



**AGENDA
REGULAR MEETING
FREDERICK COUNTY BOARD OF SUPERVISORS
WEDNESDAY, JANUARY 14, 2015
7:00 P.M.
BOARD ROOM, COUNTY ADMINISTRATION BUILDING
107 NORTH KENT STREET, WINCHESTER, VIRGINIA**

Call To Order

Invocation

Pledge of Allegiance

Organization of the Board of Supervisors for 2015:

Pursuant to *Code of Virginia*, 1950, as Amended, the Board is Required to Organize Its Functions at Its First Meeting in January Including:

- A. Election of Vice-Chairman
- B. Adoption of Rules of Procedure
- C. Selection of a Parliamentarian
- D. Selection of Time and Place for Regular Meetings
- E. Chairman's Board/Committee Assignments. **(See Attached)**----- A

Adoption of Agenda:

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

Consent Agenda:

(Tentative Agenda Items for Consent are Tabs: F, G, and H)

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

Board of Supervisors Comments

Minutes: (See Attached)----- B

**AGENDA
REGULAR MEETING
FREDERICK COUNTY BOARD OF SUPERVISORS
WEDNESDAY, JANUARY 14, 2015
PAGE 2**

1. Special Meeting, December 9, 2014.
2. Regular Meeting, December 10, 2014.
3. Special Meeting, December 17, 2014.

County Officials:

1. Employee of the Month Award. **(See Attached)** ----- C
2. Committee Appointments. **(See Attached)**----- D
3. Request from Commissioner of the Revenue for Refunds.
(See Attached) ----- E
4. Memorandum and Resolution Re: Petition of Virginia American Water Company, Aqua Virginia, Inc. and Massanutten Public Service Corporation – Petition to State Corporation Commission for Rulemaking to Establish a Water and Wastewater Infrastructure Service Charge. **(See Attached)** --- F

Committee Reports:

1. Parks and Recreation Commission. **(See Attached)** ----- G
2. Public Works Committee. **(See Attached)**----- H
3. Human Resources Committee. **(See Attached)** ----- I

Planning Commission Business:

1. Rezoning #02-14 Heritage Commons, L.L.C., Submitted by Lawson and Silek, P.L.C., to Rezone 96.28+/- Acres from BS (Business General) District to R4 (Residential Planned Community) District and 54+/- Acres from RP (Residential Performance) District to R4 (Residential Planned Community) District and .31+/- Acres from the RA (Rural Areas) District to the R4 (Residential Planned Community) District with Proffers. The Properties are Located West of the Intersection of Front Royal Pike (Route 522) and Airport Road (Route 645) and are Identified by the Property Identification Numbers 63-A-150, 64-A-10, and 64-A-12 in the Shawnee Magisterial District. **(Vote Postponed from December 12, 2014 Board Meeting.) (See Attached)** ----- J

**AGENDA
REGULAR MEETING
FREDERICK COUNTY BOARD OF SUPERVISORS
WEDNESDAY, JANUARY 14, 2015
PAGE 3**

2. Request to Waive a Category C Zoning District Buffer (Clearbrook Business Center). **(See Attached)**----- **K**

Board Liaison Reports (If Any)

Citizen Comments

Board of Supervisors Comments

Adjourn

A

BOARD COMMITTEE ASSIGNMENTS 2015

	Appt.	Voting	Shickle	Wells	Hess	Lofton	Fisher	DeHaven	Collins
STANDING COMMITTEES									
Code & Ordinance	Annual	Y		X	X				CH
Finance	Annual	Y	X			X		CH	
Human Resources	Annual	Y		X	CH				X
Public Safety	Annual	Y				CH	X		X
Public Works	Annual	Y		X		X	CH		
Technology	Annual	Y		X		CH		X	
Transportation	Annual	Y					X	CH	X
			1	4	2	4	3	3	4
JOINT COMMITTEES									
Joint Finance	Annual	Y	X					X	
MPO	Annual	Y	X					X	
			2	0	0	0	0	2	0
AUTHORITIES/COMMISSIONS									
Airport Authority	4 yr	Y					X		
Conservation Easement	3 yr	Y					X		
Economic Development Authority	4 yr	Y				X			
Fred-Winc Service Authority	3 yr	Y					X		
North. Shen. Valley Reg. Comm.	elected	Y			X			X	
Juvenile Detention Center	4 yr	Y						X	
Regional Jail Board	4 yr	Y	(A)	X				X	
			1	1	1	1	3	3	0
LIAISONS-Non Voting									
Handley Regional Library	Annual	N		X					
Parks & Recreation	Annual	N							X
Planning Commission	Annual	N			X				
Sanitation Authority	Annual	N					X		
Social Services	Annual	N				X			
Fire and Rescue	Annual	N							X
Tourism Board	Annual	N							X
			0	1	1	1	1	0	3
OTHER									
Agricultural District Advisory	Annual	Y				X			
Extension Leadership	Annual	N				X			
Landfill Oversight	Annual	Y		X					
			0	1	0	2	0	0	0
Total			4	7	4	8	7	8	7

**CITIZEN COMMITTEE APPOINTMENTS
2015**

Code & Ordinance Committee

Derek C. Aston
Stephen G. Butler
James A. Drown

Finance Committee

Judy McCann-Slaughter
Angela L. Rudolph

Human Resources Committee

Don Butler
Dorrie R. Greene
Beth Lewin

Public Safety Committee

Charles R. "Chuck" Torpy
Ronald E. Wilkins

Public Works Committee

David W. Ganse, AIA
Whitney "Whit" L. Wagner
James T. Wilson

Technology Committee

Quaisar Absar
Todd Robertson
Lorin Sutton

Transportation Committee

James M. Racey, II
Thomas H. Ruffin

B

**FREDERICK COUNTY BOARD OF
SUPERVISORS' MINUTES**

SPECIAL MEETING

December 09, 2014

A Special Meeting of the Frederick County Board of Supervisors was held on Tuesday, December 9, 2014 at 9:00 A.M., in the Board of Supervisors' Meeting Room, 107 North Kent Street, Winchester, VA.

PRESENT

Richard C. Shickle, Charles S. DeHaven, Jr.; Gene E. Fisher; Robert A. Hess; Gary A. Lofton; and Robert W. Wells

ABSENT

Christopher E. Collins

CALL TO ORDER

Chairman Shickle called the meeting to order.

CLOSED SESSION

Upon a motion by Vice-Chairman DeHaven, seconded by Supervisor Lofton, the Frederick County Board of Supervisors convened in closed session pursuant to Virginia Code Section 2.2-3711 A (1) to discuss personnel matters, specifically, filling the upcoming vacancy in the county administrator's position.

The above motion was approved by the following recorded vote:

Richard C. Shickle	Aye
Charles S. DeHaven, Jr.	Aye
Christopher E. Collins	Absent
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Robert W. Wells	Aye

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

The above motion was approved by the following recorded vote:

Richard C. Shickle	Aye
Charles S. DeHaven, Jr.	Aye
Christopher E. Collins	Absent
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Robert W. Wells	Aye

Upon a motion by Vice-Chairman DeHaven, seconded by Supervisor Lofton, the Board certified that to the best of each board member's knowledge the Board discussed only matters involving personnel specifically, filling the upcoming vacancy in the county administrator's position, pursuant to Virginia Code Section 2.2.-3711 A (1).

The above motion was approved by the following recorded vote:

Richard C. Shickle	Aye
Charles S. DeHaven, Jr.	Aye
Christopher E. Collins	Absent
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Robert W. Wells	Aye

ADJOURN

UPON A MOTION BY VICE-CHAIRMAN DEHAVEN, SECONDED BY SUPERVISOR FISHER, THERE BEING NO FURTHER BUSINESS TO COME BEFORE THIS BOARD, THIS MEETING IS HEREBY ADJOURNED. (10:35 A.M.)

**FREDERICK COUNTY BOARD OF
SUPERVISORS' MINUTES**

REGULAR MEETING

December 10, 2014

A Regular Meeting of the Frederick County Board of Supervisors was held on Wednesday, December 10, 2014 at 7:00 P.M., in the Board of Supervisors' Meeting Room, 107 North Kent Street, Winchester, VA.

PRESENT

Chairman Richard C. Shickle; Charles S. DeHaven, Jr.; Christopher E. Collins; Gene E. Fisher; Robert A. Hess; Gary A. Lofton; and Robert W. Wells

CALL TO ORDER

Chairman Shickle called the meeting to order.

INVOCATION

Supervisor Collins delivered the invocation.

PLEDGE OF ALLEGIANCE

Vice-Chairman DeHaven led the Pledge of Allegiance.

ADOPTION OF AGENDA – APPROVED AS AMENDED

County Administrator John R. Riley, Jr. advised the chairman had some changes for the agenda.

Chairman Shickle noted he had two additions. First was a presentation from the Clarke County Board of Supervisors, which would be added after approval of the minutes. The second item was the ratification of an amendment to the county administrator's employment agreement. Both items would be placed on the agenda prior to the Employee of the Month award.

Upon a motion by Vice-Chairman DeHaven, seconded by Supervisor Hess, the Board approved the agenda by the following recorded vote:

Richard C. Shickle	Aye
Charles S. DeHaven, Jr.	Aye
Christopher E. Collins	Aye
Gene E. Fisher	Aye

Robert A. Hess	Aye
Gary A. Lofton	Aye
Robert W. Wells	Aye

CONSENT AGENDA - APPROVED

Administrator Riley offered the following items for the Board's consideration under the consent agenda:

- Resolution of Appreciation, The Honorable Frank R. Wolf, 10th District, United States House of Representatives – **Tab B**;
- Parks and Recreation Commission Report – **Tab F**;
- Landfill Oversight Committee – **Tab G**; and
- Road Resolution – Renaissance Drive and Prosperity Drive – **Tab M**.

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

Richard C. Shickle	Aye
Charles S. DeHaven, Jr.	Aye
Christopher E. Collins	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Robert W. Wells	Aye

CITIZEN COMMENTS

There were no citizen comments.

BOARD OF SUPERVISORS COMMENTS

There were no Board of Supervisors' comments.

MINUTES - APPROVED

Upon a motion by Supervisor Hess, seconded by Supervisor Collins, the Board approved the minutes from November 3, 2014 work session with the Planning Commission by the following recorded vote:

Richard C. Shickle	Aye
Charles S. DeHaven, Jr.	Aye

Christopher E. Collins	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Robert W. Wells	Aye

Upon a motion by Supervisor Lofton, seconded by Supervisor Fisher, the Board approved the minutes from the November 12, 2014 regular meeting by the following recorded vote:

Richard C. Shickle	Aye
Charles S. DeHaven, Jr.	Aye
Christopher E. Collins	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Robert W. Wells	Aye

COUNTY OFFICIALS

PRESENTATION BY MICHAEL HOBERT, CHAIRMAN OF THE CLARKE COUNTY BOARD OF SUPERVISORS

Mr. Michael Hobert, Chairman of the Clarke County Board of Supervisors, appeared before the Board for a special presentation to honor Administrator Riley.

Chairman Hobert advised that his board met and passed a resolution honoring Administrator Riley’s years of service. He noted Administrator Riley was a terrific county administrator and an all around good guy. He spoke of the special qualities Administrator Riley brought to his work and was grateful for his collaborative leadership. He presented Administrator Riley with a copy of the resolution and a special gift from his friends in Clarke County.

RATIFICATION OF EXTENSION OF COUNTY ADMINISTRATOR’S RESIGNATION DATE – RESIGNATION DATE CHANGED TO FEBRUARY 1, 2015

Chairman Shickle advised that Administrator Riley had agreed to continue to serve as county administrator until February 1, 2015. He stated the Board needed to take action to ratify

this extension.

Upon a motion by Vice-Chairman DeHaven, seconded by Supervisor Hess, the Board ratified the extension of the county administrator’s resignation date to February 1, 2015.

The above motion was approved by the following recorded vote:

Richard C. Shickle	Aye
Charles S. DeHaven, Jr.	Aye
Christopher E. Collins	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Robert W. Wells	Aye

RESOLUTION OF APPRECIATION, THE HONORABLE CONGRESSMAN FRANK R. WOLF, 10TH DISTRICT, UNITED STATES HOUSE OF REPRESENTATIVES – APPROVED UNDER CONSENT AGENDA

WHEREAS, Frank R. Wolf served the citizens of the 10th Congressional District for 34 years as a member of the House of Representatives; and

WHEREAS, Congressman Wolf served as a member of the House Appropriations Committee, chairman of the Commerce-Justice-Science subcommittee, Transportation and Housing and Urban Development committees and State of Foreign Operations subcommittee; and

WHEREAS, during his tenure, Congressman Wolf focused on job creation through his Bring Jobs Back to America Act, raised awareness of the growing threat of cyberattacks, and worked to address the debt and deficit through bipartisan reforms including establishing the model for the National Commission on Fiscal Responsibility and Reform, commonly referred to as the Simpson-Bowles Commission; and

WHEREAS, Congressman Wolf fought against gang related crimes in our region through the establishment of the Northwest Virginia Regional Gang Task Force; and

WHEREAS, Congressman Wolf worked to create one of the nation’s newest national parks in our area, Cedar Creek and Belle Grove National Historic Park, and

WHEREAS, Congressman Wolf was a tireless worker for all of the residents of the 10th District; and

WHEREAS, this Board will always consider Congressman Wolf a colleague and friend.

NOW, THEREFORE BE IT RESOLVED, that the Frederick County Board of

Supervisors extends its sincerest thanks to Frank R. Wolf and wishes him all of the best in his future endeavors.

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

ADOPTED this 10th day of December, 2014.

EMPLOYEE OF THE MONTH AWARD – ANDREW KEEFAUVER APPROVED

Upon a motion by Supervisor Wells, seconded by Supervisor Hess, the Board approved Andrew Keefauver as Employee of the Month for November 2014.

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

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

WHEREAS, the Board of Supervisors selects one employee from those nominated, based on the merits of outstanding performance and productivity, positive job attitude and other noteworthy contributions to their department and to the County; and

WHEREAS, Andrew Keefauver who serves in Parks and Recreation was nominated for Employee of the Month; and,

WHEREAS, Andrew Keefauver successfully managed to create and staff a hugely successful event, the Battlefield Half Marathon, for the Parks and Recreation Department. This event attracted over one thousand runners and brought together several community agencies, in addition, Andrew also organized a Health and Wellness Expo on the night prior to the race. Andrew has shown that he is very team oriented and he deeply cares for the wellness and satisfaction of his community. This event even brought the complete staff of the Parks and Recreation Department together in order to effectively make this event a huge success for the future; and

NOW, THEREFORE, BE IT RESOLVED, by the Frederick County Board of Supervisors this 10th day of December, 2014, that Andrew Keefauver is hereby recognized as the Frederick County Employee of the Month for November 2014; and,

BE IT FURTHER RESOLVED, that the Board of Supervisors extends its gratitude to Andrew Keefauver for his outstanding performance and dedicated service and wishes him continued success in future endeavors; and,

BE IT FURTHER RESOLVED, that Andrew Keefauver is hereby entitled to all of the rights and privileges associated with his award.

The above motion was approved by the following recorded vote:

Richard C. Shickle	Aye
Charles S. DeHaven, Jr.	Aye
Christopher E. Collins	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Robert W. Wells	Aye

COMMITTEE APPOINTMENTS

APPOINTMENT OF GARY CRAWFORD AS BACK CREEK DISTRICT REPRESENTATIVE TO THE HISTORIC RESOURCES ADVISORY BOARD - APPROVED

Upon a motion by Supervisor Lofton, seconded by Vice-Chairman DeHaven, the Board appointed Gary Crawford as Back Creek District representative to the Historic Resources Advisory Board. This is a four year appointment. Term expires September 14, 2018.

