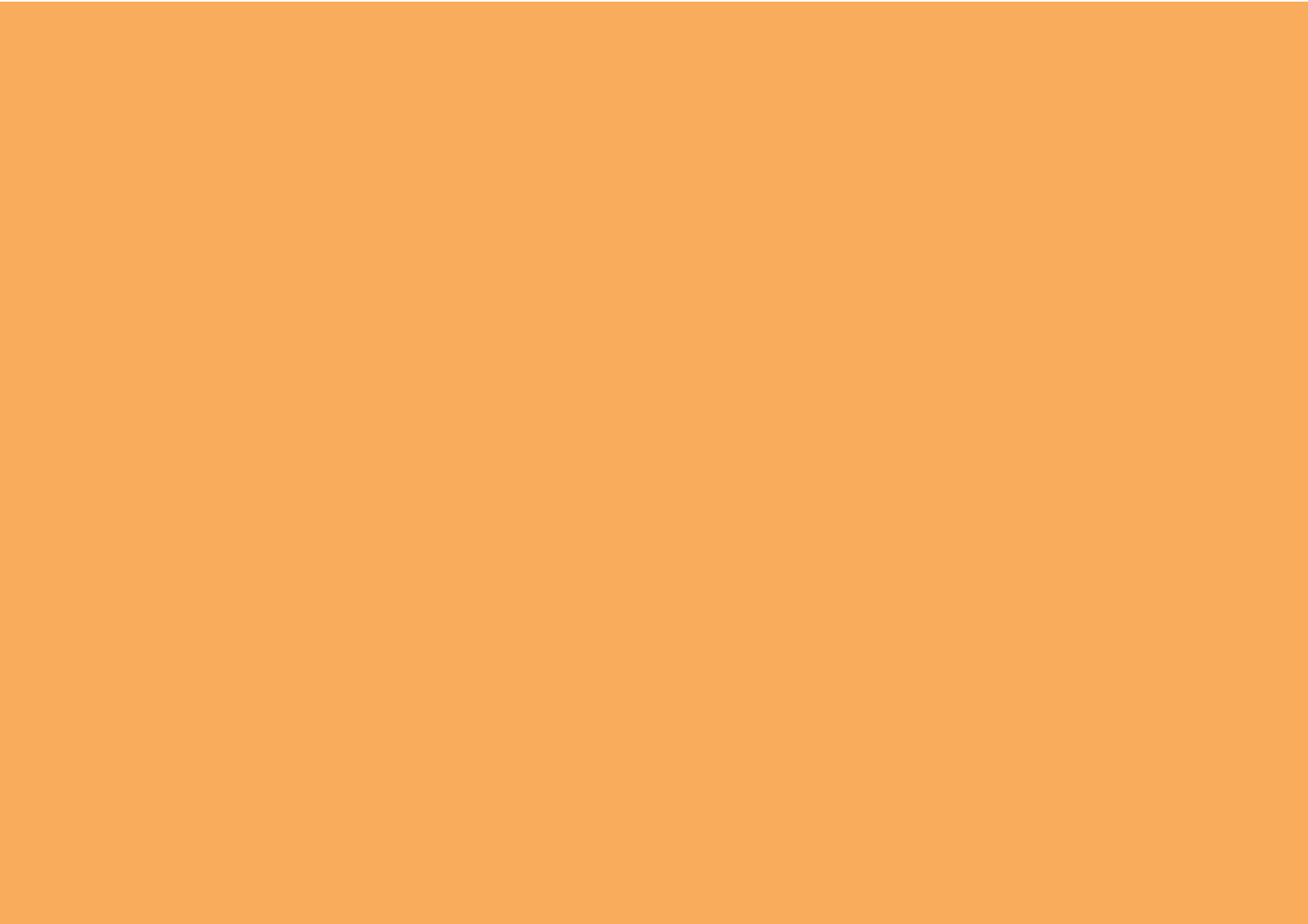
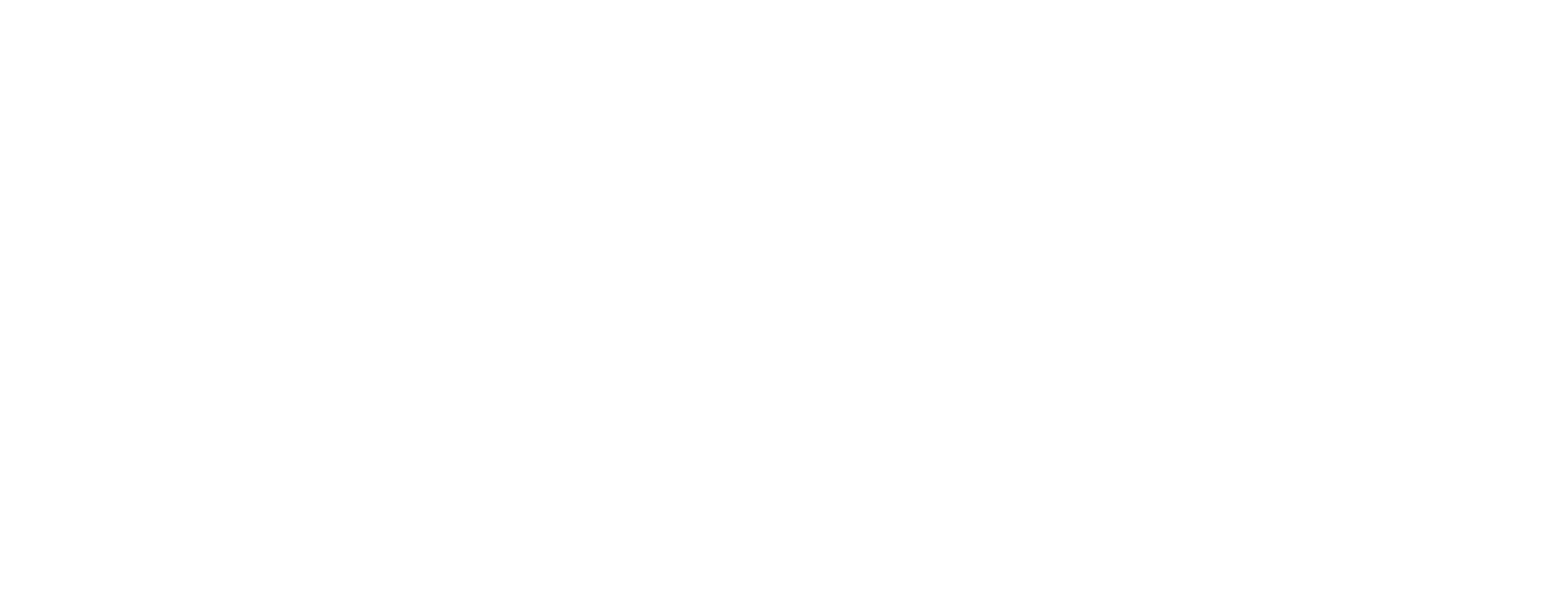
- **Ingress-Only** (with SB left-turn in & without SB left-turn in)

- Neither scenario adds a signal phase but requires a small amount of green time (approximately 8-9 seconds) be reallocated from the NB Route 11 through movement.
 - This reallocation of green time does not change the intersection LOS or the specific northbound Route 11 through movement LOS in design year 2040.
 - Average delay increase to NB Route 11 through movement without ramp widening:
 - 8.7 seconds
 - Average delay increase to NB Route 11 through movement with ramp widening:
 - 6.0 seconds if SR-37 Westbound Off-Ramp is widened

- **No Access**

- Does not add a signal phase.

Overall, the signal phasing/timing changes required by any access scenario are relatively minor, and the Full Access scenario produces acceptable design year 2040 operational results at the SR-37 Westbound Ramp Terminal signal and consistently produces the best overall transportation system performance relative to the other access scenarios.





**WALSH COLUCCI
LUBELEY & WALSH PC**

Michael J. Coughlin
(703) 680-4664 Ext. 5113
mcoughlin@thelandlawyers.com
Fax: (703) 680-2161

December 18, 2018

Via First Class Mail and E-mail

John Bishop, AICP
Assistant Director, Transportation
Frederick County, Virginia
107 North Kent Street
Suite 202
Winchester, VA 22601

Re: Winchester-81, LLC and Revenue Sharing Application
Project ID: F7-0000003138-R01

Dear John:

On behalf of my client, Winchester-81, LLC, I am writing regarding our client's intentions related to the Revenue Sharing Application identified above. As you know, our client submitted an application for a change in limited access on December 28, 2015. After VDOT dictated the terms of a scoping agreement for a global traffic study, on September 5, 2017, our client's consultant submitted that study to VDOT.

The scoping agreement dictated by VDOT required our consultant to assume an annual growth rate of 1.5% per year, as opposed to the 0.5% identified in the WinFred MPO study for the Route 11 corridor from Route 37 to the City of Winchester. However, despite an unreasonable background growth assumption, the global traffic study concluded that permitting full access into the site benefited the transportation network relative to the other restricted-access scenarios evaluated, and that the level of service at studied intersections after the full completion of our client's development, assumed to be in 2021, was acceptable.

Nonetheless, representatives from VDOT indicated that, in order to receive support from the Staunton District office for the limited access break request, our client had to commit to widening Route 11 southbound from Commonwealth Court to the Route 37 ramp, and that our client had to commit to widening the Route 37 ramp by one lane. After it became clear that VDOT would not back-off these unreasonable demands for off-site improvements, the need for which are not generated by the development of our client's property, we worked with VDOT and Frederick County staff to develop a plan to accommodate the requested off-site improvements.

ATTORNEYS AT LAW

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4310 PRINCE WILLIAM PARKWAY ■ SUITE 300 ■ PRINCE WILLIAM, VA 22192

LOUDOUN 703 737 3633 ■ ARLINGTON 703 528 4700

This plan ultimately included preparing supporting documentation for the Revenue Sharing Application. The supporting documentation included cost estimates prepared by Greenway Engineering for the two improvements, and Greenway's estimates totaled \$1,701,000 for the two projects. Cost estimates for each project were shared with VDOT on October 6, 2017, with a response requested by October 10, 2017. When no response was received, we assumed that the estimates were reasonable, and ultimately the Revenue Sharing Application was submitted by you on or about October 31, 2017.

However, months after the revenue sharing application was submitted, VDOT staff expressed concerns that the cost estimates were too low, and on March 7, 2018, VDOT staff indicated that it had not moved forward with an advertisement for willingness to hold a public hearing on the request for a change in limited access because of these concerns. Following further discussions with VDOT regarding numerous contingencies and additional costs that VDOT believed should be included in the cost estimating, the overall costs for the projects using VDOT's estimating tool swelled to \$3,018,863.

Ultimately, the Commonwealth Transportation Board approved the Revenue Sharing Application. But with only \$850,500 in revenue sharing funds available, our client's expected contribution to cover the remaining cost would be \$2,168,363, and the expectation is that our client would have to make that payment up-front, before any development on the property commences.

This is an unacceptable outcome, and completely unwarranted based on the anticipated traffic from the 17 acre site remaining after the VDOT taking. With only 12.9 acres of usable land after stormwater, utilities, and the road from the Route 11 entrance is connected to Commonwealth Court are accounted for, a cost of \$2,168,363 for unnecessary off-site improvements amounts to \$3.86 per usable square feet; no landowner would agree to incur these costs because the value of the property or anticipated rents would not be sufficient to recover these costs.

Adding to our client's frustration is VDOT's suggestion that it will also ask our client to pay VDOT compensation for the limited access change, with no commitment that any costs for off-site improvements will reduce the compensation owed for obtaining the limited access change. To-date, VDOT has not identified a way for these projects to move forward at a reduced cost, nor has it presented a comprehensive deal that makes sense financially or objectively.

Consequently, our client will not be proceeding with the revenue sharing project. Instead, we will continue our discussions with the County, and VDOT, regarding obtaining a change in limited access along our client's Route 11 frontage, and we are hopeful that these discussions result in an outcome that is acceptable to our client, as well as the County, and VDOT.

Sincerely,

WALSH, COLUCCI,
LUBELEY & WALSH, P.C.

A handwritten signature in blue ink, appearing to read 'M. J. Coughlin', is written over a light gray rectangular background.

Michael J. Coughlin

cc: **VIA E-MAIL**
Supervisor Gary Lofton
Supervisor Charles DeHaven
Commissioner F. Dixon Whitworth Jr.
Mr. Randy S. Kiser
Mr. Jeffrey Lineberry
Mr. Terry Short

John Bishop

From: Coughlin, Michael J. <mcoughlin@thelandlawyers.com>
Sent: Friday, January 18, 2019 3:31 PM
To: John Bishop
Subject: Full Access--Winchester-81, LLC
Attachments: 19471_Supplemental Traffic Analysis_FINAL (P0875463).pdf; 19471_Supplemental Traffic Analysis_FINAL (No Appendices) (P0875464).pdf

Importance: High

John,

Attached please find an analysis from Kittelson & Associates that demonstrates that providing full access to the Winchester-81, LLC property is by far the best alternative. We have provided a version with, and without, the appendices.

As you know, we have been working since 2015, on behalf of Winchester-81, LLC, to obtain approval from VDOT for a change in the limited access control along our client's Route 11 frontage and opposite the Route 37 ramp. Recently, our client indicated that it was unable to move forward with the two projects that were part of a revenue sharing application because the \$2.3 million net cost to our client was untenable and unjustified.

We ask that you forward this e-mail and the attached analysis from Kittelson & Associates to the members of the Frederick County Transportation Committee. As you will see, the Kittelson analysis, in addition to concluding that full access is best for the transportation network, also concludes that it is not necessary to widen Route 11 southbound from Commonwealth Court to the Route 37 ramp, and that this is not an improvement to Route 11 that will be required because of our client's anticipated development. The report does recommend widening the Route 37 ramp by 2030, although the need for the widening of the ramp is not entirely caused by our client's anticipated development.

At the Transportation Committee meeting, we will be requesting that the Committee recommend to the Board of Supervisors that it adopt a resolution supporting providing full access into the property, without any widening of Route 11 southbound, and with reasonable conditions related to the widening of the Route 37 ramp. This will assist in helping to bring tax generating businesses to the Winchester-81 property.

Thank you for your assistance in this matter and please do not hesitate to contact me should you need anything else from me or my client.

Best regards,



Michael J. Coughlin | Shareholder

Walsh, Colucci, Lubeley & Walsh, P.C.

4310 Prince William Parkway | Suite 300 | Prince William, VA 22192

Phone: 703.680.4664 x5113 | Fax: 703.680.2161

mcoughlin@thelandlawyers.com | www.thelandlawyers.com

Named to the *U.S. News & World Report* Best Law Firms, 2016–2018

Ranked in *Chambers USA*, Band 1, Real Estate Firm, Northern Virginia, 2007–2018

PROJECT IDENTIFICATION:

TYPE OF CHANGE:

RESIDENCY:

CONTACT:

CHECKLIST FOR CHANGES TO LIMITED ACCESS

- 1.) Written request to District Administrator for a Change in Limited Access (“LA”)
- 2.) Resolution, letter of support or formal request from locality where the LA change is being requested.
- 3.) Global Traffic Analysis provided by Requestor.
- 4.) Environmental Analysis provided by Requestor.
- 5.) Payment of anticipated expenses associated with VDOT posting “Willingness For Public Comment.” **[NOTE: This may be waived by the Chief Engineer if the Requestor is a locality.]**
- 6.) Posting a deposit to cover VDOT’s estimated costs in reviewing and processing the request up to presentation to the CTB.
- 7.) Written review and approval by VDOT of the Global Traffic Analysis, including approval of any signalization planned or other new/additional traffic conditions related to the LA.
- 8.) Written review and approval of the Environmental Analysis including, if in a non-attainment area, an air quality review.
- 9.) A written summary of the proposed activity including: location; stationing; turning movements; length of break (if being requested); median breaks; whether right/left turn lanes will be required and, if so, where located; dual or single turn lanes; whether acceleration/deceleration/transition lanes will be required and, if so, where; signalization required.
- 10.) Copies of the plans for construction of the LA Break or movement of the LA line and any new/additional traffic engineering conditions.
- 11.) Copies of the most recent VDOT acquisition plan sheets marked to show the proposed activity including the beginning and ending stations.
- 12.) Copies of the Public “Notice of Willingness . . .”, the beginning and ending dates of the ad and a summary of all comments received.
- 13.) Copies of deeds, certificates or Final Orders where VDOT acquired the underlying property along with any recorded plats (marked in color.) ***[Dist. Right of Way Provides This – Upon Request.]***
- 14.) Memo from Residency Administrator to District Administrator recommending the LA request.
- 15.) Memo from the District Administrator to the Chief Engineer recommending the request for a change to Limited Access. ***[Dist. Right of Way Provides This.]***
- 16.) Letter from District R/W & Util. Manager to R/W Director stating whether or not value will be added to the adjoining property by virtue of the change. ***[Dist. Right of Way Provides this.]***

FINAL REGULATIONS

For information concerning Final Regulations, see Information Page.

Symbol Key

Roman type indicates existing text of regulations. *Italic type* indicates new text. Language which has been stricken indicates text to be deleted. [Bracketed language] indicates a change from the proposed text of the regulation.

TITLE 24. TRANSPORTATION AND MOTOR VEHICLES

COMMONWEALTH TRANSPORTATION BOARD

REGISTRAR'S NOTICE: The Department of Transportation is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4002 B 4 of the Code of Virginia, which exempts regulations relating to grants of state or federal funds or property.

Titles of Regulations: 24 VAC 30-400. Disposal of Limited Access Control (repealing 24 VAC 30-400-10 through 24 VAC 30-400-40).

24 VAC 30-401. Change of Limited Access Control (adding 24 VAC 30-401-10 through 24 VAC 30-401-40).

Statutory Authority: § 33.1-58 of the Code of Virginia.

Effective Date: February 14, 2006.

Agency Contact: Stuart A. Waymack, Director, Right of Way and Utilities Division, Department of Transportation, 1401 East Broad Street, Richmond, VA 23219, telephone (804) 786-2923, FAX (804) 786-1706 or e-mail stuart.waymack@vdot.virginia.gov.

Summary:

This regulation establishes the rules pertaining to payment of damages to property owners abutting a new or existing highway when easements are extinguished. The regulation (i) makes requestors of changes in limited access subject to additional procedural and monetary requirements regarding such changes, (ii) establishes clear lines of authority for various levels of decision making, (iii) provides that public input be formally collected prior to Commonwealth Transportation Board action on request changes, and (iv) permits VDOT greater flexibility to issue instructions on implementation of the regulation.

CHAPTER 401.

CHANGE OF LIMITED ACCESS CONTROL.

24 VAC 30-401-10. Authority.

A. Pursuant to the authority granted by § 33.1-58 of the Code of Virginia, the Commonwealth Transportation Board (CTB) may designate all or any part of any existing or new highway as limited access, as the term "limited access highway" is defined in § 33.1-57 of the Code of Virginia, the designation of which requires the CTB to extinguish all easements of access, light or air. Actions regarding limited access control, including changes in control, require CTB approval. These changes typically include shifting, moving, or breaking control, or any combination of these, after a project is completed, finalized and serving in its intended capacity. The commissioner shall pay damages, if any, to owners of

properties abutting the existing or new highway for the extinguishment of these rights. This chapter establishes the rules pertaining to change of limited access control.

B. The commissioner or his designee may issue additional instructions to implement this chapter.

24 VAC 30-401-20. Policy and conditions.

A. Any change in limited access that is not covered under the General Rules and Regulations of the Commonwealth Transportation Board (24 VAC 30-20-80) as authorized by the CTB or commissioner in the department's Land Use Permit Manual (24 VAC 30-150) is considered a change of limited access control.

B. Change of limited access control will be considered only in limited, special situations. The CTB will not consider a change in limited access control without a written determination from the chief engineer.

C. Any proposed change in limited access control shall, at a minimum, meet the following conditions:

1. Requests for limited access control changes shall be made in writing to the district administrator in charge of the construction district where the requested change in limited access control is proposed.

2. Requests must be accompanied by the following:

a. A resolution, letter of support, or formal request, or any combination of these, from the locality within which the highway is located where the change in limited access is proposed.

b. A global traffic analysis prepared by the requestor, which the department will review and approve prior to further action.

c. An environmental analysis of the proposed change in limited access provided by the requestor, which the department will review and approve prior to further action.

3. Prior to review by the department, requestors shall:

a. Pay for expenses associated with the department's posting of a Willingness for Public Comment notice to allow public input to be collected concerning the request prior to CTB action. If the requestor is a locality making a request for change in limited access control for public transportation purposes, the chief engineer may waive the requirement to pay for the posting.

b. Post a deposit sufficient to cover the estimated cost associated with considering the request, including the department's expenses in completing the required reviews, posting, approvals, and any other steps involved. The amount of the deposit will be determined by the estimated amount of research and engineering

Final Regulations

and the cost of the appraisal required to process the request prior to CTB approval. If the actual cost to consider the request exceeds the estimated cost, the requestor shall pay the department the difference. This sum is in addition to any monetary compensation required.

the function or operation of the existing interstate system highway facility, and federal funds were used in construction, the Federal Highway Administration shall approve the change or break in access. This approval is required prior to any consideration by the CTB.

VA.R. Doc. No. R06-196; Filed February 14, 2006, 2:12 p.m.

4. A determination by the chief engineer that the change will not adversely affect the safety or operation of the highway.

5. If the location of the request for limited access control change is in an area determined to be a nonattainment area for air quality, the district must verify that the proposed limited access change has been through an air quality conformity review.

D. If the proposed change in limited access does not meet the conditions set forth above, the chief engineer is authorized to deny the request. The chief engineer shall notify the requestor in writing of the denial and the right to a review by the CTB.

E. The chief engineer shall notify the CTB of all denials.

F. The requestor, within 30 days of the date of denial, and any CTB member may request the full CTB to review any denials for change of limited access.

G. Upon the date of CTB approval of the request, the requestor shall have 180 days to submit the monetary or other consideration, and to secure all necessary permits from the department. Failure to comply with these requirements within the specified period shall render the CTB approval void. The department will convey any necessary land rights as necessary to comply with the request.

24 VAC 30-401-30. Monetary compensation.

A. Monetary compensation or other valuable consideration shall be required for any change in limited access control. Compensation due the department for such change of limited access control shall be determined by an appraisal process approved by the commissioner or his designee. The compensation shall be determined by using the before and after evaluation to determine the enhancement, if any, to adjoining property or properties as a result of CTB change of access control. This compensation determination shall be in an amount determined by the commissioner or his designee.

B. The costs of providing any safety or operational improvements necessary for the safety of the traveling public will be borne by the party or parties granted a change in limited access control in addition to the compensation determined by the appraisal process. The commissioner or his designee shall approve any such compensation or other consideration, when all reviews and preliminary approvals are completed, and prior to CTB consideration. The chief engineer shall approve the necessary safety or operational improvements.

24 VAC 30-401-40. Federal Highway Administration approval.

If federal funds were used in right of way acquisition on interstate system projects, or if there is a significant change in

24VAC30-401-10. Authority.

A. Pursuant to the authority granted by § 33.1-58 of the Code of Virginia, the Commonwealth Transportation Board (CTB) may designate all or any part of any existing or new highway as limited access, as the term "limited access highway" is defined in § 33.1-57 of the Code of Virginia, the designation of which requires the CTB to extinguish all easements of access, light or air. Actions regarding limited access control, including changes in control, require CTB approval. These changes typically include shifting, moving, or breaking control, or any combination of these, after a project is completed, finalized and serving in its intended capacity. The commissioner shall pay damages, if any, to owners of properties abutting the existing or new highway for the extinguishment of these rights. This chapter establishes the rules pertaining to change of limited access control.

B. The commissioner or his designee may issue additional instructions to implement this chapter.

Statutory Authority

§ 33.1-58 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 22, Issue 13, eff. February 14, 2006.

24VAC30-401-20. Policy and conditions.

A. Any change in limited access that is not covered under the General Rules and Regulations of the Commonwealth Transportation Board (24VAC30-20-80) as authorized by the CTB or commissioner in the department's Land Use Permit Manual (24VAC30-150) is considered a change of limited access control.

B. Change of limited access control will be considered only in limited, special situations. The CTB will not consider a change in limited access control without a written determination from the chief engineer.

C. Any proposed change in limited access control shall, at a minimum, meet the following conditions:

1. Requests for limited access control changes shall be made in writing to the district administrator in charge of the construction district where the requested change in limited access control is proposed.

2. Requests must be accompanied by the following:

a. A resolution, letter of support, or formal request, or any combination of these, from the locality within which the highway is located where the change in limited access is proposed.

b. A global traffic analysis prepared by the requestor, which the department will review and approve prior to further action.

c. An environmental analysis of the proposed change in limited access provided by the requestor, which the department will review and approve prior to further action.

3. Prior to review by the department, requestors shall:

a. Pay for expenses associated with the department's posting of a Willingness for Public Comment notice to allow public input to be collected concerning the request prior to CTB action. If the requestor is a locality making a request for change in limited access control for public transportation purposes, the chief engineer may waive the requirement to pay for the posting.

b. Post a deposit sufficient to cover the estimated cost associated with considering the request, including the department's expenses in completing the required reviews, posting, approvals, and any other steps involved. The amount of the deposit will be determined by the estimated amount of research and engineering and the cost of the appraisal required to process the request prior to CTB approval. If the actual cost to consider the request exceeds the estimated cost, the requestor shall pay the department the difference. This sum is in addition to any monetary compensation required.

4. A determination by the chief engineer that the change will not adversely affect the safety or operation of the highway.

5. If the location of the request for limited access control change is in an area determined to be a nonattainment area for air quality, the district must verify that the proposed limited access change has been through an air quality conformity review.

D. If the proposed change in limited access does not meet the conditions set forth above, the chief engineer is authorized to deny the request. The chief engineer shall notify the requestor in writing of the denial and the right to a review by the CTB.

E. The chief engineer shall notify the CTB of all denials.

F. The requestor, within 30 days of the date of denial, and any CTB member may request the full CTB to review any denials for change of limited access.

G. Upon the date of CTB approval of the request, the requestor shall have 180 days to submit the monetary or other consideration, and to secure all necessary permits from the department. Failure to comply with these requirements within the specified period shall render the CTB approval void. The department will convey any necessary land rights as necessary to comply with the request.

Statutory Authority

§ 33.1-58 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 22, Issue 13, eff. February 14, 2006.

24VAC30-401-30. Monetary compensation.

A. Monetary compensation or other valuable consideration shall be required for any change in limited access control. Compensation due the department for such change of limited access control shall be determined by an appraisal process approved by the commissioner or his designee. The compensation shall be determined by using the before and after evaluation to determine the enhancement, if any, to adjoining property or properties as a result of CTB change of access control. This compensation determination shall be in an amount determined by the commissioner or his designee.

B. The costs of providing any safety or operational improvements necessary for the safety of the traveling public will be borne by the party or parties granted a change in limited access control in addition to the compensation determined by the appraisal process. The commissioner or his designee shall approve any such compensation or other consideration, when all reviews and preliminary approvals are completed, and prior to CTB consideration. The chief engineer shall approve the necessary safety or operational improvements.

Statutory Authority

§ 33.1-58 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 22, Issue 13, eff. February 14, 2006.

24VAC30-401-40. Federal Highway Administration approval.

If federal funds were used in right of way acquisition on interstate system projects, or if there is a significant change in the function or operation of the existing interstate system highway facility, and federal funds were used in construction, the Federal Highway Administration shall approve the change or break in access. This approval is required prior to any consideration by the CTB.

Statutory Authority

§ 33.1-58 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 22, Issue 13, eff. February 14, 2006.

24VAC30-401-20. Policy and Conditions.

A. Any change in limited access that is not covered under the General Rules and Regulations of the Commonwealth Transportation Board (24VAC30-21) as authorized by the CTB or commissioner in the department's Land Use Permit Regulations (24VAC30-151) is considered a change of limited access control.

B. Change of limited access control will be considered only in limited, special situations. The CTB will not consider a change in limited access control without a written determination from the chief engineer.

C. Any proposed change in limited access control shall, at a minimum, meet the following conditions:

1. Requests for limited access control changes shall be made in writing to the district administrator in charge of the construction district where the requested change in limited access control is proposed.