The above motion was approved by the following recorded vote:

Richard C. Shickle	Aye
Charles S. DeHaven, Jr.	Aye
Christopher E. Collins	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Robert W. Wells	Aye

REQUEST FROM COMMISSIONER OF THE REVENUE FOR REFUNDS - APPROVED

Administrator Riley advised this was a request from the Commissioner of the Revenue to authorize the Treasurer to refund the following:

1. VFS Leasing Co. in the amount of \$17,574.56 for the proration of personal property taxes in the normal course of business for 2013 and 2014. This refund was a result of proration of personal property for this leasing company in the regular course of business.

Upon a motion by Vice-Chairman DeHaven, seconded by Supervisor Lofton, the Board approved the above refund request and supplemental appropriation.

The above motion was approved by the following recorded vote:

Richard C. Shickle	Aye
Charles S. DeHaven, Jr.	Aye
Christopher E. Collins	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Robert W. Wells	Aye

2. Ryder Truck Rental, Inc. 0029 in the amount of \$4,007.39 for the proration of personal property taxes in the normal course of business for 2013 and 2014. This refund was a result of the company's vehicles being reported from one office in the company and the verification of titling and situs being made later, elsewhere in the company.

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

The above motion was approved by the following recorded vote:

Richard C. Shickle	Aye
Charles S. DeHaven, Jr.	Aye
Christopher E. Collins	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Robert W. Wells	Aye

3. Ari Fleet Lt in the amount of \$6,589.05 for the proration of personal property taxes and vehicle license fees in the normal course of business for 2012 and 2013. This refund was a result of the company's vehicles being reported from one office in the company and the verification of titling and situs being made later, elsewhere in the company.

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

The above motion was approved by the following recorded vote:

Richard C. Shickle	Aye
Charles S. DeHaven, Jr.	Aye

Christopher E. Collins	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Robert W. Wells	Aye

COMMITTEE REPORTS

PARKS AND RECREATION COMMISSION – APPROVED UNDER CONSENT AGENDA

The Parks and Recreation Commission met on November 18, 2014. Members present were: Kevin Anderson, Randy Carter, Christopher Collins, Marty Cybulski, Gary Longerbeam, Ronald Madagan, and Charles Sandy, Jr. Members present were: Patrick Anderson and Greg Brondos, Jr.

Items Requiring Board of Supervisors Action:

None

Submitted for Board Information Only:

1. Recommendation for Ninth Recreation Technician – Mr. Kevin Anderson moved to fund a Recreation Technician position to effectively manage the additional basicREC location and maintain safety this fiscal year, second by Mr. Cybulski, motion carried unanimously (7-0). Request will be forwarded to the Human Resources Committee and Finance Committee for review at their next meeting.
2. Incentive Pay Policy – Mr. Madagan moved to accept the Incentive Pay Policy as submitted, second by Mr. Longerbeam, motion carried unanimously (7-0). Please find attached a copy of the approved policy. Policy will be forwarded to the Human Resources Committee for review at their next meeting.
3. Cosponsor Committee – Youth Sports Partner Policy – The Cosponsor Committee recommended to endorse the Youth Sports Partners policy as submitted, second by Mr. Longerbeam, motion carried unanimously (7-0). Please find attached a copy of the approved policy.
4. Building and Grounds Committee – Northwest Sherando Park Update – No action taken.

LANDFILL OVERSIGHT COMMITTEE – APPROVED UNDER CONSENT AGENDA

The Landfill Oversight Committee met on Thursday, November 20, 2014 at 8:00 a.m. All committee members were present except Winchester representatives, City Manager Eden Freeman and Tom Hoy and Frederick County representative Stan Crockett. The following items

were discussed:

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

1. Fiscal Year 2013/2014 Accomplishments

Staff presented the following accomplishments for Fiscal Year 2013/2014:

- Widened and paved approximately 1.4 miles of internal haul roads;
- Generated 11,765 MW/hr of power from Landfill Gas to Energy plant;
- Collected and discharged 23,312,000 gallons of pretreated leachate to the Opequon Water Reclamation Facility;
- Processed 149,659 tons of refuse;
- Constructed a 40' by 80' machine shed for equipment storage;
- Recycled 789 tons of scrap metal with a value of approximately \$200 per ton;
- Crushed approximately 20,000 tons of rubble concrete for onsite use.

2. Proposed Projects for Fiscal Year 2015/2016

Staff discussed the following proposed projects for Fiscal Year 2015/2016:

- Upgrade the leachate treatment facility including replacing the air infusion system and the biological support media;
- Use generator coolant loops to heat existing maintenance shops;
- Extend gas collection header and add additional horizontal collectors in active MSW cell.

3. Future Five (5) Year Projects

As part of the budget process, staff presented a list of future projects that could potentially be constructed within the next five (5) years. This list with associated cost estimates is attached.

4. Fiscal Year 2015/2016 Budget

Staff presented the proposed Fiscal Year 2015/2016 budget to the committee for their review. Significant items related to projected revenue included increasing the municipal tipping fee from \$12 to \$14 per ton and increasing the commercial/industrial tipping free from \$45 to \$47 per ton. Capital expenditures were dramatically reduced in the proposed budget compared to the current budget.

Staff is proposing a Fiscal Year 2015/2016 budget of \$6,011,823 and a revenue projection of \$6,011,382. The minor difference will be funded from the landfill's retained earnings. The landfill's fund balance is currently estimated at approximately \$30,000,000. Of that amount, approximately \$12,000,000 is dedicated to a closure/post-closure trust fund. It should also be noted that future projects planned for the next five (5) years will require approximately \$12,000,000 in capital expenditures. Staff anticipates that the landfill fund

balance will be reduced to an amount of approximately \$26,000,000 at the end of the current fiscal year.

At the conclusion of the discussions, the committee unanimously endorsed the proposed budget. This endorsement and the proposed budget will be forwarded to the appropriate committees in the respective jurisdictions.

HUMAN RESOURCES COMMITTEE - APPROVED

The HR Committee met in the First Floor Conference Room at 107 North Kent Street on Friday, November 14, 2014 at 8:00 a.m. All members were present.

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

1. The Committee recommends adoption of the attached resolution to designate Frederick County a HIPAA Hybrid Entity. - **APPROVED**

Upon a motion by Supervisor Hess, seconded by Supervisor Wells, the Board approved the resolution to designate the County of Frederick, Virginia, a hybrid entity for the purposes of the Health Insurance Portability and Accountability Act of 1996 and the HIPAA Privacy Rule.

WHEREAS, the County is committed to compliance with all applicable laws and regulations relating to privacy and security, including the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) and regulations promulgated thereunder by the U.S. Department of Health and Human Services (“HIPAA Regulations”); and

WHEREAS, the County is a “covered entity” as that term is defined under HIPAA, because the County offers a group health plan to its employees and due to its emergency medical services functions, social services functions, and jail functions; and

WHEREAS, the Board of Supervisors has determined that the County may more effectively and efficiently administer its policies and procedures for HIPAA compliance by designating the County as a “hybrid entity” as that term is defined under HIPAA, 45 C.F.R. §164.103; and

WHEREAS, the County’s Fire and Rescue Department, Public Safety Communications Department, Social Services Department, and Northwestern Regional Adult Detention Center have in place adequate training, policies, and procedures for HIPAA compliance; and

WHEREAS, the County has contracted with a third party to administer its group health plan, such that no County employee responsible for administration of the plan normally has contact with “protected health information” as that term is defined under HIPAA 45 C.F.R. §160.103; and

WHEREAS, all third parties contracting with the County and receiving, processing, or transmitting protected health information of the County will be required to execute a “Business Associate Agreement” as required under HIPAA 45 C.F.R. §164.308(b), thereby agreeing to treat “protected health information” in compliance with HIPAA;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of the County of Frederick, Virginia, hereby designates the County as a “hybrid entity”, pursuant to the HIPAA Privacy Rule, 45 C.F.R. §164.105.

FURTHER RESOLVED, the following hereby designated as the health care component of the County’s hybrid entity: (i) the County employee group health plan; and (ii) the County Fire and Rescue Department; (iii) the County Public Safety Communications Department; (iv) the County Social Services Department; and (v) the Northwestern Regional Adult Detention Center. The group health plan is defined for purposes of HIPAA as those County employees responsible for administration of the health plan, including the County Administrator and the Human Resources Department, only to the extent that their duties involve administration of the plan.

FURTHER RESOLVED, the following departments are designated as part of the health care component of the County’s hybrid entity only to the extent that they receive protected health information from the group health plan, the Fire and Rescue Department, the Public Safety Communications Department, the Social Services Department, and/or the Northwestern Regional Adult Detention Center, or in the course of providing support services to the group health plan, the Fire and Rescue Department, the Social Services Department, and/or the Northwestern Regional Adult Detention Center; (i) the Finance Department; (ii) the Information Technology Department; (iii) the Treasurer’s Office; (iv) the County Attorney’s Office; and (v) the County Administrator’s Office.

FURTHER RESOLVED, departments providing support services to the health care component of the County’s hybrid entity shall receive a level of HIPAA training commensurate with their level of access to protected health information.

Approved this 10th day of December, 2014.

The above motion was approved by the following recorded vote:

Richard C. Shickle	Aye
Charles S. DeHaven, Jr.	Aye
Christopher E. Collins	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Robert W. Wells	Aye

2. The Committee recommends adoption of the recommended salary ranges with an effective date of January 2015. - **APPROVED**

Upon a motion by Supervisor Hess, seconded by Supervisor Fisher, the Board approved the recommended salary ranges with an effective date of January 2015.

Supervisor Lofton stated he was torn because the report recommended this particular action, but there were two other recommended actions as well. He would like to see this done more as a comprehensive package rather than taking a piecemeal approach so we do not end up in same boat regarding salaries. He concluded by saying he would vote against this proposal.

There being no further discussion, the Board approved the above motion by the following recorded vote:

Richard C. Shickle	Aye
Charles S. DeHaven, Jr.	Aye
Christopher E. Collins	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Nay
Robert W. Wells	Aye

3. The Committee recommends approval of the Employee of the Month award for November.

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

1. Presentation by the Director of Finance, Cheryl Shiffler.

At the request of the Committee, Ms. Shiffler presented an overview of the objectives and responsibilities of the Finance Department. The presentation also provided the Committee an understanding of her department's role, authority, projects, and topics of importance within her department.

There being no further business, the meeting was adjourned.

The next HR Committee meeting is scheduled for Friday, December 12, 2014.

FINANCE COMMITTEE - APPROVED

The Finance Committee met in the First Floor Conference Room at 107 North Kent Street on Wednesday, November 19, 2014 at 8:00 a.m. Member Richard Shickle was absent. Items 3 through 10 were approved under consent agenda.

Upon a motion by Vice-Chairman DeHaven, seconded by Supervisor Lofton, the Board

approved the consent agenda by the following recorded vote:

Richard C. Shickle	Aye
Charles S. DeHaven, Jr.	Aye
Christopher E. Collins	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Robert W. Wells	Aye

1. The Parks and Recreation Director requests a General Fund supplemental appropriation in the amount of \$48,000 to replace pool sand filters at both Sherando and Clearbrook Parks. Local funding is required. Request has been approved by the Parks and Recreation Commission. See attached memo, p. 5. The committee recommends approval. - **APPROVED**

Upon a motion by Vice-Chairman DeHaven, seconded by Supervisor Collins, the Board

approved the above request by the following recorded vote:

Richard C. Shickle	Aye
Charles S. DeHaven, Jr.	Aye
Christopher E. Collins	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Robert W. Wells	Aye

2. The Fire and Rescue Chief requests a General Fund supplemental appropriation in the amount of \$5,700. This amount represents proceeds from the surplus sale and is needed for equipment for new vehicles. See attached memo, p. 6-7. The committee delays action awaiting further information.
3. The Sheriff requests a General Fund supplemental appropriation in the amount of \$20,000. These funds represent additional Internet Crimes Against Children (CAC) funds that have become available. No local funds required. See attached letter, p. 8-11. - **APPROVED UNDER CONSENT AGENDA.**
4. The Sheriff requests a General Fund supplemental appropriation in the amount of \$375. This amount represents proceeds from the surplus sale to reimburse for the cost of DMV record checks on abandoned vehicles. See attached memo, p. 12-13. - **APPROVED UNDER CONSENT AGENDA.**

5. The Sheriff requests a General Fund supplemental appropriation in the amount of \$1,000. This amount represents a donation for the Dive Team. No local funds required. See attached memo, p. 14. – **APPROVED UNDER CONSENT AGENDA.**
6. The Sheriff requests a General Fund supplemental appropriation in the amount of \$100. This amount represents a donation of the Honor Guard. No local funds required. See attached memo, p. 15. – **APPROVED UNDER CONSENT AGENDA.**
7. The Sheriff requests a General Fund supplemental appropriation in the amount of \$500. This amount represents a donation from Walmart. No local funds required. See attached memo, p. 16. – **APPROVED UNDER CONSENT AGENDA.**
8. The Sheriff requests a General Fund supplemental appropriation in the amount of \$67.62. This amount represents proceeds from the sale of unclaimed property. No local funds required. See attached memo, p. 17. – **APPROVED UNDER CONSENT AGENDA.**
9. The Sheriff requests a General Fund supplemental appropriation in the amount of \$3,884.14. This amount represents reimbursements received for prisoner extraditions. No local funds required. See attached memo, p. 18. – **APPROVED UNDER CONSENT AGENDA.**
10. The Sheriff requests a General Fund supplemental appropriation in the amount of \$6,588.56. This amount represents an auto insurance claim reimbursement. No local funds required. See attached memo, p. 19. – **APPROVED UNDER CONSENT AGENDA.**
11. The NRADC Superintendent requests a NRADC Fund supplemental appropriation in the amount of \$56,139.20 for the design and bidding administration for a security system upgrade. See attached memo, p. 20. The committee recommends approval. - **APPROVED**

Upon a motion by Vice-Chairman DeHaven, seconded by Supervisor Collins, the Board approved the above request by the following recorded vote:

Richard C. Shickle	Aye
Charles S. DeHaven, Jr.	Aye
Christopher E. Collins	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Robert W. Wells	Aye

12. The County Attorney provides information for review of property tax exemptions previously granted by the County. This item was postponed at the October 2014 Finance

Committee meeting. See attached information, p. 21-84. The committee recommends requesting from the General Assembly the revocation of Westminster-Canterbury of Winchester's tax exempt status as it pertains to Frederick County. The committee also requests the continued review of other entities and further information from the County Attorney and the Commissioner of the Revenue. - **APPROVED**

Upon a motion by Vice-Chairman DeHaven, seconded by Supervisor Lofton, the Board approved a resolution to request that the General Assembly remove Westminster-Canterbury of Winchester, Inc. from the list of organizations whose property is designated as tax-exempt.

WHEREAS, based on circumstances then existing, the Board of Supervisors previously, on April 10, 1985, requested that the General Assembly designate the property of Westminster-Canterbury of Winchester, Inc., located in Frederick County, as tax-exempt; and

WHEREAS, the General Assembly, by Chapter 619 of its 1986 Session, enacted Virginia Code §58.1-3650.220, said legislation designating Westminster-Canterbury of Winchester, Inc. as a charitable and benevolent organization within the context of Section 6(a)(6) of Article X of the Constitution of Virginia and designating property of Westminster-Canterbury of Winchester, Inc. and used by it exclusively for charitable and benevolent purpose, on a nonprofit basis, as exempt from local taxation; and

WHEREAS, the Board of Supervisors has, pursuant to the provisions of Virginia Code §58.1-3605, enacted an ordinance requiring any entity, except the Commonwealth, any political subdivision of the Commonwealth, or the United States, which owns real and personal property exempt pursuant to Chapter 36 of Title 58.1 of the Code of Virginia to file triennially an application with the Commissioner of the Revenue as a requirement for retention of the exempt status of the property, with such application with the Commissioner of the Revenue as a requirement for retention of the exempt status of the property, with such application to show the ownership and usage of such property and to be filed within the next sixty days preceding the tax year for which such exemption, or the retention thereof, is sought; and

WHEREAS, Westminster-Canterbury of Winchester, Inc. filed the application required by County ordinance; and

WHEREAS, upon review of such application and in consideration of circumstances generally in the County and with respect to Westminster-Canterbury of Winchester, Inc., the Board of Supervisors finds that, in the intervening time since the Board of Supervisors made its request in 1985 and the General Assembly enacted Virginia Code §58.1-3650.220 in 1986, various circumstances have changed, including that Frederick County is now home to other facilities offering substantially similar services as Westminster-Canterbury of Winchester, Inc., but as to which facilities the Board of Supervisors has elected not to designate their property as tax-exempt, and that the designation of the property of Westminster-Canterbury of Winchester, Inc. as tax-exempt is no longer appropriate; and

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors hereby requests that the General Assembly amend Virginia Code §58.1-3650.220 to remove from its exempt property list such property of Westminster-Canterbury of Winchester, Inc. as is located in the Frederick County, along the lines of the attached draft legislation; and

BE IT FURTHER RESOLVED that the County Administrator is directed to forward a certified copy of this Resolution and attached draft legislation to those members of the General Assembly representing Frederick County.

Approved this 10th day of December, 2014.

The above motion was approved by the following recorded vote:

Richard C. Shickle	Aye
Charles S. DeHaven, Jr.	Aye
Christopher E. Collins	Nay
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Robert W. Wells	Aye

13. Lord Fairfax Community College provides a response to the Committee following discussions at the August 2014 Finance Committee meeting. This item was postponed at the October 2014 Finance Committee meeting. See attached letter, p. 85-86. The committee requests additional information on the relationship between LFCC and the Frederick County Public Schools. The committee takes no action and will revisit during the FY 2016 budget cycle.

INFORMATION ONLY

1. The Finance Director provides a Fund 10 Transfer Report for October 2014. See attached, p.87.
2. The Finance Director provides financial statements for the month ending October 31, 2014. See attached, p. 88-89.
3. The Finance Director provides an FY 2015 Fund Balance Report ending November 13, 2014. See attached, p. 99.
4. The HR Director provides information on the recommended salary ranges that were approved. See attached information, p. 100-104.

PUBLIC HEARING

TWELVE MONTH OUTDOOR FESTIVAL PERMIT REQUEST OF BELLE GROVE PLANTATION. PURSUANT TO THE FREDERICK COUNTY CODE,

CHAPTER 86, FESTIVALS; SECTION 86-3, PERMIT REQUIRED; APPLICATION; ISSUANCE OR DENIAL; FEE; PARAGRAPH D, TWELVE MONTH PERMITS. ALL EVENTS TO BE HELD ON THE GROUNDS OF BELLE GROVE PLANTATION, 336 BELLE GROVE ROAD, MIDDLETOWN, VIRGINIA. PROPERTY OWNED BY THE NATIONAL TRUST FOR HISTORIC PRESERVATION. - APPROVED

Administrator Riley advised this was a request for a 12 month outdoor festival permit for Belle Grove Plantation. All events will be held on the plantation grounds.

Kristen Laise, Executive Director of Belle Grove Plantation, thanked the Board for considering this request.

Chairman Shickle convened the public hearing.

There were no citizen comments.

Chairman Shickle closed the public hearing.

Upon a motion by Supervisor Lofton, seconded by Supervisor Wells, the Board approved the 12 month outdoor festival permit for the request of Belle Grove Plantation.

The above motion was approved by the following recorded vote:

Richard C. Shickle	Aye
Charles S. DeHaven, Jr.	Aye
Christopher E. Collins	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Robert W. Wells	Aye

PLANNING COMMISSION BUSINESS

PUBLIC HEARING

CONDITIONAL USE PERMIT #03-14 FOR CAROLINE E. WATSON, FOR IN HOME CHILD CARE. THIS PROPERTY IS LOCATED AT 215 WESTMORELAND DRIVE IN STEPHENS CITY (TRAVEL INTERSTATE 81 SOUTH TO EXIT 307 STEPHENS CITY, TAKE A LEFT ONTO FAIRFAX PIKE, LEFT ON AYLOR ROAD AND TURN RIGHT ONTO WESTMORELAND DRIVE). THE PROPERTY IS IDENTIFIED WITH PROPERTY IDENTIFICATION NUMBER 75E-1-3-165 IN THE OPEQUON MAGISTERIAL

DISTRICT. - APPROVED

Zoning Administrator Mark Cheran appeared before the Board regarding this item. He advised this was a request for a conditional use permit for a licensed home child care. The property is located at 250 Westmoreland Drive in the Opequon Magisterial District. He noted the proposed use was permitted in the Residential Performance (RP) zoning district with an approved conditional use permit. Zoning Administrator Cheran went on to say a child care facility has operated at this location for the last 14 years; however, the owner was not aware she needed a conditional use permit. This was an opportunity to bring the facility into compliance with the zoning ordinance. He noted staff had not received any complaints at this facility. He concluded by saying the Planning Commission recommended approval of the permit with the following conditions:

1. All review agency comments and requirements shall be complied with at all times.
2. Hours of operation shall be permitted from 7:00 a.m. to 5:00 p.m., Monday through Friday.
3. The applicant shall satisfy the licensing requirements of the Virginia Department of Social Services and the County of Frederick.
4. No business sign associated with this Conditional Use Permit (CUP) shall be erected on the property.
5. Other than those children residing on the property, there shall be no more than twelve (12) children being cared for at any given time.
6. Other than those persons residing on the property, there shall be no more than one (1) employee working at the daycare at any time.
7. Any expansion or change of use will require a new Conditional Use Permit.

Chairman Shickle asked if the 5:00 p.m. closing time was sufficient or if a later time would be better for the applicant.

Caroline E. Watson, applicant, requested the hours be changed to 7:00 a.m. to 6:00 p.m.

Chairman Shickle convened the public hearing.

There were no public comments.

Chairman Shickle closed the public hearing.

Upon a motion by Supervisor Wells, seconded by Supervisor Hess, the Board approved Conditional Use Permit #03-14 with the hours of operation changed to 7:00 a.m. to 6:00 p.m.

WHEREAS, Conditional Use Permit #03-14 of Caroline E. Watson, submitted by Caroline E. Watson, for Licensed Home Child Care was considered. The property is located at 215 Westmoreland Drive. The property is further identified with Property Identification Number 75E-1-3-165 in the Opequon Magisterial District. The conditional use is a permitted use as a cottage occupation in the RP (Residential Performance) District; and

WHEREAS, the Frederick County Planning Commission held a public hearing on the conditional use permit on November 5, 2014, and recommended approval of the Conditional Use Permit with conditions; and,

WHEREAS, the Frederick County Board of Supervisors held a public hearing on this Conditional Use Permit during their regular meeting on December 10, 2014; and,

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

NOW, THEREFORE, BE IT ORDAINED by the Frederick County Board of Supervisors that Chapter 165 of the Frederick County Code, Zoning, is amended to revise the zoning map to reflect that Conditional Use Permit Application #03-14 – Caroline E. Watson for a licensed in-home daycare facility is permitted on the parcel identified by Property Identification Number (PIN) 75E-1-3-165 with the following conditions:

1. All review agency comments and requirements shall be complied with at all times.
2. Hours of operation shall be permitted from 7:00 a.m. to 6:00 p.m., Monday through Friday.
3. The applicant shall satisfy the licensing requirements of the Virginia Department of Social Services and the County of Frederick.
4. No business sign associated with this Conditional Use Permit (CUP) shall be erected on the property.
5. Other than those children residing on the property, there shall be no more than twelve (12) children being cared for at any given time.
6. Other than those persons residing on the property, there shall be no more than one (1) employee working at the daycare at any time.
7. Any expansion or change of use will require a new Conditional Use Permit.

The above motion was approved by the following recorded vote:

Richard C. Shickle	Aye
Charles S. DeHaven, Jr.	Aye
Christopher E. Collins	Aye
Gene E. Fisher	Aye

Robert A. Hess Aye
Gary A. Lofton Aye
Robert W. Wells Aye

REZONING #02-14 HERITAGE COMMONS, L.L.C., SUBMITTED BY LAWSON AND SILEK, P.L.C., TO REZONE 96.28 +/- ACRES FROM B2 (BUSINESS GENERAL) DISTRICT TO R4 (RESIDENTIAL PLANNED COMMUNITY) DISTRICT AND 54 +/- ACRES FROM RP (RESIDENTIAL PERFORMANCE) DISTRICT TO R4 (RESIDENTIAL PLANNED COMMUNITY) DISTRICT AND .31 +/- ACRES FROM RA (RURAL AREAS) DISTRICT TO R4 (RESIDENTIAL PLANNED COMMUNITY) DISTRICT WITH PROFFERS. THE PROPERTIES ARE LOCATED WEST OF THE INTERSECTION OF FRONT ROYAL PIKE (ROUTE 522) AND AIRPORT ROAD (ROUTE 645) AND ARE IDENTIFIED BY THE PROPERTY IDENTIFICATION NUMBERS 63-A-150, 64-A-10, AND 64-A-12 IN THE SHAWNEE MAGISTERIAL DISTRICT. – POSTPONED UNTIL FIRST MEETING IN JANUARY 2015

Senior Planner Candice Perkins appeared before the Board regarding this item. She advised this was a proposal to rezone 96.28 acres from B2 (Business General) District to R4 (Residential Planned Community) District and 54 acres from RP (Residential Performance) District to R4 (Residential Planned Community) District and .31 acres from RA (Rural Areas) District to R4 (Residential Planned Community) District with proffers. The property is located in the Shawnee Magisterial District. The applicant proposed to construct 1,200 residential units and commercial uses. The project would result in approximately 23,000 vehicle trips per day. She noted the applicant had proffered land to the Economic Development Authority. She advised the applicant requested a waiver of the master development plan and requested permission to provide a generalized development plan in lieu of the master development plan. The applicant requested an increase in the density so they could utilize 100% of the residential area for townhouses and multifamily units. The applicant requested permission to exceed the commercial area beyond 50% of the project. The applicant also requested a decrease in the minimum open space requirement from 30% to 15%. The applicant would like to modify the

height limitation to allow the buildings to be constructed up to 80 feet in height, which exceeds than the current maximum allowed height of 60 feet. The applicant also sought to reduce the required setbacks for the garden apartments. Senior Planner Perkins advised the applicant did not address the fiscal impacts of this development. The development impact model projected fiscal impacts totaling \$15,347,000.00. The proposed project could have a positive fiscal impact at full build out, which could take up to 15 years to materialize. The project as proposed would allow for 1,200 residential units to be constructed with only 100,000 square feet of commercial use. She also noted the proposed land uses in land bays 3 and 7 did not conform to the Comprehensive Plan.

Deputy Planning Director – Transportation John Bishop appeared before the Board to address the transportation components of this proposed project. He noted there was still work to be done with regard to transportation. He noted the original \$1 million cash proffer had been removed. There was no assurance development would not occur ahead of the transportation system being installed. He went on to say there was no development trigger for Warrior Drive. He advised that all construction commitments relied on a revenue sharing agreement that does not exist. Deputy Director Bishop advised that he had concerns about exposure to the county. He concluded by saying the Planning Commission recommended denial of this application based on the impacts.

Ty Lawson appeared before the Board on behalf of the applicants. He noted there were a lot of points to this large development. He asked that the application be tabled until January in order to allow the applicants time to address comments. He noted a very important piece of this project was the road agreement. He then showed an aerial picture of the site showing the roughed in roads. He went on to say the road project was being managed by the County and

there were three awards that make up the total revenue sharing package. He noted the applicants were proffering to pay the County's share of this project. He explained the applicants were proposing to put the residential development in close proximity to the commercial development so residents could walk to those features. He believed the R4 zoning fit this type of development. He explained that the site should be viewed in the whole and not as individual land bays. He went on to say he believed the land uses proffered were what was called for in the Comprehensive Plan. He noted the applicants were proffering to participate in a revenue sharing agreement, with the financial terms yet to be reached. He noted if an agreement was not reached then the proposed rezoning would fail. He stated the applicants have proffered to dedicate right of way and participate in the revenue sharing agreement. He stated this type of development proposal was new to our area. The applicants were looking to construct luxury or market rate apartments. Mr. Lawson noted this development was a tax positive to the county for multiple reasons, but it was not fair to apply the impact model to this unit type because they are not here yet. He stated there was a transportation credit for this project. The property owner had a \$4.3 million cost for roads, which was more than enough to serve the development. He concluded by saying the traffic impact analysis showed this proposal had the same number of vehicle trips per day as the original Russell 150 project.

Matt Milstead, one of the applicants, showed a video of the proposed apartments. Mr. Milstead noted they wanted to do a project that was needed, which was a higher end project. He stated this proposal would result in a \$250 million capital expenditure on this property. He concluded by saying this proposal was providing both a product and a lifestyle.

Chairman Shickle convened the public hearing.

There were no public comments.

Chairman Shickle closed the public hearing.

Supervisor Fisher stated there were a number of things here and we need to protect the county. He cited the building height increase to 80 feet. He stated if the FAA did not approve of that height then it needed to go away.

Upon a motion by Supervisor Fisher, seconded by Supervisor Collins, the Board postponed rezoning #02-14 until the first meeting in January.

Chairman Shickle asked how they could come to an agreement that a public hearing was or was not required.

Administrator Riley stated it was the chairman's prerogative to allow public comments on this item at the January meeting.

Supervisor Fisher stated he would like to see the public comment period extended to the next meeting.

There being no further discussion, the above motion was approved by the following recorded vote:

Richard C. Shickle	Aye
Charles S. DeHaven, Jr.	Aye
Christopher E. Collins	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Robert W. Wells	Aye

OTHER PLANNING ITEMS

ROAD RESOLUTION – RENAISSANCE DRIVE AND PROSPERITY DRIVE. – APPROVED UNDER CONSENT AGENDA

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

WHEREAS, the Resident Engineer of the Virginia Department of Transportation has advised

this Board that the streets meet the requirements established by the Subdivision Street Requirements of the Virginia Department of Transportation; and

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

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

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

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

BOARD LIAISON REPORTS

There were no Board liaison reports.

CITIZEN COMMENTS

Darla McCrary, Back Creek District, appeared before the Board regarding sewer problems. She advised that she purchased property at 119 Buckingham Drive, Stephens City and within nine months there was 16 inches of sewage backed up in the property. She noted the prior owner did not disclose this issue. The backup occurred following 1.5 inches of rainfall. She noted this property had experienced five sewage backups/flooding in the last four years. She went on to say that she spoke with the Frederick County Sanitation Authority in July. She thought someone should care about this issue. She asked the Board to appoint a special committee to fix this problem and act on the latest study.

Tamara Dalton, Opequon District, stated she had the same issue with her house in Greenbrier Village in Stephens City. She went on to say the Sanitation Authority said they were not liable because they were not grossly negligent. She asked the Board to help so this does not

recur.

BOARD OF SUPERVISORS COMMENTS

Supervisor Lofton wished everyone a Merry Christmas and a Happy New Year.

ADJOURN

**UPON A MOTION BY VICE-CHAIRMAN DEHAVEN, SECONDED BY
SUPERVISOR FISHER, THERE BEING NO FURTHER BUSINESS TO COME
BEFORE THIS BOARD, THIS MEETING IS HEREBY ADJOURNED. (8:22 P.M.)**

**FREDERICK COUNTY BOARD OF
SUPERVISORS' MINUTES**

SPECIAL MEETING

December 17, 2014

A Special Meeting of the Frederick County Board of Supervisors was held on Tuesday, December 17, 2014 at 8:00 A.M., in the Board of Supervisors' Meeting Room, 107 North Kent Street, Winchester, VA.