2. Requests must be accompanied by the following:

a. A resolution, letter of support, or formal request, or any combination of these, from the locality within which the highway is located where the change in limited access is proposed.

b. A global traffic analysis prepared by the requestor, which the department will review and approve prior to further action.

c. An environmental analysis of the proposed change in limited access provided by the requestor, which the department will review and approve prior to further action.

3. Prior to review by the department, requestors shall:

a. Pay for expenses associated with the department's posting of a Willingness for Public Comment notice to allow public input to be collected concerning the request prior to CTB action. If the requestor is a locality making a request for change in limited access control for public transportation purposes, the chief engineer may waive the requirement to pay for the posting.

b. Post a deposit sufficient to cover the estimated cost associated with considering the request, including the department's expenses in completing the required reviews, posting, approvals, and any other steps involved. The amount of the deposit will be determined by the estimated amount of research and engineering and the cost of the appraisal required to process the request prior to CTB approval. If the actual cost to consider the request exceeds the estimated cost, the requestor shall pay the department the difference. This sum is in addition to any monetary compensation required.

4. A determination by the chief engineer that the change will not adversely affect the safety or operation of the highway.

5. If the location of the request for limited access control change is in an area determined to be a nonattainment area for air quality, the district must verify that the proposed limited access change has been through an air quality conformity review.

D. If the proposed change in limited access does not meet the conditions set forth above, the chief engineer is authorized to deny the request. The chief engineer shall notify the requestor in writing of the denial and the right to a review by the CTB.

E. The chief engineer shall notify the CTB of all denials.

F. The requestor, within 30 days of the date of denial, and any CTB member may request the full CTB to review any denials for change of limited access.

G. Upon the date of CTB approval of the request, the requestor shall have 180 days to submit the monetary or other consideration, and to secure all necessary permits from the department. Failure to comply with these requirements within the specified period shall render the CTB approval void. The department will convey any necessary land rights as necessary to comply with the request.

Statutory Authority

§§ [33.2-210](#) and [33.2-401](#) of the Code of Virginia.

Historical Notes

Derived from [Volume 22, Issue 13](#), eff. February 14, 2006; amended, Virginia Register [Volume 27, Issue 16](#), eff. May 11, 2011.

LIMITED ACCESS CONTROL CHANGE (LACC) PROCESS

- Requests for limited access control changes (LACC) shall be initiated at the District level and made to the District Administrator in writing by the party or entity requesting the LACC. Following review at the District level, the District Administrator shall discuss the requested change with their respective CTB member(s), and subsequently submit a written recommendation to approve or deny the request, which summarizes the details of the LACC and includes each disciplines recommendations, conditions, requirements for the LACC; specific stations for and widths of the break(s) or shifts; whether lands shall be donated for increased right of way citing if the area to be acquired was included in the original NEPA document for the project, (If not included in the original NEPA document for the project then determine if one is needed and so state and provide a copy when complete and a title report); any impacts of the change on future transportation planning and construction; whether the location of the proposed LACC is within an air quality non-attainment area and if so whether the proposed LACC has been through the air quality conformity review, and cite the findings; and ownership of the control rights will also be addressed., along with the review package with all supporting reports and data to the Chief Engineer no later than the 10th of the month prior to the anticipated month of the CTB meeting at which the LACC will be considered. The complete request package should be copied to the Director of Right of Way and Utilities and the Assistant L&D Engineer as assigned to that District in Central Office.

Activities prior to submission and documentation needed are as follows:

- Posting of a deposit by requestor sufficient to cover the estimated costs of the Department's expenses in accomplishing the required reviews, postings, approvals, etc. (include invoices in package). The amount of the deposit will be determined by the estimated amount of research,

engineering and cost of the appraisal prior to consideration by the CTB. The requestor shall pay the actual Department expenses if greater than the deposit. These costs are in addition to the monetary compensation required. Requests by a locality for consideration of change of access control for public transportation purposes are exempted from posting of a deposit at the Chief Engineer's discretion.

- Preparation of a global traffic analysis by requestor.
- A resolution, letter of support and/or a formal request from the locality and copy of same.
- A Posting of Willingness by the Department for public comment on the proposed LACC, (at requestor's expense) with copies of the advertisements and any resulting written comments received.
- The Resident Administrator, District Traffic Engineering, Location and Design (L&D), Right of Way and Utilities, Planning, Environmental Sections and/or other disciplines, as needed and/or identified by circumstance of the LACC, will review the request and provide a discipline specific written summary of recommendations/requirements/conditions to the District Administrator including but not limited to signalization, whether break is at grade or aerial, turning movements, lane/ramp additions, median breaks or adjustments, whether the location of the proposed LACC is within an air quality non-attainment area and if so whether the proposed LACC has been through the air quality conformity review, provide a copy of that report and cite the findings in the summary. Also if there is to be additional right of way acquired as a result of the proposed LACC, cite whether the area to be acquired was included in the original NEPA document for the project and provide that determination in the summary. If not included in the original NEPA document for the project then determine if one is needed and so state and provide a copy when complete, development plats showing the proposed LACC.
- The review package shall include any reports; marked title and plan sheets for both the project on which the control rights were acquired and the most recent plans showing the LACC area; letter to the State director of Right of Way and Utilities from the District Right of Way and Utility

Manager citing whether as a result of the proposed LACC there will be enhancement to the value of the property adjoining the proposed LACC. Copies of the instrument(s) of acquisition are required if a deed is to be prepared following CTB approval.

- The Chief Engineer will initiate a Central Office review through necessary Central Office divisions. Incomplete packages shall not be considered for inclusion on the agenda and will be postponed from consideration until all information/documentation is received.
- The Assistant State L&D Engineer shall contact the Federal Highway Administration for all necessary review subject to existing law and policy requirements, and in all instances involving the Interstate Highway System when federal funds were involved in the acquisition of the limited access control. This review and approval is required **prior** to any CTB consideration.
- Once the CTB has approved the request, the requestor shall have 180 days from the date of CTB approval to submit the monetary or other consideration and to secure all necessary permits from the Department. Failure to do so shall void the CTB approval. The Department will convey any necessary land rights as necessary to comply with the request.
- Upon approval by the CTB, the Chief Engineer or his delegate will advise the District Administrator and all parties of the approval with a notice to proceed to effect the action.
- Upon approval of the Chief Engineer, the Right of Way and Utilities Division will establish the compensation enhancement. Non-public use LACC requires monetary or other good and valuable consideration and is determined through the Department's appraisal process for the establishment of fair market value using the before and after valuation process as set forth in the Right of Way and Utilities Division's Manual of Instructions' Chapter 4. Approval of value for any LACC shall be by the Director of the Right and Utilities Division at his discretion. Once the compensation enhancement is approved, the Director of the Right of Way and Utilities Division will advise the District Administrator and the District Right of Way and Utilities Manager of this determination.

- The District Administrator shall ensure that the collection of any consideration, conveyance of control rights, and construction of safety and operational improvements are completed.

Typically, the District Right of Way and Utilities section will collect the consideration and handle any conveyance issues regarding the LACC and/or land. The Right of Way and Utilities Division will prepare any necessary deed conveying or exchanging LACC and/or land as required by circumstance. Many changes in control do not require the conveyance of any rights, etc. **Except for the completion of safety and/or operational improvements, no conveyance, right of entry or permit is to be issued until all specifics of the CTB resolution are met and fulfilled (including, the collection of all funds or other compensation owed the Commonwealth for granting the change).** The District Location and Design Engineer will, as a minimum, revise the most recent project plans accurately reflecting the area of the change to show all changes effective with the date of the CTB resolution.



**FREDERICK COUNTY BOARD OF SUPERVISORS
A RESOLUTION TO SUPPORT
AN APPLICATION TO THE COMMONWEALTH
TRANSPORTATION BOARD
FOR A LIMITED ACCESS BREAK ON
VALLEY PIKE/ROUTE 11**

**(Immediately west of the interchange ramp from westbound
Route 37 to Route 11)**

Action:

BOARD OF SUPERVISORS: October 11, 2017 APPROVED DENIED

WHEREAS, Winchester 81, LLC (Owner) is the owner of Tax Map Parcel Numbers 75-A-10A, 75-A-10B, 75-A-10C, and 75-A-10D; and

WHEREAS, the Owner plans to make an Application to the Commonwealth Transportation Board (CTB) for a limited access break on Valley Pike (Route 11); and

WHEREAS, the improvements depicted on the attached map, in addition to signalization upgrades, will be implemented upon approval of the access break by the Commonwealth Transportation Board; and

WHEREAS, those improvements involve the following:

- A. Addition of one lane, median and access management on southbound Route 11 from Commonwealth Court to the Route 37 westbound interchange;
- B. Restriping of Route 11 northbound consistent with the exhibit;
- C. Addition of northbound right turn lane at site entrance;
- D. Lane addition to the Route 37 westbound to Route 11 exit ramp;
- E. Signalization upgrades to the intersection of Route 11 and Route 37 westbound ramp; and
- F. Any additional items not shown that may be required during design to meet VDOT Standards.

WHEREAS, the Board believes that additional access at this point will provide a net benefit for the citizens of Frederick; and

NOW, THEREFORE, BE IT RESOLVED by the Frederick County Board of Supervisors on this 11th day of October 2017, that it be and hereby does express its

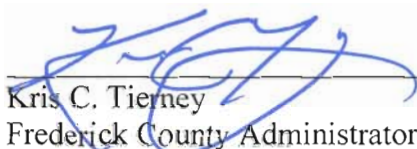
support for the application to the Commonwealth Transportation Board, subject to the items detailed above and by attachment, for a limited access break on Route 11 immediately east of the interchange ramp from westbound Route 37 to Route 11.

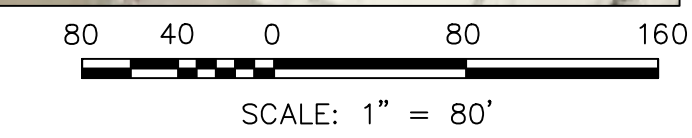
ADOPTED, this 11th day of October 2017.

This resolution was approved by the following recorded vote:

| | | | |
|-----------------------------------|------------|-------------------------|------------|
| Charles S. DeHaven, Jr., Chairman | <u>Aye</u> | Gary A. Lofton | <u>Aye</u> |
| Bill M. Ewing | <u>Aye</u> | Robert W. Wells | <u>Aye</u> |
| Gene E. Fisher | <u>Aye</u> | Judith McCann-Slaughter | <u>Aye</u> |
| Blaine P. Dunn | <u>Aye</u> | | |

A COPY ATTEST


Kris C. Tierney
Frederick County Administrator



151 Windy Hill Lane
 Winchester, Virginia 22602
 Telephone: (540) 662-4165
 Fax: (540) 722-9528
 www.greenwayeng.com



LIMITED ACCESS BREAK AREA EXHIBIT
WINCHESTER-81
 BACK CREEK MAGISTERIAL DISTRICT
 FREDERICK COUNTY, VA

| Rev. No. | Date |
|----------|------|
| | |

DATE: 09/26/2017

SCALE: 1" = 80'

DESIGNED BY: KAS

FILE NO. 4926U

SHEET 1 OF 1

EXHIBIT

ITEM 2
ATTACHMENT

PROFFER STATEMENT

STEPHENSON VILLAGE

RESIDENTIAL PLANNED COMMUNITY

Rezoning # 06-03

Property Owner/Applicant: Stephenson Associates, L.C.

**Property: 794.6± Acres, Tax Map Nos. 44-((A))-31A, 44-((A))-292, 44-((A))-293, and
A Portion of Tax Parcel 44-((A))-31
Stonewall Magisterial District
Frederick County, Virginia**

Date: January 8, 2003
Revised: March 7, 2003
Revised: April 24, 2003
Revised: August 18, 2003
Revised: September 3, 2003

7. MULTI-MODAL TRANSPORTATION IMPROVEMENTS:

A. The following are improvements the Applicant will make to roads within the Property:

(1) Major Collector Road

(a) Pursuant to Section 7F (2), 7F (4) and 7F(5) of this proffer statement, the Applicant shall dedicate an 80 foot right of way and construct the Major Collector Road from Old Charles Town Road through Stephenson Village, and the properties currently owned by McCann and Omps to U.S. Route 11 (Martinsburg Pike) in accordance with existing agreements executed between all parties to insure conformance with the Frederick County Comprehensive Plan. The width and configuration of all travel lanes, medians and other elements of the major collector road shall be provided by the Applicant as determined by VDOT.

- (b) The Applicant shall provide landscaped areas along, within, and/or adjacent to each side of the Major Collector Road in accordance with § 22-A of this proffer.
- (c) When the Major Collector Road is finally completed as a four lane divided boulevard, the median will be naturally vegetated with a combination of both woodland conservation areas and grassed areas supplemented with landscape plantings. If approved by the Virginia Department of Transportation (VDOT), all plantings, other than those in woodland conservation areas, will be installed by the Applicant and will have a maintenance agreement between VDOT and the Applicant which will transfer to the Homeowners Association of Stephenson Village (HOA) to cover all mowing, weeding, pruning, plant replacements, and irrigation maintenance responsibilities. Irrigation systems within the right-of-way will be designed as a separate system to allow the portion of the irrigation system falling within the right-of-way to be terminated if necessary without affecting the overall system.
- (d) The Applicant shall provide bicycle lanes within the Major Collector Road right of way over the property to be rezoned that are four feet in width and are contiguous with the outside travel lanes of the Major Collector Road and are properly marked and signed.
- (e) The Applicant shall prohibit individual residential and commercial entrances from intersecting Milburn Road (Route 662) and further proffers that the Major Collector Road will be the only road crossing of Milburn Road.

realized as identified in each Section. The completion of the improvements specified in each Section will occur within 18 months of initial design.

- (2) Once actual traffic counts of 7,996 vehicle trips per day have been documented on the Major Collector Road, the Applicant will bond and commence construction of the additional lanes to the existing Major Collector Road to its ultimate four-lane section from Old Charles Town Road to the limits of the Major Collector Road within the development.
- (3) Once the actual traffic count reaches 10,570 vehicle trips per day on the Major Collector Road, the Applicant will bond and commence construction of a three-lane section of Old Charles Town Road, from the Entrance to Stephenson Village to U.S. Route 11 using the existing bridge.
- (4) Once the actual traffic count reaches 17,699 vehicle trips per day on the Major Collector Road, the Applicant will bond and commence construction of a two lane half section of the Major Collector Road from the limits of the four-lane section to U.S. Route 11 at the Rutherford Farm Industrial Park intersection to include right and left turn lanes on the east side of U.S. Route 11 as determined by VDOT. The Applicant agrees to enter into a signalization agreement with VDOT at the U.S. Route 11/Rutherford Farm Industrial Park intersection if traffic signalization is not otherwise provided at that time. Traffic counters will be installed at the southwestern entrance to Stephenson Village on the property as part of this improvement.
- (5) Once the actual traffic count at the southwestern entrance to Stephenson Village near the Rutherford's Farm Industrial Park intersection reaches 7,996 vehicle trips per day on the Major Collector Road, the Applicant will bond and commence construction of the remaining additional lanes to the existing Major Collector Road from the limits of the four-lane section to provide for the ultimate four-lane section ending at the east side of U.S. Route 11.

G. The Applicant will provide \$50,000 that shall be utilized as matching funds by VDOT and/or the County of Frederick for future improvements to the Interstate 81/U.S. Route 11 interchange at Exit 317. This dollar amount is intended to assist VDOT and the County of Frederick with this regional improvement. The \$50,000 will be made available to VDOT or to the County of Frederick, within 30 days of written request for said funds by the appropriate party.

8. SCHOOL AND BALLFIELD SITES, COMMUNITY FACILITIES AND PUBLIC USE AREAS:

A. School Site:

The Applicant shall dedicate 20 acres of land to the Frederick County School Board for use as a public school site which shall count towards the overall

(2) Interparcel Connections

The Applicant agrees to provide interparcel connections between land bays within the Property at the time the respective land bays are developed and to the extent reasonably possible.

(3) Private Streets, Alleys and Common Drives

(a) The Applicant shall provide for a gated community entrance for the active adult portion of the overall community and shall serve the active adult community with a complete system of private streets. The cross sectional dimension of pavement thickness and compacted base thickness will meet or exceed the public street pavement section standards utilized by VDOT.

(b) Where private alleys are utilized, the Applicant will provide one-way alleys within a sixteen-foot (16') wide easement having twelve feet (12') of pavement with a two foot (2') shoulder on both sides of the pavement throughout the entire community. All private alleys, which intersect other private alleys at 90 degree angles or have turns at 90 degree angles shall provide for a minimum turning radius of 25 feet. Private alleys, intersection, public or private streets, shall provide curb cuts extending two feet beyond the paved edge of the standard alley width.

(c) Where private alleys are utilized to serve housing types that front on private streets the Applicant shall provide for a minimum travel aisle width of 24 feet for the private street. The 24 foot travel aisle shall be in addition to on street parking designed for the private street.

(d) When Housing Unit Type 4 (courtyard cluster) is developed, the common drive shall meet the following standards:

- (i) A minimum width of 20 feet
- (ii) A minimum depth of pavement section shall be a four inch compacted stone base and six inches of concrete or equivalent material.
- (iii) A "No Parking" sign shall be posted at the entrance to the courtyard.
- (iv) A fire hydrant shall be provided at the entrance to each corner drive to the courtyard clusters. When common drives are adjacent to or across the street from other courtyard cluster common drives, only one hydrant shall be required.
- (v) Visitor parking areas will be provided outside of the courtyard cluster common drive area.

B. The applicant has acquired easements and/or rights of way over the properties currently owned by McCann and Omps for the purpose of dedicating and constructing the Major Collector Road and for improvements along the south side of Old Charles Town Road from Route 11 north to the CSX railroad. The Applicant will acquire any additional rights-of-way and/or easements for all off-site transportation improvements proffered hereinafter. In the event the Applicant is not able to acquire any of the said rights-of-way and/or easements, Frederick County agrees to attempt to acquire such rights-of-way and/or easements by appropriate eminent domain proceedings at the request of Applicant and Applicant shall be responsible for all payments made to property owners for rights-of-way and/or easements so acquired. In the event that neither the Applicant nor Frederick County successfully obtains the required rights-of-way or easements for the offsite transportation improvements as required by the traffic study, the Applicant shall be permitted to continue with the development as proposed without any further requirement of right-of-way or easement acquisition or improvement.

C. The Applicant will install full size entrance improvements with right and left turn lanes, in accordance with Virginia Department of Transportation design guidelines, at the intersection of Old Charles Town Road and the Major Collector Road serving as the entrance to the Stephenson Village Community during the first phase of development.

D. The Applicant will execute a signalization agreement with the Virginia Department of Transportation for the intersection of U.S. Route 11 and Old Charles Town Road. Additionally, the Applicant will construct full size entrance improvements with both a right turn lane and left turn lane on Old Charles Town Road, and a right turn lane on U.S. Route 11 at said intersection. These improvements will be installed in accordance with the Virginia Department of Transportation design guidelines when warranted by VDOT.

E. The Applicant will execute a signalization agreement with the Virginia Department of Transportation for the intersection of Old Charles Town Road and the Major Collector Road serving as the entrance to the Stephenson Village Community. The Applicant will provide for the signalization at the intersection of Old Charles Town Road and the Major Collector Road based on the terms of this agreement when warranted by the Virginia Department of Transportation.

F. The Applicant will design and construct a four-lane boulevard Major Collector Road for the Stephenson Village Community in substantial conformance with the proffered Generalized Development Plan. The Major Collector Road will be constructed in two phases. The first phase will be a two-lane half section that is constructed from Old Charles Town Road to the limits of the development as depicted on the approved Master Development Plan. This phase of the Major Collector Road will be constructed and bonded in segments in accordance with the approved Subdivision Design Plan for Stephenson Village. The second phase of the Major Collector Road will provide for the ultimate four-lane section with appropriate right and left turn lanes based on the following program:

- (1) The design of the transportation improvements identified in Sections 7(F)2-7(F)5 of this proffer statement will begin when 80% of the actual traffic count volume is

E



COUNTY of FREDERICK

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 *KCT*

DATE: April 4, 2019

RE: Set Schedule for Board Meetings During Summer Months and for November and December 2019 (Holiday Schedule)

As in the past, the Board of Supervisors has canceled meetings during the Summer months due to vacation schedules. Cancellation of the meetings of June 26th, July 24th, and August 28th, 2019 is requested.

It is also requested at this time to cancel meetings for November and December due to the holidays. Those cancellation dates are November 27th and December 25th.

Board action at the April 10, 2019 meeting will give staff and the Office of Planning and Development adequate time for scheduling, advertising and notification purposes.

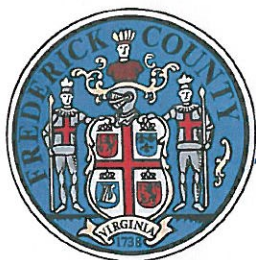
Should you have any questions, please give me a call.

Thank you.

KCT/tjp

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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: April 3, 2019
RE: Committee Appointments

Listed below are the vacancies/appointments due through May 2019. 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

Handley Regional Library Board

Brian J. Hester
165 Babbs Run Lane
Winchester, VA 22603
Term Expires: 11/30/19
Four-year term

(Staff has been advised that Mr. Hester has resigned.)

Extension Leadership Council

Margaret B. Douglas – Back Creek District Representative
452 Barley Lane
Winchester, VA 22602
Term Expires: 01/14/20
Four-year term

(Vacancy Due to the Passing of Mrs. Brumback.) *(The Extension Leadership Council is comprised of ten members, one member from each magisterial district appointed by the Board of Supervisors and four members-at large recommended by the Virginia Tech Extension Service. Members serve a four-year term.)*

Board of Equalization

(The Board of Supervisors will continue to seek applicants for the vacant seat on the Board of Equalization.) *(The Board of Equalization is composed of five members. Members must be free holders in the county. In October 2010, the Board of Supervisors appointed the Board of Equalization as a “permanent” board for subsequent reassessments. The original five members were appointed for the following terms: one member for a one-year term; one member for a two-year term; and three members for a three-year term. Going forward, all future appointments shall be for a three-year term. Recommendation for appointment/reappointment are made by the Board of Supervisors and submitted to the Judge of the Frederick County Circuit Court for final appointment.)*

APRIL and MAY 2019

No appointments due for April or May.

KCT/tjp

G



COUNTY OF FREDERICK

Jay E. Tibbs
Deputy County
Administrator

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

MEMORANDUM

TO: Board of Supervisors

FROM: Jay E. Tibbs
Deputy County Administrator

DATE: April 4, 2019

RE: Frederick County Code, Chapter 155 (Taxation) Section 155-51 (Imposition of Transient Occupancy Tax)

At the budget work session held on Wednesday, March 6, 2019, the Board and Finance Committee discussed a possible 1% increase to the current 2.5% transient occupancy tax rate. The ability for the county to increase the rate was enabled by legislation adopted by the General Assembly during the 2016 session. Any revenue generated by raising the rate above 2% shall be designated and spent solely for tourism and travel, marketing of tourism or initiatives that increase occupancy at lodging properties and generate tourism revenues in the locality.

In order for the County to increase the transient occupancy tax rate, the County Code must be amended to reflect this increase. A public hearing is required in order to amend the County Code and has been scheduled for the April 10, 2019 meeting.

This proposed increase is included as part of the FY 2019-2020 budget; therefore, in order for this proposed increase to be included as part of the budget, the County Code amendment must be in place prior to budget adoption.

At the conclusion of the public hearing, staff is seeking Board adoption of the proposed ordinance amendment.

Attachment



**ORDINANCE
April 10, 2019**

The Board of Supervisors of Frederick County, Virginia hereby ordains that, effective July 1, 2019, Section 155-51 (Tax imposed) of Article XIV (Transient Occupancy Tax) of Chapter 155 (Taxation) of the Code of Frederick County, Virginia be, and the same hereby is, amended by enacting an amended Section 155-151 (Tax imposed) of Article XIV (Transient Occupancy Tax) of Chapter 155 (Taxation) of the Code of Frederick County, Virginia, as follows (deletion is shown in ~~strike through~~ and addition is shown in **bold underline**):

CHAPTER 155 TAXATION

Article XIV Transient Occupancy Tax

§ 155-51 Tax imposed.

In addition to all other taxes of every kind now or hereafter imposed by law, there is hereby imposed and levied on each and every transient a tax equivalent to ~~2.5%~~ **3.5%** of the total amount paid for room rental by or for any such transient to any motel.

Enacted this 10th day of April, 2019.

| | | | |
|-----------------------------------|-------|------------------|-------|
| 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

H



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
Date: April 5, 2019
Re: Proposed Budget Resolution Options

Attached are two options for adopting the FY 2019-2020 budget.

Option A is the traditional budget resolution adopting the budget and appropriating all funds as has been done in recent years.

This year, some members of the Board have expressed interest in appropriating the School Operating Fund categorically. Therefore, **Option B** adopts the budget and appropriates all funds EXCEPT for the School Operating Fund which will be appropriated categorically at a later date.

Budget Resolution - Option A

FY 2019-2020 BUDGET RESOLUTION

WHEREAS a notice of public hearing and budget synopsis has been published and a public hearing held on March 27, 2019, in accordance with Title 15.2, Chapter 25, Section 15.2-2506, of the Code of Virginia, 1950 as amended.

THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of Frederick, Virginia, that the budget for the 2019-2020 Fiscal Year as advertised in The Winchester Star on March 19, 2019, be hereby approved in the amount of \$463,535,656.

BE IT FURTHER RESOLVED that the County of Frederick budget for the 2019-2020 fiscal year be adopted and the funds appropriated as follows:

| | |
|-------------------------------------|---------------|
| General Operating Fund | \$197,546,413 |
| Regional Jail Fund | 23,238,848 |
| Landfill Fund | 10,467,653 |
| Division of Court Services Fund | 576,649 |
| Shawneeland Sanitary District Fund | 1,295,215 |
| Airport Operating Fund | 1,756,556 |
| Lake Holiday Sanitary District Fund | 779,998 |
| EMS Revenue Recovery Fund | 1,803,958 |
| Economic Development Authority Fund | 631,802 |
| School Operating Fund | 175,981,549 |
| School Debt Service Fund | 16,726,869 |
| School Capital Projects Fund | 5,300,000 |
| School Nutrition Services Fund | 7,378,557 |
| School Textbook Fund | 3,126,049 |

| | |
|--|-----------|
| NREP Operating Fund | 5,985,540 |
| NREP Textbook Fund | 40,000 |
| Consolidated Services/Maintenance Fund | 3,600,000 |
| School Private Purpose Funds | 300,000 |
| County Capital Fund | 7,000,000 |

BE IT FURTHER RESOLVED that the Board of Supervisors of the County of Frederick, Virginia, does herein adopt the tax rates for the 2019 assessment year as follows:

Property Taxes – Rates per \$100 of assessed value

| | |
|----------|--|
| \$0.61 | Applied to real estate, including mobile homes |
| \$4.86 | Applied to personal property including business equipment |
| \$2.25 | Applied to personal property on one vehicle to volunteer firefighters that are approved and registered with the Frederick County Fire and Rescue Department |
| \$0.01 | Applied to aircraft |
| Zero tax | Applied to antique vehicles and mopeds |
| \$2.00 | On declining values to be applied to machinery and tools. The declining values are 60% for year one, 50% for year two, 40% for year three, and 30% for year four and all subsequent years. |
| \$2.00 | On apportioned percentage of book values to be applied to Contract Classified Vehicles and equipment |

Business and Professional Occupational License Rates

| | |
|--|------------------------------------|
| Contractors | \$0.16 per \$100 of gross receipts |
| Retail | \$0.20 per \$100 of gross receipts |
| Financial, Real Estate, and Professional Services | \$0.58 per \$100 of gross receipts |
| Repair, personal and business services and all other businesses and occupations not specifically listed or exempted in the County Code | \$0.36 per \$100 of gross receipts |
| Wholesale | \$0.05 per \$100 of purchases |

The tax rates for other businesses and occupations specifically listed in the County Code are also unchanged.

Other General Taxes

| | |
|-------------------------|--|
| Meals tax | 4% of gross receipts |
| Transient Occupancy tax | 3.5% of gross receipts |
| Vehicle License Taxes | \$25 per vehicle and \$10 per motorcycle |

Sanitary Landfill Fees

| | |
|------|--|
| \$50 | Per ton for commercial/industrial |
| \$45 | Per ton for construction demolition debris |
| \$20 | Per ton for municipal waste |
| \$38 | Per ton for municipal sludge |
| \$15 | Per ton for Miscellaneous Rubble Debris |

Shawneeland Sanitary District Taxes

| | |
|-------|-----------------|
| \$190 | Unimproved Lots |
| \$660 | Improved Lots |

Lake Holiday Sanitary District Taxes

\$678 Buildable Lots

\$264 Unbuildable Lots

Lots owned by Lake Holiday Country Club, Inc.

\$0 Buildable Lots and Unbuildable Lots

Star Fort Subdivision Taxes/Fees

\$60 Per Lot

Street Light Fees

Oakdale Crossing and Fredericktowne \$40 annually

Green Acres \$25 annually

BE IT FURTHER RESOLVED that appropriations are hereby authorized for the central stores fund, special welfare fund, comprehensive services fund, county health insurance fund, school health insurance fund, length of service fund, special grant awards fund, employee benefits fund, maintenance insurance fund, development project fund, sales tax fund, commonwealth sales tax fund, unemployment compensation fund, Forfeited Assets Program, Four-For-Life Funds, Fire Programs, and Economic Incentive funds equal to the total cash balance on hand at July 1, 2019, plus the total amount of receipts for the fiscal year 2019-2020. The County Capital Fund and Fire Company Capital appropriation will include the current year appropriation plus any unused funds at the end of the fiscal year 2019. The County Capital appropriation shall include funds transferred to other capital funds for classification purposes.

BE IT FURTHER RESOLVED that funding for all outstanding encumbrances at June 30, 2019, are re-appropriated to the 2019-2020 fiscal year to the same department and account for which they are encumbered in the 2018-2019 fiscal year.

BE IT FURTHER RESOLVED that the construction fund projects are appropriated as a carryforward in the amount that equals the approved original project cost, less expenditures and encumbrances through June 30, 2019.

Budget Resolution - Option B

FY 2019-2020 BUDGET RESOLUTION

WHEREAS a notice of public hearing and budget synopsis has been published and a public hearing held on March 27, 2019, in accordance with Title 15.2, Chapter 25, Section 15.2-2506, of the Code of Virginia, 1950 as amended.

THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of Frederick, Virginia, that the budget for the 2019-2020 Fiscal Year as advertised in The Winchester Star on March 19, 2019, be hereby approved in the amount of \$463,535,656.

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| | |
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| Regional Jail Fund | 23,238,848 |
| Landfill Fund | 10,467,653 |
| Division of Court Services Fund | 576,649 |
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| School Capital Projects Fund | 5,300,000 |

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| School Textbook Fund | 3,126,049 |
| NREP Operating Fund | 5,985,540 |
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| Consolidated Services/Maintenance Fund | 3,600,000 |
| School Private Purpose Funds | 300,000 |
| County Capital Fund | 7,000,000 |

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| \$0.01 | Applied to aircraft |
| Zero tax | Applied to antique vehicles and mopeds |
| \$2.00 | On declining values to be applied to machinery and tools. The declining values are 60% for year one, 50% for year two, 40% for year three, and 30% for year four and all subsequent years. |
| \$2.00 | On apportioned percentage of book values to be applied to Contract Classified Vehicles and equipment |

Business and Professional Occupational License Rates

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| Contractors | \$0.16 per \$100 of gross receipts |
| Retail | \$0.20 per \$100 of gross receipts |
| Financial, Real Estate, and Professional Services | \$0.58 per \$100 of gross receipts |
| Repair, personal and business services and all other businesses and occupations not specifically listed or exempted in the County Code | \$0.36 per \$100 of gross receipts |
| Wholesale | \$0.05 per \$100 of purchases |

The tax rates for other businesses and occupations specifically listed in the County Code are also unchanged.

Other General Taxes

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| Meals tax | 4% of gross receipts |
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| Vehicle License Taxes | \$25 per vehicle and \$10 per motorcycle |

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| \$50 | Per ton for commercial/industrial |
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| \$38 | Per ton for municipal sludge |
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Shawneeland Sanitary District Taxes

| | |
|-------|-----------------|
| \$190 | Unimproved Lots |
| \$660 | Improved Lots |

Lake Holiday Sanitary District Taxes

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|-------|------------------|
| \$678 | Buildable Lots |
| \$264 | Unbuildable Lots |

Lots owned by Lake Holiday Country Club, Inc.

| | |
|-----|-------------------------------------|
| \$0 | Buildable Lots and Unbuildable Lots |
|-----|-------------------------------------|

Star Fort Subdivision Taxes/Fees

\$60 Per Lot

Street Light Fees

Oakdale Crossing and Fredericktowne \$40 annually

Green Acres \$25 annually

BE IT FURTHER RESOLVED that appropriations are hereby authorized for the central stores fund, special welfare fund, comprehensive services fund, county health insurance fund, school health insurance fund, length of service fund, special grant awards fund, employee benefits fund, maintenance insurance fund, development project fund, sales tax fund, commonwealth sales tax fund, unemployment compensation fund, Forfeited Assets Program, and Four-For-Life, Fire Programs and Economic Incentive funds equal to the total cash balance on hand at July 1, 2019, plus the total amount of receipts for the fiscal year 2019-2020. The County Capital Fund and Fire Company Capital appropriation will include the current year appropriation plus any unused funds at the end of the fiscal year 2019. The County Capital appropriation shall include funds transferred to other capital funds for classification purposes.

BE IT FURTHER RESOLVED that funding for all outstanding encumbrances at June 30, 2019, are re-appropriated to the 2019-2020 fiscal year to the same department and account for which they are encumbered in the 2018-2019 fiscal year.

BE IT FURTHER RESOLVED that the construction fund projects are appropriated as a carryforward in the amount that equals the approved original project cost, less expenditures and encumbrances through June 30, 2019.

I



MEMORANDUM

TO: Frederick County Board of Supervisors

FROM: Candice E. Perkins, AICP, CZA, Assistant Director *CEP*

RE: **Brucetown Road Area Amendment (CPPA #02-18 – Carter)**

DATE: March 29, 2019

This is a draft amendment to the Northeast Land Use Plan of the 2035 Comprehensive Plan. This request is presented to the Board of Supervisors as a discussion item; Staff is seeking direction from the Board of Supervisors as to whether this item is ready to be sent to public hearing.

Proposal & Background

At the Board of Supervisors September 12, 2018 meeting, the Board directed Staff to undertake a Sewer and Water Service Area (SWSA) expansion and land use designation associated with Comprehensive Plan Amendment #02-18 for the Carter Tract. This amendment proposes to add 109 acres into the Sewer and Water Service Area (SWSA) and remove 109 acres from the SWSA. This amendment also seeks to designate the 109 acres for industrial land uses.

The Comprehensive Plans and Programs Committee (CPPC) discussed this amendment at their October and November 2018 meetings. The CPPC endorsed draft text and map for the Brucetown Area Amendment at their November 2018 meeting. This amendment was discussed by the Planning Commission on December 5, 2018. At that meeting the Planning Commission expressed concern with the amendment and sent the proposal back to the CPPC for further review. Specifically, the Planning Commission requested more detail on the transportation components of the amendment and further review of the SWSA limits proposed.

The CPPC discussed the amendment at their February 2019 meeting. The Committee reviewed revised text for the proposal that sought to address the concerns of the Planning Commission; a revised map was also presented. The Committee agreed with the changes with amendments to the SWSA boundary and environmental text. The amended SWSA boundary keeps the SWSA south of Slate Run and proposes a buffer along the western property line to protect the rural community center. The CPPC sent the revised text and map forward to the Planning Commission for review. The CPPC further discussed the importance of providing the identified transportation improvements to support future development in this area. This included a discussion of what would be the best language for the text, “should vs shall”. The CPPC felt that since the

Comprehensive Plan is an advisory document that the use of “should” would be best suited for the language.

The Planning Commission discussed this request at their March 6, 2019 meeting. The Commission agreed with the proposed amendment and sent the item forward to the Board of Supervisors with a favorable recommendation. The Commission also discussed the use of “should vs shall” in the document and felt that since this is a policy document that guides future land use that the use of “should” would be appropriate. One Commission member did express concern with the amendment and did not support the amendment going forward.

Conclusion

Please find attached draft text for the Brucetown Road Area Amendment, a proposed land use map and comments from Frederick Water.

This request is presented to the Board of Supervisors as a discussion item; Staff is seeking direction from the Board of Supervisors as to whether this item is ready to be sent to public hearing. Staff and the Planning Commission are also seeking direction from the Board of Supervisors on the use of “should vs shall” in the amendment.

Please contact staff should you have any questions.

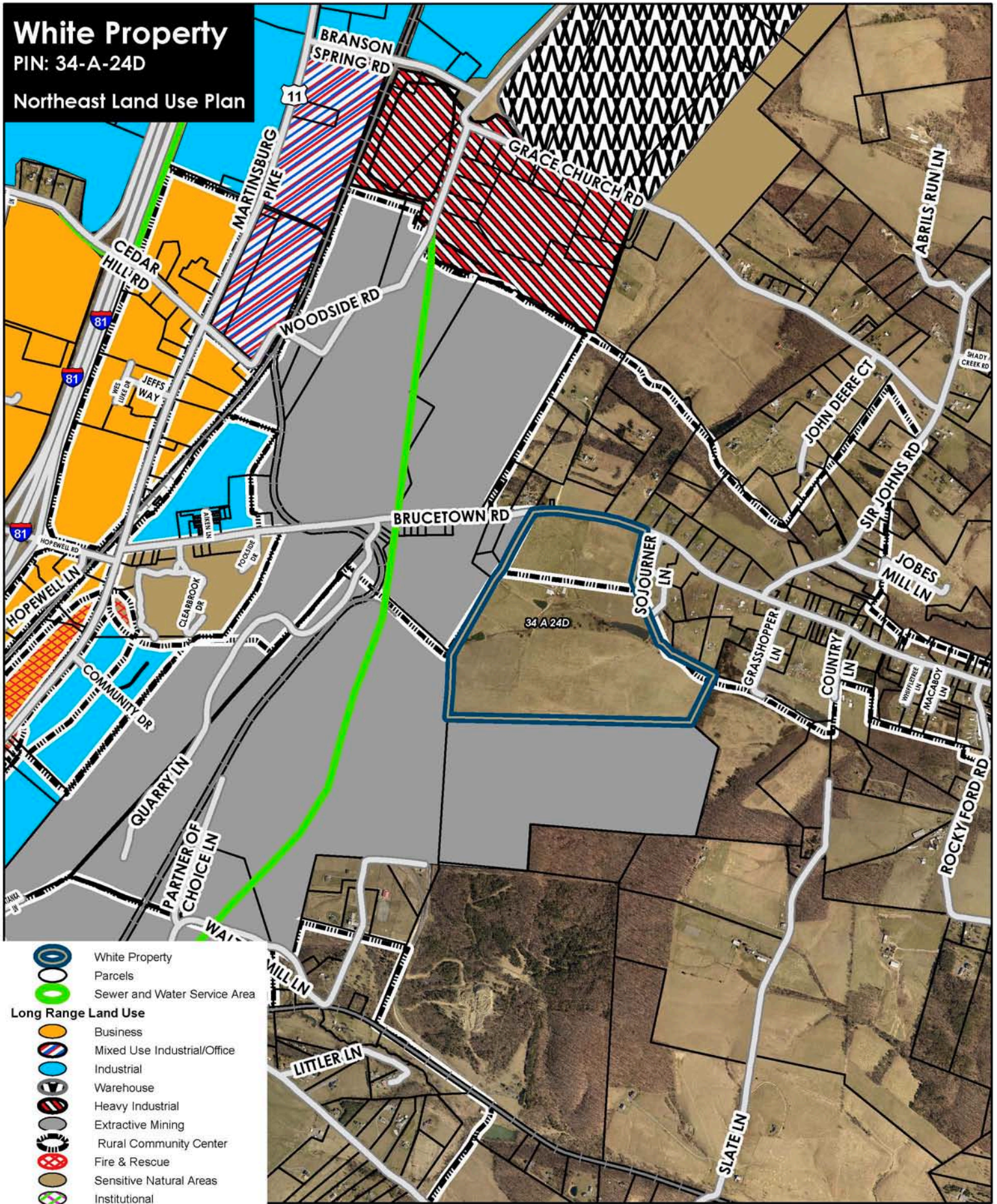
CEP/pd

Attachments

White Property

PIN: 34-A-24D

Northeast Land Use Plan



-  White Property
-  Parcels
-  Sewer and Water Service Area
- Long Range Land Use**
-  Business
-  Mixed Use Industrial/Office
-  Industrial
-  Warehouse
-  Heavy Industrial
-  Extractive Mining
-  Rural Community Center
-  Fire & Rescue
-  Sensitive Natural Areas
-  Institutional

DRAFT
Endorsed by the CPPC – 01/11/2019
NORTHEAST FREDERICK LAND USE PLAN
NELUP

Brucetown Road Area AMENDMENT

Proposed language:

The Comprehensive Plans and Programs Committee (CPPC), at their October and November 2018 meetings and their February 2019 meeting discussed the requested Carter Tract Amendment (CPPA #02-18). This CPPA request removes comparable acres of land from the SWSA from the existing zoned extractive manufacturing area to allow for the inclusion of 109 acres of land. In determining the scope of the request, the CPPC looked at the broader area in determining if an area could best support a sewer and water service area expansion and an industrial land use designation. The SWSA boundary adjustment enables industrial land uses which could utilize public water and sewer, improve the transportation infrastructure in support of increased vehicular traffic and provide economic opportunities.

The scope of the review considered the following:

- *Review of the broader area to identify areas most appropriate for a SWSA expansion and industrial land use designation.*
- *Distance to the existing SWSA boundary.*
- *Proximity to the existing extractive manufacturing operation.*
- *Access to and from the Brucetown Road area including the overall transportation network including key intersections on Martinsburg Pike.*
- *Revisions to the SWSA, including the removal of land from the existing SWSA to allow for the addition of comparable acreage into the SWSA.*
- *Avoiding conflict with the residential uses of the Brucetown Rural Community Center. The SWSA should remain south of Slate Run with a buffer along the Rural Community Center. This enables the land use north of Slate Run to remain agricultural and buffer future industrial uses from the residential uses in the Brucetown Rural Community Center.*

The study which resulted from the discussion of CPPA #02-18 ultimately recommended that the following amendment be incorporated into the Northeast Land Use Plan:

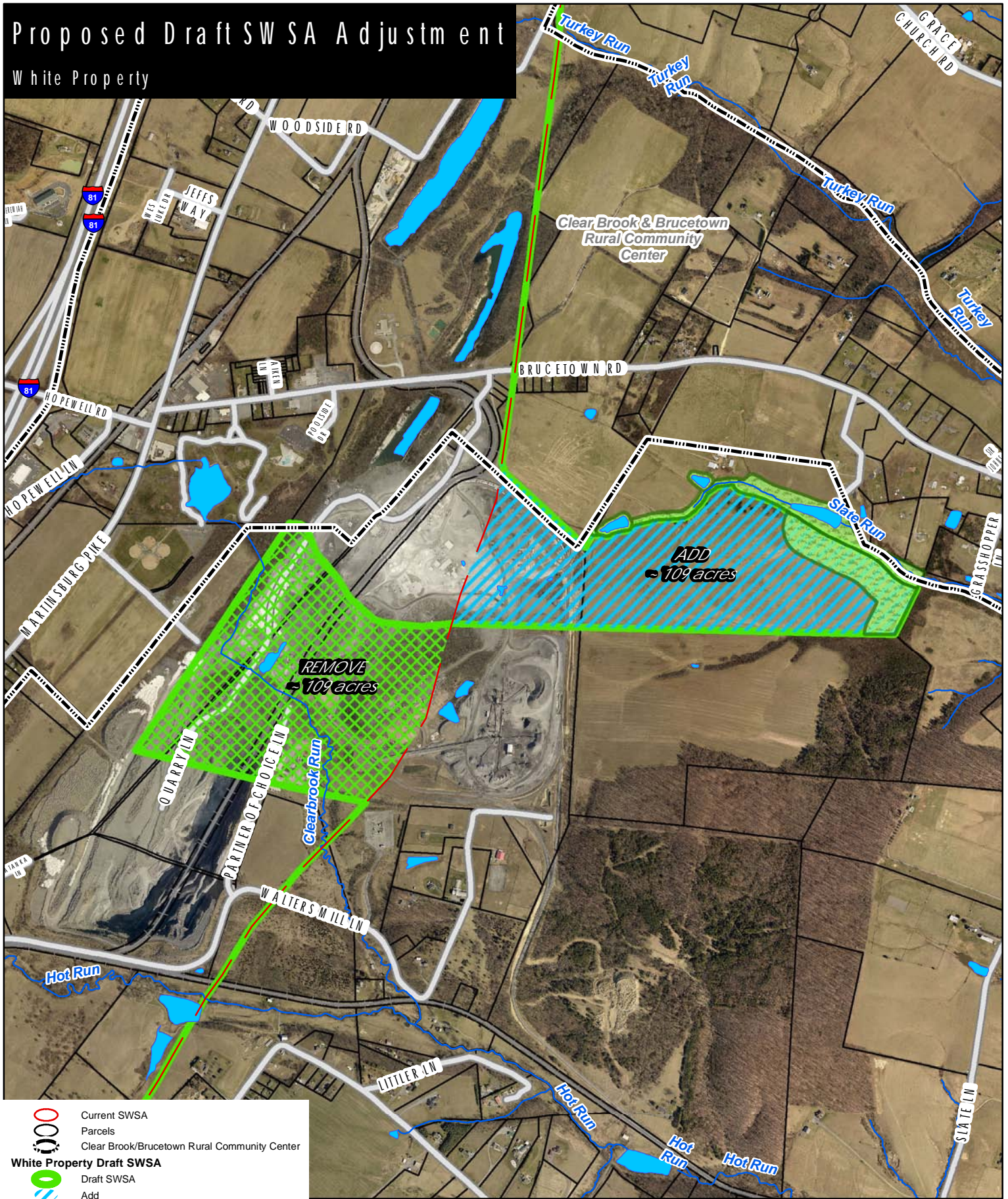
The area southeast of Exit 321, Interstate 81, Hopewell Road, and south of Brucetown Road is comprised mainly of extractive manufacturing, rural residential and agricultural land uses. The area is also located adjacent to the identified Brucetown Rural Community Center. The following items resulted from this study and should be addressed with any future development proposals in this area:

- *An industrial land use designation was identified as most appropriate for a SWSA boundary adjustment.*
- *A detailed traffic study will be necessary for any future industrial development – all identified transportation needs [shall / should] be provided by the proposed development. Traffic improvements [shall / should] include but may not be limited to: Improvements to Brucetown Road to current VDOT standards including sufficient pavement structure and right-of-way width to support the industrial traffic; improvements to Hopewell Road and Martinsburg Pike and the relocation of Brucetown Road north of its current intersection with Hopewell Road.*

- Access to the acreage which is now included in the SWSA *[shall / should]* be via the existing quarry entrance onto Brucetown Road; no direct access to Brucetown Road *[shall / should]* be considered.
- Recognize that water and sewer capacity is limited in this area and therefore any future industrial uses should recognize the capacity constraints and construct the infrastructure necessary to serve the industrial uses water and sewer needs.
- Encourage the use of rail to minimize the increase in truck traffic on the Martinsburg Pike (Route 11 North) corridor and along Hopewell and Brucetown Roads.
- Protect the overall environmental quality of the community. Avoid industrial land uses which would require major emitter air quality permit from the Virginia Department of Environmental Quality.
- Minimize disturbance and crossing of drainage swales. An enhanced riparian buffer should be provided adjacent to Slate Run to improve the buffer and promote best environmental practices.
- Provide buffering between industrial uses and the Rural Community Center which shall meet or exceed existing zoning ordinance buffer and screening requirements to adequately protect the residential uses in the Brucetown Rural Community Center. Maximize distance buffers in combination with landscape buffers to provide adequate screening. Building height limitations shall also be implemented to protect the viewshed of the residential uses in the Brucetown Rural Community Center.
- To avoid conflict with the residential uses in the Brucetown Rural Community Center, the SWSA expansion should remain south of Slate Run and provide for a buffer along the Rural Community Center. This enables the land north of Slate Run to remain agricultural and buffer future industrial uses from the residential uses in the Rural Community Center.

Proposed Draft SW SA Adjustment

White Property



- Current SWSA
- Parcels
- Clear Brook/Brucetown Rural Community Center
- White Property Draft SWSA**
- Draft SWSA
- Add
- Remove
- Long Range Land Use**
- Environmental Resources & Buffers





315 Tasker Road
Stephens City, Virginia 22655

PH (540) 868-1061
Fax (540) 868-1429
www.FrederickWater.com

Eric R. Lawrence
Executive Director

MEMORANDUM

TO: Candice Perkins, Assistant Director, Frederick County Planning Department
FROM: Eric R. Lawrence, Executive Director
SUBJECT: 2018 Comprehensive Policy Plan Amendment Review – Carter Tract
DATE: December 11, 2018

In response to a December 7, 2018 e-mail request from Stowe Engineering, I am providing an updated review comment from Frederick Water in regards to the Carter Tract CPPA.

I understand that the Carter Tract CPPA is no longer considering the Carter Tract proper, but is now working to capture and include the adjacent White property into the SWSA. Inclusion of the White property into the SWSA would support economic development, and enable access to Frederick Water's public water and wastewater system. Wastewater presents a challenge as the conveyance system in the vicinity of the White property has limited capacity.

During recent discussions, and similar to our previous August discussion, Mr. Stowe suggested that a Sewer and Water Service Area (SWSA) boundary adjustment resulting in no change to the total acreage of the SWSA in the vicinity of the White property be considered; essentially a "net-zero" SWSA boundary revision - for each acre that is added to the SWSA, a comparable acreage could be removed. This suggestion is appropriate and supported, although it should be noted that the White property's owners do not own adjacent land from which the SWSA could be removed to facilitate the "net-zero" SWSA boundary revision. Therefore, for the net-zero SWSA approach to be applied, a second party's SWSA-privilege would need to be revised/reduced.

Page 2

2nd Comment on the 2018 Comprehensive Policy Plan Amendment Application for the Carter Property
Candice Perkins
December 11, 2018

It is also noted that with limited wastewater conveyance capacity in the vicinity, any SWSA adjustment potentially results in impacts to other property owners within the SWSA who might be competing for the same limited wastewater system conveyance and treatment capacity.

Mr. Stowe previously clarified that the anticipated use of the property was by a single user who would generate approximately 3,500 GPD (Gallons Per Day) of wastewater and use a 20- to 40-acre area. It would appear accommodating that nominal amount of wastewater generation is feasible. Wastewater conveyance may not be available to serve much more than the 3,500 GPD single user. We would suggest that any potential revisions to the Comprehensive Plan recognize the wastewater limitation, and at this time only support development on a small portion of the White property.

Frederick Water does support further study of the Carter Tract CPPA application, applicable to a portion of the White property, with consideration of a net-zero SWSA expansion and limiting uses within the expanded SWSA area to less than a total of 5,000 GPD of wastewater discharge.

Cc: Tim Stowe, Stowe Engineering
Stonewall Magisterial District Supervisor



RESOLUTION

Action:

PLANNING COMMISSION: March 6, 2019

Recommended Approval

BOARD OF SUPERVISORS: April 10, 2019

RESOLUTION DIRECTING THE PLANNING COMMISSION TO HOLD A PUBLIC HEARING TO ADOPT AN AMENDMENT TO THE 2035 COMPREHENSIVE PLAN APPENDIX I – AREA PLANS NORTHEAST LAND USE PLAN

WHEREAS, the 2035 Comprehensive Plan, was adopted by the Board of Supervisors on January 25, 2017 and this proposed amendment to the Northeast Land Use Plan of Appendix I would result in a land use designation change for (PIN) 34-A-24D from rural areas land use to industrial land use and expand the Sewer and Water Service Area (SWSA) to include 109 acres of parcel in the SWSA and remove 109 acres from the existing SWSA, and

WHEREAS, the Frederick County Planning Commission discussed this amendment on March 6, 2019 and sent the amendment to the Board of Supervisors for discussion; and

WHEREAS, the Frederick County Board of Supervisors discussed this proposed amendment on April 10, 2019; 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 Northeast Land Use Plan to amend the land use designation for PIN 34-A-24D from Rural Areas land use to Industrial land use and expand the Sewer and Water Service Area (SWSA) to include 109 acres of parcel in the SWSA and remove 109 acres from the existing SWSA and forward a recommendation to the Board of Supervisors.

Passed this 10th day of April 2019 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

I am a citizen of Bruce town and Clear Brook. I am against the proposed change to the Comprehensive Plan Amendment. I am not in favor extending the Industrial Land Use and the Water & Sewer service area east of the quarry.

Arthur L. Bragg

Douglas R. Durbin

Catherine Y. Durbin

Nathan Durbin

John Mangold

Cindy Mangold

Lynne Mangold

Bell Mangold

Emily Dickens

Bob Owens

Julie Owens

Jim Lee

Lee Mangold

LA Mangold

Kathryn B. Busleron

David Riner

Tina Riner

Carolyn Fritts

Perry McDonald
Gary Butler

I am a citizen of Brucetown and Clear Brook. I am against the proposed change to the Comprehensive Plan Amendment. I am not in favor extending the Industrial Land Use and the Water & Sewer service area east of the quarry.

Gary W. Kutt

Brenda Kutt

John W. Owens Sr.

Robert J. Linder

Willie Linder

Joyce Linder

John

Shane Ryan

~~George R. Robertson~~

~~George R. Robertson~~

George R. Robertson

Willie Halka

Lee Halka

Rosalie S. Keeler

Betty B. Davis

Patricia Johns

James R. E

Bernard W. Everhart Sr.

Joyce L. Everhart

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Kevin Kaczmarewski

Therese Kaczmarewski

Ray Gage

Mehul Bhatt

Paul E. Hall

Chris Cook

John Smallwood

Victoria B. Littrell

James M. Littrell

Dave C. Miller

Roger Runnel

Deborah Runnel

Pat DUDLEY

Alan Butler

Jane Rowwood

Mary Swartz

Bill Swartz

Christopher M. Hottel

Janice Aosta

Ronald B. Furr

Bruce E. Furr

J



MEMORANDUM

TO: Frederick County Board of Supervisors

FROM: Candice E. Perkins, AICP, CZA, Assistant Director *CEP*

RE: **Blackburn Property Workforce Housing (CPPA #01-19)**

DATE: March 29, 2019

This is a draft amendment to the Kernstown Area Plan of the 2035 Comprehensive Plan. This request is presented to the Board of Supervisors as a discussion item. Staff is seeking direction from the Board of Supervisors as to whether this item is ready to be sent forward for public hearing.

Proposal & Background

At the Board of Supervisors December 12, 2018 meeting, the Board directed Staff to undertake an Urban Development Area (UDA) expansion and land use designation change associated with Comprehensive Plan Amendment #01-19 for Blackburn Property Workforce Housing.

This amendment requested by the Applicant proposes to add 71.849-acres to the UDA. This amendment also seeks to designate the 71-acres for workforce housing. The Kernstown Area Plan currently designates the property for industrial land use. The Applicant is requesting the UDA expansion and land use designation change to allow for the development of workforce housing that would provide affordable housing opportunities for residents of the community located within reasonable proximity of workplaces in the community.

The Comprehensive Plans and Programs Committee (CPPC) discussed this amendment at their February 2019 meeting. The CPPC recognized that workforce housing was needed in the County but expressed concern with the area this was proposed for. The CPPC further stated that there are areas currently designated for residential development where this use could potentially locate. The subject site is currently designated for industrial development and the CPPC expressed concern over losing potential industrial land for residential uses. The CPPC stated that industrial was the best use for this site and recommended denial of this comprehensive plan amendment.

The Planning Commission discussed this item at their March 6, 2019 meeting. The Commission agreed with the concerns expressed by the CPPC and did not support the loss of planned industrial land for the construction of residential units. The Planning Commission sent this item forward to the Board of Supervisors with a recommendation for denial.