PRESENT

Richard C. Shickle, Charles S. DeHaven, Jr.; Gene E. Fisher; Robert A. Hess; Gary A. Lofton; and Robert W. Wells

ABSENT

Christopher E. Collins

CALL TO ORDER

Chairman Shickle called the meeting to order.

CLOSED SESSION

Upon a motion by Vice-Chairman DeHaven, seconded by Supervisor Lofton, the Frederick County Board of Supervisors convened in closed session pursuant to Virginia Code Section 2.2-3711 A (1) to discuss personnel matters, specifically, filling the upcoming vacancy in the county administrator's position.

The above motion was approved by the following recorded vote:

Richard C. Shickle	Aye
Charles S. DeHaven, Jr.	Aye
Christopher E. Collins	Absent
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Robert W. Wells	Aye

(Supervisor Collins arrived at approximately 10:00 a.m. and left at approximately 10:20 a.m.)

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

The above motion was approved by the following recorded vote:

Richard C. Shickle	Aye
Charles S. DeHaven, Jr.	Aye
Christopher E. Collins	Absent
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Robert W. Wells	Aye

Upon a motion by Vice-Chairman DeHaven, seconded by Supervisor Lofton, the Board certified that to the best of each board member's knowledge the Board discussed only matters involving personnel specifically, filling the upcoming vacancy in the county administrator's position, pursuant to Virginia Code Section 2.2.-3711 A (1).

The above motion was approved by the following recorded vote:

Richard C. Shickle	Aye
Charles S. DeHaven, Jr.	Aye
Christopher E. Collins	Absent
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Robert W. Wells	Aye

ADJOURN

UPON A MOTION BY VICE-CHAIRMAN DEHAVEN, SECONDED BY SUPERVISOR FISHER, THERE BEING NO FURTHER BUSINESS TO COME BEFORE THIS BOARD, THIS MEETING IS HEREBY ADJOURNED. (10:30 A.M.)

C

Employee of the Month Resolution

Awarded to:

Wade M. Taylor, Jr.

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

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

WHEREAS, the Board of Supervisors selects one employee from those nominated, based on the merits of outstanding performance and productivity, positive job attitude and other noteworthy contributions to their department and to the County; and,

WHEREAS, Wade M. Taylor, Jr. an Officer who serves as the Home Electronic Monitoring Coordinator for the Northwestern Regional Adult Detention Center was nominated for Employee of the Month; and,

WHEREAS, Officer Taylor is being awarded for his achievement of going above and beyond what his job entails. On many occasions he has the willingness to fill in at a moment's notice ensuring the mission at Community Corrections is accomplished. Officer Taylor took on added responsibility by during another employee's absence and came to the facility in the late evening and re-organized the remaining inmates so that the commitments would be met without incident. Whether he is filling in as a security officer at the Community Corrections Center, or assisting with buildings and grounds maintenance, his attention to detail, selfless dedication, energy, and hard work is not only an asset to the NRADC, but to the citizens of Frederick County whom we serve;

NOW, THEREFORE BE IT RESOLVED, by the Frederick County Board of Supervisors this 14th day of January, 2015, that Officer Wade Taylor is hereby recognized as the Frederick County Employee of the Month for December 2014; and,

BE IT FURTHER RESOLVED that the Board of Supervisors extends gratitude to Officer Taylor for his outstanding performance and dedicated service and wishes continued success in his future endeavors; and,

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



County of Frederick, VA
Board of Supervisors

Richard C. Shickle, Chairman

Dedication

County of Frederick

Employee of the Month

December 2014

Wade M. Taylor, Jr.

Hardworking

Excellence

Professional

Richard C. Shickle
Chairman, Board of Supervisors



County of Frederick Employee of the Month Nomination Form

Outstanding service can be demonstrated in many ways, but it always involves more than just good job performance. An employee can be outstanding for suggesting improvements that result in greater efficiency, improved service, or cost savings; for leadership in departmental activities, for the department's goals or for the goals of the county as a whole. Outstanding service includes job performance that clearly exceeds requirements.

The Board of Supervisors must discount generalities not supported by specific examples of activities which support the nomination. Remember, there is no way to know whether specifics are missing by accident or because they do not exist. If you believe an employee has made an outstanding contribution, give specific examples of what they have done.

Nominations are not judged on how well you write. However, they are judged on the facts presented.

Employee Name: Wade Taylor Department: NRADC

Nomination Submitted By: Lt. E. S. Sturdivant Department: NRADC

Nominator's Signature: [Signature] Date: 09/05/2014

Reason for Nomination (please be specific, precise, and definite):

Officer Wade Taylor is assigned as the Home Electronic Monitoring Coordinator at the NRADC. These duties keep him quite busy, but in the past few months he has gone above and beyond what that job entails.

He has had to fill in as a security officer at the Community Corrections Center on numerous occasions due to staffing issues. On many occasions he has come in early and gone right back to the work station and assisted the staff with deliveries, preparing inmates for court, and helping with inmate movement. His willingness to fill in at a moment's notice has gone a long way ensuring that our mission at Community Corrections is accomplished.

He has also been instrumental in assisting with buildings and ground maintenance. He assisted getting mulch and other landscaping issues taken care of. This entailed going out and purchasing mulch and then assigning and directing the inmate work force in placing the mulch where it needed to go. In addition he has worked to ensure the removal of brush, and has worked with the Community Inmate Workers in getting the produce from the garden picked and processed. He has also been assisting Sgt. D. Cooper with preparation of food stuffs related to the facility Green House.

During Sgt. Coopers leave Ofc. Taylor took on the added responsibility of the Community Inmate Work Force ensuring that adequate coverage was maintained for the agencies that we support. During one instance where numerous inmates were removed from the program he came into the facility late in the evening and re-organized the remaining inmates so that all our commitments would be met without incident.

There are many employees working here at NRADC. They are a dedicated group of folks however it is employees such as Wade Taylor that set the benchmark for the rest of us to follow. His selfless dedication to duty is a shining example for the rest of us. He is an energetic and hard working employee. It is a joy to supervise such a fine officer. His attention to detail, selfless dedication to duty, and his willingness to go above and beyond is not only an asset to the Northwestern Regional ADC, but to the citizens of Frederick County whom we serve.

[Signature]
09/30/14

HR Section: Received: 10/1/14 Emailed to HR Committee: _____

D



John R. Riley, Jr.
County Administrator

540/665-5666

Fax 540/667-0370

E-mail:

jriley@co.frederick.va.us

MEMORANDUM

TO: Board of Supervisors
FROM: John R. Riley, Jr., County Administrator
DATE: January 8, 2015
RE: Committee Appointments

Listed below are the vacancies/appointments due through February, 2015. As a reminder, in order for everyone to have ample time to review applications, and so they can be included in the agenda, please remember to submit applications prior to Friday agenda preparation. Your assistance is greatly appreciated.

VACANCIES/OTHER

Board of Zoning Appeals

James W. Givens – Back Creek District Representative
860 Laurel Grove Road
Winchester, VA 22602
Home: (540)678-0291
Term Expires: 12/31/16
Five year term

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

Lord Fairfax Community College (LFCC)

Mary E. Greene – County Representative
1201 Lakeview Drive
Cross Junction, VA 22625
Home: (540)888-4918
Term Expires: 06/30/16

Four year term

(Ms. Greene has Resigned)

(See Attached Resumé of Tara Woolever)

Extension Leadership Council

Helen Lake – Member-At-Large
861 Valley View Drive
Winchester, VA 22603
Home: (540)665-0108
Term Expires: 04/24/16
Four year term

(Ms. Lake has resigned.)

(See Attached Memo from Extension Agent Recommending Appointment of Judy Wolfrey.) *(The Extension Leadership Council is composed of one citizen member from each district appointed by the Board of Supervisors and three members-at large recommended by the Virginia Tech Extension Service.)*

Historic Resources Advisory Board

Claus Bader – Red Bud District Representative
102 Whipp Drive
Winchester, VA 22602
Home: (540)722-6578
Term Expires: 02/22/14
Four year term

DECEMBER 2014

Board of Equalization

Leon W. Strosnider – County Representative
743 Grim Road
Stephens City, VA 22655
Home: (540)869-1187
Term Expires: 12/31/16
Three year term

(Staff has been advised Mr. Strosnider has passed away.)

(See Attached Application of Luther Stiles.)

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

JANUARY 2015

Economic Development Authority

Doug C. Rinker – County Representative
1075 Dicks Hollow Road
Winchester, VA 22603
Home: (540)877-2887
Term Expires: 01/10/15
Four year term

(Mr. Rinker has advised staff he is willing to continue serving.) *(Mr. Rinker was appointed to the Economic Development Authority September, 10, 2014.)*

Northern Shenandoah Valley Regional Commission (NSVRC)

John R. Riley, Jr. – County Representative
Term Expires: 01/11/15
Three year term

(Current County representatives on the Commission are Supervisors DeHaven and Robert Hess, County Administrator John Riley, and Planning Director Eric Lawrence. Assistant County Administrator Kris Tierney serves as the alternate. Elected Officials serve their elected term of office while others serve a three year term.)

Parks and Recreation Commission

Charles R. Sandy, Mr. – Member-At-Large
733 Salem Church Road
Stephens City, VA 22655
Home: (540)869-0197

Memorandum – Board of Supervisors
January 8, 2015
Page 4

Term Expires: 01/25/15
Four year term

FEBRUARY 2015

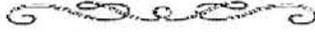
No appointments due.

JRR/tjp

Attachments

U:\TJP\committeeappointments\MmosLettrs\BoardCommitteeAppts(011415BdMtg).docx

Tara L. Woolever
118 Plankwood Court
Stephens City, VA 22655
(540) 869-7418



Objective: Educational Administration and College Educator

Affiliations: ASCD, NCSS, VEA, FCEA, VCSSSCE, City-County Supervisors, Kids Voting

Education: DProf Organizational Leadership, American History, Political Science, and Curriculum and Instruction Emphasis, projected Graduation Fall 2015

MEd Educational Leadership, August 2008

George Mason University, Fairfax, VA

MS Computers in Education, May 2005

Shenandoah University, Winchester, VA

BA Social Studies Education and Licensure (5-12), December 1998

Shepherd College, Shepherdstown, WV

Experience: Supervisor of Social Science, Health and Wellness Education, Frederick County Public Schools

Winchester, VA July 2008-Present

- Vertically align curriculum and skills
- Work collaboratively with teachers to create and evaluate common assessments.
- Meet monthly with curriculum teams to determine program strengths and weaknesses
- Develop and revise curriculum improvement plans
- Coordinate community events with county government agencies
- Analyze data
- Train teachers to use technology and instructional best practices.
- Work collaboratively with administrators to create instructional opportunities.
- Assist administrators and teachers leaders with classroom observations.

Curriculum and Instruction Instructor, Shenandoah University

Leesburg and Winchester, VA August 2011-Present

- Design learning modules for career switchers
- Provide feedback on lesson plans and activities
- Review digital teaching portfolios
- Coordinate coursework with other teaching staff to ensure program meets time requirements.
- Review course evaluation and adjust syllabus and modules to meet student needs.

Teaching American History Grant Coordinator, Frederick County Public Schools

Winchester, VA 2010-Present

- Work collaboratively with stakeholders to design program expectations, schedules and evaluations.
- Coordinate travel and purchase course materials

- Create, administer and evaluate student pre and post assessments for students and teachers

Administrative Assistant to Assistant Principal Mrs. Carleen Puglisi, Millbrook High School

Winchester, VA January 2007-July 2008

- Verify daily skip sheets with students, attendance office, and teachers.
- Schedule and deliver Administrative Detentions
- Cell phone and Electronic Device Warnings

Social Studies Department Chair, Millbrook High School,

Winchester, VA July 2003- July 2008

- Interview applicants
- Department Schedule
- Order instructional and office related materials
- Organize and supervise field trips
- Manage Department budget
- Coordinate SOL Intervention and Remediation
- Administer SOL Tests
- Schedule Department In-Service Hours
- Communicate effectively with SPED and ESL Departments that work within Social Studies classrooms
- Attend Department Chair and Core Department Chair Meetings
- Analyze SOL and Common Assessment data.
- Develop ESL Social Studies Curriculum

Social Studies Teacher, James Wood High School, November 1999-June 2003

- Teacher Mentor 2002-2003
- SCA Sponsor 2000-2002

**Other
Related
Experience:**

Clinical Faculty Training

- Millbrook High Schools **Lead Mentor**, March 2007-Present
- Create a successful mentor program at Millbrook High School

Social Studies Curriculum Team, 2003-Present

- Review Program of Studies
- Kids Voting coordination

Scholarship Committee, 2003-Present

- Select candidates for various scholarships
- Maintain confidentiality of students and selections

Academic Awards Committee, January 2007-Present

- Create criteria for Millbrook High Schools elite students who will be honored for their achievements.

Mentor to new teachers, August 2003-July 2008

New Teacher Transition Committee, November 2007-Present

- Create a network for teachers to access community connections

Attendance Committee, January 2008-Present

- Develop attendance incentives for students who have moderate to chronic absenteeism

School Improvement Team, 2003-2005

- SACS Review
- Work collaboratively with students and parents.

VA SOL World History II Cut Score Committee, 2003-2004

- Set cut score for World History II Tests after reviewing test data.

VA SOL World History II Content Review Committee, 2003-2004 & 2006-2007, 2008-2009

- Analyze, write and review field questions on EOC World History II SOL Tests.

In-service Presentations: Games People Play, Essentials for Success on World History II SOL, Using QUIA for Activities, Assessment and Analysis, Web 2.0 Tools.

Social Studies Methods for Career Switchers Teacher: Shenandoah University, 2011-Present

Teaching American History Grant Program Administrator 2010-Present

Teacher Evaluation Committee, 2009-2010

- Create rubrics that address new state standards for evaluation.

Kids Voting President, 2012-Present

- Coordinate meetings for Winchester Frederick County Board Member, annual elections, and teacher education programs.

Stephens City United Methodist Preschool Committee Chair and Director Designee, 2010-2013

- Communicate with committee, staff, church council and parents.
- Construct an annual budget
- Apply for annual licensure
- Conduct parent orientation and staff in-services

Virginia Council for Social Studies Supervisors and College Educators (VCSSES), Secretary and Member, 2009-Present

- Keep minutes for all meetings
- Coordinate communication electronically

School Health Advisory Board (SHAB), 2011-2014

- Work collaboratively with Health professionals, educators and parents to improve community wellness.

Technology: SMART Exemplary Educator, 2011-Present, Microsoft Office (Word, PowerPoint, Excel, FrontPage), Google Apps for Education, QUIA, Smartboard Master Certification, Video editing and Web page Training.

References: Dr. David Sovine, Superintendent of Frederick County Public Schools
 Dr. James Angelo, Assistant Superintendent of Instruction
 Dr. Julie Myers, Director Secondary Instruction
 Dr. Barbara Chillson, Shenandoah University, Leadership Studies Professor



MEMORANDUM

TO: John Riley, County Administrator

FROM: Mark Sutphin, VCE-Frederick Unit Coordinator

SUBJECT: Member-at-Large Appointment to the Frederick County Extension Leadership Council; Election of Chair & Vice Chair

DATE: October 28, 2014

Earlier in October 2014, Helen Lake offered her resignation from the Member-at-Large term on the Frederick County Extension Leadership Council. Helen's term expires on April 24, 2016. Virginia Cooperative Extension – Frederick County would like to recommend to the Board of Supervisors that Judith (Judy) Wolfrey be appointed to this ELC Member-at-Large vacant position. Judy has been active with health and wellness Family Consumer Science programs through VCE-Frederick County and will provide great insight and leadership to Extension. As a former Maryland resident, she is familiar with the University of Maryland Extension Service and 4-H programs from her and her children's involvement there.