Conclusion

Please find attached the current Kernstown Area map designation for the subject property, draft Kernstown Area Plan text amendments, proposed Kernstown Area land use map amendment, CPPA application #01-19 and comments from Frederick Water.

This request is presented to the Board of Supervisors as a discussion item. Staff is seeking direction from the Board of Supervisors as to whether this item is ready to be sent forward for public hearing.

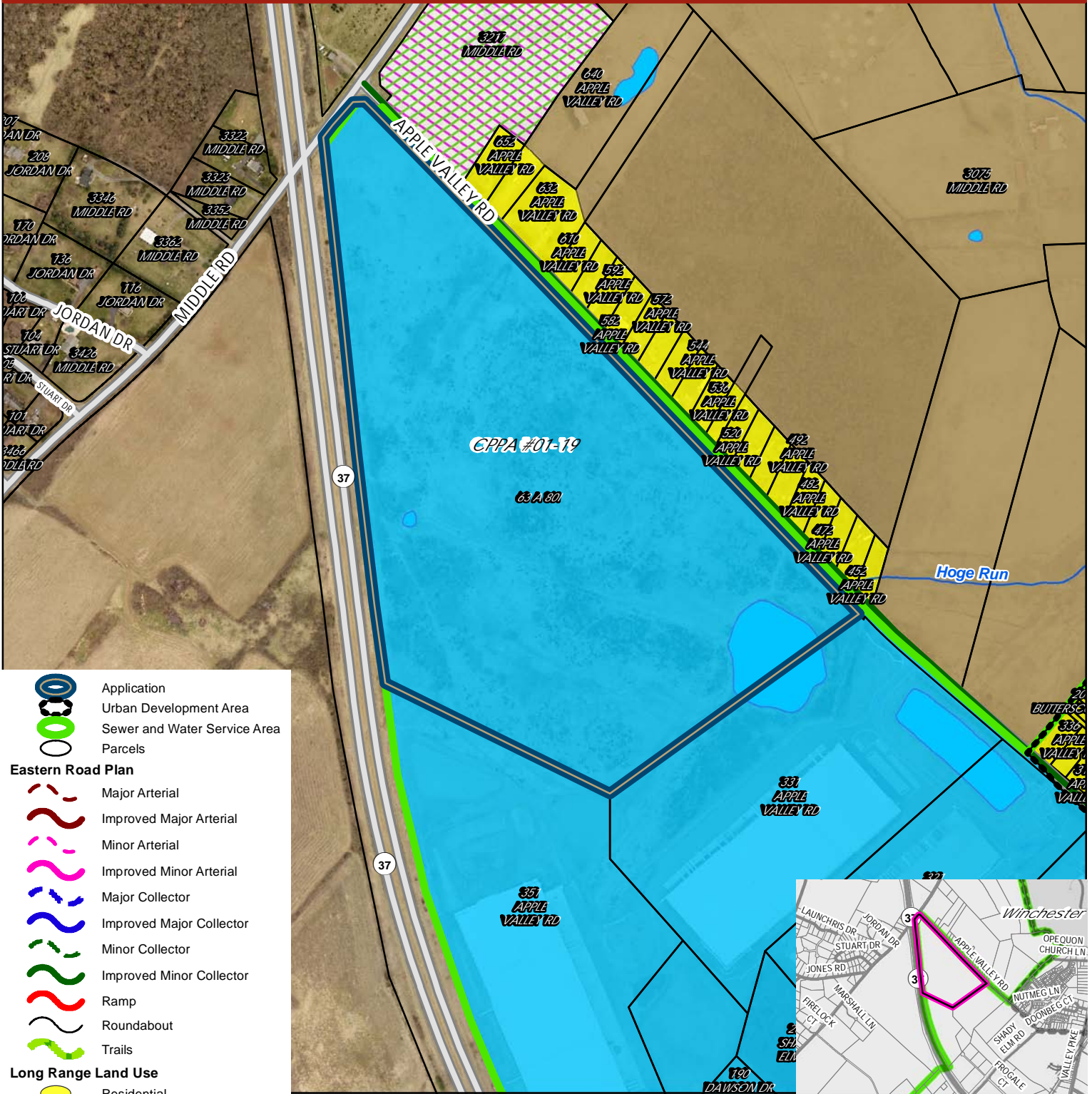
CEP/pd

Attachments

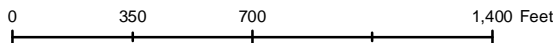
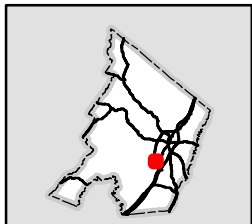
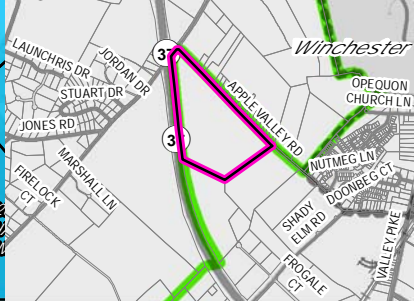
CPPA # 01 - 19: Blackburn Farms, LLC

PIN: 63 - A - 801

Revise Kernstown Area Plan
Long Range Land Use Map



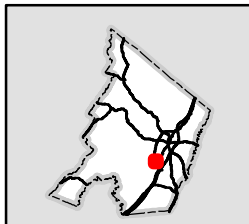
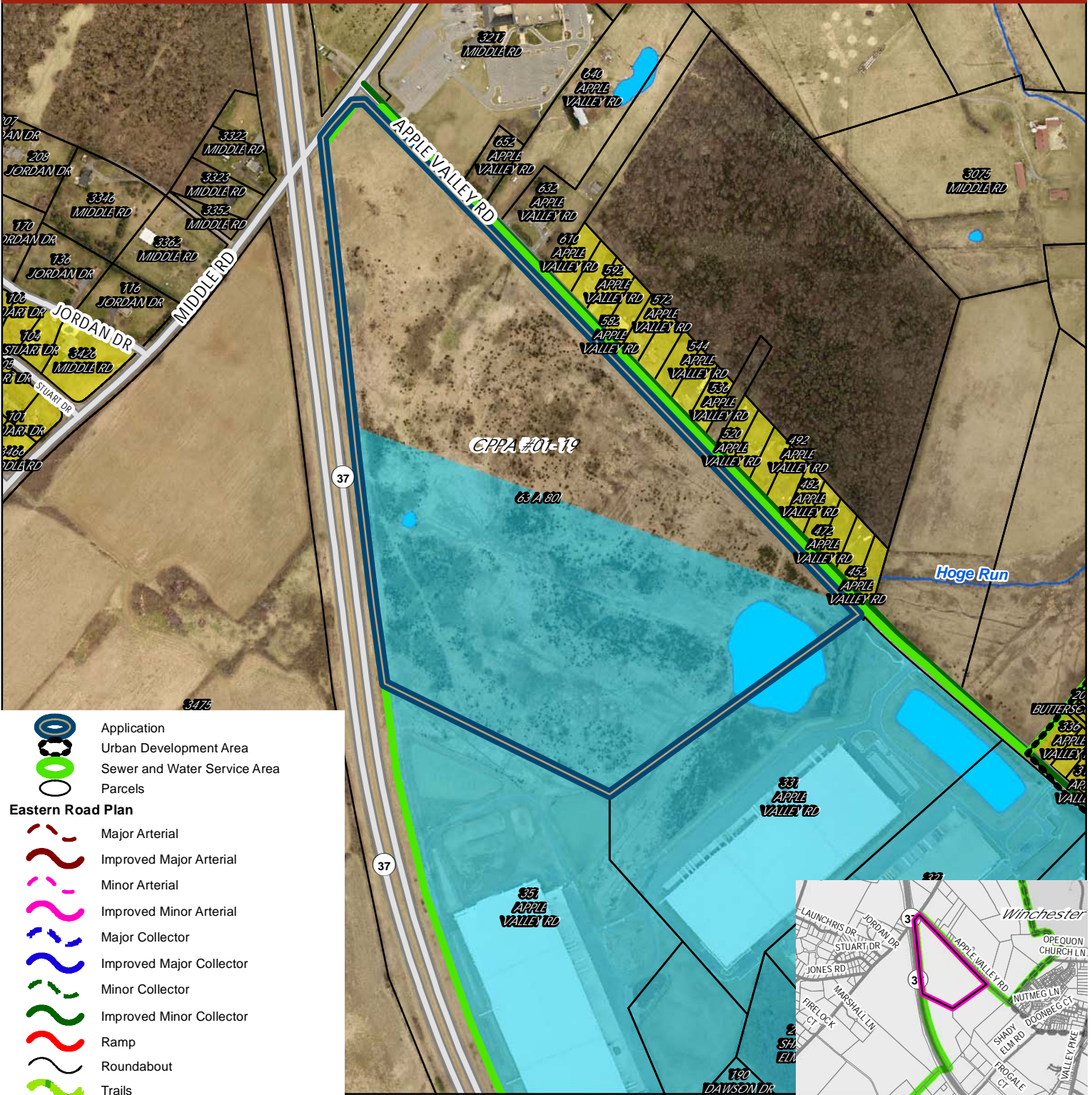
- Application
 - Urban Development Area
 - Sewer and Water Service Area
 - Parcels
- Eastern Road Plan**
- Major Arterial
 - Improved Major Arterial
 - Minor Arterial
 - Improved Minor Arterial
 - Major Collector
 - Improved Major Collector
 - Minor Collector
 - Improved Minor Collector
 - Ramp
 - Roundabout
 - Trails
- Long Range Land Use**
- Residential
 - Industrial
 - Sensitive Natural Areas
 - Institutional



CPPA # 01 - 19: Blackburn Farms, LLC

PIN: 63 - A - 801

Revise Kernstown Area Plan
Zoning Map



0 350 700 1,400 Feet

KERNSTOWN AREA PLAN

BOARD OF SUPERVISORS

APPROVED ON JANUARY 26, 2017

PLANNING COMMISSION

RECOMMENDED APPROVAL JANUARY 4, 2017

AMENDED:

KERNSTOWN AREA PLAN

The Kernstown Area Plan study area is generally located along Route 11, south of the City of Winchester and north of the Town of Stephens City, and west of I-81. The Kernstown Area Plan builds on the Route 11 South Corridor Plan, and the balance of the Southern Frederick Plan which was adopted in 1998, by incorporating the western portion of this plan into the Kernstown Area Plan.

A series of maps have been prepared which identify Future Land Use, Transportation, and Natural, Historical, and Community Facilities within the study area.

Within this plan, the Shady Elm Road area continues its economic development emphasis, the Route 11 corridor seeks to capitalize on Interstate Commercial opportunities, the industrial land uses north of Route 37 and east of Route 11 are reinforced, and the Bartonsville and Kernstown historical and cultural areas have been identified.

The Kernstown Area Plan in the vicinity of Route 37 and Interstate 81 feeds directly into the Senseny/Eastern Frederick Urban Area Plan with the Crosspointe Development. Interstate 81 improvements at the 310 Interchange, Phase 1 of which is scheduled to commence in 2015, in this location further supports this area plan. Route 11, Valley Pike, links the Kernstown Area Plan with the City of Winchester to the north and the Town of Stephens City to the south.

The Kernstown Area Plan promotes a new area of new land use focus; the Kernstown Neighborhood Village in the Creekside area, along the west side of Route 11 **and the Apple Valley Workforce Housing area, located along the southwest side of Apple Valley Road near its intersection with Middle Road.** This **The Kernstown Neighborhood Village** area should promote an attractive street presence along the frontage of Route 11 and reaffirm Kernstown as a distinct community, blending the old with the new, and building on the successful developments that have occurred in this area of the County. **The Apple Valley Workforce Housing Area is intended to provide affordable quality residential housing that is located within reasonable proximity to the community's workplaces. This land use is intended to accommodate households that average 60% of the median household income. The Apple Valley Workforce Housing Area should promote quality housing design that is complementary to existing residential uses in the Kernstown Area Plan and is limited in height to minimize visual impacts to the Kernstown Battlefield viewshed along Apple Valley Road.**

APPENDIX I - AREA PLANS

Land Use

The goal of this area plan is to integrate the commercial and industrial (C/I) opportunities, ~~and the areas of mixed use,~~ **and affordable workforce housing** with future transportation plans and to recognize the historical and natural resources abundant in this area plan.

Shady Elm Economic Development Area

The Shady Elm Economic Development Area is designed to be a significant area of industrial and commercial opportunity that is fully supportive of the County Economic Development Authority's targeted goals and strategies. The intent of the industrial designation is to further enhance the County's commercial and industrial areas and to provide focus to the County's future regional employment centers. In specific areas a mix of flexible uses, with office uses in prominent locations is encouraged. Such areas are supported by substantial areas of industrial and commercial opportunity, and provide for areas that are well designed with high quality architecture and site design. It is the intent of such areas to promote a strong positive community image.

Kernstown Interstate Commercial @ 310

Located at a highly visible location on a prominent interstate interchange, this area of land use both north and south of Route 37 along Route 11, is designed specifically to accommodate and promote highway commercial land uses and commercial uses that continue to promote this area as a regional commercial center.

Particular effort must be made to ensure that access management for the supporting transportation network is a key priority as the function of the interstate and primary road network is of paramount importance. Access to the areas of interstate commercial land uses shall be carefully designed. Access Management is a priority along the Route 11 corridor.

The building and site layout and design of the projects shall be of a high quality. In addition, an enhanced buffer and landscaping area shall be provided adjacent to the Interstate 81 right-of-way, its ramps, and along the main arterial road, Route 11, the Valley Pike. A significant corridor appearance buffer is proposed along Route 11 similar to that established for Route 50 West corridor in the Round Hill Land Use Plan which consisted of a 50' buffer area, landscaping, and bike path. The recently developed Kernstown Commons

APPENDIX I - AREA PLANS

provides an excellent example of an enhanced buffer and landscaping area along Route 11 that also includes a multi-purpose trail that serves the area.

Kernstown Industrial Area

The existing industrial land uses north of Route 37 and both east and west of Route 11 are reinforced with this area plan. Industries including Trex and H. P. Hood, are well established and should continue to be supported in this area. Additional industrial and commercial opportunity that is fully supportive of the County Economic Development Authority's targeted goals and strategies should be promoted. The intent of the industrial designation is to further enhance the County's like commercial and industrial areas and to provide focus to the County's regional employment centers.

Kernstown Creekside Neighborhood Village

Kernstown Creekside Neighborhood Village serves as a focal point to the Kernstown Area and as a gateway feature for this important County location. In addition, the Kernstown Creekside Area serves as a gateway into the City of Winchester, and on a broader scale, a gateway feature for this portion of Frederick County as citizens and visitors approach this portion the County from the south. This neighborhood village should promote a strong positive community image. Residential land uses would be permitted only as an accessory component of the neighborhood village commercial land uses. This area should have a strong street presence with particular attention being paid to the form of the buildings adjacent to Route 11. It is the intent of this plan to reaffirm Kernstown as a distinct community, blending the old with the new, and building on the successful developments that have occurred in this area of the County.

Defined Rural Areas

The Kernstown Area Plan has sought to further define the boundary between the Rural and Urban Areas of the Community. As noted, the above areas of proposed land use combine to frame the western boundary of the County's urban areas. In addition, the rural areas to the west of Shady Elm Road south of the industrial areas ***and west of Route 37*** further define the County's urban area in this location. The plan provides enhanced recognition of the rural residential land uses, Hedgebrook Farm, and the agricultural areas adjacent to Middle Road. This recognition and the location and boundaries of the proposed land uses further promote a clean separation between the County's rural and

APPENDIX I - AREA PLANS

urban areas. The continuation of agricultural uses west of Route 37 and Shady Elm Road will encourage the continuation of agribusiness activity and protect the integrity of the properties voluntarily placed in the South Frederick Agricultural and Forestal District.

Kernstown Battlefield and Bartonsville Sensitive Natural Areas (SNA's)

A historic district designation or use of conservation easements is recommended for the portion of the Grim Farm, site of the Kernstown Battlefield owned by the Kernstown Battlefield Association (KBA) that is located in the County. This designation is intended to recognize the preservation of the core area of the Kernstown Battlefield. County regulations stipulate that the formation of a historic district must be accomplished through the consent of the land owner. The County continues to support the Kernstown Battlefield Association's efforts in preserving and promoting this tremendous County resource.

A similar designation should be pursued, in conjunction with property owners, in the Bartonsville area. In addition to its historical significance, much of the Bartonsville area is also within the 100 year floodplain and would therefore be otherwise limited in terms of development potential. In Bartonsville, the rehabilitation, adaptive reuse, or restoration of historic structures should be encouraged. Future development applications that have historic resources on the property should incorporate the resources on the site into development. Any future development should be sensitive to those resources present on the site.

There are several historic sites and markers in the Kernstown Area Plan. Those sites and markers should be buffered from adjacent development activities and preserved in their original condition whenever possible during any development or land use planning.

The Springdale Flour Mill is located in the center of Bartonsville and would be ideal for use as a key element for the Bartonsville Rural Historic Area. It would be appropriate for the use on the property to develop as something which would encourage the protection of the structure and provide a use which encourages adaptive reuse users to utilize the property.

Bartonsville South

Perhaps the most outstanding feature of the land from Bartonsville south to the Stephens City limits is the relatively pristine state of the southern portion of the corridor. At time of writing, it remains relatively undeveloped. The majority

APPENDIX I - AREA PLANS

of this segment of the study area is currently either used for agriculture or is vacant. Only two, small-scale commercial enterprises are situated in this portion of the corridor. The bigger of the two is a commercial recreational land use known as Appleland. General commercial land uses are envisioned in this area in the future.

As noted, the Route 11 South corridor, in the area in and around Bartonsville, is shown as the site of a future preservation effort.

One of the significant elements of this plan is the buffering of Route 11 South. This southern section of the corridor from Stephens City, north to Bartonsville is intended to be set apart from the existing commercial development along the northern third of the corridor. The intent is that, through a combination of setbacks, vegetative screening, planting of shade trees along the edge of the right-of-way, and the provision of bike way and pedestrian access, the corridor would have a parkway-like appearance. A planted median strip is also envisioned when this section of Route 11 South becomes four lane. Uses locating within this section of the corridor would be expected to have no direct access to Route 11 South, but rather would access a proposed east-west connector road which in turn would intersect Route 11 South.

Valley Pike Trail

For the Kernstown Area Plan, it is recommended that a new multi-purpose path be constructed along the length of Valley Pike through the study area connecting areas of land use, in particular those resources identified as sensitive natural area's, and providing connections with the City of Winchester and the Town of Stephens City. This pathway should be consistent with that of the path that exists in several locations along the road today. Examples of this such a recreational resource would provide an excellent example for other opportunities in the County.

In general, the goals for land use in the Kernstown Area Plan are to;

- Promote orderly development within areas impacted by new infrastructure.
- Provide a balance of industrial, commercial, residential, and agricultural areas.
- Promote mixed-use development in-lieu of large areas of residential.
- Concentrate industrial and commercial uses near and around interstate, arterial, and major collector interchanges and intersections.
- Encourage the preservation of prime agricultural areas and the continuation of Agricultural and Forestal Districts.

Recommendations from the 2010 Win-Fred MPO Bicycle & Pedestrian Mobility Plan should be adopted by the Board of Supervisors and pedestrian facilities

APPENDIX I - AREA PLANS

shown in the plan should be constructed. This plan should also be utilized as a reference for accommodation recommendations and guidelines.

Ensure connectivity with existing or proposed bicycle or pedestrian transportation accommodations wherever possible. In particular, those planned or existing in the Town of Stephens City or in the City of Winchester.

Pedestrian facilities should be constructed that connect neighborhoods to commercial areas, employment areas and public facilities to promote access and walkability.

Trails should be planned and constructed that connect the Kernstown area, the proposed Valley Pike Trail, and Bartonsville (see the Valley Pike Trail example described in the land use section).

Linear parks should be constructed along creeks where permissible due to topography.

Residential Development

The only area of urban Residential development ***has been identified*** is located within the Urban Development Area in the location identified as the Kernstown Creekside Neighborhood Village ***and the location identified as the Apple Valley Workforce Housing Area.*** New residential uses should complement the existing residential uses ***and*** should be generally of a higher residential density.

Areas within the Kernstown Creekside Neighborhood Village and should include a neighborhood commercial component as described in the Kernstown Creekside Neighborhood Village Land Use. It will be very important to mix residential development in this area with the right balance of commercial uses.

In this area, ***In the Kernstown Creekside Neighborhood Village*** slightly higher residential densities that may fall within the 6-12 units per acre range are envisioned (this is generally attached houses and may also include multifamily and a mix of other housing types). ***In the Apple Valley Workforce Housing Area, residential densities are envisioned to be no more than 4 units per acre and should include single family detached housing units. This land use is intended to accommodate households that average 60% of the median household income of the County.***

These densities are necessary to accommodate the anticipated growth of the County within the urban areas and are consistent with established patterns within the study area and the densities needed to support the future residential land uses envisioned in the Plan.

APPENDIX I - AREA PLANS

The residential land uses west of Shady Elm Road and **Route 37** within the study area are envisioned to remain rural area residential in character. Shady Elm Road south **and Route 37** may generally be considered as the boundary between the urban areas and rural areas within the western part of this study area. This provides a transition area to the Opequon Creek and to the well-established rural character of the Middle Road and Springdale Road area.

Business Development

The Plan identifies a prime area for industrial land uses, the Shady Elm Economic Development Area, to capitalize on future industrial and commercial employment opportunities. Existing areas of industrial development are recognized with additional development promoted. Regional commercial development opportunities are reinforced in the Kernstown Interstate commercial area. In addition, an area is identified for neighborhood village commercial use, including retail, to accommodate existing residential communities and to build upon the successful Creekside commercial project.

The improvements to the Exit 310 Interchange on interstate 81 at Route 37 furthers the significant commercial opportunities that the Plan seeks to take advantage of by identifying the Kernstown Interstate Commercial @ 310 area of land use. Future improvements identified for this area are envisioned to continue to enhance this areas major role for commercial and industrial development.

Transportation

The Plan's Eastern Road Plan identifies several significant transportation improvements within the study area boundaries. These plans call for improvements to existing road alignments and interchanges, the relocation of existing roadways, and the construction of new road systems and interchanges. Transportation improvements to the interstate, arterial, and collector road systems will contribute to improved levels of service throughout the study area, and will shape the land use patterns in the short and long term.

In support of the new areas of land use, a transportation network has been proposed which relates to the location and context of the areas of land use, promotes multi-modal transportation choices and walkability, furthers the efforts of the Win-Fred MPO, and reaffirms the planning done as part of the Route 11 South Plan and the original Southern Frederick Plan. In this study there is a direct nexus between transportation and land use.

The improvements to Interstate 81 at Exit 310, will provide an improved orientation for the County's primary road system and provides new

APPENDIX I - AREA PLANS

opportunities to create a transportation network which supports the future growth of the community in the right locations. This area is also heavily influenced by the ongoing and future improvements to Route 11 South, Shady Elm Road, and the future extension of Renaissance Drive to complete a key east-west connection south of Route 37. South of Bartonsville, in the area north of the Town of Stephens City, the road network provides for important connections into the Town and to the west to connect with the planned alignment of the Tasker Road flyover of Interstate 81.

Access Management is a significant consideration of this study and general transportation planning in Frederick County. This concept is supportive of providing for key connections to the south. The use of frontage roads, minor collector roads, and inter-parcel connections to bring traffic to access points is promoted.

The context of the collector road network is proposed to be different with the focus being placed on a thoroughfare design that is accessible to all users and a more walkable environment. Particular attention should be paid to street network within the Kernstown Creekside Neighborhood Village Area to ensure that is highly walkable. The change in context in this specific location is to ensure compatibility with adjacent land uses and community goals. The surrounding land use, site design, and building design are features that will help create context and promote the improvement of this area as a focal point and as a place with more distinct character. Attention should be provided to the context of the street in the Neighborhood Village Commercial Areas to ensure that these prominent locations are safe and accessible to all modes of transportation. Bicycle and pedestrian accommodations should be fully integrated to achieve a transportation network that is open to all users. Appropriately designed intersection accommodations should include pedestrian refuge islands and pedestrian actualized signals.

In general, the road south of Apple Valley Road will provide for a more functional street open to all users. North of Apple Valley Road, Route 11 will have a more urban scale with a character that builds upon the architecture established in the existing Creekside area.

Special attention should be paid to ensure the transportation considerations of the Town of Stephens City to the south and the City of Winchester to the north are fully coordinated.

In addition, transportation improvements in the Kernstown Battlefield area and the Bartonsville area should include taking a proactive approach in creating safe interconnected routes to the battlefield park from the adjacent areas and creating additional access points. Traffic calming across the entire frontage of Kernstown Creekside Neighborhood Village is warranted with special attention placed on providing a safe and efficient access to this mixed use area of the community.

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Consistent application of Comprehensive Plan goals to achieve an acceptable level of service on area roads and overall transportation network, level of service C or better, should be promoted. Further, efforts should be made to ensure that additional degradation of the transportation beyond an acceptable level of service shall be avoided. Consideration of future development applications within the study area should only occur when an acceptable level of service has been achieved and key elements and connections identified in this plan have been provided.

Further in depth study should occur in the future regarding the preferred alignment of the road connections in the area immediately south and adjacent to the Bartonsville area. Consideration should be given to ensure the future road network functions adequately and is sensitive to the many constraints that exist in that general area.

Community Facilities

The need for public spaces within the study area needs to be acknowledged. Opportunities for small public spaces within the Kernstown Creekside Neighborhood Village should be pursued.

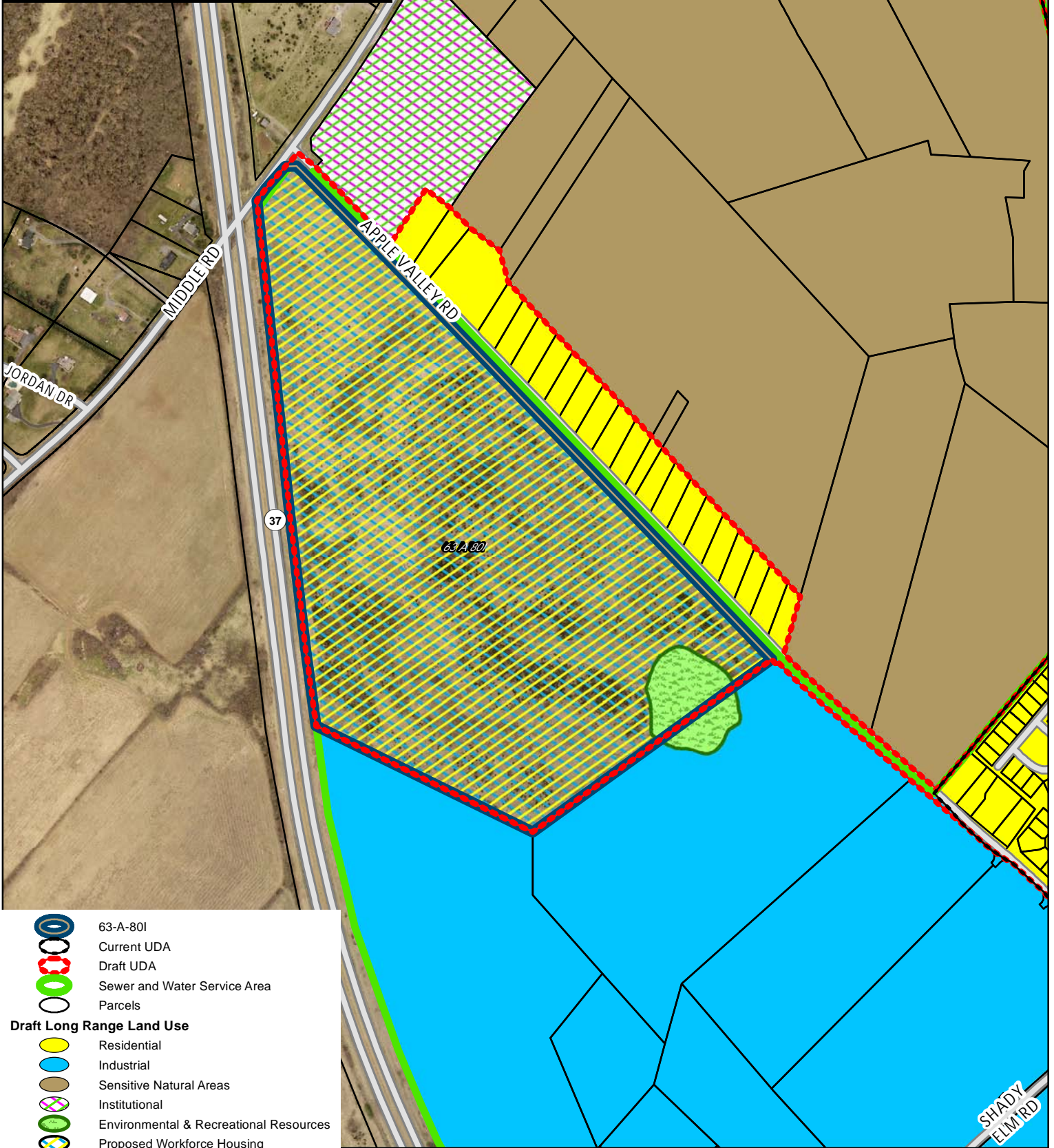
The public facility element of the Kernstown Area plan should directly correlate to the Public Facilities chapter of the 2035 Comprehensive Plan. The public facilities element should also expand upon the existing 2035 Comprehensive Plan and ensure that opportunities for needed public facilities, which are not currently identified, are not missed. The development community should work with FCPS, Fire & Rescue, and Parks and Recreation to determine future public facility needs.