Judy Wolfrey
764 Armel Road
White Post, VA 22663
540.247.9456
judywolfrey@premiermove.com

At the October 15, 2014 meeting of the Frederick County ELC, Robert (Bob) Meadows was re-elected as Chairperson and Kevin Scott was elected as Vice-Chairperson for calendar year 2015.

Invent the Future

VIRGINIA POLYTECHNIC INSTITUTE AND STATE UNIVERSITY
Extension is a joint program of Virginia Tech, Virginia State University, the U.S. Department of Agriculture, and state and local governments.

Virginia Cooperative Extension programs and employment are open to all, regardless of race, color, national origin, sex, religion, age, disability, political beliefs, sexual orientation, genetic information, marital, family, or veteran status, or any other basis protected by law. An equal opportunity/affirmative action employer.



www.ext.vt.edu

INFORMATIONAL DATA SHEET
FOR
FREDERICK COUNTY BOARD OF SUPERVISORS
COMMITTEE APPOINTMENTS

Robert W. Wells, District Supervisor, would like to nominate you to serve on the BOARD OF EQUALIZATION.

As a brief personal introduction to the other Board members, please fill out the information requested below for their review prior to filling the appointment. (Please Print Clearly. Thank You.)

Name: Luther O. Stiles Home Phone: 540-869-2504

Address: 114 Lane Street Office Phone: 540-336-7319

Stephens City, VA Fax: -
22655

Employer: Retired - Valley Farm Credit Email: LOS114@VERIZON.NET
(Now Midatlantic Farm Credit)

Occupation: Retired AS Executive Vice President & Chief Administrative Officer

Civic/Community Activities: Winchester Kiwanis Club - 34 years

Will You Be Able To Attend This Committee's Regularly Scheduled Meeting On:

Exceptions: Will be out of town 2/26 thru 3/8/15 Yes: No:

Do You Foresee Any Possible Conflicts Of Interest Which Might Arise By Your Serving On This Committee? Yes: No: Explain:

Additional Information Or Comments You Would Like To Provide (If you need more space, please use the reverse side or include additional sheets):

I hold a Virginia and West Virginia Real Estate License (have had licenses for 20 plus years). I am no longer active in the real estate business.

Applicant's Signature: [Signature] Date: 12/19/14

Nominating Supervisor's Comments: _____

E



COUNTY OF FREDERICK

Roderick B. Williams
County Attorney

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

MEMORANDUM

TO: Frederick County Board of Supervisors
CC: John R. Riley, Jr., County Administrator
FROM: Roderick B. Williams, County Attorney
DATE: December 31, 2014
RE: Commissioner of Revenue Refund Requests



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

1. O-N Minerals (Chemstone) Company – \$33,241.00
2. Undisclosed Taxpayer – Disabled Veteran's Relief – \$6,014.06

A handwritten signature in black ink, appearing to be "Roderick B. Williams".

Roderick B. Williams
County Attorney

Attachments



COUNTY OF FREDERICK

Roderick B. Williams
County Attorney

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

MEMORANDUM

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

CC: John R. Riley, Jr., County Administrator

FROM: Roderick B. Williams, County Attorney

DATE: December 31, 2014

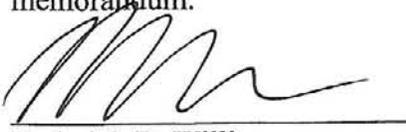
RE: Refund – O-N Minerals (Chemstone) Company

I am in receipt of the Commissioner's request, dated October 27, 2014, to authorize the Treasurer to refund O-N Minerals (Chemstone) Company the amount of \$33,241.00, for adjustment to real property taxes for tax years 2011, 2012, 2013 and 2014. This refund is a result of structural improvements owned by the Frederick County Sanitation Authority on real property it leases from O-N Minerals, but which improvements were taxed to O-N Minerals.

Common law with respect to improvements and fixtures added to leased property is generally that such improvements and fixtures accrue to the lessor/landlord upon termination of the lease. For trade fixtures and similar items, however, a different rule often applies. The property at issue in this request is unique to the operations of FCSA as the tenant/lessee and, accordingly, can fairly be considered to be trade fixtures. As well, the Virginia Code specifically addresses the ownership of leasehold improvements by a public service corporation or a political subdivision (such as FCSA), separate from the ownership of the underlying real property, stating that, where the improvements are to be removed by the tenant/lessee at the end of the lease term, the land and such improvements may be assessed separately. Va. Code §58.1-3282. In this case, we are informed that FCSA has the right to remove the fixtures and certainly, given the value and use of the fixtures, would likely do so at the end of the lease term. FCSA, as a political subdivision, is tax-exempt and, therefore, the fixtures should not be taxed and the refund is in order.

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

on the request for approval of a supplemental appropriation, as indicated in the Commissioner's memorandum.

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

Roderick B. Williams
County Attorney

Attachment



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



October 27, 2014

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

FROM: Ellen E. Murphy, Commissioner of the Revenue

RE: Exoneration O-N Minerals

A handwritten signature in cursive script, appearing to read "E. Murphy".

Please approve a refund of \$33,241.00 for real estate taxes for 2011, 2012, 2013, and 2014 for O-N Minerals on structural improvements believed to be their responsibility as lessor. Improvements are owned by Frederick County Sanitation Authority and are **not** leased by O-N Minerals. Improvements are the sole property and under the sole control of Frederick County Sanitation Authority.

The Commissioner's staff person has verified all required data.

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

Exonerated is \$33,241.00.

10/27/2014

Abatement Register
COUNTY OF FREDERICK

-UPDATE-

TX306ABP

FOR DATE -10/27/2014

ACCOUNTING PERIOD - 2014/10

Type	Dept	Ticket#	Date	Amt. Charged	Customer	Tran#
ABA	RE2011	00282590001	10/27/2014	\$3,984.50-	O-N MINERALS (CHEMSTONE) COMPANY	25897
ABA	RE2011	00282590002	10/27/2014	\$3,984.49-	O-N MINERALS (CHEMSTONE) COMPANY	25898
Total for Dept.				\$7,968.99-		
ABA	RE2012	00283980001	10/27/2014	\$4,276.94-	O-N MINERALS (CHEMSTONE) COMPANY	25899
ABA	RE2012	00283980002	10/27/2014	\$4,276.93-	O-N MINERALS (CHEMSTONE) COMPANY	25900
Total for Dept.				\$8,553.87-		
ABA	RE2013	00283390001	10/27/2014	\$4,179.54-	O-N MINERALS (CHEMSTONE) COMPANY	25901
ABA	RE2013	00283390002	10/27/2014	\$4,179.53-	O-N MINERALS (CHEMSTONE) COMPANY	25902
Total for Dept.				\$8,359.07-		
ABA	RE2014	00284670001	10/27/2014	\$4,179.54-	O-N MINERALS (CHEMSTONE) COMPANY	25903
ABA	RE2014	00284670002	10/27/2014	\$4,179.53-	O-N MINERALS (CHEMSTONE) COMPANY	25904
Total for Dept.				\$8,359.07-		
Total for Tran Type				\$33,241.00-		
Abatement count =	8	Total for Company		\$33,241.00-		

Memo Needed



COUNTY OF FREDERICK

Roderick B. Williams
County Attorney

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

MEMORANDUM

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

CC: John R. Riley, Jr., County Administrator

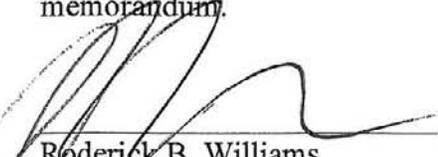
FROM: Roderick B. Williams, County Attorney

DATE: December 31, 2014

RE: Refund – Undisclosed Taxpayer – Disabled Veteran’s Relief

I am in receipt of the Commissioner’s request, dated December 15, 2014, to authorize the Treasurer to refund a taxpayer the amount of \$6,014.06 for part of 2011, all of 2012, 2013 and 2014 real estate taxes, based on proper filing of proof of 100% permanent and total disability directly due to military service, as required under the Virginia Code change as a result of the Constitutional amendment that took effect for 2011. Taxpayer’s name cannot be made public because of applicable legal requirements as to privacy, but is known to the Commissioner, the Treasurer, and the County Attorney on a confidential basis.

Pursuant to the provisions of Section 58.1-3981(A) of the Code of Virginia (1950, as amended), I hereby note my consent to the proposed action. The Board of Supervisors will also need to act on the request for approval of a supplemental appropriation, as indicated in the Commissioner’s memorandum.


Roderick B. Williams
County Attorney

Attachment



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



December 15, 2014

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

FROM: Ellen E. Murphy, Commissioner of the Revenue

A handwritten signature in cursive script, appearing to read "E. Murphy".

RE: Exoneration Taxpayer name withheld – Veterans Admn rules.

Please approve a refund of \$6014.06 for real estate taxes for part of 2011 and all of 2012, 2013, and 2014 for a taxpayer that qualified for the Disabled Veterans Relief on his residence. The taxpayer's name must be withheld by Veterans Administration rules because the relief is based on medical information that cannot be made public. Under the General Assembly legislation passed for 2011 and beyond the relief is retroactive to the effective date of the qualification of disability or January 1, 2011 whichever is later.

A copy of the treasurer's credit balance is provided with identifying information redacted.

The Commissioner's staff person has verified all required data establishing the disability and the paperwork is in the care of the Commissioner of the Revenue. This is a separate refund and veteran from the one requested on June 24, 2014.

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

Exoneration is \$6014.06.

Date: 12/12/14

Cash Register: COUNTY OF FREDERICK

Time: 15:59:48

Customer Name:
MAP#:
Prop Adr:

Register: OPEN
Drawer: LMS

Customer Transactions: (F5=Review)

Total Transactions: 489

Dept	Ticket No.	FRO	BillDate	Charge	Penalty/Int	Amount Paid	Balance
RE2011	00314580002	002	4/18/2011	121.20-			121.20-
RE2012	00316100001	001	5/09/2012	1007.39-			1007.39-
RE2012	00316100002	002	5/09/2012	1007.39-			1007.39-
RE2013	00317530001	001	4/12/2013	969.52-			969.52-
RE2013	00317530002	002	4/12/2013	969.52-			969.52-
RE2014	00318720001	001	4/14/2014	969.52-			969.52-
RE2014	00318720002	002	4/14/2014	969.52-			969.52-

Comment.....:

Old/New Promise Date.: / Total: \$6014.06-
No. of Transactions: 7 Amount to Pay:

F3=Exit F4=Accept Pymt F7=Pay Separately F15=Show Penalty/Int F21=CmdLine

Needs Board Approval

F



COUNTY OF FREDERICK

Roderick B. Williams
County Attorney

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

MEMORANDUM

TO: Board of Supervisors

FROM: Roderick B. Williams
County Attorney

DATE: January 8, 2015

RE: Petition of Virginia American Water Company, Aqua Virginia, Inc., and
Massanutten Public Service Corporation – Petition to State Corporation
Commission for Rulemaking to Establish a Water and Wastewater Infrastructure
Service Charge

The above private water/sewer utility companies have filed with the State Corporation Commission the indicated petition. One of the companies, Aqua Virginia, Inc., is the provider of water and sewer service in the Lake Holiday community and water service in the Shawneeland community. The Commission has issued an Order for Notice and Hearing, scheduling the matter for a hearing before the Commission on March 10 (previously, the Commission had issued just an Order seeking public comments, with the Commission receiving in excess of 200 comments). This memorandum provides the Board the opportunity to authorize participation in the Commission proceeding. A proposed resolution to do so is attached.¹

Specifically, if the Commission were to grant the rulemaking requested in the petition, private water/sewer utility companies could, according to the Order for Notice and Hearing, seek Commission approval in the future to impose charges, in addition to regular rates, to provide funds “to replace aging infrastructure and address primary and secondary water quality systematically and to prioritize the highest risk facilities and replace these on an accelerated basis.” The request presents a number of different issues, including whether such costs should

¹ We previously received notice of the original request for comments, but only shortly before the deadline for submissions. After discussion with Supervisor Hess, I submitted a letter, as County Attorney, a copy of which letter you received, asking some of the same questions as are now presented. That letter, however, was not formal participation in the proceeding.

instead be captured in regular rates, whether a company could impose one overall charge for all of its systems in Virginia regardless of the condition of a particular system, and whether state law even authorizes the requested rulemaking. On the issue of a single charge for all of a company's systems, the effect of that could be that ratepayers on systems with lesser infrastructure needs would end up subsidizing ratepayers on systems with greater infrastructure needs. On the issue of state law authority for the requested rulemaking, by contrast, a specific state law authorizes the approval of similar charges by natural gas utilities, see Va. Code §§ 56-603 to 56-604 (the Steps to Advance Virginia's Energy Plan (Save) Act), but no similar law exists with respect to water/sewer utilities.

Participation by the Board of Supervisors as a respondent in the proceeding before the State Corporation Commission would likely be beneficial toward seeking the accomplishment of fair and reasonable water and sewer rates and costs for County residents who are customers of Aqua Virginia, Inc. in the Lake Holiday and Shawneeland communities. If the Board wishes to do so, approval of the attached proposed resolution would authorize the County Attorney to participate on behalf of the Board in the proceeding.

Attachment



BOARD OF SUPERVISORS

RESOLUTION January 14, 2015

WHEREAS, Aqua Virginia, Inc. provides water and sewer service to County residents in the Lake Holiday community and water service to County residents in the Shawneeland community; and

WHEREAS, Aqua Virginia, Inc., Virginia American Water Company, and Massanutten Public Service Corporation have filed with the State Corporation Commission a petition, docketed as Case Number PUE-2014-00066, for a rulemaking to establish rules allowing water and wastewater companies in Virginia to apply to the Commission for the establishment of a water and wastewater infrastructure service charge; and

WHEREAS, County residents who are customers of Aqua Virginia, Inc. in the Lake Holiday and Shawneeland communities pay rates for water and sewer, as applicable, that exceed those of the Frederick County Sanitation Authority; and

WHEREAS, water and sewer costs represent a significant burden to County residents who are customers of Aqua Virginia, Inc. in the Lake Holiday and Shawneeland communities; and

WHEREAS, the request for rules to allow establishment a water and wastewater infrastructure service charge presents various concerns regarding whether infrastructure costs should be captured in regular rates, whether a company could impose one overall infrastructure charge for all of its systems in Virginia or whether a company would be required to dedicate charges received for one system to only that system, and whether authority exists for such rules; and

WHEREAS, participation by the Board of Supervisors as a respondent in State Corporation Commission Case Number PUE-2014-00066 would be beneficial toward seeking the accomplishment of fair and reasonable water and sewer rates for County

residents who are customers of Aqua Virginia, Inc. in the Lake Holiday and Shawneeland communities;

NOW, THEREFORE, BE IT RESOLVED THAT the Board of Supervisors authorizes and ratifies the filing by the County Attorney on its behalf of a Notice of Participation as a Respondent in State Corporation Commission Case Number PUE-2014-00066 and the taking of such action as is appropriate in such proceeding to seek the accomplishment of fair and reasonable water and sewer rates for County residents who are customers of Aqua Virginia, Inc. in the Lake Holiday and Shawneeland communities.

Adopted this 14th day of January, 2015.