With regards to Public Utilities, Frederick Water and the County should continue to ensure the availability of adequate water resources in conjunction with the future land uses identified in Area Plans and future development, determine the capacities of water and sewer treatment facilities and projected impacts of future land uses, and provide opportunities for expansion of water and sewage treatment facilities.

63-A-801

Kernstown Area Land Use Plan

Draft Long Range Land Use and UDA



BLACKBURN PROPERTY WORKFORCE HOUSING

2019 COMPREHENSIVE POLICY PLAN AMENDMENT



January 9, 2019

**TM #63-A-80I
Back Creek Magisterial District
Frederick County, Virginia**

Prepared For: Blackburn Farm, LLC

**Contact Person: Evan Wyatt, Director of Land Planning
Greenway Engineering, Inc.
151 Windy Hill Lane
Winchester, VA 22602**

COMPREHENSIVE POLICY PLAN AMENDMENT 2019 INITIATION REQUEST FORM

Owner(s) Information:

Name: Blackburn Farm, LLC c/o Barbara B. Lewis, Manager

Project Name: Blackburn Property Workforce Housing Comprehensive Plan Amendment

Mailing Address: 458 Devon Drive Warrenton, VA 20186

Telephone Number: (540) 347-0668

Authorized Agent Information:

Name: Greenway Engineering, Inc. – Attn. Evan Wyatt, Director of Land Planning

Project Name: Blackburn Property Workforce Housing Comprehensive Plan Amendment

Mailing Address: 151 Windy Hill Lane Winchester, VA 22602

Telephone Number: (540) 662-4185

Legal Interest in the Property Affected or Reason for the Request:

Legal Interest: Blackburn Limited Partnership (Deed Book 812 Page 70)

Note: Blackburn Farm, LLC established with Commonwealth of Virginia State Corporation Commission (SCC) on January 21, 2014 to convert Blackburn Limited Partnership to a limited liability company. SCC Certificate of Fact dated May 14, 2015 included as information in Instrument No. 150004355 which is included in this application.

Reason for Request: The purpose of the Comprehensive Policy Plan Amendment request is to revise the Kernstown Area Plan future land use designation of the subject parcel from Shady Elm Economic Development Area to Shady Elm Workforce Housing Area. This land use designation will allow the development of workforce housing that provides affordable quality housing opportunities for residents of the community located within reasonable proximity of workplaces in the community. The Comprehensive Policy Plan Amendment includes the expansion of the Urban Development Area (UDA) Boundary to encompass the Shady Elm Workforce Housing Area.

SECTION 1 – FOR A MAP AMENDMENT

Proposed Comprehensive Policy Plan Amendment Information:

PIN(s): 63-A-80I

Magisterial District: Back Creek District

Parcel Size (approximate acres):

The subject parcel (Tax Map Parcel 63-A-80I) is 71.849 acres in total size as depicted on the Boundary Line Adjustment Between the Lands of Graystone Corporation of Virginia and Blackburn Farm, LLC prepared by Marsh & Legge Land Surveyors, P.L.C. dated May 13, 2015 and recorded as Instrument No. 150004355.

Plat of area proposed for CPPA amendment, including metes and bounds description:

Please refer to the Plat entitled Boundary Line Adjustment Between the Lands of Graystone Corporation of Virginia and Blackburn Farm, LLC prepared by Marsh & Legge Land Surveyors, P.L.C. dated May 13, 2015 and recorded as Instrument No. 150004355.

Existing Comprehensive Plan Land Use Classification(s): Industrial

Proposed Comprehensive Plan Land Use Classification(s): Residential Workforce Housing

Existing Zoning and Land Use of the Subject Parcel:

The subject parcel is split-zoned M1, Light Industrial District and RA, Rural Areas District and is undeveloped.

What Use/Zoning will be requested if Amendment is approved?

The subject parcel will be developed as a residential workforce housing project providing affordable quality residential housing opportunities for citizens, which is located within reasonable proximity to the community's workplaces. The workforce housing project as envisioned will provide single-family detached residences that are single story structures and are served by a complete system of private streets. A Rezoning Application will be submitted for the subject parcel for RP, Residential Performance District zoning to allow for the development of a residential workforce housing project.

Describe, using Text and Maps as Necessary, the Existing Zoning, Comprehensive Policy Plan Designations, and/or Approved Uses and Densities Along with Other Characteristics of Properties that are Within 1/2-Mile from the Parcel(s) Perimeter if the Parcel is Less than 100 acres in Size:

Please refer to the attached Zoning Map Exhibit that identifies the various zoning designations for properties within a ½-mile radius of the subject parcel. The following information describes existing and future land use characteristics within this radius boundary:

- Properties on the north side of Middle Road (Route 628) to the north of the subject parcel are zoned RA, Rural Areas District.
- Properties on the east side of Apple Valley Road (Route 652) to the east of the subject parcel are zoned RA, Rural Areas District and RP, Residential Performance District.
- Properties to the south of the subject parcel are zoned I1, Light Industrial.
- Route 37 West adjoins the subject parcel along the western property boundary. The remaining portion of the Blackburn Farm, LLC property is located on the other side of Route 37 West and is zoned RA, Rural Areas District.

Please refer to the attached Long Range Land Use Exhibit that identifies the various future land use designations identified in the Kernstown Area Plan for properties within a ½-mile radius of the subject parcel. The following information describes existing and future land use characteristics within this radius boundary:

- Properties on the north side of Middle Road (Route 628) to the north of the subject parcel are located outside of the Kernstown Area Plan Boundary.
- Properties on the east side of Apple Valley Road (Route 652) to the east of the subject parcel are identified as Residential, Institutional and Rural Areas Land Uses.
- Properties to the south of the subject parcel are identified as Industrial Land Use.
- Route 37 West adjoins the subject parcel along the western property boundary. Properties on the other side of Route 37 West are identified as Rural Areas.

Please refer to the attached Existing Land Use Aerial Exhibit that identifies the various land uses within a ½-mile radius of the subject parcel. The following information describes existing land uses within this radius boundary:

- Properties on the north side of Middle Road (Route 628) to the north of the subject parcel are developed as Residential and as a Christmas Tree Farm.
- Properties on the east side of Apple Valley Road (Route 652) to the east of the subject parcel are developed as Residential, Single-Family Small Lot Residential, a Church, and Battlefield Preservation Land.
- Properties to the south of the subject parcel are developed as Industrial Land Use.

- Route 37 West adjoins the subject parcel along the western property boundary. Properties on the other side of Route 37 West are developed as Residential Land Use and are undeveloped Agricultural Land Use.

The Name, Mailing Address, and Parcel Number of all Property Owners Within 200' of the Subject Parcel(s), with Adjacent Property Owners Affidavit:

Please refer to the attached Adjoining Property Owner Map Exhibit and Adjoining Property Owner Table Exhibit that provides the location and applicable contact information for all properties within 200' of the subject parcel.

SECTION 2 – FOR A TEXT AMENDMENT

The inclusion of the Shady Elm Workforce Housing Area as a new land use designation within the Kernstown Area Plan could potentially warrant a Text Amendment for consideration by the County. The following information has been provided specific to the Shady Elm Workforce Housing Area to identify potential text amendments that may be appropriate:

Note: Strike-thru text to be eliminated and Red Font text to be incorporated

Kernstown Area Plan Section (Page 76)

The Kernstown Area Plan promotes ~~a new area~~ **new areas** of new land use focus; the Kernstown Neighborhood Village in the Creekside area, along the west side of Route 11, **and the Shady Elm Workforce Housing Area, along the southwest side of Route 652 near the intersection with Route 628.** ~~This area~~ **The Kernstown Neighborhood Village** should promote an attractive street presence along the frontage of Route 11 and reaffirm Kernstown as a distinct community, blending the old with the new, and building on the successful developments that have occurred in this area of the County. **The Shady Elm Workforce Housing Area is intended to provide affordable quality residential housing that is located within reasonable proximity the community's workplaces. The Shady Elm Workforce Housing Area should promote quality housing design that is complementary to existing residential uses in the Kernstown Area Plan, and is limited in height to minimize visual impacts to the Kernstown Battlefield viewshed along Route 652.**

*Shady Elm Economic Development **and Workforce Housing Area** (Page 77)*

The Shady Elm Economic Development **and Workforce Housing Area** is designed to be a significant area of industrial, ~~and~~ commercial **and workforce housing** opportunity that is fully supportive of the County Economic Development Authority's targeted goals and strategies. The intent of the industrial **and workforce housing** designation is to further enhance the County's commercial and industrial areas, ~~and~~ to provide focus to the County's future regional employment centers, **and to provide affordable quality housing for the community's workforce that will be required to support identified employment areas.** In specific areas a mix of flexible uses, with

office uses in prominent locations and workforce housing in appropriate locations is encouraged. Such areas are supported by substantial areas of industrial and commercial opportunity, and provide for areas that are well designed with high quality architecture and site design. It is the intent of such areas to promote a strong positive community image.

Residential Development (Page 81)

~~The only area~~ Areas of urban residential development are located within the Urban Development Area in the location identified as the Kernstown Creekside Neighborhood Village, and in the location identified as the Shady Elm Workforce Housing Area. New residential uses should complement the existing residential uses, and should be generally of a higher density. ~~and should include~~ Additionally, a neighborhood commercial component should be included as described in the Kernstown Creekside Neighborhood Village Land Use. It will be very important to mix residential development in ~~this area~~ the Kernstown Creekside Neighborhood Village with the right balance of commercial uses.

In ~~this area~~ the Kernstown Creekside Neighborhood Village, slightly higher residential densities that may fall within the 6-12 units per acre range are envisioned (this is generally attached houses and may also include multifamily and a mix of other housing types). In the Shady Elm Workforce Housing Area, residential densities are envisioned to fall within the 4-6 units per acre range (this is generally detached and attached houses but does not include multifamily).

These densities are necessary to accommodate the anticipated growth of the County within the urban areas and are consistent with established patterns within the study area and the densities needed to support the future residential land uses envisioned in the Plan.

The residential land uses west of ~~Shady Elm Road~~ Route 37 West within the study area are envisioned to remain rural area residential in character. ~~Shady Elm Road south~~ Route 37 West may generally be considered as the boundary between the urban areas and rural areas within the western part of this study area. This provides a transition area to the Opequon Creek and to the well-established rural character of the Middle Road and Springdale Road area.

SECTION 3 – FOR ALL AMENDMENTS - TO BE COMPLETED 7/9/18

Justification of Proposed Comprehensive Policy Plan Amendment (Provide Attachments if Necessary). Describe why the Change to the Comprehensive Policy Plan is Being Proposed:

The Blackburn Property Workforce Housing Comprehensive Plan Amendment is proposed to allow for the development of workforce housing that provides affordable quality housing opportunities for residents of the community. Workforce housing has been identified as a need in the community by the Economic Development Authority and the regional Affordable Housing Coalition in support of economic development land uses by providing housing opportunities for workers that are needed to meet the labor demands for local industrial, commercial, and public sector land uses. The 71.849-acre subject parcel is located within reasonable proximity of industrial, commercial, and public sector workplaces in the community; as well as within close

proximity to major transportation routes. Therefore, the location of the subject property would be appropriate for a workforce housing development.

The U.S. Census Bureau identifies Frederick County has having a median household income of \$68,929 and having a median housing unit value of \$231,400. Workforce housing provides an affordable housing option for qualifying families that average 60% of the local median household income. This in turn provides an opportunity for workers to reside in the community in which they work and not have to commute from other areas that offer more affordable housing.

The Blackburn Property Workforce Housing Comprehensive Plan Amendment will incorporate the subject parcel into the Urban Development Area and provide the subject property with a Workforce Housing Area land use designation. These policy revisions will allow for the property owner to work with the County to create appropriate ordinance standards and conditionally rezone the subject property to develop a workforce housing project. The workforce housing project as envisioned will provide 200 single-family detached residences that are single story structures and are served by a complete system of private streets.

These factors support and justify the Blackburn Property Workforce Housing Comprehensive Plan Amendment.

How would the Resultant Changes Impact or Benefit Frederick County? Consider, for example, Transportation, Economic Development and Public Facilities:

The Blackburn Property Workforce Housing Comprehensive Plan Amendment is proposed to provide affordable quality residential housing opportunities for residents of the community. The 71.849-acre subject parcel is located within reasonable proximity the community's workplaces and major transportation routes. The impacts and benefits to Frederick County are identified specific to the proposed 200 single family unit project that would be developed subsequent to Board of Supervisor approvals of the Comprehensive Policy Plan Amendment, the RP District Housing Zoning Ordinance Amendment, and the Proffered Rezoning Amendment.

Transportation

The following tables provide projected traffic impacts comparisons of the traffic generation rates specific to the proposed 200 single family unit workforce housing project and 938,800 SF of light industrial development (0.3 FAR) consistent with the current future land use designation in the Kernstown Land Use Plan. The values used from this comparison were obtained from the Institute of Traffic Engineers (ITE) Trip Generation Manual, 9th Edition, which is the source currently utilized by VDOT and Frederick County for transportation impact analysis.

| Work Force Housing Weekday Traffic Volume Projected Impacts | | | | |
|--|------------|-----------------|--------------------------|--------------------------|
| <i>Land Use</i> | <i>ITE</i> | <i>ADT Rate</i> | <i>AM Peak Hour Rate</i> | <i>PM Peak Hour Rate</i> |
| Single-Family Detached | 210 | 9.52 | 0.77 | 1.0 |
| Projected Trip Rates: 200 SFD | | 1,904 ADT | 154 AM Peak Hour Trips | 200 PM Peak Hour Trips |

| Light Industrial Weekday Traffic Volume Projected Impacts | | | | |
|--|------------|-----------------|--------------------------|--------------------------|
| <i>Land Use</i> | <i>ITE</i> | <i>ADT Rate</i> | <i>AM Peak Hour Rate</i> | <i>PM Peak Hour Rate</i> |
| General Light Industrial | 110 | 6.97/1,000 SF | 1.01/1,000 SF | 1.08/1,000 SF |
| Projected Trip Rates:
938,800 SF (0.3 FAR) | | 6,543 ADT | 948 AM Peak Hour Trips | 1,013 PM Peak Hour Trips |

The above tables demonstrate a reduced impact to transportation for average daily traffic volumes and for AM/PM Peak Hour volumes comparing the proposed 200 single family unit workforce housing project to the 938,800 SF of light industrial development.

The 71.849-acre subject parcel has approximately 3,000 feet of frontage along Apple Valley Road (Route 652). The Eastern Frederick County Road Plan identifies Apple Valley Road as an Improved Minor Collector Road between Shady Elm Road (Route 651) and Middle Road (Route 628). The property owner previously dedicated a 45' wide right-of-way from the centerline of Apple Valley Road along the entire property frontage to accommodate future right-of-way needs as evident by Instrument No. 150004355.

Economic Development

The proposed 200 single family unit workforce housing project is not an economic development project that provides revenue to Frederick County other than real estate and personal property taxes that would be assessed specific to each household. However, the workforce housing project does compliment economic development land use by providing housing opportunities within the community for workers that are needed to meet the labor demands for local industrial, commercial, and public sector land uses. The need for workforce housing projects in the community has been identified by the Economic Development Authority and the regional Affordable Housing Coalition.

Water and Sewer Capacities

The proposed 200 single family unit workforce housing project is located within the Sewer and Water Service Area (SWSA) and will be located within the Urban Development Area (UDA) subsequent to Board of Supervisor approval of Comprehensive Policy Plan Amendment. Greenway Engineering has analyzed the water and sewer capacity requirements for the 200 single family unit workforce housing project and has determined that an average daily demand of 60,000 GPD will be required for water and sewer service. The subject property has direct access to a 10-inch water line located along the property frontage and is within close proximity to a gravity sewer system that directs effluent to the 15-inch Hogue Run sewer interceptor to the Parkins Mill Wastewater Treatment Facility. Frederick Water is the public water and sewer service provider for the subject property and the proposed project is anticipated to not negatively impact public water and sewer facilities or capacities.

Public Schools

The proposed 200 single family unit workforce housing project will generate school age children that will create an impact to Frederick County Public Schools. The Frederick County Public Schools students/household calculation indicates that there will be an average of 0.39 school age children per household. The following table identifies the school age children impacts specific to the proposed 200 single family unit workforce housing project.

| Public School Projections | | |
|--------------------------------|---------------------------|----------------------------------|
| <i>School Name</i> | <i>Students/Household</i> | <i>Projected Students Number</i> |
| Orchard View Elementary School | 0.19 Students/Household | 38 Students |
| James Wood Middle School | 0.09 Students/Household | 18 Students |
| Sherando High School | 0.11 Students/Household | 22 Students |
| Totals: | 0.39 Students/Household | 78 Total Students |

The proposed 200 single family unit workforce housing project will require approval of a Rezoning by the Board of Supervisors. Therefore, impacts to Public School Services will be determined during the rezoning process and will be mitigated by the Applicant's Proffer Statement as a conditional of rezoning approval.

Fire and Rescue

The proposed 200 single family unit workforce housing project will create an impact to Fire and Rescue Services provided by the County. The Stephens City Volunteer Fire and Rescue Company is the first responder, which is located approximately 4.5 miles from to the subject property. The proposed 200 single family unit workforce housing project is projected to house 524 persons based on a 2.62 persons/household calculation derived from the 2017/2018 Frederick County Budget Document. Impacts to Emergency Services will be determined during the rezoning process and will be mitigated by the Applicant's Proffer Statement as a conditional of rezoning approval.

Parks and Recreation

The proposed 200 single family unit workforce housing project will create an impact to Frederick County Parks and Recreation Services provided by the County. Impacts to Parks and Recreation Services will be determined during the rezoning process and will be mitigated by the Applicant's Proffer Statement as a conditional of rezoning approval.

Signatures:

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

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

Applicant(s): Evan A. Wyatt Date: 1/9/19

Owner(s): (also known as Barbara B. Sites)
Barbara B. Lewis, Manager Date: 1/9/19



Attachment 2

Special Limited Power of Attorney
County of Frederick, Virginia
Frederick Planning Web Site: www.fcva.us

Department of Planning & Development, County of Frederick, Virginia
107 North Kent Street, Suite 202 Winchester, Virginia 22601
Phone 540-665-5651 Facsimile 540-665-6395

Know All Men By Those Present: That I (We)

(Name) BLACKBURN FARM, LLC (Phone) (540) 347-0668

(Address) 458 DEVON DRIVE, WARRINGTON, VA 20186
the owner(s) of all those tracts or parcels of land ("Property") conveyed to me (us), by deed recorded in the Clerk's Office of the Circuit Court of the County of Frederick, Virginia, by

Instrument No. 150004355 on Page _____, and is described as

Parcel: 63 Lot: A Block: 80I Section: _____ Subdivision: _____
do hereby make, constitute and appoint:

(Name) GREENWAY ENGINEERING, INC. (Phone) (540) 662-4185

(Address) 151 WINDY HILL LANE WINCHESTER, VA 22602
To act as my true and lawful attorney-in-fact for and in my (our) name, place, and stead with full power and authority I (we) would have if acting personally to file planning applications for my (our) above described Property, including:

- Rezoning (including proffers)
- Conditional Use Permit
- Master Development Plan (Preliminary and Final)
- Subdivision
- Site Plan
- Comprehensive Policy Plan Amendment
- Appeal or Variance

My attorney-in-fact shall have the authority to offer proffered conditions and to make amendments to previously approved proffered conditions except as follows:

This authorization shall expire one year from the day it is signed, or until it is otherwise rescinded or modified.

In witness thereof, I (we) have hereto set my (our) hand and seal this 9th day of January, 2019,

Signature(s) Barbara B. Lewis (also known as Barbara B. Sites)
Manager

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

I, Gail Headley FARRACE, a Notary Public in and for the jurisdiction aforesaid, certify that the person(s) who signed to the foregoing instrument personally appeared before me and has acknowledged the same before me in the jurisdiction aforesaid this 9 day of Jan, 2019.

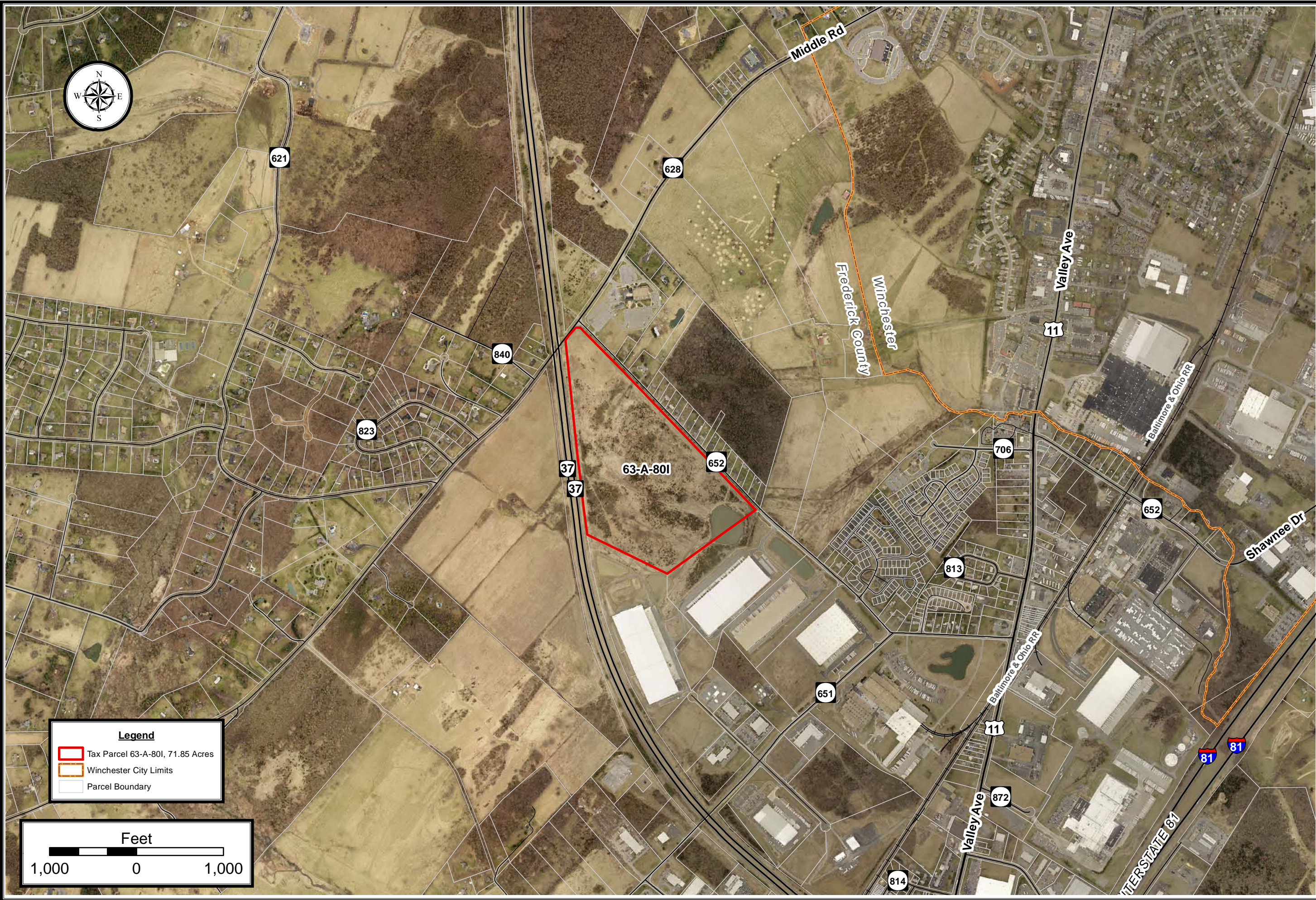
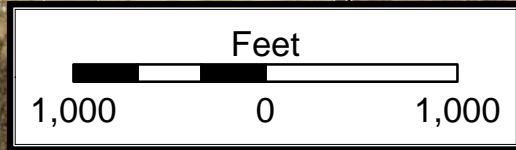
Gail H Farrace My Commission Expires: 3-31-20
Notary Public





Legend

- Tax Parcel 63-A-801, 71.85 Acres
- Winchester City Limits
- Parcel Boundary

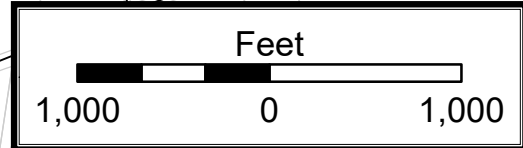


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 F: 540.722.4185
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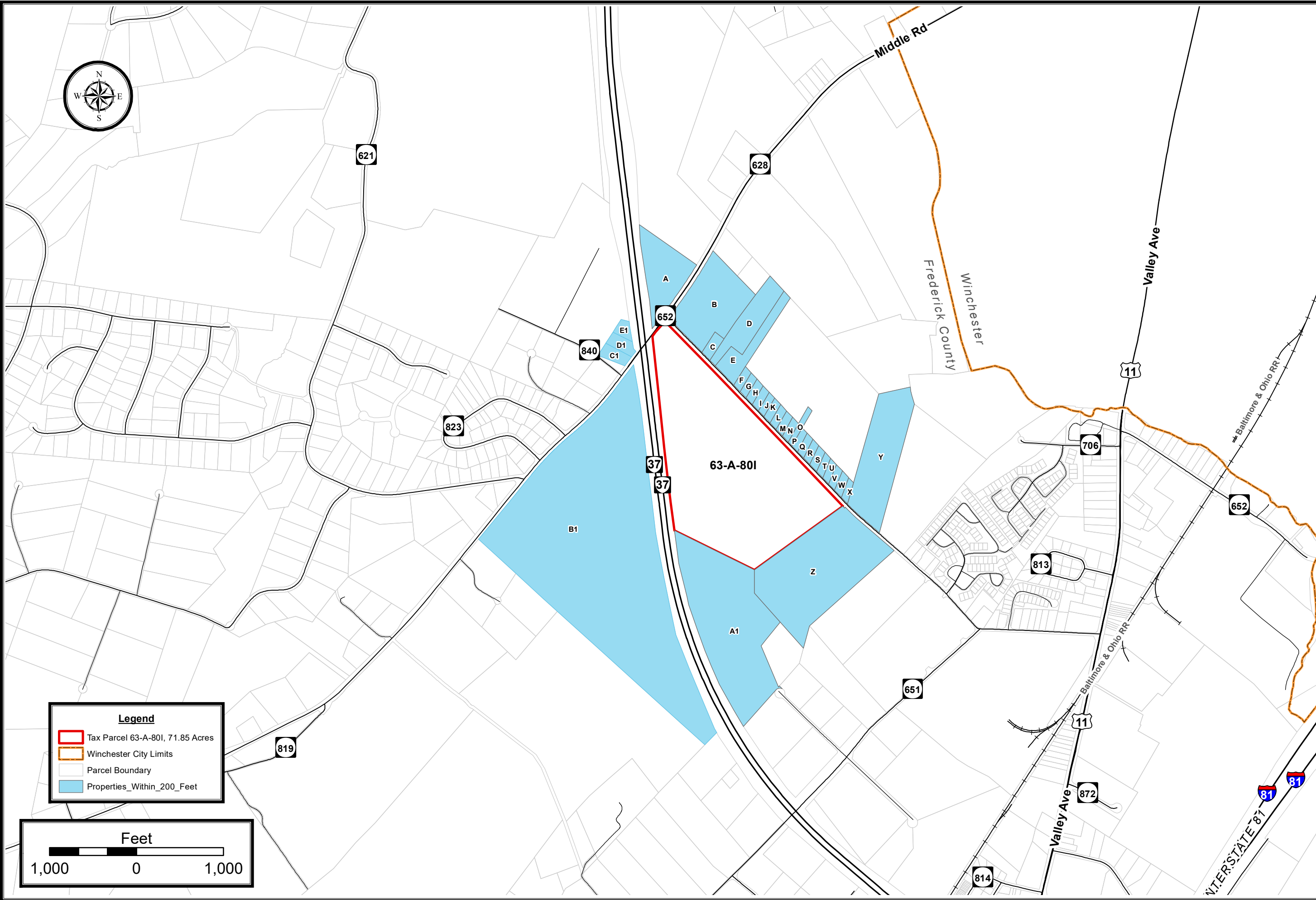
BLACKBURN PROPERTY
COMPREHENSIVE POLICY PLAN AMENDMENT
AERIAL OVERVIEW

| | |
|---------------------------------|-------------------------------------|
| BLACKBURN PROPERTY | COMPREHENSIVE POLICY PLAN AMENDMENT |
| AERIAL OVERVIEW | |
| BACK CREEK MAGISTERIAL DISTRICT | |
| FREDERICK COUNTY, VIRGINIA | |
| DATE: 2018-06-27 | PROJECT ID: 0036E |
| DESIGNED BY: MEW | |
| SCALE: 1 Inch = 1,000 Feet | |