Richard C. Shickle, Chairman	_____	Gary A. Lofton	_____
Robert A. Hess	_____	Robert W. Wells	_____
Christopher E. Collins	_____	Gene E. Fisher	_____
Charles S. DeHaven, Jr.	_____		

A COPY ATTEST

John R. Riley, Jr.
Frederick County Administrator

G



MEMO

To: John R. Riley, Jr., County Administrator
From: Jason L. Robertson, Director, Parks & Recreation Dept.
Subject: Parks and Recreation Commission Action
Date: December 10, 2014

The Parks and Recreation Commission met on December 9, 2014. Members present were: Kevin Anderson, Patrick Anderson, Greg Brondos, Jr., Randy Carter, Gary Longerbeam, Ronald Madagan and Charles Sandy, Jr.. Members absent were: Marty Cybulski and Christopher Collins.

Items Requiring Board of Supervisors Action:

None

Submitted for Board Information Only:

1. Board Resolution for DCR RTP Grant Application for Rose Hill Trail – Mr. Madagan moved to request a resolution from the Board of Supervisors to apply for a grant from the Department of Conservation and Recreation (DCR) Recreational Trails Program for Rose Hill Park, second by Mr. Longerbeam, motion carried unanimously (7-0). Staff will request a resolution from the Board of Supervisors once the grant is announced.
2. Fiscal Year 2016 Budget Request – The Finance Committee met on December 1, 2014 to review the Department's Fiscal 2016 Budget. The Finance Committee recommended to approve the Fiscal 2016 Budget as submitted, second by Mr. Brondos, motion carried unanimously (7-0).

cc: Charles R. Sandy, Jr., Chairman
Christopher Collins, Board of Supervisors Liaison

Н



MEMORANDUM

TO: Board of Supervisors

FROM: Harvey E. Strawsnyder, Jr., P.E., Director of Public Works *HEB*

SUBJECT: Public Works Committee Report for Meeting of December 2, 2014

DATE: December 5, 2014

The Public Works Committee met on Tuesday, December 2, 2014, at 8:00 a.m. All members were present except Gene Fisher. The following items were discussed:

*****Item Not Requiring Action*****

1. Fiscal Year 2015/2016 Budgets

The Director of Public Works presented the attached Fiscal Year 2015/2015 Budgets. Following this presentation and brief discussion, the committee unanimously endorsed the proposed budgets and recommended that they be forwarded to the finance committee for their review. (Attachment 1)

In addition, the committee reviewed a staff proposal to close the Greenwood Citizens' Convenience site. The justification for this closure will be provided to the board of supervisors during their review of the proposed budgets. (Attachment 2)

2. Miscellaneous Reports

- a) Tonnage Report
(Attachment 3)
- b) Recycling Report
(Attachment 4)

Public Works Committee Report

Page 2

December 5, 2014

- c) Animal Shelter Dog Report
(Attachment 5)
- d) Animal Shelter Cat Report
(Attachment 6)

Respectfully submitted,

Public Works Committee

Gene E. Fisher, Chairman

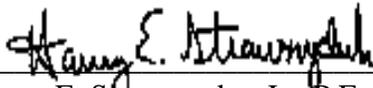
David W. Ganse

Gary Lofton

Whit L. Wagner

Robert W. Wells

James Wilson

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

HES/rls

Attachments: as stated

cc: file


COUNTY of FREDERICK
Department of Public Works

540/665-5643

FAX: 540/678-0682

MEMORANDUM

TO: Public Works Committee
FROM: Harvey E. Strawsnyder, Jr., P.E. Director of Public Works *HEE*
SUBJECT: Fiscal Year 2015/2016 Budgets *also*
DATE: November 25, 2014

The following is a summary of the proposed Public Works budgets and the projected revenues for Fiscal Year 2015/2016 and the current amended Fiscal Year 2014/2015 budgets:

DISCIPLINE	FY 14/15 AMENDED BUDGETS*	FY 15/16 BUDGETS (Proposed)	FY 15/16 PROJECTED REVENUES
Inspections - 3401	1,151,216	1,214,781	850,000
Road Administration - 4102	32,500	28,500	1,000
Engineering - 4201	365,102	390,255	112,700
Refuse Collection - 4203	1,300,947	1,319,833	242,202
Refuse Disposal – 10-4204	375,000	423,360	64,716
Litter Control – 4205	24,384	39,467	15,000
Animal Shelter – 4305	580,392	581,953	51,800
Building Appeals Board - 8106	550	550	0
Subtotal	3,830,091	3,998,699	1,337,418
Landfill (12 fund) – 4204	8,891,561	6,011,823	6,011,382
Shawneeland - 8108	1,194,090	806,831	697,400
Subtotal	10,085,651	6,818,654	6,708,782
Total	13,915,742	10,817,353	8,046,200


COUNTY of FREDERICK
Department of Public Works

540/665-5643

FAX: 540/678-0682

MEMORANDUM

TO: Harvey E. Strawsnyder, Jr., P.E.
 Director of Public Works

FROM: Gloria Puffinburger *GP*
 Solid Waste Manager

SUBJECT: 2015/2016 Budget – Refuse Collection

DATE: December 4, 2014

Staff is recommending that the Public Works Committee consider permanently closing the Greenwood convenience site due to liability concerns. The site is undersized at approximately one-quarter of an acre and heavily utilized in an urban area where curbside collection is readily available and the landfill's citizens' center is 2.2 miles away.

The site is visited by an average of 450 vehicles each day, a total average of 12,183 per month based on an August 2014 survey. While traffic counts are down somewhat from hitting a peak monthly average of 14,772 in 2013, ingress and egress issues continue to plague the convenience site. Traffic often backs out onto Greenwood Road.

For the refuse hauler, the site presents a maneuverability challenge due to its confined area. Site attendants block off the lot to residents each day so that the compactor may be safely serviced.

Eliminating the Greenwood location would free up several pieces of equipment that could be utilized elsewhere, including two refuse receiver cans, two recycling roll-offs and three 8-yard open-tops. Excluding equipment and site maintenance, a total of about \$90,000 in yearly expenses would be cut from the refuse collection budget:

Personnel Costs: \$33,241
 Hauling Costs: \$50,500
 Lease Payment: \$6,000
 Electrical Service: \$1,152
 Toilet Service: \$250
AVERAGE TOTAL PER YEAR: \$91,143

In closing, note that safety concerns are the primary motivator for this request. A detailed list of incidents dating to 2007 is attached for your reference.

BODILY INJURY/PROPERTY DAMAGE INCIDENTS – GREENWOOD

Date	Incident	Type and Response
October 4, 2007	Resident crashed through attendant's shed; building completely destroyed; State Police responded	Property loss – Estimated at \$4761 and covered by resident's insurance; attendant had JUST left building when incident occurred; 4" concrete-filled steel bollards installed to replace traffic cones after incident
March 6, 2008	Resident tripped over parking stop; Transported to WMC	Bodily injury
September 4, 2008	Resident tripped over parking stop and broke leg; EMS called and he was transported to WMC	Bodily injury
September 10, 2010	Resident slipped and fell between parking stops and compactor; scraped hands and knees; bruised wrist; no EMS called	Bodily injury -- Resident asked a week later if county would pay medical bill. Referred to risk manager.
December 23, 2011	Resident slipped and fell down ramp; injured thumb; no EMS called	Bodily injury
January 18, 2012	Resident's vehicle rolled down ramp (left out of gear); Resident panicked, jumped in and broadsided another car on lot; panicked again, put car into reverse and sped backward up ramp and over parking stops; State Police responded; Both occupants of vehicle that was broadsided transported to WMC	Bodily injury and property damage – Two persons transported and their vehicle towed away
May 15, 2012	5-year-old child jumped out of vehicle and ran into path of another car; child knocked to ground by car bumper; driver did not see child at all until others in lot yelled for him to STOP; child checked out by EMS; not transported	No bodily injury
May 17, 2012	Two vehicles backed into one another at site	No property damage

July 3, 2012	Resident tripped over parking stop; injured knee; treated by EMS	Bodily injury
July 12, 2012	Resident crashed into two 4" steel bollards (filled w/concrete) at side of attendant's shed pushing one of them into building; backed away and crashed into chain link fence; State Police responded	Property loss -- Little noticeable damage to pickup; building required repair to siding; reset bollards; installed additional bollards on side of building; straightened fencing
July 28, 2012	Resident backed vehicle into concrete retaining wall at compactor	Property loss – No damage to wall; minimal to vehicle
October 18, 2012	Attendant injured at compactor when vehicle jumped parking stop and hit steel bollard; attendant jumped out of way and injured ankle when he landed	Bodily injury
November 20, 2012	Resident backed into concrete retaining wall	Property loss – No damage to wall; \$500 to vehicle
January 28, 2013	Attendant slipped and fell in gravel and slush on ramp; hit back of head on asphalt; no EMS called	Bodily injury
March 30, 2013	Resident turned ankle and fell on pavement	Bodily injury
April 14, 2013	Resident damaged front of truck on fence post	Property loss
May 23, 2013	Resident called to request medical reimbursement after husband tripped on parking stops; several toes removed as a result; no witnesses to this event	Bodily injury; referred to risk manager.
June 8, 2013	Resident fell on ramp; injured knees and legs; no EMS called	Bodily injury
June 27, 2013	Resident tripped in lot and fell; EMS responded	Bodily injury
July 2, 2013	Resident backed into steel bollard	Property loss; none
January 4, 2014	Resident slipped on ice at recycling area; injured knee	Bodily injury


COUNTY of FREDERICK
Department of Public Works

540/665-5643

FAX: 540/678-0682

MEMORANDUM

TO: Public Works Committee
FROM: Harvey E. Strawsnyder, Jr., P.E., Director of Public Works *HES*
SUBJECT: Monthly Tonnage Report - Fiscal Year 14/15
DATE: November 4, 2014

The following is the tonnage for the months of July 2014, through June 2015, and the average monthly tonnage for fiscal years 03/04 through 14/15.

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:	13,807 TONS (UP 1,339 TONS)

MONTH	FY 2013-2014	FY 2014-2015
JULY	13,514	14,029
AUGUST	13,343	13,585
SEPTEMBER	12,345	13,274
OCTOBER	13,266	14,339
NOVEMBER	10,857	
DECEMBER	11,614	
JANUARY	11,411	
FEBRUARY	10,021	
MARCH	11,518	
APRIL	13,796	
MAY	14,340	
JUNE	13,594	

HES/gmp

<u>MONTH</u>	<u>GLASS</u>	<u>PLAST</u>	<u>AL CANS</u>	<u>STEEL CANS</u>	<u>PAPER</u>	<u>OCC</u>	<u>SHOES</u>	<u>TEXTILE</u>	<u>ELEC</u>	<u>SCRAP</u>	<u>TOTAL</u>
JUL	94,600	39,540	3,795	7,805	95,540	78,420	1,460	1,580	47,000	173,520	543,260
AUG	68,720	32,390	3,150	6,310	99,440	76,410	1,460	1,940	46,920	146,400	483,140
SEP	74,040	32,860	3,060	6,590	79,180	72,380	1,000	3,160	48,840	152,100	473,210
OCT	77,220	34,280	3,655	8,965	134,360	73,880	1,160	1,700	23,580	154,640	513,440
NOV	0	0	0	0		0	0	0	0	0	0
DEC	0	0	0	0	0	0	0	0	0	0	0
JAN	0	0	0	0	0	0	0	0	0	0	0
FEB	0	0	0	0	0	0	0	0	0	0	0
MAR	0	0	0	0	0	0	0	0	0	0	0
APR	0	0	0	0	0	0	0	0	0	0	0
MAY	0	0	0	0	0	0	0	0	0	0	0
JUN	0	0	0	0	0	0	0	0	0	0	0
TOTAL	314,580	139,070	13,660	29,670	408,520	301,090	5,080	8,380	166,340	626,660	2,013,050
FY 13-14	904,780	417,090	39,399	99,177	1,281,105	902,701	15,230	22,650	611,580	1,639,225	5,932,937
FY 12-13	913,530	410,338	45,086	102,875	1,508,029	878,450	15,020	24,680	502,680	1,321,938	5,722,626
FY 11-12	865,380	398,320	43,884	99,846	1,492,826	840,717	8,200	29,720	484,600	1,432,678	5,696,171
FY 10-11	949,185	378,452	42,120	98,474	1,404,806	824,873	18,420	23,280	467,920	1,220,107	5,427,637
FY 09-10	1,123,671	370,386	42,844	96,666	1,235,624	671,669	21,160		435,680	1,348,398	5,346,098
FY 08-09	762,810	322,928	23,473	55,246	1,708,302	564,957	28,780		404,760	1,097,151	4,968,407
FY 07-08	794,932	284,220	15,783	40,544	1,971,883	545,692	0		498,110	1,172,880	5,324,044
FY 06-07	600,464	200,720	11,834	29,285	1,684,711	441,321	0		382,574	550,070	3,900,979
FY 05-06	558,367	190,611	12,478	28,526	1,523,162				381,469	204,220	2,898,833
FY 04-05	549,527	193,224	11,415	27,525	1,552,111				273,707	25,080	2,632,589
FY 03-04	541,896	174,256	11,437	31,112	1,443,461				156,870	336,230	2,695,262
FY 02-03	413,627	146,770	9,840	23,148	1,381,195				62,840	171,680	2,209,100
FY 01-02	450,280	181,040	10,565	25,553	1,401,206				54,061	58,140	2,180,845
FY 00-01	436,615	198,519	10,367	24,988	1,759,731					9,620	2,439,840
FY 99-00	422,447	177,260	10,177	22,847	1,686,587					44,180	2,363,498
FY 98-99	402,192	184,405	9,564	22,905	1,411,950					48,810	2,079,826
FY 97-98	485,294	136,110	13,307	29,775	1,830,000						2,494,486
FY 96-97	373,106	211,105	23,584	46,625	1,690,000						2,344,420
FY 95-96	511,978	167,486	28,441	44,995	1,553,060						2,305,960
TO DATE	10,241,771	3,915,812	331,113	748,060	26,730,615	3,889,229	76,560	53,000	3,602,591	7,719,244	57,307,995

FREDERICK COUNTY ESTHER BOYD ANIMAL SHELTER FY 2014-2015

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	50	40	47	2	0	49	42	3	1	0	44
AUG	44	39	24	1	0	28	22	8	0	0	50
SEP	50	37	39	0	0	38	32	3	0	0	53
OCT	53	50	30	2	0	38	31	5	0	0	61
NOV											
DEC											
JAN											
FEB											
MAR											
APR											
MAY											
JUN											
TOTAL	197	166	140	5	0	153	127	19	1	0	208

In the month of October - 135 dogs in and out of kennel. 3 dogs transferred to Clarke County.

FREDERICK COUNTY ESTHER BOYD ANIMAL SHELTER FY 2014-2015

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	143	179	31	7	9	31	1	203	22	0	112
AUG	112	211	15	0	0	26	1	176	16	0	119
SEP	119	182	18	5	6	35	2	137	31	0	125
OCT	125	188	22	0	0	24	6	185	13	0	107
NOV											
DEC											
JAN											
FEB											
MAR											
APR											
MAY											
JUN											
TOTAL	499	760	86	12	15	116	10	701	82	0	463

In the month of October - 335 cats in and out of shelter.

I



County of Frederick

Paula A. Nofsinger
Director of Human Resources

Office : (540) 665-5668
Fax: (540) 665-5669
pnofsinger@fcva.us

TO: Board of Supervisors
FROM: HR Committee
DATE: December 23, 2014
SUBJECT: Human Resources Committee Report

The HR Committee met in the First Floor Conference Room at 107 North Kent Street on Friday, December 10th, 2014, at 8:00a.m. All members were present with the exception of Beth Lewin.

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

1. The Committee recommends approval for the Parks & Rec Director Jason Robertson to hire a Recreational Technician. The funding request for the position will be forwarded to the Finance Committee for consideration. (See attachment).
2. The Committee recommends approval of the Employee of the Month award for December. (See attachment).

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

1. The Parks & Rec Director presented the Committee with of an Incentive Pay Policy. After discussion, the Committee recommended that the HR Department draft a County level policy for the Committee to review in February (See attachment).
2. Presentation by the Treasurer, C. William Orndoff.
At the request of the Committee, Mr. Orndoff presented an overview of the objectives and responsibilities of the Treasurer's Office. The presentation also provided the Committee an understanding of his department's role, authority, projects, and topics of importance within his department; presentation attached.

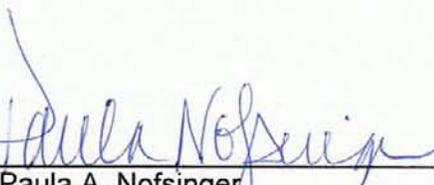
There being no further business, the meeting was adjourned.

The next HR Committee meeting is scheduled for Friday, January 9th, 2015.

Respectfully Submitted,

Human Resources Committee

Robert Hess, Chairman
Robert Wells
Chris Collins
Don Butler
Dorrie Greene
Beth Lewin

By: 
Paula A. Nofsinger
Director of Human Resources



MEMO

To: Human Resource Committee
From: Jason Robertson, Director
Subject: Recreation Technician
Date: November 25, 2014

The Parks and Recreation Commission is seeking the endorsement of the Human Resource Committee to fund one unfunded Recreation Technician position (there are two) in the fiscal 2015 budget to effectively manage the growth of the before and after school program (basicREC) this year.

Frederick County Parks and Recreation operates basicREC at all eleven Frederick County Public School elementary schools and also conducts a full day summer program (Camp basicREC) at three locations. These programs are supervised on site by Recreation Technicians and part time employees. All direct costs associated with basicREC, including Recreation Technician salaries and benefits, are recovered in revenue.

There were ten Recreation Technicians as recently as 2009. Attendance at the program dropped from 2008 through 2013, resulting in bussing children from three smaller sites to larger locations and not filling two Recreation Technician positions. There were approximately 374 daily attendees at eight locations managed by eight Recreation Technicians in the fall of 2013.

Attendance in the basicREC program has surged this school year due to a new daily option for parents, becoming an unlicensed daycare provider for the Virginia Department of Social Services, and an overall improvement in local employment. There are currently 453 daily attendees attending basicREC this year. The sudden increase in children enabled shuttered locations of the last three years to reopen and the need for the funding of one Recreation Technician position for the remainder of fiscal 2015. The cost of the position, \$27,052 in annual salary and \$15,372 in benefits, will be recovered by revenue.

This request will be on the December 17th Finance Committee agenda. Please contact me at 722-8294 should you have any questions prior to your meeting.

Employee of the Month Resolution

Awarded to:

Wade M. Taylor, Jr.

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

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

WHEREAS, the Board of Supervisors selects one employee from those nominated, based on the merits of outstanding performance and productivity, positive job attitude and other noteworthy contributions to their department and to the County; and,

WHEREAS, Wade M. Taylor, Jr. an Officer who serves as the Home Electronic Monitoring Coordinator for the Northwestern Regional Adult Detention Center was nominated for Employee of the Month; and,

WHEREAS, Officer Taylor is being awarded for his achievement of going above and beyond what his job entails. On many occasions he has the willingness to fill in at a moment's notice ensuring the mission at Community Corrections is accomplished. Officer Taylor took on added responsibility by during another employee's absence and came to the facility in the late evening and re-organized the remaining inmates so that the commitments would be met without incident. Whether he is filling in as a security officer at the Community Corrections Center, or assisting with buildings and grounds maintenance, his attention to detail, selfless dedication, energy, and hard work is not only an asset to the NRADC, but to the citizens of Frederick County whom we serve;

NOW, THEREFORE BE IT RESOLVED, by the Frederick County Board of Supervisors this 14th day of January, 2015, that Officer Wade Taylor is hereby recognized as the Frederick County Employee of the Month for December 2014; and,

BE IT FURTHER RESOLVED that the Board of Supervisors extends gratitude to Officer Taylor for his outstanding performance and dedicated service and wishes continued success in his future endeavors; and,

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



County of Frederick, VA
Board of Supervisors

Richard C. Shickle, Chairman

Dedication

County of Frederick

Employee of the Month

December 2014

Wade M. Taylor, Jr.

Hardworking

Excellence

Professional

Richard C. Shickle
Chairman, Board of Supervisors

December



County of Frederick Employee of the Month Nomination Form

Outstanding service can be demonstrated in many ways, but it always involves more than just good job performance. An employee can be outstanding for suggesting improvements that result in greater efficiency, improved service, or cost savings; for leadership in departmental activities, for the department's goals or for the goals of the county as a whole. Outstanding service includes job performance that clearly exceeds requirements.

The Board of Supervisors must discount generalities not supported by specific examples of activities which support the nomination. Remember, there is no way to know whether specifics are missing by accident or because they do not exist. If you believe an employee has made an outstanding contribution, give specific examples of what they have done.

Nominations are not judged on how well you write. However, they are judged on the facts presented.

Employee Name : Wade Taylor Department: NRADC

Nomination Submitted By: Lt. E. S. Sturdivant Department: NRADC

Nominator's Signature:  Date: 09/05/2014

Reason for Nomination (please be specific, precise, and definite):

Officer Wade Taylor is assigned as the Home Electronic Monitoring Coordinator at the NRADC. These duties keep him quite busy, but in the past few months he has gone above and beyond what that job entails.

He has had to fill in as a security officer at the Community Corrections Center on numerous occasions due to staffing issues. On many occasions he has come in early and gone right back to the work station and assisted the staff with deliveries, preparing inmates for court, and helping with inmate movement. His willingness to fill in at a moment's notice has gone a long way ensuring that our mission at Community Corrections is accomplished.

He has also been instrumental in assisting with buildings and ground maintenance. He assisted getting mulch and other landscaping issues taken care of. This entailed going out and purchasing mulch and then assigning and directing the inmate work force in placing the mulch where it needed to go. In addition he has worked to ensure the removal of brush, and has worked with the Community Inmate Workers in getting the produce from the garden picked and processed. He has also been assisting Sgt. D. Cooper with preparation of food stuffs related to the facility Green House.

During Sgt. Coopers leave Ofc. Taylor took on the added responsibility of the Community Inmate Work Force ensuring that adequate coverage was maintained for the agencies that we support. During one instance where numerous inmates were removed from the program he came into the facility late in the evening and re-organized the remaining inmates so that all our commitments would be met without incident.

There are many employees working here at NRADC. They are a dedicated group of folks however it is employees such as Wade Taylor that set the benchmark for the rest of us to follow. His selfless dedication to duty is a shining example for the rest of us. He is an energetic and hard working employee. It is a joy to supervise such a fine officer. His attention to detail, selfless dedication to duty, and his willingness to go above and beyond is not only an asset to the Northwestern Regional ADC, but to the citizens of Frederick County whom we serve.


09/30/14

HR Section: Received: 10/1/14 Emailed to HR Committee: _____



MEMO

To: Human Resource Committee
From: Jason Robertson, Director
Subject: Incentive Pay Policy
Date: November 25, 2014

The Parks and Recreation Commission is requesting approval of the attached Incentive Pay Policy.

The Incentive Pay Policy rewards employees attaining certain certifications with an annual bonus. The eligible positions and certifications are included in the policy. Funds for the bonus and employee training will be included in the Parks and Recreation fiscal 2016 budget request.

Please call me at 722-8294 should you have any questions prior to your meeting.

INCENTIVE PAY POLICY
100.29

PURPOSE:

To establish guidelines for developing, recommending, and implementing incentive/bonus pay programs for full-time employees.

GOAL:

To provide a program that allows for staff to be recognized for obtaining work-related certifications that exceed standard job requirements and that will benefit the department.

POLICY:

Employees will be compensated based on their current position and level of certification.

Park Caretakers will receive five hundred (\$500) per year per current certification for possessing any of the following:

- Aquatic Facility Operator
- Certified Playground Safety Inspector
- Pesticide Application

Park Technicians will receive five hundred (\$500) per year for possessing a certification in Pesticide Application.

Maintenance Supervisors will receive five hundred (\$500) per year for possessing a certification in Aquatic Facility Operator.

All certifications must remain current or forfeiture of incentive compensation will occur.

Incentive pay will be determined by current certifications held as of June 30.

Training and bonus for certification programs are subject to funding in the operating budget.

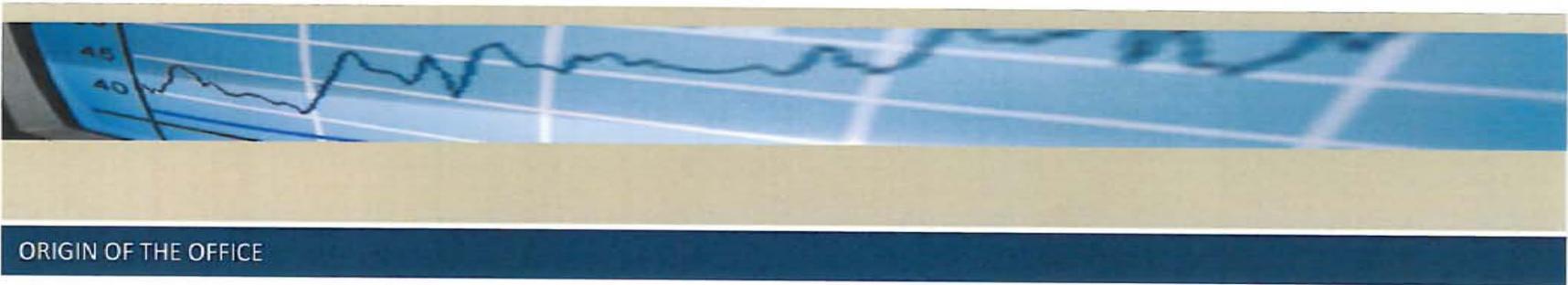
Approved: November 2014



COUNTY OF FREDERICK



TREASURER'S OFFICE HR REPORT



**C. William Orndoff, Jr.,
MGT**
Year elected 1988
Term expires 2016

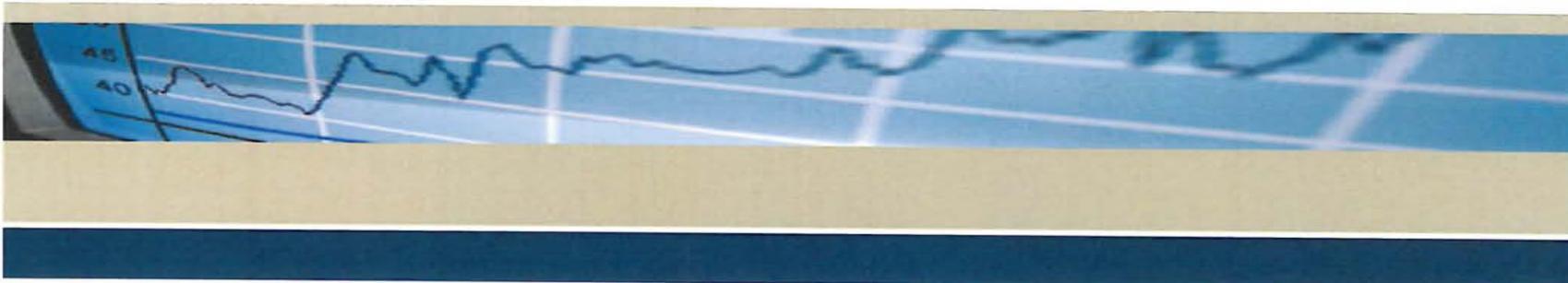


Office/Drive-thru Hours:
Monday - Friday
8:30 am - 5:00 pm
Phone: 540-665-5607

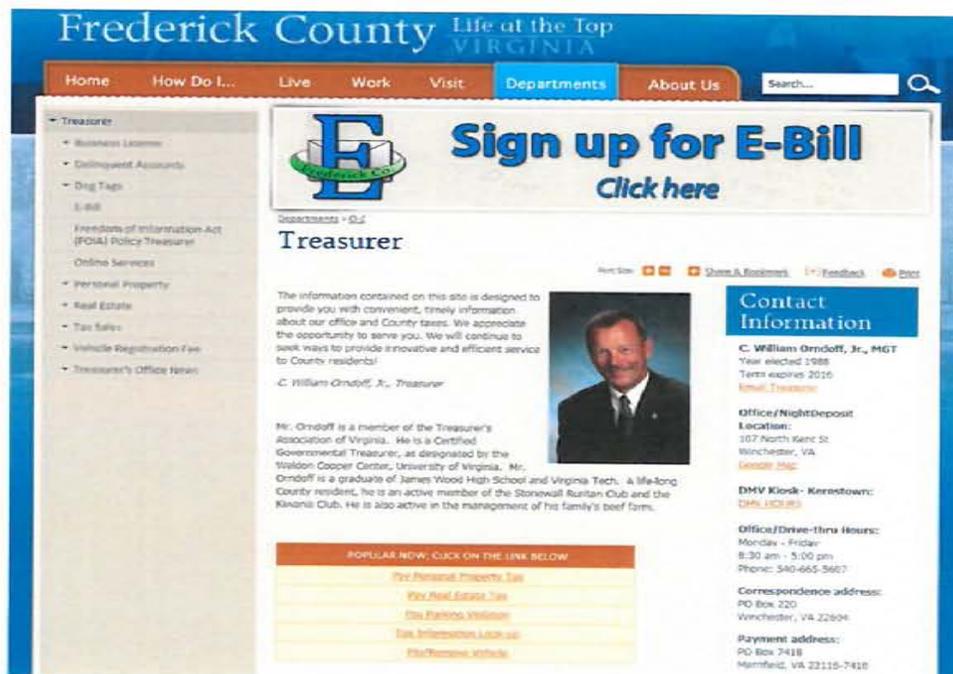


**DMV Kiosk-
Kernstown**



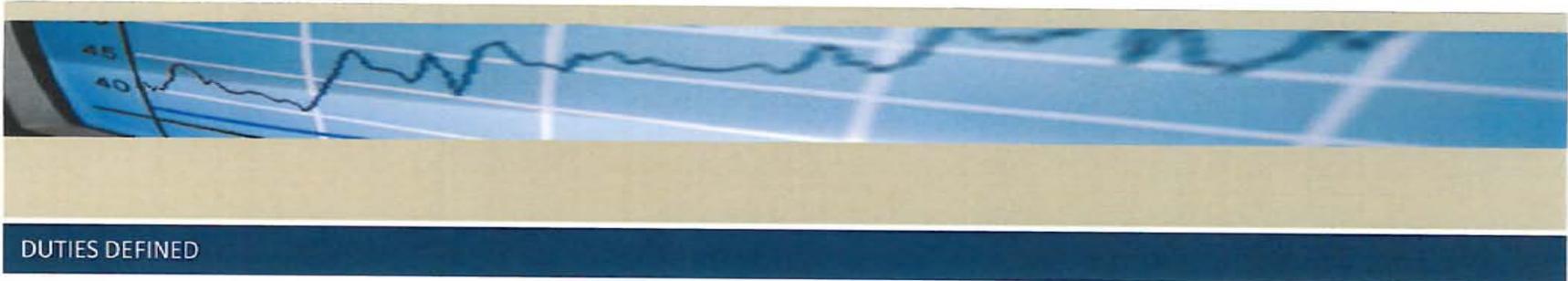


Night deposit
107 N Kent St



website
www.fredtax.com

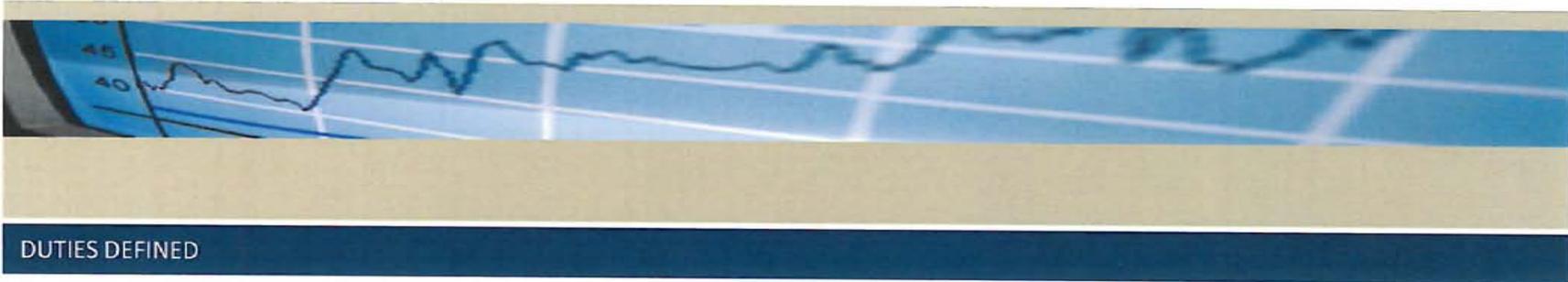




State and local revenue collection

- State revenue- sheriff's fees, estimated income tax, income tax
- Local revenue- real estate, personal property, public service, dog tags, business equipment, business license, meals and lodging, rollback, and vehicle licensing
- Additional local revenue (by court order, agreement , or contract)- Shawneeland sanitary district, Lake Holiday sanitary district, Star Fort ,parking tickets, and landfill payments
- Departmental revenue- revenue collected by all County departments, including schools and agencies where Frederick County serves as fiscal agent (ex. Jail, Airport), must be deposited to our office.
- Delinquent collections- all County revenues, and others by request
 - currently work with DSS to collect fraud claims
 - pilot program with VA Dept of Taxation for delinquent State taxes