Legend

- Tax Parcel 63-A-801, 71.85 Acres
- Winchester City Limits
- Parcel Boundary
- Properties_Within_200_Feet



Greenway Engineering, Inc.
 151 Windy Hill Lane
 Winchester, VA 22602
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 F: 540.722.4185
 www.GreenwayEng.com



**BLACKBURN PROPERTY
 COMPREHENSIVE POLICY PLAN AMENDMENT
 SURROUNDING PROPERTIES
 WITHIN 200 FEET**

| | |
|-------------------------------------|----------------------------|
| BLACKBURN PROPERTY | DESIGNED BY: MEW |
| COMPREHENSIVE POLICY PLAN AMENDMENT | PROJECT ID: 0036E |
| PROPERTIES WITHIN 200 FEET | DATE: 2018-06-27 |
| BACK CREEK MAGISTERIAL DISTRICT | SCALE: 1 Inch = 1,000 Feet |
| FREDERICK COUNTY, VIRGINIA | |

| Label | Tax Map Number | Owner | Mailing Address | City and State | ZIP |
|-------|----------------|---|---------------------------------------|----------------|-------|
| A | 62 A 75 | WILKINS ROY L JR TRUSTEE, WILKINS BETTY J TRUSTEE | 3210 MIDDLE RD | WINCHESTER, VA | 22602 |
| B | 63 A 14 | FELLOWSHIP BIBLE CHURCH | 3217 MIDDLE RD | WINCHESTER, VA | 22602 |
| C | 63 A 16 | MATHENEY DOUGLAS G | 652 APPLE VALLEY RD | WINCHESTER, VA | 22602 |
| D | 63 A 15C | FOX RONALD V, FOX PATRICIA W | 632 APPLE VALLEY RD | WINCHESTER, VA | 22602 |
| E | 63 A 15A | FOX RONALD V, FOX PATRICIA W | 632 APPLE VALLEY RD | WINCHESTER, VA | 22602 |
| F | 63A 1 1 | FOX RONALD V, FOX PATRICIA W | 632 APPLE VALLEY RD | WINCHESTER, VA | 22602 |
| G | 63A 1 3 | JONES SAMUEL C, JONES ROBIN M | 602 APPLE VALLEY RD | WINCHESTER, VA | 22602 |
| H | 63A 1 5 | KLINE MARK C | 592 APPLE VALLEY RD | WINCHESTER, VA | 22602 |
| I | 63A 1 7 | HUNTER JAMES, HUNTER BONNIE | 582 APPLE VALLEY RD | WINCHESTER, VA | 22602 |
| J | 63A 1 9 | GOOD JENNIFER LYNN | 572 APPLE VALLEY RD | WINCHESTER, VA | 22602 |
| K | 63A 1 11 | TURNER JAMES C, TURNER DEBORAH L | 564 APPLE VALLEY RD | WINCHESTER, VA | 22602 |
| L | 63A 1 13 | PHILLIPS SHARON J | 554 APPLE VALLEY RD | WINCHESTER, VA | 22602 |
| M | 63A 1 15 | YOUNG MICHAEL R | 544 APPLE VALLEY RD | WINCHESTER, VA | 22602 |
| N | 63A 1 17 | CRESWELL RUSSELL W, CRESWELL ROBIN R | 536 APPLE VALLEY RD | WINCHESTER, VA | 22602 |
| O | 63 A 17A | CIVIL WAR PRESERVATION TRUST | 1156 T ST NW STE 900 | WASHINGTON, DC | 20009 |
| P | 63A 1 19 | APPLE VALLEY LLC | 478 E WASHINGTON ST | STRASBURG, VA | 22657 |
| Q | 63A 1 21 | MARTINEZ CAROLE ANN DAVIS | 35 ORMSKIRK AVE 913 TORONTO ON M6S1A8 | CANADA, | NA |
| R | 63A 1 23 | HOSTLER GEORGE, HOSTLER BARBARA | 502 APPLE VALLEY RD | WINCHESTER, VA | 22602 |
| S | 63A 1 25 | WHITACRE RICHARD L SR, CHRISTINE E | 492 APPLE VALLEY RD | WINCHESTER, VA | 22602 |
| T | 63A 1 3 27 | MARSTON JENNINGS RHODES | 108 FOREST RIDGE RD | WINCHESTER, VA | 22602 |
| U | 63A 1 29 | NICHOLSON BETTY A | 472 APPLE VALLEY RD | WINCHESTER, VA | 22602 |
| V | 63A 1 31 | WELZEL ANTON, WELZEL PATRICIA D | 452 APPLE VALLEY RD | WINCHESTER, VA | 22602 |
| W | 63A 1 33 | WELZEL ANTON, WELZEL PATRICIA D | 452 APPLE VALLEY RD | WINCHESTER, VA | 22602 |
| X | 63 A 17B | CIVIL WAR PRESERVATION TRUST | 1156 T ST NW STE 900 | WASHINGTON, DC | 20009 |
| Y | 63 A 18A | KERNSTOWN BATTLEFIELD ASSOCIATION, INC | PO BOX 1327 | WINCHESTER, VA | 22604 |
| Z | 63 A 58C | BLACKBURN COMMERCE CENTER I LC | 1057 MARTINSBURG PIKE | WINCHESTER, VA | 22603 |
| A1 | 63 A 58D | BLACKBURN COMMERCE CENTER II LC | 1057 MARTINSBURG PIKE | WINCHESTER, VA | 22603 |
| B1 | 62 A 80 | BLACKBURN LIMITED PARTNERSHIP, C/O BARBARA LEWIS | 458 DEVON DR | WARRENTON, VA | 20186 |
| C1 | 62 1 A | FLETCHER RICHARD A | 1900 MELBOURNE DR | PANTEGO, TX | 76013 |
| D1 | 62 1 B | FLETCHER EVERETT J JR & LUZ F, FLETCHER MARY E | 3322 MIDDLE RD | WINCHESTER, VA | 22602 |
| E1 | 62 1 B1 | FLETCHER EVERETT J JR & LUZ F, FLETCHER MARY E | 3322 MIDDLE RD | WINCHESTER, VA | 22602 |

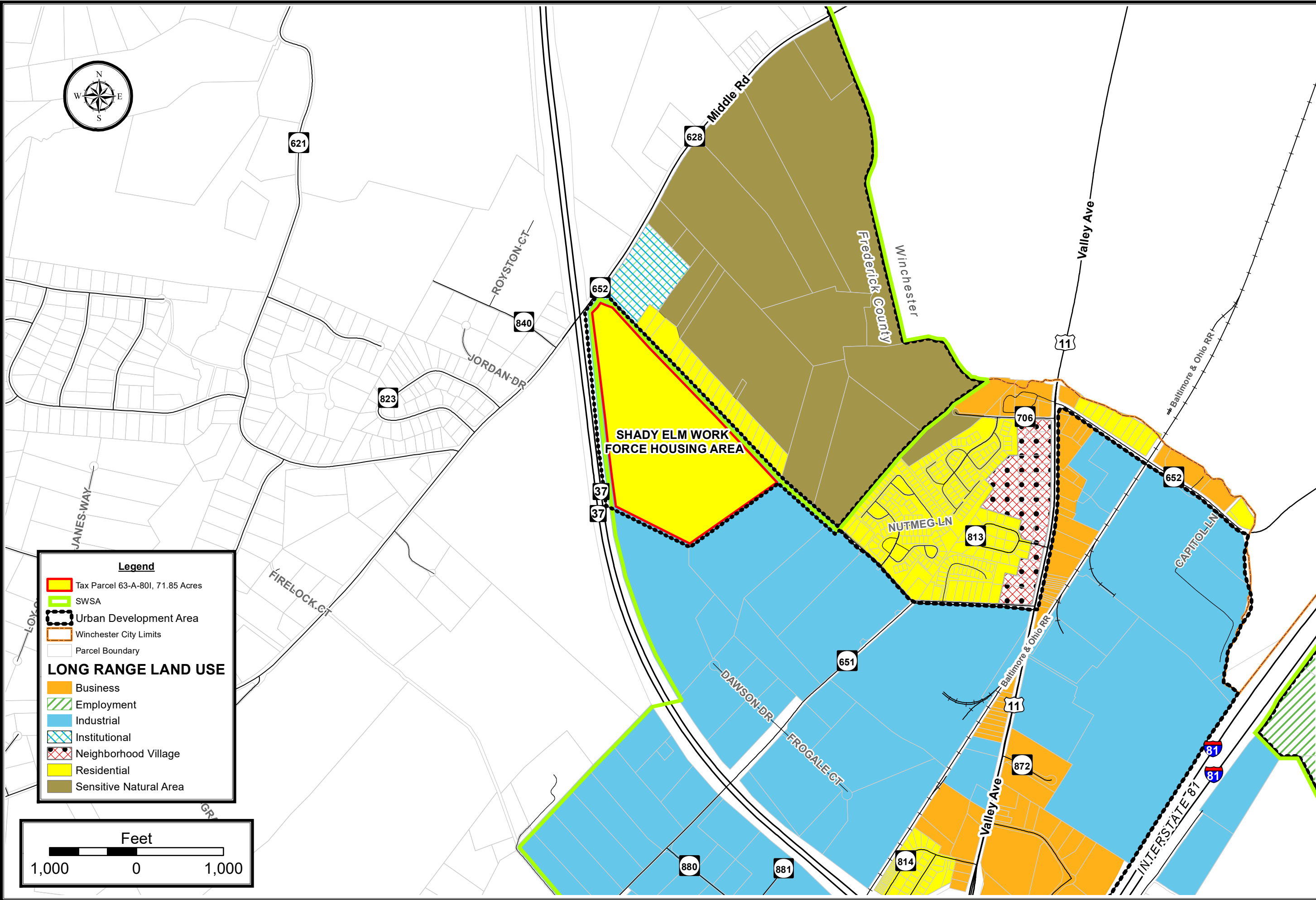
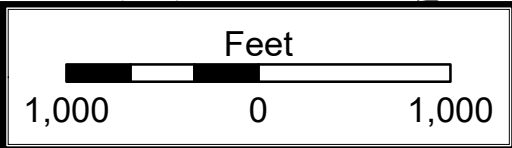


Legend

- Tax Parcel 63-A-801, 71.85 Acres
- SWSA
- Urban Development Area
- Winchester City Limits
- Parcel Boundary

LONG RANGE LAND USE

- Business
- Employment
- Industrial
- Institutional
- Neighborhood Village
- Residential
- Sensitive Natural Area



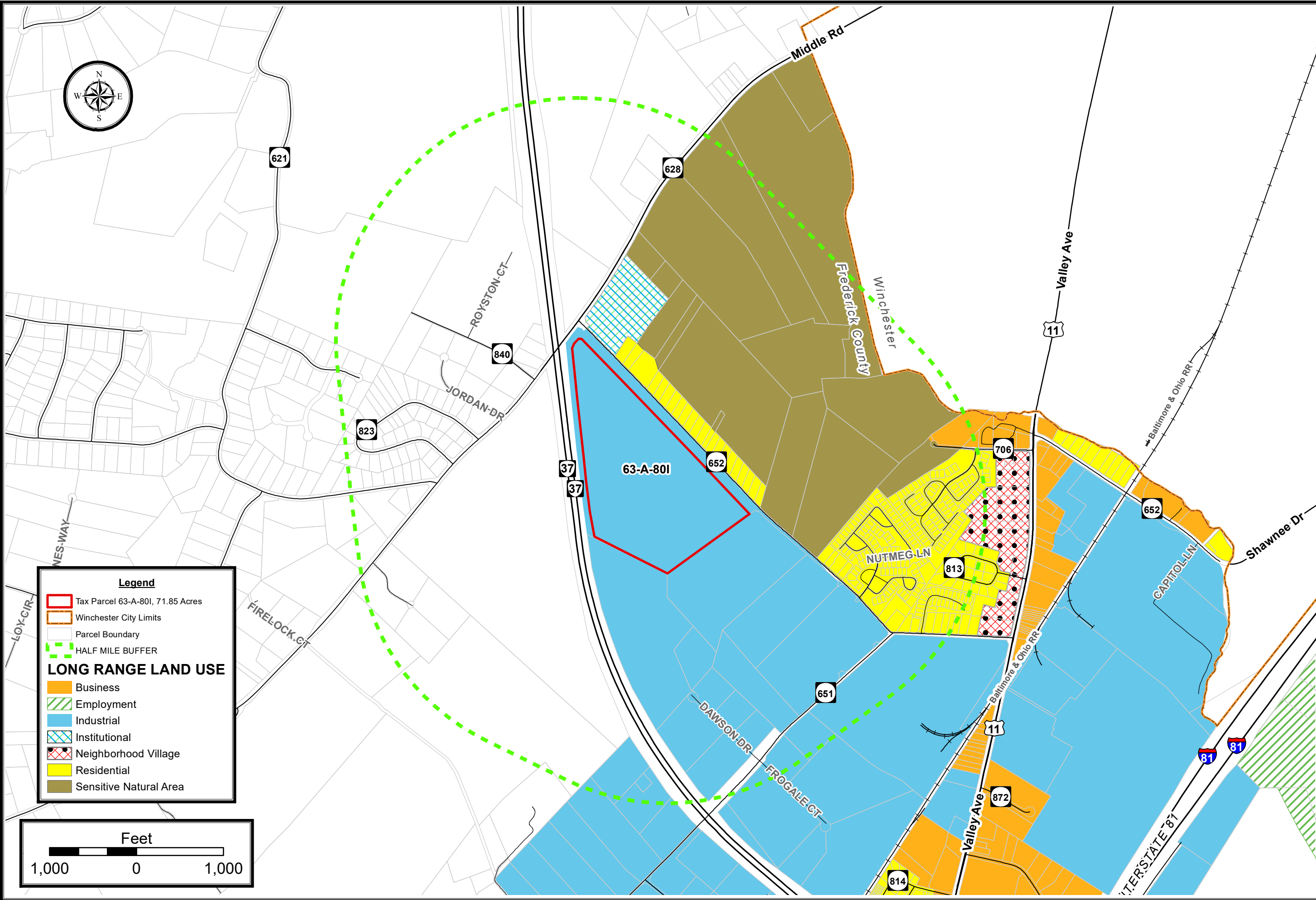
Greenway Engineering, Inc.
 151 Windy Hill Lane
 Winchester, VA 22602
 T: 540.662.4185
 F: 540.722.4185
 www.GreenwayEng.com



BLACKBURN PROPERTY
 COMPREHENSIVE POLICY PLAN AMENDMENT
 PROPOSED WORKFORCE HOUSING
 LAND USE EXHIBIT

| |
|---|
| BLACKBURN PROPERTY |
| COMPREHENSIVE POLICY PLAN AMENDMENT |
| PROPOSED WORKFORCE HOUSING EXHIBIT |
| BACK CREEK MAGISTERIAL DISTRICT |
| FREDERICK COUNTY, VIRGINIA |
| DATE: 2018-06-27 PROJECT ID: 0036E DESIGNED BY: MEW |
| SCALE: 1 Inch = 1,000 Feet |

Map Data Source: Frederick County, Va. GIS Department, 2018 Data

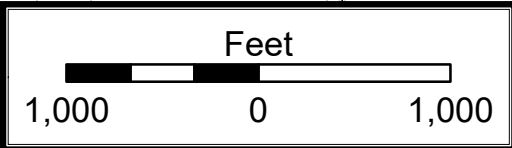


Legend

- Tax Parcel 63-A-801, 71.85 Acres
- Winchester City Limits
- Parcel Boundary
- HALF MILE BUFFER

LONG RANGE LAND USE

- Business
- Employment
- Industrial
- Institutional
- Neighborhood Village
- Residential
- Sensitive Natural Area

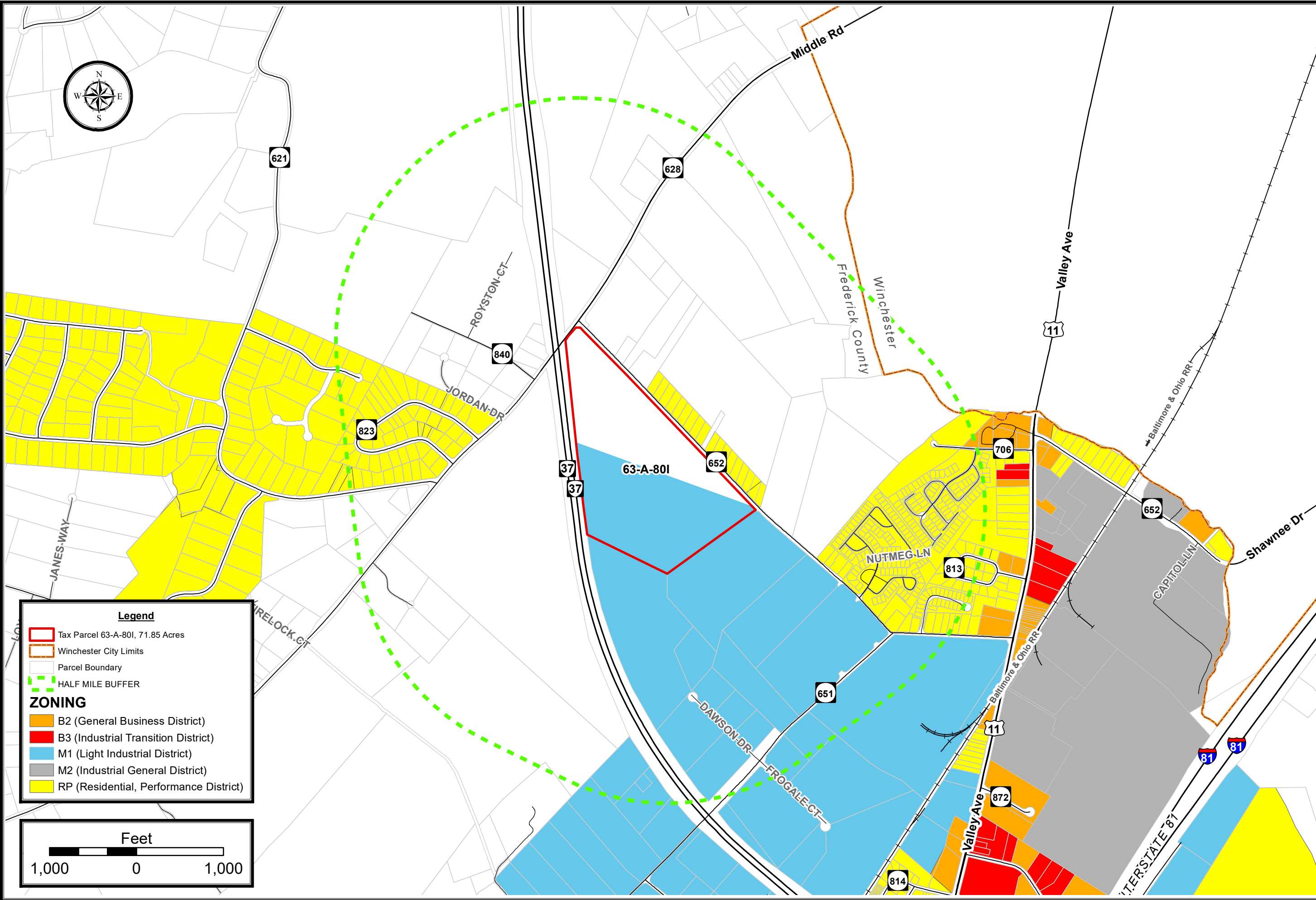


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BLACKBURN PROPERTY
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LONG RANGE LAND USE EXHIBIT

| |
|---|
| BLACKBURN PROPERTY |
| COMPREHENSIVE POLICY PLAN AMENDMENT |
| LONG RANGE LAND USE EXHIBIT |
| BACK CREEK MAGISTERIAL DISTRICT |
| FREDERICK COUNTY, VIRGINIA |
| DATE: 2018-06-27 PROJECT ID: 0036E DESIGNED BY: MEW |
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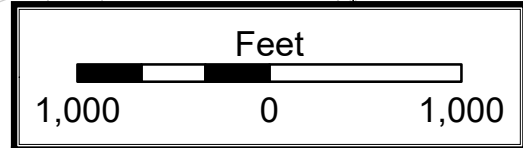


Legend

- Tax Parcel 63-A-801, 71.85 Acres
- Winchester City Limits
- Parcel Boundary
- HALF MILE BUFFER

ZONING

- B2 (General Business District)
- B3 (Industrial Transition District)
- M1 (Light Industrial District)
- M2 (Industrial General District)
- RP (Residential, Performance District)



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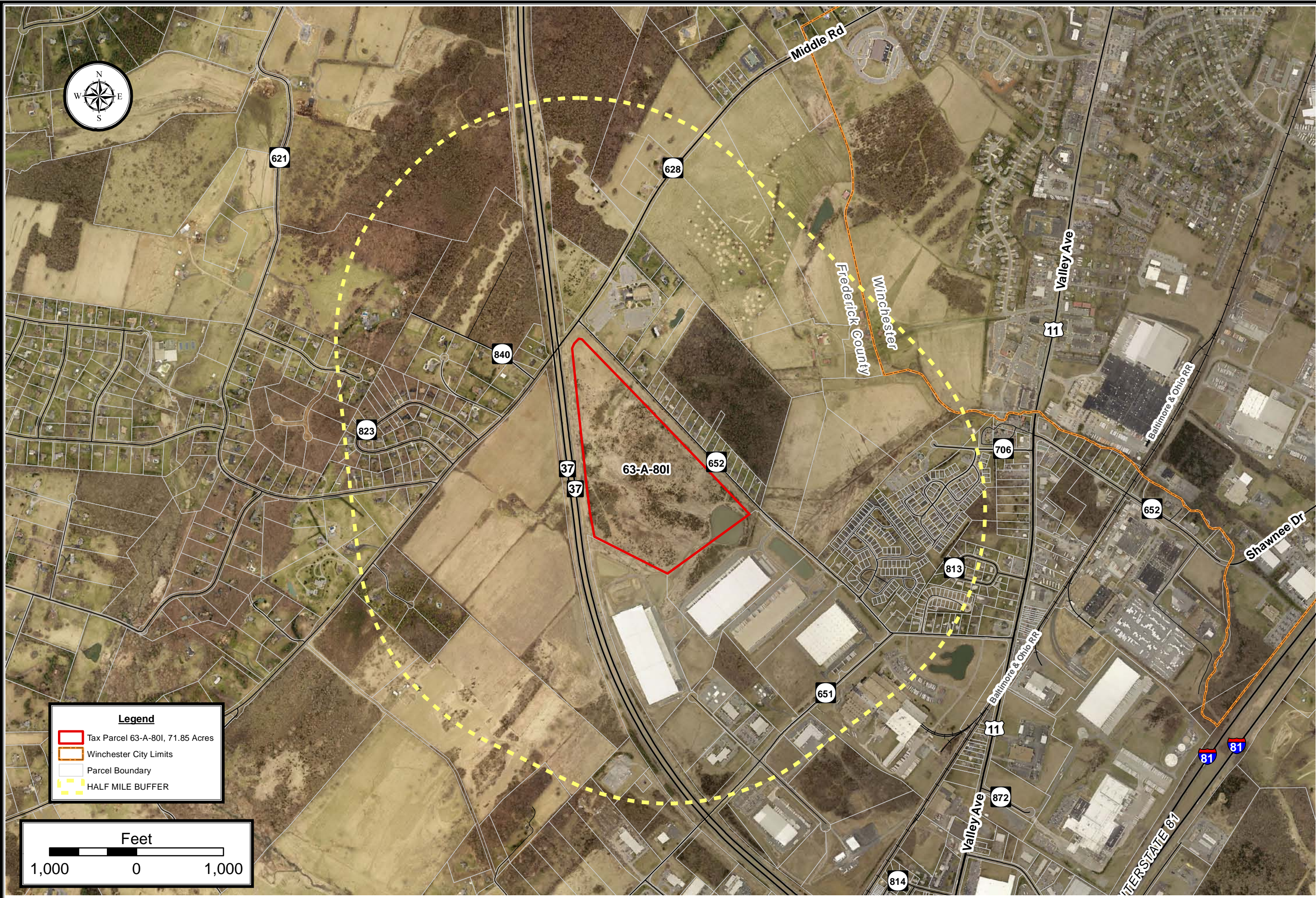
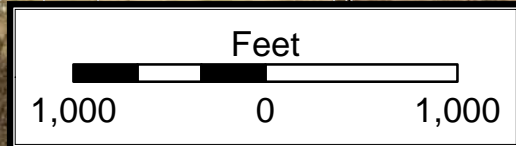
BLACKBURN PROPERTY
COMPREHENSIVE POLICY PLAN AMENDMENT
ZONING EXHIBIT

| |
|---|
| BLACKBURN PROPERTY |
| COMPREHENSIVE POLICY PLAN AMENDMENT |
| ZONING EXHIBIT |
| BACK CREEK MAGISTERIAL DISTRICT |
| FREDERICK COUNTY, VIRGINIA |
| DATE: 2018-06-27 PROJECT ID: 0036E DESIGNED BY: MEW |
| SCALE: 1 Inch = 1,000 Feet |



Legend

- Tax Parcel 63-A-801, 71.85 Acres
- Winchester City Limits
- Parcel Boundary
- HALF MILE BUFFER

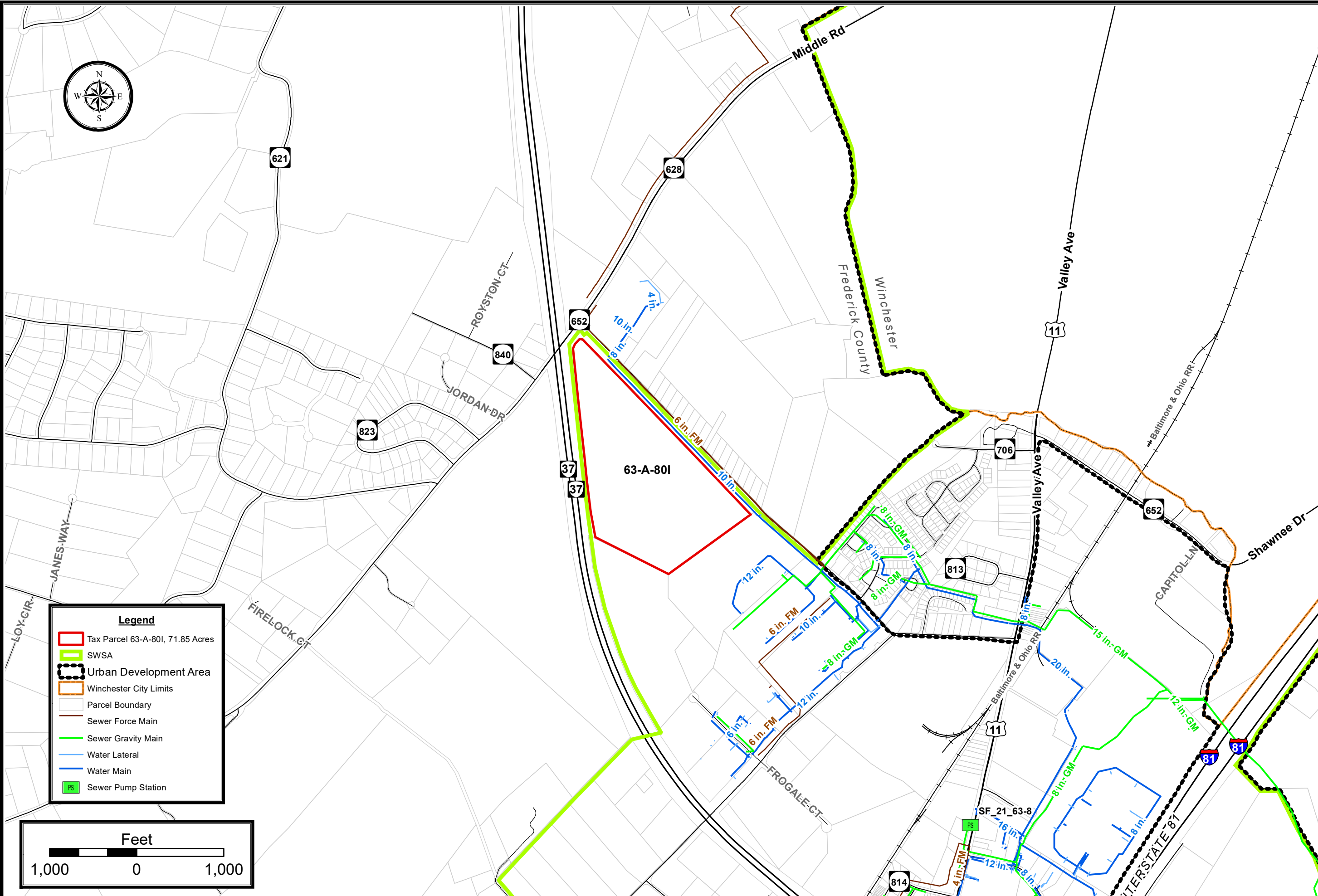


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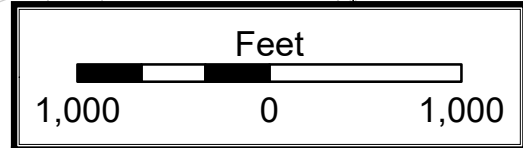
BLACKBURN PROPERTY
COMPREHENSIVE POLICY PLAN AMENDMENT
EXISTING LAND USE

| | | |
|---------------------------------|-------------------------------------|----------------------------|
| BLACKBURN PROPERTY | COMPREHENSIVE POLICY PLAN AMENDMENT | EXISTING LAND USE |
| BACK CREEK MAGISTERIAL DISTRICT | FREDERICK COUNTY, VIRGINIA | DATE: 2018-06-27 |
| PROJECT ID: 0036E | DESIGNED BY: MEW | SCALE: 1 Inch = 1,000 Feet |



Legend

- Tax Parcel 63-A-801, 71.85 Acres
- SWSA
- Urban Development Area
- Winchester City Limits
- Parcel Boundary
- Sewer Force Main
- Sewer Gravity Main
- Water Lateral
- Water Main
- PS Sewer Pump Station



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BLACKBURN PROPERTY
COMPREHENSIVE POLICY PLAN AMENDMENT
WATER AND SEWER EXHIBIT

| | |
|-------------------------------------|-------------------------------------|
| BLACKBURN PROPERTY | COMPREHENSIVE POLICY PLAN AMENDMENT |
| COMPREHENSIVE POLICY PLAN AMENDMENT | WATER AND SEWER EXHIBIT |
| BACK CREEK MAGISTERIAL DISTRICT | FREDERICK COUNTY, VIRGINIA |
| DATE: 2018-06-27 | PROJECT ID: 0036E |
| SCALE: 1 Inch = 1,000 Feet | DESIGNED BY: MEW |

BK81210070

#12283

THIS DEED, made and dated this 15th day of December, 1993, by and between **GEORGIA F. BLACKBURN**, widow, called the "Grantor," and **BLACKBURN LIMITED PARTNERSHIP**, a Virginia limited partnership, called the "Grantee."

The Grantor desires to convey the property described below to the Grantee which is controlled by Grantor in accordance with the provisions of the Internal Revenue Code of 1986. This conveyance is exempt from the recording tax in accordance with Virginia Code Section 58-811. Accordingly, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the Grantor does grant and convey with General Warranty and English covenants of title unto the Grantee all of the Grantor's right, title and interest in and to the following described property:

All of that land consisting of 234 acres, more or less, and being that same property conveyed by Martha Blackburn, widow, et al, to John C. Blackburn and Georgia F. Blackburn, husband and wife, as joint tenants with right of survivorship, by deed dated January 1, 1953, recorded in Deed Book 236 at page 127 in the Office of the Clerk of the Circuit Court of Frederick County, Virginia, described as containing approximately 240 acres, less and except approximately 24.13 acres conveyed to the Virginia State Highway Department by John C. Blackburn and Georgia F. Blackburn by deed dated March 31, 1975 and recorded at Deed Book 442, page 303, and less and except all other outconveyances. Although the original conveyance was designated as 240 acres, by subsequent unrecorded survey, the remaining balance of property as of the date of this deed is understood to be contained in two tracts, Tract A consisting of 128.559 acres located on the southwest side of Route 37, and Tract B consisting of 105.631 acres located on the northwest side of Route 37, both parcels adjoining Route 628, Middle Road. John C. Blackburn died in 1989.

Reference is made to the instruments described above and the attachments and references contained in them for a further and more particular description of the property conveyed by this deed. This conveyance is made subject to all restrictions, conditions and encumbrances of record and contained in the deeds and other recorded instruments forming the chain of title to the above described property.

IN WITNESS WHEREOF, the undersigned has set her hand and seal all as of the day and year first above written.

Georgia F. Blackburn (SEAL)
GEORGIA F. BLACKBURN

110 Hawthorne Drive
Winchester, VA 22601

Exempt under Virginia
Code Section 58.1-811



STATE OF VIRGINIA AT LARGE
City OF Winchester, TO-WIT:

The foregoing instrument was acknowledged before me this 30th day of December, 1943 by Georgia F. Blackburn.

My Commission expires May 31, 1945.

Debra L. Carbaugh
Notary Public

VIRGINIA: FREDERICK COUNTY, SCT.
This instrument of writing was produced
to me on the 30th day of Dec
1943 at 12:43pm and with certificate
of acknowledgment thereto enclosed was
admitted to record.

George B. Whitacre
CLERK

THIS DEED OF DEDICATION AND DEED OF BOUNDARY LINE ADJUSTMENT, made and dated this 15th day of May, 2015, by and between **BLACKBURN FARM, LLC** (the resulting limited liability company pursuant to the conversion of Blackburn Limited Partnership to a Virginia limited liability company), party of the first part, hereinafter referred to as "Blackburn" (Grantor for indexing purposes); **GRAYSTONE CORPORATION OF VIRGINIA**, the name in Virginia of GRAYSTONE CORPORATION, a West Virginia corporation registered and qualified to do business in Virginia under the name GRAYSTONE CORPORATION OF VIRGINIA (formerly CRIDER & SHOCKEY, INC. OF WEST VIRGINIA), party of the second part, hereinafter referred to as "Graystone" (Grantee for indexing purposes); **THE COUNTY OF FREDERICK, VIRGINIA**, a body corporate and politic, party of the third part, hereinafter referred to as "County" (Grantee for indexing purposes).

RECITALS

A. Blackburn is the owner in fee simple of that certain tract of land containing approximately 128.559 acres, more or less (Tax Map Parcel No. 63-A-80I), situate generally to the east of Virginia Route 37 and to the southwest of Virginia Secondary Route 652 in Back Creek Magisterial District, Frederick County, Virginia (the "Blackburn Property"), said Blackburn Property being a portion of the land conveyed to Blackburn Limited Partnership by Deed dated December 15, 1993 of record in the Frederick County Circuit Court Clerk's Office in Deed Book 812, Page 70. As evidenced by the Certificate of Fact issued by the Commonwealth of Virginia State Corporation Commission attached hereto, effective January 21, 2014, Blackburn Limited Partnership was converted to Blackburn Farm, LLC, a Virginia limited liability company. Pursuant to Virginia Code Section 13.1-1010.2, Blackburn Farm, LLC is deemed to be the same entity that existed as Blackburn Limited

Grantee Address: P.O. Box 2530, Winchester, VA 22604
 Assessed Value: \$809,382.00 (54 acres); Consideration: \$1,665,000.00 (53.984 acres)
 Title Insurance: Cameron Title, LLC

Partnership and all property owned by Blackburn Limited Partnership remains vested in Blackburn Farm, LLC.

B. Graystone is the owner in fee simple of that certain tract of land containing approximately 11.13 acres, more or less (Tax Map Parcel No. 63-A-58C), situate to the southwest of Virginia Secondary Route 652 in Back Creek Magisterial District, Frederick County, Virginia (the "Graystone Property"), said Graystone Property being the land conveyed to Graystone by Deed dated December 19, 2014 of record in the aforesaid Clerk's Office as Instrument No. 140010946.

C. Blackburn desires to dedicate certain land to the County for public road construction and public street purposes and also to reserve certain land for future public use, all as shown and depicted on that certain Plat titled "BOUNDARY LINE ADJUSTMENT BETWEEN THE LANDS OF GRAYSTONE CORPORATION OF VIRGINIA AND BLACKBURN FARM, LLC" drawn by Jon Gilmore, L.S. of Marsh & Legge Land Surveyors, PLC, dated May 13, 2015 (the "BLA Plat"), a copy of which is attached hereto and incorporated herein by reference. The Blackburn Property as shown on the BLA Plat contains an original area of 128.820 acres and the Graystone Property as shown on the BLA Plat contains an original area of 11.135 acres.

D. As shown on the attached BLA Plat, the Blackburn Property and the Graystone Property are adjacent to one another. Blackburn and Graystone have agreed to execute this Deed to effect the conveyance by Blackburn to Graystone of 53.984 acres and to adjust the common boundary line between their respective properties, with said 53.984 acres to be added to and consolidated with the Graystone Property, all as effected and created by this Deed and the BLA Plat, with the result being that:

- a. the Blackburn Property shall now contain an adjusted area of 71.849 acres [TMP 63-A-80I]; and

- b. the Graystone Property shall now contain an adjusted area of 65.119 acres [TMP 63-A-58C].

PUBLIC ROAD DEDICATION/DEED OF DEDICATION

NOW, THEREFORE, WITNESSETH: That for and in consideration of the premises, and other good and valuable consideration deemed adequate at law, the receipt and sufficiency of which is hereby acknowledged, Blackburn, as Grantor, hereby grants, conveys and dedicates, with general warranty of title, unto the County, as Grantee, for public street purposes, all of Blackburn's rights, title and interest in and to that certain parcel, strip or section of land, 45 feet in width, containing 2.987 acres and shown and depicted on Sheets 3 and 4 of the attached BLA Plat as "45' STRIP 2.987 ACRES HEREBY DEDICATED TO PUBLIC USE". This Dedication is made in accordance with the statutes made and provided therefore.

RESERVATION FOR PUBLIC USE

FURTHER WITNESSETH: That for and in consideration of the premises, and other good and valuable consideration deemed adequate at law, the receipt and sufficiency of which is hereby acknowledged, Blackburn, as Grantor, hereby acknowledges, covenants and agrees that the certain parcel, strip or section of land, 10 feet in width, shown and depicted on Sheets 3 and 4 of the attached BLA Plat as "10' STRIP HEREBY RESERVED FOR FUTURE PUBLIC USE" shall remain clear of permanent structures and that such reserved area shall be, and remain, available for dedication, transfer and conveyance to the County within one hundred twenty (120) days from the date of written notice issued by the County to Blackburn (or Blackburn's successor in interest), with any such notice issued by the County to occur after an official decision has been made by the County and the Virginia Department of Transportation to construct roadway improvements within such reserved area. This

reservation constitutes a covenant real running with the land and binding upon Blackburn and Blackburn's successors and assigns.

BOUNDARY LINE ADJUSTMENT DEED TO GRAYSTONE

FURTHER WITNESSETH: That for and in consideration of the sum of Ten Dollars (\$10.00), the premises, and other good and valuable consideration deemed adequate at law, the receipt and sufficiency of which is hereby acknowledged, Blackburn, as Grantor, does hereby grant, bargain, sell and convey, with General Warranty and English Covenants of title, unto Graystone, all of that certain parcel of land containing 53.984 acres situate to the east of Virginia Route 37 and to the southwest of Virginia Secondary Route 652 in Back Creek Magisterial District, Frederick County, Virginia and depicted on Sheet 4 of the attached BLA Plat, said land having previously been a portion of the original Blackburn Property and said 53.984 acres hereby being added to, and merged and consolidated with, the original 11.135 acres constituting the original Graystone Property, resulting in a consolidated adjusted total area of 65.119 acres as shown on Sheet 4 of the BLA Plat (Tax Map Parcel No. 63-A-58C). **ADJUSTED TMP No. 63-A-58C.**

The land conveyed to Graystone hereby is a portion of the property acquired by Blackburn Limited Partnership by Deed recorded in Deed Book 812, Page 70 in the aforesaid Clerk's Office.

Reference is here made to the aforesaid instruments and the attachments and the references therein contained for a further and more particularly description of the property hereby conveyed.

The land conveyed herein is subject to all easements, restrictions and conditions of record and contained in the Deeds forming the chain of title to the above-described land,

provided, however, that the foregoing shall not be deemed in any way to reinstate or republish any restrictions of record that may have expired or lapsed.

This conveyance is made for the purpose of adjusting the common boundary line between the Blackburn Property and the Graystone Property and to convey the land described herein to Graystone. The platting of the Blackburn Property and the Graystone Property and the adjustment of the boundary line provided for by this Deed and the BLA Plat is made with the free consent of, and in accordance with the desires of, Blackburn and Graystone and in accordance with the provisions and interpretation of the Subdivision Ordinance of the County as evidenced by the approval of the BLA Plat by an authorized official of the County.

MISCELLANEOUS

Headings used in this Deed are for convenience purposes only and are not intended to affect the express terms herein set forth.

This Deed is made in accordance with the statutes made and provided therefore in such cases; with the approval of the proper authorities of the County and The Virginia Department of Transportation as shown by the signatures affixed to the BLA Plat; and is with the free consent and in accordance with the desire of Blackburn and Graystone, the owners and proprietors of the lands depicted on the BLA Plat.

The undersigneds, on behalf of Blackburn and Graystone, respectively warrant that this Deed is made and executed pursuant to authority vested in each of the undersigneds by Blackburn and Graystone, respectively.

IN WITNESS WHEREOF, the parties hereto have caused this Deed to be executed, under seal.

BLACKBURN FARM, LLC

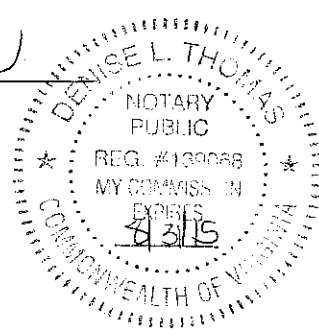
By: Barbara B. Lewis - Manager (SEAL)
Barbara B. Lewis, Manager

COMMONWEALTH OF VIRGINIA,
City/County of Winchester, to-wit:

The foregoing instrument was acknowledged before me this 15th day of May, 2015,
by **Barbara B. Lewis**, in her capacity as Manager of Blackburn Farm, LLC.

Denise L. Thomas
Notary Public

My Commission Expires: August 31, 2015
Notary Registration No.: 0139068



GRAYSTONE CORPORATION OF VIRGINIA
a West Virginia corporation

By: [Signature] President 5-15-15 (SEAL)
J. Donald Shockey, Jr., President

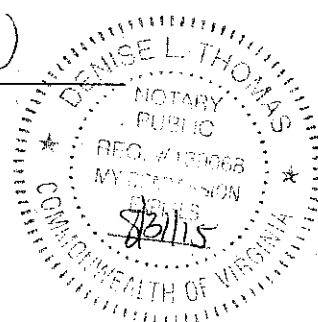
COMMONWEALTH OF VIRGINIA,
City/County of Winchester, to-wit:

The foregoing instrument was acknowledged before me this 15th day of May, 2015,
by **J. Donald Shockey, Jr.**, in his capacity as President of Graystone Corporation of Virginia.

[Signature]
Notary Public

My Commission Expires:
Notary Registration No.:

August 31, 2015
139008



ACCEPTED:

THE COUNTY OF FREDERICK, VIRGINIA

By: [Signature] (SEAL)
Roderick B. Williams, Interim County Administrator

APPROVED TO AS FORM:

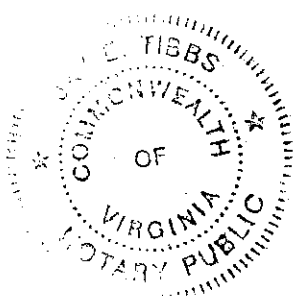
[Signature] (SEAL)
Roderick B. Williams, County Attorney

COMMONWEALTH OF VIRGINIA,
City/County of Winchester, to-wit:

The foregoing instrument was acknowledged before me this 15th day of May, 2015, by **Roderick B. Williams**, in his capacity as Interim County Administrator for The County of Frederick, Virginia.

[Signature]
Notary Public

My Commission Expires: 11-30-2015
Notary Registration No.: 7011423

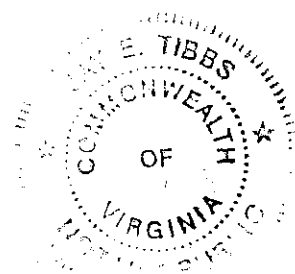


COMMONWEALTH OF VIRGINIA,
City/County of Winchester, to-wit:

The foregoing instrument was acknowledged before me this 15th day of May, 2015, by **Roderick B. Williams**, in his capacity as County Attorney, for The County of Frederick, Virginia.

[Signature]
Notary Public

My Commission Expires: 11-30-2015
Notary Registration No.: 7011423



This Instrument prepared (without the benefit of a title examination) by:

H. Edmunds Coleman, III, Esquire
BRYAN & COLEMAN, P.L.C.
118 South Braddock Street
Winchester, Virginia 22601
Telephone: (540) 545 - 4172

M:\Graystone Corporation of Virginia\Blackburn Property\Deed of Dedication and Deed of Boundary Line Adjustment (FINAL) 5-15-15.doc

Commonwealth of Virginia



State Corporation Commission

CERTIFICATE OF FACT

I Certify the Following from the Records of the Commission:

On January 21, 2014, BLACKBURN LIMITED PARTNERSHIP, formerly a Virginia limited partnership, converted to a limited liability company with the name BLACKBURN FARM, LLC.

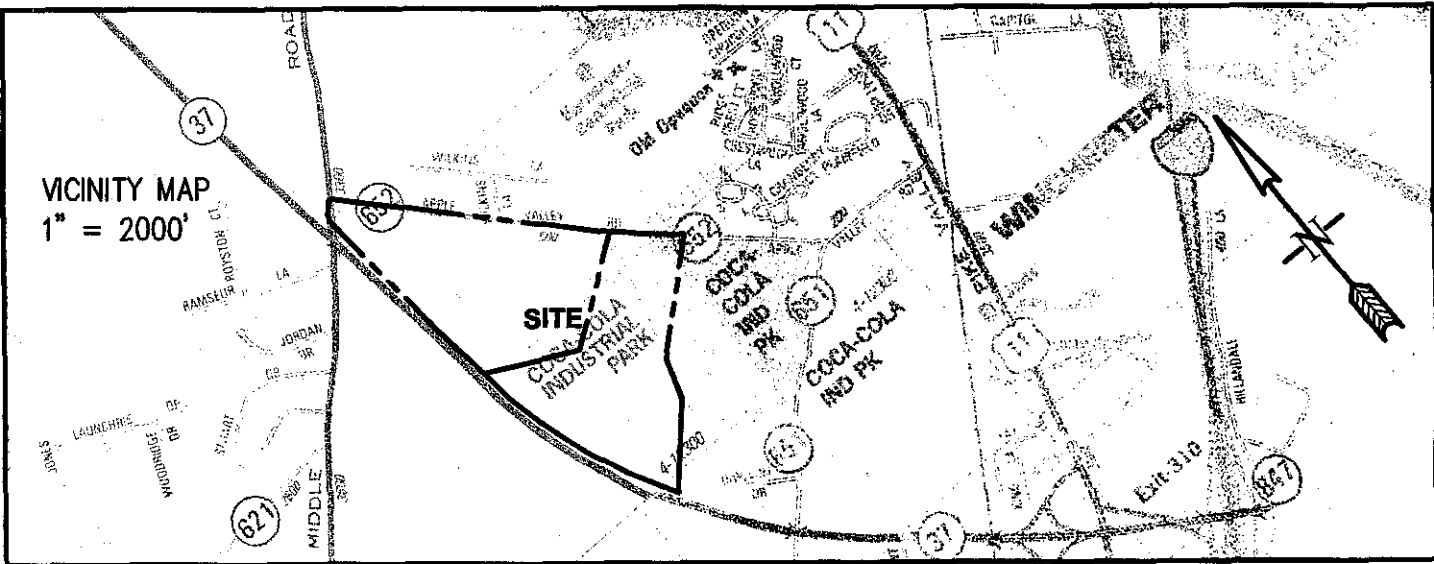
Nothing more is hereby certified.

*Signed and Sealed at Richmond on this Date:
May 14, 2015*



Joel H. Peck
Joel H. Peck, Clerk of the Commission

0233



VICINITY MAP
1" = 2000'

APPROVED BY

[Signature]
FREDERICK COUNTY SUBDIVISION ADMINISTRATOR 15 MAY 15
DATE

[Signature]
VIRGINIA DEPARTMENT OF TRANSPORTATION 15 May 15
DATE

NOTES

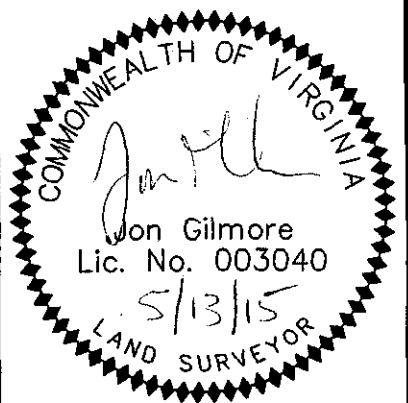
1. NO TITLE REPORT FURNISHED; THEREFORE, EASEMENTS OR ENCUMBRANCES AFFECTING THE PROPERTY REPRESENTED BY THIS SURVEY MAY EXIST THAT ARE NOT SHOWN ON THIS PLAT.
2. THE LOCATIONS OF UNDERGROUND UTILITIES OR OTHER SUBSURFACE IMPROVEMENTS, IF ANY, WERE NOT ASCERTAINED; THEREFORE, ARE NOT SHOWN.
3. ACCORDING TO FEMA FLOOD INSURANCE RATE MAP NO. 51069C0214D, DATED 2 SEPTEMBER 2009, THE LANDS SHOWN ON THIS PLAT ARE WITHIN AN AREA DESIGNATED AS ZONE X (UNSHADED) WHICH IS AN AREA DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOOD.
4. THE INFORMATION SHOWN ON THIS PLAT IS BASED ON AN ACTUAL FIELD SURVEY COMPLETED UNDER MY SUPERVISION ON 8 MAY 2015.

| LINE TABLE | | | | | |
|------------|---------------|----------|------|---------------|----------|
| LINE | BEARING | DISTANCE | LINE | BEARING | DISTANCE |
| L1 | N 06°52'35" W | 17.37' | L7 | N 45°33'48" E | 20.00' |
| L2 | N 36°50'48" E | 63.52' | L8 | S 16°36'06" W | 51.94' |
| L3 | N 41°25'14" E | 125.40' | L9 | N 43°25'57" W | 31.93' |
| L4 | N 88°43'15" E | 48.93' | L10 | S 43°25'57" E | 31.93' |
| L5 | N 88°43'15" E | 27.42' | L11 | N 16°36'06" E | 13.35' |
| L6 | S 50°08'50" E | 50.25' | L12 | S 43°47'26" E | 4.88' |

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT THE LAND CONTAINED IN THIS BOUNDARY LINE ADJUSTMENT IS THE LAND CONVEYED TO GRAYSTONE CORPORATION OF VIRGINIA [TAX MAP 63-A-58C] BY DEED DATED 19 DECEMBER 2014, AND RECORDED AS INST. #140010946 AND THE LAND OF BLACKBURN LIMITED PARTNERSHIP [TAX MAP 63-A-80I] BY DEED DATED 15 DECEMBER 1993, AND RECORDED IN DEED BOOK 812 AT PAGE 70. BLACKBURN LIMITED PARTNERSHIP HAVING BEEN CONVERTED TO BLACKBURN FARM, LLC. THE ABOVE MENTIONED DEEDS ARE RECORDED IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT OF FREDERICK COUNTY, VIRGINIA.

BOUNDARY LINE ADJUSTMENT
BETWEEN THE LANDS OF
GRAYSTONE CORPORATION OF VIRGINIA
AND BLACKBURN FARM, LLC
BACK CREEK MAGISTERIAL DISTRICT
FREDERICK COUNTY, VIRGINIA



DRAWN BY: JTG | DWG NAME: 9844-BLA-PLAT | SHEET 1 OF 4 | DATE: 05/13/2015



Marsh & Legge Land Surveyors, P.L.C.
560 NORTH LOUDOUN STREET WINCHESTER, VIRGINIA 22601
PHONE (540) 667-0468 FAX (540) 667-0469
EMAIL office@marshandlegge.com

OWNER'S CERTIFICATE

THE ABOVE AND FOREGOING BOUNDARY LINE ADJUSTMENT OF THE LAND GRAYSTONE CORPORATION OF VIRGINIA [TAX MAP 63-A-58C] AND THE LAND OF BLACKBURN FARM, LLC [TAX MAP 63-801], AS APPEARS ON THE ACCOMPANYING PLAT, IS WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRES OF THE UNDERSIGNED OWNERS, PROPRIETORS, AND TRUSTEES, IF ANY.

[Signature] President 5-15-15 *Barbara B. Lewis* Manager 5/15/15
 REPRESENTATIVE OF GRAYSTONE DATE REPRESENTATIVE OF BLACKBURN DATE
 CORPORATION OF VIRGINIA FARM, LLC

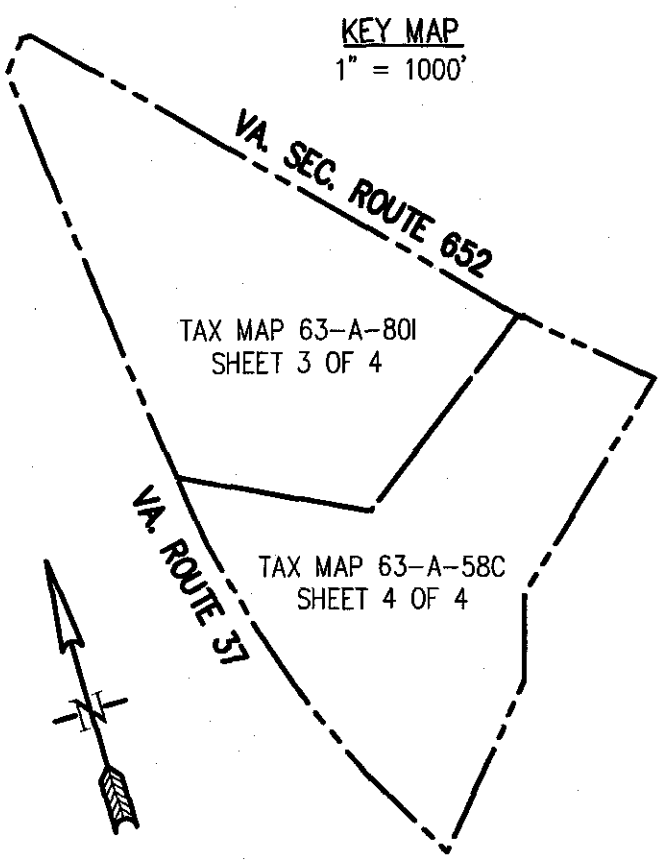
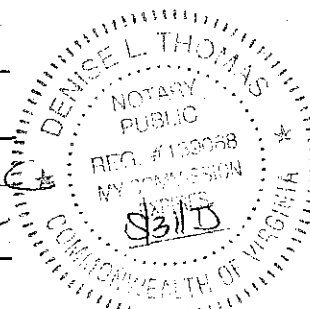
NOTARY PUBLIC

STATE OF Virginia CITY/COUNTY OF Winchester
 THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME ON 5-15-15 (DATE)
 BY J. Donald Shockey, Jr., President, Graystone Corporation of Virginia
[Signature] MY COMMISSION EXPIRES ON 8-31-15 (DATE) 8/31/15



NOTARY PUBLIC

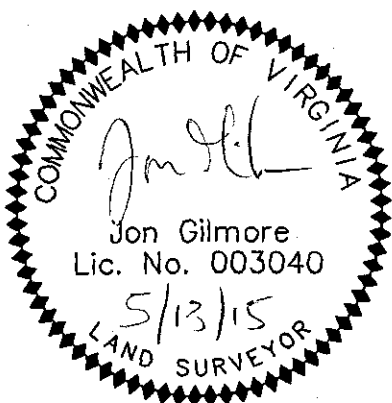
STATE OF Virginia CITY/COUNTY OF Winchester
 THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME ON 5-15-15 (DATE)
 BY Barbara B. Lewis, Manager, Blackburn Farm, LLC
[Signature] MY COMMISSION EXPIRES ON 8-31-15 (DATE) 8/31/15



AREA SUMMARY

| | |
|----------------------------|----------------------|
| ORIGINAL TAX MAP 63-A-801 | 128.820 ACRES |
| ORIGINAL TAX MAP 63-A-58C | 11.135 ACRES |
| TOTAL ORIGINAL AREA | 139.955 ACRES |
| ADJUSTED TAX MAP 63-A-801 | 71.849 ACRES |
| ADJUSTED TAX MAP 63-A-58C | 65.119 ACRES |
| DEDICATION ALONG ROUTE 652 | 2.987 ACRES |
| TOTAL ADJUSTED AREA | 139.955 ACRES |

BOUNDARY LINE ADJUSTMENT
 BETWEEN THE LANDS OF
GRAYSTONE CORPORATION OF VIRGINIA
AND BLACKBURN FARM, LLC
 BACK CREEK MAGISTERIAL DISTRICT
 FREDERICK COUNTY, VIRGINIA

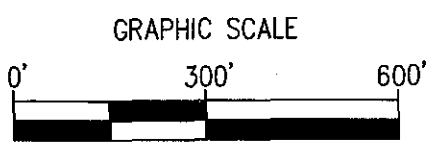
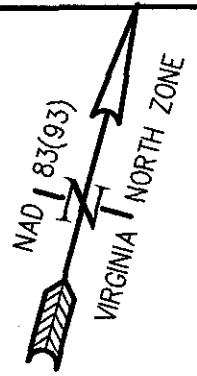


DRAWN BY: JTG | DWG NAME: 9844-BLA-PLAT | SHEET 2 OF 4 | DATE: 05/13/2015



Marsh & Legge Land Surveyors, P.L.C.
 560 NORTH LOUDOUN STREET WINCHESTER, VIRGINIA 22601
 PHONE (540) 667-0468 FAX (540) 667-0469
 EMAIL office@marshandlegge.com

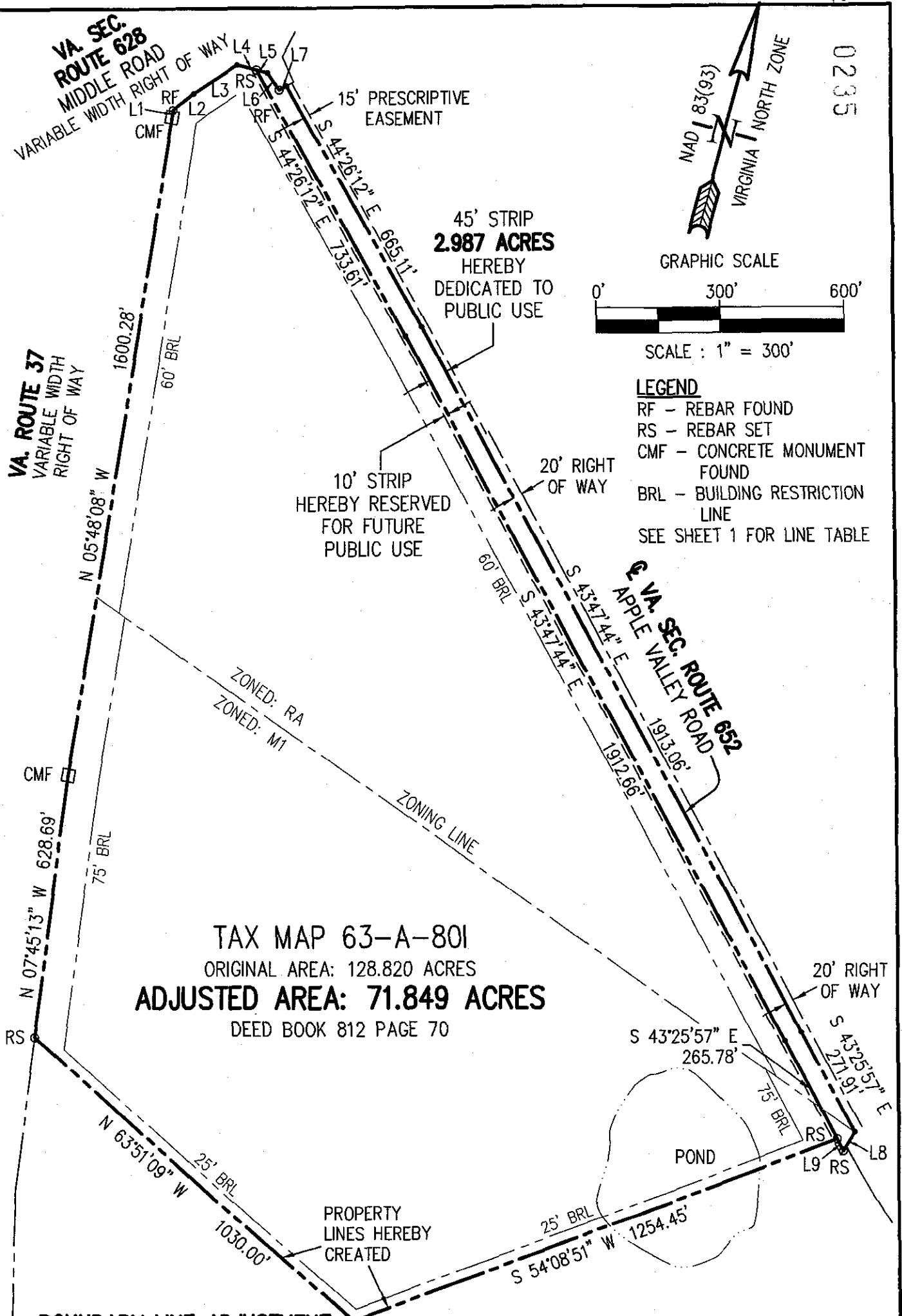
0235



SCALE : 1" = 300'

LEGEND

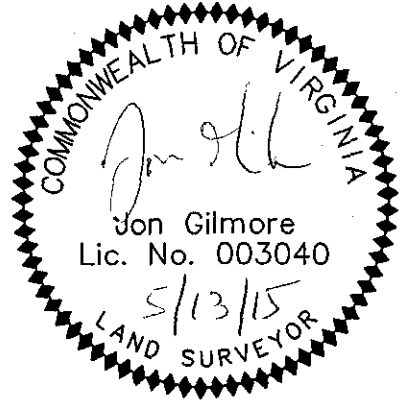
- RF - REBAR FOUND
- RS - REBAR SET
- CMF - CONCRETE MONUMENT FOUND
- BRL - BUILDING RESTRICTION LINE
- SEE SHEET 1 FOR LINE TABLE



TAX MAP 63-A-801
 ORIGINAL AREA: 128.820 ACRES
ADJUSTED AREA: 71.849 ACRES
 DEED BOOK 812 PAGE 70

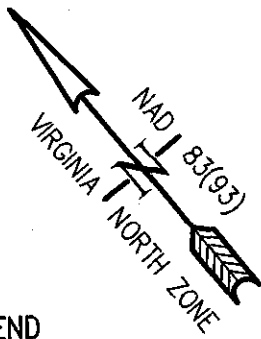
BOUNDARY LINE ADJUSTMENT
 BETWEEN THE LANDS OF
GRAYSTONE CORPORATION OF VIRGINIA
AND BLACKBURN FARM, LLC
 BACK CREEK MAGISTERIAL DISTRICT
 FREDERICK COUNTY, VIRGINIA

TAX MAP 63-A-58C
 (SEE SHEET 4)



DRAWN BY: JTG | DWG NAME: 9844-BLA-PLAT | SHEET 3 OF 4 | DATE: 05/13/2015

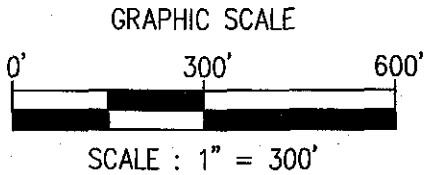
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 PHONE (540) 667-0468 FAX (540) 667-0469
 EMAIL office@marshandlegge.com



LEGEND

- RF - REBAR FOUND
- RS - REBAR SET
- CMF - CONCRETE MONUMENT FOUND
- BRL - BUILDING RESTRICTION LINE
- SEE SHEET 1 FOR LINE TABLE

TAX MAP 63-A-801
(SEE SHEET 3)

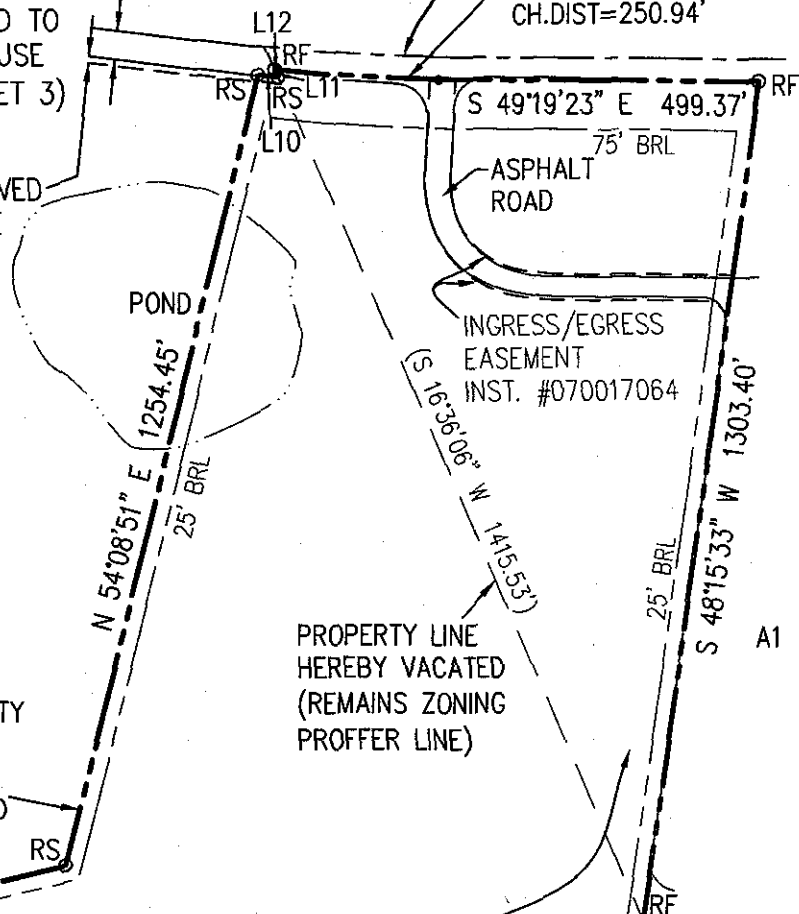


10' STRIP
HEREBY RESERVED
FOR FUTURE
PUBLIC USE

45' STRIP
2.987 ACRES
HEREBY
DEDICATED TO
PUBLIC USE
(SEE SHEET 3)

VA. SEC. ROUTE 652
APPLE VALLEY ROAD

$RAD=2599.76'$
 $ARC=251.04'$
 $\Delta=5'31'57''$
 $CH.BRG=S\ 46'33'23''\ E$
 $CH.DIST=250.94'$

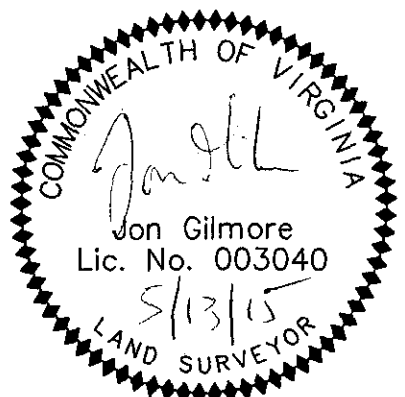


TAX MAP 63-A-58C
 LOT 4 - COCA COLA BUSINESS PARK
 ORIGINAL AREA: 11.135 ACRES
ADJUSTED AREA: 65.119 ACRES

ADJOINING OWNER INFORMATION

- A1 - TAX MAP 63-A-58B
CABOT IV - VA1B01, LLC
INST. #140006095
ZONED: M1
- A2 - TAX MAP 63-A-58A
DIRECTV OPERATIONS, LLC
INST. #030005345
ZONED: M1
- A3 - TAX MAP 63-8-2B
ECHOSTAR BROADCASTING CORPORATION
INST. #120005386
ZONED: M1
- A4 - TAX MAP 63-8-3
THE DAWSON GROUP, LLC
INST. #030009351
ZONED: M1
- A5 - DAWSON DRIVE
EXISTING 54' WIDE R/W

BOUNDARY LINE ADJUSTMENT
 BETWEEN THE LANDS OF
GRAYSTONE CORPORATION OF VIRGINIA
AND BLACKBURN FARM, LLC
 BACK CREEK MAGISTERIAL DISTRICT
 FREDERICK COUNTY, VIRGINIA



DRAWN BY: JTG | DWG NAME: 9844-BLA-PLAT | SHEET 4 OF 4 | DATE: 05/13/2015



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

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

0237

VIRGINIA: FRÉDERICK COUNTY.SCT.

This instrument of writing was produced to me on

5-15-13 at 3:58 pm

and with certificate acknowledgement thereto annexed
was admitted to record. Tax imposed by Sec. 58.1-802 of

\$1,665.00 and 58.1-801 have been paid, if assessable.

Rebecca P. Hogan, Clerk



315 Tasker Road
Stephens City, Virginia 22655

PH (540) 868-1061
Fax (540) 868-1429
www.FrederickWater.com

Eric R. Lawrence
Executive Director

MEMORANDUM

TO: Candice Perkins, Assistant Director, Frederick County Planning Department

FROM: Eric R. Lawrence, Executive Director

SUBJECT: Blackburn Property Workforce Housing
2019 Comprehensive Policy Plan Amendment Review

DATE: January 29, 2019

Thank you for the opportunity to provide comment on the Blackburn Property Workforce Housing Comprehensive Policy Plan Amendment application. This memorandum serves as the response to your request for comment dated January 24, 2019.

Blackburn Property Workforce Housing – CPPA Request to amend Land Use Designation and inclusion in the Urban Development Area (UDA); Parcel 63-A-80L.

This property is located at the intersection of Middle and Apple Valley Roads in the Kernstown section of Fredrick County. The property is located within the SWSA; therefore, by policy the site is permitted to utilize Frederick Water’s public water and sewer services for commercial and industrial uses. Inclusion of the property within the Urban Development Area (UDA) is necessary to enable water and sewer usage for residential purposes.

Frederick Water’s water and wastewater treatment capacities currently exist to serve the future development of the site. Treatment and conveyance capacities are not secured until water and sewer connections are purchased and utilized.

The site is presently not served by Frederick Water, although water and sewer lines are available for the applicant/developer to establish connection for service extensions to the property. A 10-inch water main is located on the property, and runs parallel to Apple Valley Road. A sewer force main also runs parallel to Apple Valley Road, which feeds into a gravity system east of the property. The applicant/developer will need to evaluate the sanitary sewer and work with Frederick Water to determine the most appropriate location to connect based on projected sanitary sewer flows.



Apple Valley Road Workforce Housing Development Proposed Comprehensive Plan Amendment

Overview: With the growth in the industrial, technology, and the service sectors in Frederick County and surrounding jurisdictions, the need for housing that meets the needs of a diverse work force will continue to be critically important. The Apple Valley Road Workforce Housing Development will provide 200 2, 3 and 4 BR homes that will be affordable to working individuals and families making between \$16 and \$26 per hour – whether it be within the civil service or Winchester’s many new industrial, service and technology jobs.

Workforce Housing is Critically Needed in Frederick, Co. VA

As the regional economy grows, housing that can support a growing workforce is critical to ensuring that Frederick County continues to be an economic development magnet. However, there are significant shortcomings in the market:

- There are no rental communities that contain 4-bedroom units in the County
- Apartment communities with rents targeting households with annual incomes of between ~\$35,000 and ~\$55,000 have a vacancy rate of less than 1%
- There are no single-family detached 3 bedroom and 4 bedroom homes renting for less than \$1,500 per month. Our four bedroom units will rent for \$1200 per month.
- Letters from the Chamber of Commerce, Habitat for Humanity and others attest to the need for this type of housing.



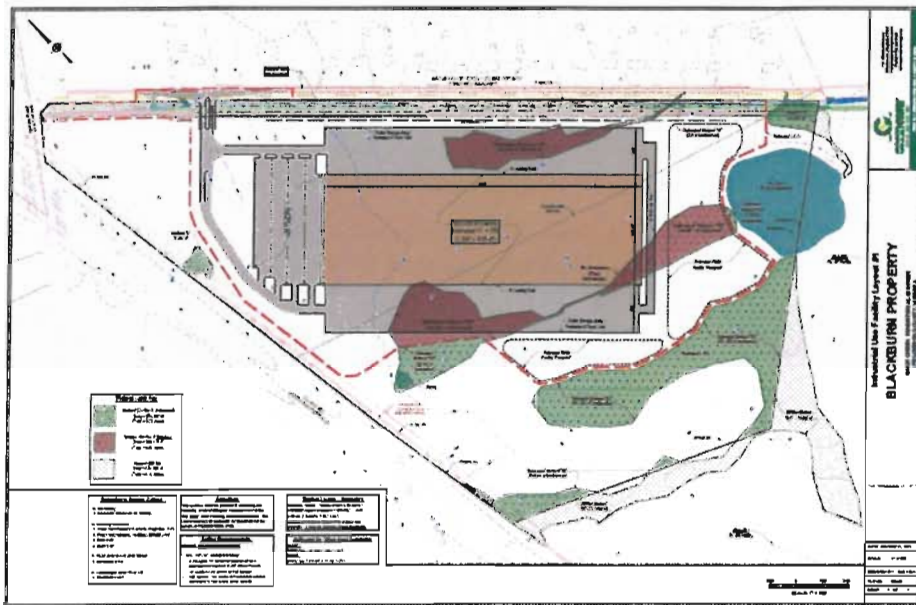
The Apple Valley Road Site is Optimally Suited for Residential Development

The Apple Valley Road site is ideal for residential development as it is near transportation arteries and close to numerous employment centers, retail, and downtown Winchester.

- Due to the prevalence of wetlands and storm water management requirements, EquityPlus can deliver a residential community with plenty of open space.
- With the pricing of the land, infrastructure costs, and the placement of manufactured homes that exceed VHDA and Fannie Mae MH Advantage criteria, Equity Plus can deliver a residential subdivision that is affordable to Frederick County’s growing workforce.



..... Not Necessarily Industrial



The Comprehensive plan envisions an industrial use for the site. However, the property is ill suited for industrial. If a 500,000 sqft facility were placed on the site:

- There would be significant wetland disruption.
- Approximately \$320K in additional permit fees.
- Over one year needed to gain necessary approvals for wetland mitigation / impact etc.
- Significant earthwork to level the site.

There are no properties zoned residential in the UDA that meet Equity Plus’s feasibility criteria, while there are a significant amount of industrial properties available (see accompanying map).

- There are no properties that are zoned residential that meet our key feasibility criteria:
 - 60 – 80 acres on public water sewer
 - Can support higher density single family development
- The larger parcels on the market were:
 - Cost prohibitive, with asking prices over \$3 million.
 - Far from employment centers, or transportation hubs.
 - Lacking access to utilities, such as sewer / water.
- There are a number of industrial zoned properties that are far more suitable for industrial uses than the Apple Valley Site.

Additional Details

- EquityPlus, as the developer of the project, will maintain control of the property; and will be responsible for, managing and maintaining homes and infrastructure, including streets, recreational amenities, landscaping and, common areas.
- Development will use a Federal tax credit that requires homes to be affordable at at 60% of Area Median Income. Eligibility will be determined at the time of the initial lease application, there will be no further income verification.
- Development will use high end manufactured housing, that meet all VHDA requirements, and have design and build quality of site-built homes.





To Whom It May Concern:

On behalf of Fellowship Bible Church and its Elders, I am writing in support of the Comprehensive Plan Amendment that would permit the property across the street from FBC, located on Apple Valley road, to be zoned for residential development.

We live and serve in a vibrant community of families who work in the industrial, service, and government sectors. Unfortunately for too many of these families quality, affordable housing near their places of work are difficult to find. The Apple Valley site presents a unique opportunity to bring over 200 homes that will be affordable for families with modest incomes.

With the limited number of rental units available within the price range of a young and growing family we believe that this type of housing is very much needed in our community. Within our congregation we have many members who are teachers, law enforcement officers and federal government workers. Without more affordable housing these people who work, worship, and enrich our communities won't be able to afford to live here.

We understand the desire to use the property across the street from FBC for industrial purposes but we believe that an affordable residential, single-family development is an excellent use of the remaining property. While the community very much desires the jobs that come with industrial development, we also desperately need the housing to support those jobs. For this reason, we urge the Planning Commission to support this amendment.

Sincerely

A handwritten signature in black ink, appearing to read "Andrew Behm", with a long, sweeping horizontal line extending to the right.

Andrew Behm
Executive Pastor
Fellowship Bible Church
3217 Middle Road
Winchester, VA 22602



We build **strength, stability, self-reliance** and **shelter.**

8 February 2019

Dear Frederick County Planning Commission:

On behalf of Blue Ridge Habitat for Humanity, I am writing in support of the Comprehensive Planning Amendment that would potentially bring over 200 units of rental workforce housing to Frederick County.

The proposed development at Apple Valley road is intended to provide single family community living for working middle class families- our firefighters, teachers, police and civil servants. These types of jobs are in demand within this community, and thus there is a considerable need for what we term "workforce housing." As a housing non-profit, we certainly want to encourage the Commission to strongly consider finding the best ways possible to support efforts that encourage the development and promotion of affordable and workforce housing solutions.

Through the use of federal financing programs and the innovative use of manufactured housing, this project is stating that homes will be affordable to families making on average 60% or less than the median income, or approximately \$50,000 for a family of four. While Blue Ridge Habitat for Humanity has no ownership or any other interest in the project at this time, concepts like these are encouraging. From what is being proposed and the vision that is being offered, this is the type of project our locality needs to help address the affordable housing crisis we are facing in our community.

Thus, we urge the Commission to favorably consider the opening of the Comprehensive Plan to permit the rezoning of this parcel to support this residential rental workforce development.

Warm Regards,

A handwritten signature in black ink, appearing to read "Matt Peterson".

Matthew T. Peterson, M.A., CVA
Executive Director
Blue Ridge Habitat for Humanity
mpeterson@blueridgehabitatc.org
Office: (540) 662-7066

TAX ID: 54-1816368



407 S. LOUDOUN STREET | (540) 662.4118
WINCHESTER, VA 22601

February, 11, 2019

The Top of Virginia Regional Chamber is in full support of the workforce housing development near Kernstown between VA 37 and Apple Valley Rd. at the intersection of Middle Road for a development of roughly 200 homes. With more and more companies coming into the region and the growing need for workers at all skill levels, this project can provide the affordable housing needed for the younger families that will make a positive impact on the growth of this community of Northern Shenandoah Valley. As such, we support the necessary changes to comprehensive planning of the Kernstown Area Plan.

Another advantage is that the proposed cost of development will be able to utilize federal tax credits for households of less than \$60,000 for a family of four. Many of our young people are in vocations in education, the local government, and other professions that have average salaries in the low forties, not able to raise a family at a reasonable housing cost.

Also, the proposed developers are able to deliver high quality manufactured homes that meet or exceed HUD and VHDA standards, during both the construction period and upon completion at the homesite.

As mentioned earlier, this community is growing and it is the younger families that are needed to make this a thriving community for the future of the region. Therefore, we support the Apple Valley Road Affordable Workforce Housing Development.

Sincerely,

A handwritten signature in cursive script that reads "Richard Kennedy".

Richard Kennedy
CEO



March 6, 2019

Frederick County Department of Planning and Development
107 N. Kent Street
Winchester, VA 22601

Subject: Development of Affordable Housing in the Winchester/Frederick County Region

To Whom It May Concern:

Valley Health System employs approximately 3,000 full time employees on our Winchester Medical Center Campus and surrounding Winchester City/Frederick County offices. Of these employees, 36% earn less than a \$45,000 annual base salary. It is our understanding that the availability of affordable housing for this population is limited in our region. We are aware of recent positive efforts of the Winchester City and Frederick County Departments of Planning and Development as well as other coalitions in the region to evaluate the need and help address the availability of affordable housing.

While we are not aware of a coordinated solution among these groups for a plan to address current and future housing needs, Valley Health supports promoting the availability of a diverse housing stock to meet the needs of residents and our employees who are in this income group. Given our current challenges securing staff in entry level types of roles and our expectation that this need will increase in the future, we offer our support and encouragement for the Frederick County Department of Planning and Development to entertain proposals which are designed to meet this need.

Thank you for considering any options that may help to remedy the situation for individuals, families, and businesses in our region.

Sincerely,

A handwritten signature in blue ink that reads 'Mark H. Merrill'.

Mark H. Merrill
President and CEO

MHM:pas

c. Elizabeth Savage



RESOLUTION

Action:

PLANNING COMMISSION: March 6, 2019

Recommended Denial

BOARD OF SUPERVISORS: April 10, 2019

**RESOLUTION DIRECTING THE PLANNING COMMISSION TO HOLD A PUBLIC
HEARING TO ADOPT AN AMENDMENT TO THE
2035 COMPREHENSIVE PLAN
APPENDIX I – AREA PLANS
KERNSTOWN AREA PLAN**

WHEREAS, the 2035 Comprehensive Plan, was adopted by the Board of Supervisors on January 25, 2017 and this proposed amendment to the Kernstown Area Plan of Appendix I would result in a land use designation change for (PIN) 63-A-80I from industrial land use to workforce housing and expand the Urban Development Area (UDA) to include 71.849-acres to the UDA; and

WHEREAS, the Frederick County Planning Commission discussed this amendment on March 6, 2019 and sent the amendment to the Board of Supervisors with a recommendation for denial; and

WHEREAS, the Frederick County Board of Supervisors discussed this proposed amendment on April 10, 2019; 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 Kernstown Area Plan to amend the land use designation for PIN 63-A-80I from industrial land use to Workforce Housing and expand the Urban Development Area (UDA) to include 71.849 acres and forward a recommendation to the Board of Supervisors.

Passed this 10th day of April 2019 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