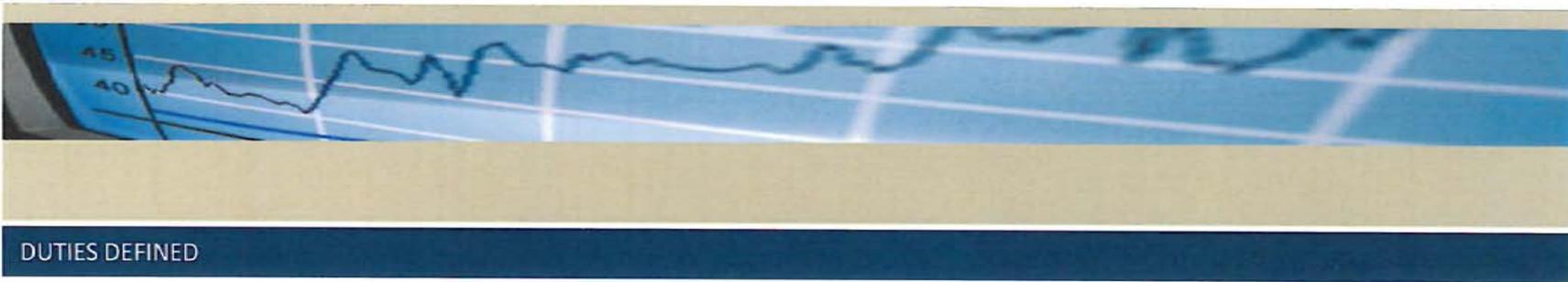


Safekeeping and investment of revenue

- Office has investment policy that complies with the Virginia Public Deposits Act
- Purchase and maintenance of all County investments
- Investment research, including daily monitoring of financial markets and economic conditions
- Cash flow analysis and projections to provide for necessary liquidity (which necessitate monitoring of Department level, BOS, and School Board actions), since office is rarely consulted for fund availability

Office utilizes resources such as the Federal Reserve, particularly the Richmond Fed for regional economic conditions. Also, labor data and inflation stats from the Bureau of Labor and Statistics, and GDP data from the Commerce Dept., and stock market conditions provide a picture of current economic conditions



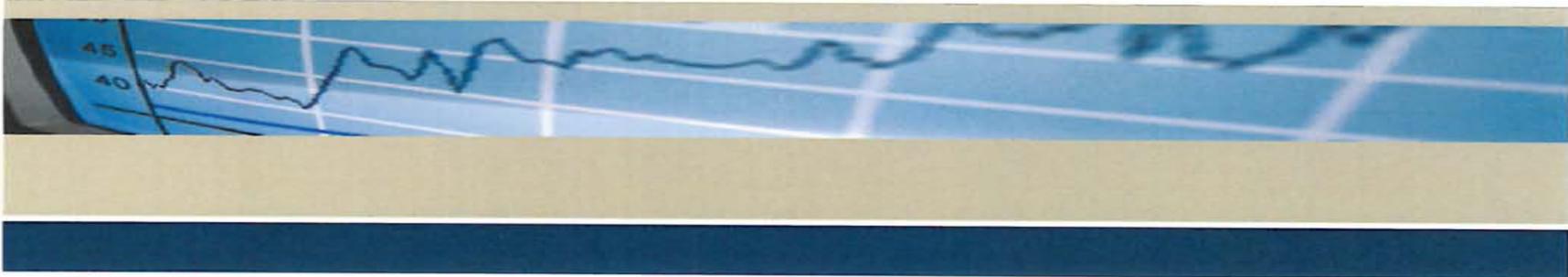


Accurate accounting and disbursement

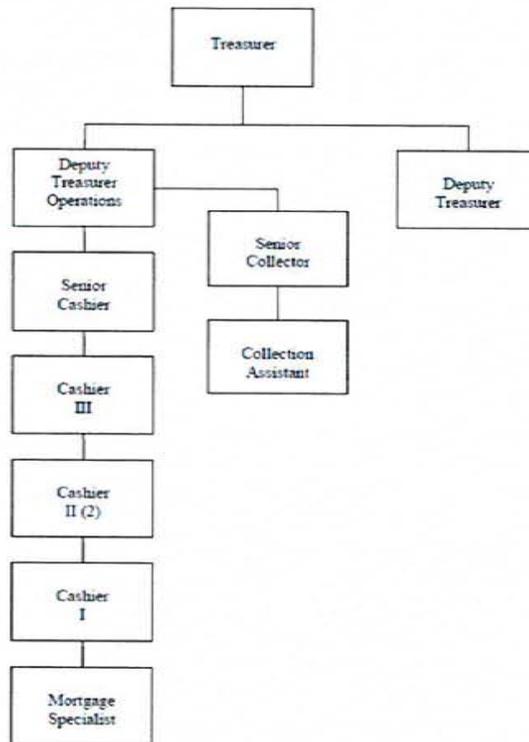
- Three major audits – Robinson, Farmer, and Cox (external), Brown and Edwards (internal), and Auditor of Public Accounts (State audit)
- All county monies must flow through Treasurer’s office. No other Dept. can have bank accounts without our permission/oversight. Treasurer’s office is essentially “bank of the county”
- Disbursements, as well as deposits , come through our office, including all County checks/ACHs, schools system checks/ACHs, and DSS checks/ACHs.
- Office is responsible for bidding and contracting banking services agreement
- Office maintains accounts for Planning performance bonds
- Office maintains accounts for all credit card merchants services accounts countywide
- Office coordinates PCI compliance certifications for merchant accounts

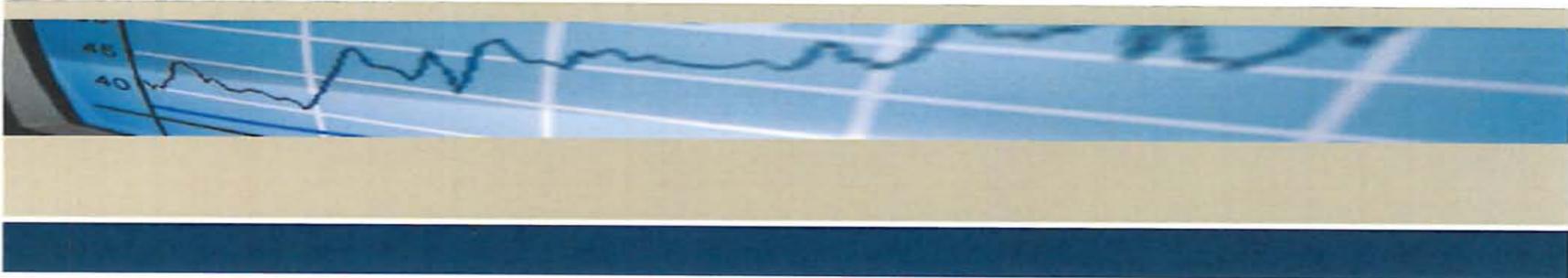
For FY2014, the Frederick County Treasurer’s Office provided accounting and safekeeping for over 40 banking/merchant accounts, totaling over \$378 million dollars in deposits and over \$260 million dollars in withdrawals.(balanced to w/in 10 cents)





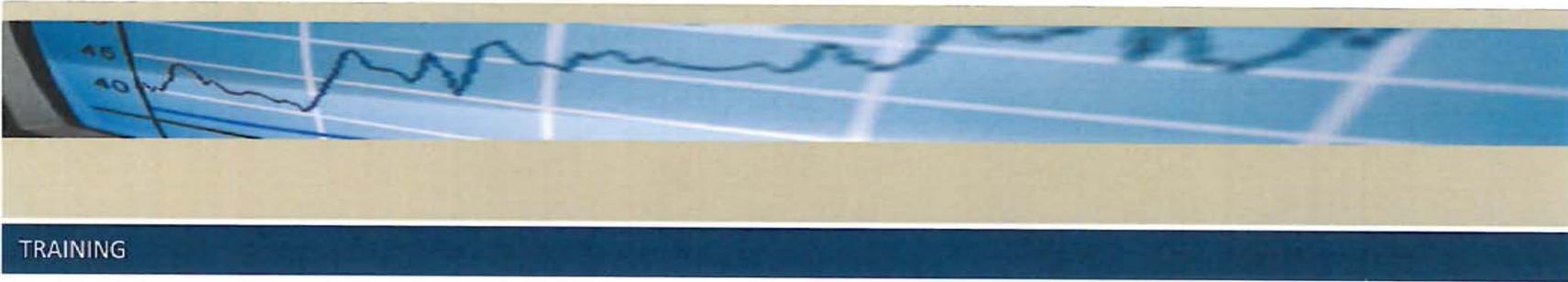
Treasurer



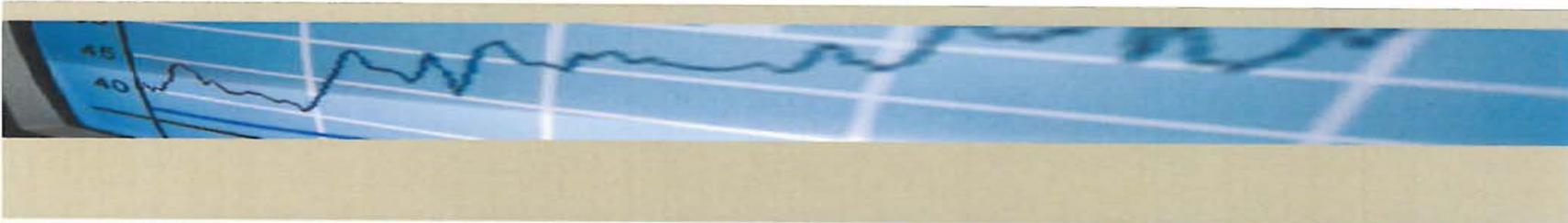


Technology => Efficiency

- with BOS, eliminated County decal and cumbersome decal process (mailing notices, mailing decals, etc), while maintaining revenue stream through DMV stop program. Yearly, our office places over 6,000 DMV registration renewal stops through an all electronic process that our office developed with our software vendor. We also created a DMV kiosk to pay Frederick County taxes at the DMV in Kernstown, eliminating the need to travel to our office to have the DMV stop removed. Our DMV kiosk is the only one in the Virginia.
- First County department with internet payment capability (over 15 years ago). Developed current pay online software, so other County departments could pay online through our site (F&R classes, parking tickets, etc.) Currently, over \$13 million dollars and 22,000 transactions are paid online, greatly reducing in-office visits.
- Developed online delinquent collections module with in-house programming. This allows all of our front-line office staff to work delinquent collections when in-office foot traffic is light.
- Contracted with our Bank to utilize their lockbox service, eliminating the need to purchase \$100,000 machine (old machine needed replacing). This freed office staff to work exception mail and digitized tax payments records that go through lockbox system.



- Master Governmental Treasurer (1)
- Master Governmental Deputy Treasurer (2)
- 5 additional enrollees
- Office Accreditation



BY THE NUMBERS

- real estate bills 88,427
- personal property bills 142,835
- pay plans 996
- distress warrants 294
- bank, wage, and 3rd party liens 951
- DMV vehicle registration stops 6,270
- web payments 32,092
- dog licenses 4,473
- vehicle registration fees 86,761
- parcels in judicial sale 31
- delinquent notices 20,218



BY THE NUMBERS

Current Collections

Current collections are collections made prior to or during the month the taxes are due. This is because delinquent collection action cannot be taken until 30 days after the due date. Penalty and interest still apply after the due date, but are not included in the tax collection figures.

Since our taxes are due in June and December, and the end of the calendar year and the fiscal year are also within those months, current collections rates are not the most effective forecasting method.

These numbers do tell you how much of the levy typically is collected without additional effort.

at 12/31/13		billed	uncollected	%
re2013-1		\$ 22,181,319.24	\$ 393,987.10	1.78%
re2013-2	due 12/5/13	\$ 22,383,606.42	\$ 812,018.14	3.63%
		\$ 44,564,925.66	\$ 1,206,005.24	2.71%
pp2013-1		\$ 20,887,694.43	\$ 615,385.31	2.95%
pp2013-2	due 12/5/13	\$ 24,741,325.91	\$ 2,174,901.70	8.79%
		\$ 45,629,020.34	\$ 2,790,287.01	6.12%

In the chart above, the current collections are highlighted. Over 90% of the levy is collected by the due date.





BY THE NUMBERS

Delinquent Collections

Delinquent collections are collections that are over 30 days delinquent. These usually require collection action. Delinquent collection figures are important in comparison to revenue projections. If delinquent collections are prolonged or ineffective, revenue projections can be skewed. It is one thing to bill and budget based on a revenue figure, but whether that revenue can be collected within that budget cycle is also essential.

at 12/31/13		billed	uncollected	%
re2013-1		\$ 22,181,319.24	\$ 393,987.10	1.78%
re2013-2	due 12/5/13	\$ 22,383,606.42	\$ 812,018.14	3.63%
		\$ 44,564,925.66	\$ 1,206,005.24	2.71%
pp2013-1		\$ 20,887,694.43	\$ 615,385.31	2.95%
pp2013-2	due 12/5/13	\$ 24,741,325.91	\$ 2,174,901.70	8.79%
		\$ 45,629,020.34	\$ 2,790,287.01	6.12%

Using the same chart as before, we see that at 6 months delinquent, over 97% of the levy has been collected.





BY THE NUMBERS

Collections over the life of the levy

Collections over the life of the levy are how much of the original tax levy is collected before the statute of limitations expires. The SOL for real estate is 20 years (plus the original tax year) and personal property is 5 years (plus the original tax year). Example: As of 2014, the 2008 personal property taxes and 1993 real estate taxes will have reached the statute of limitations.

at		billed*	uncollected	%
12/31/13				
pp2008-1	\$	18,711,838.69	\$ 78,427.22	0.42%
pp2008-2	\$	22,075,294.20	\$ 104,853.17	0.47%
	\$	40,787,132.89	\$ 183,280.39	0.45%
re1993	\$	13,148,748.52	\$ 13,534.07	0.10%

*include supplementals

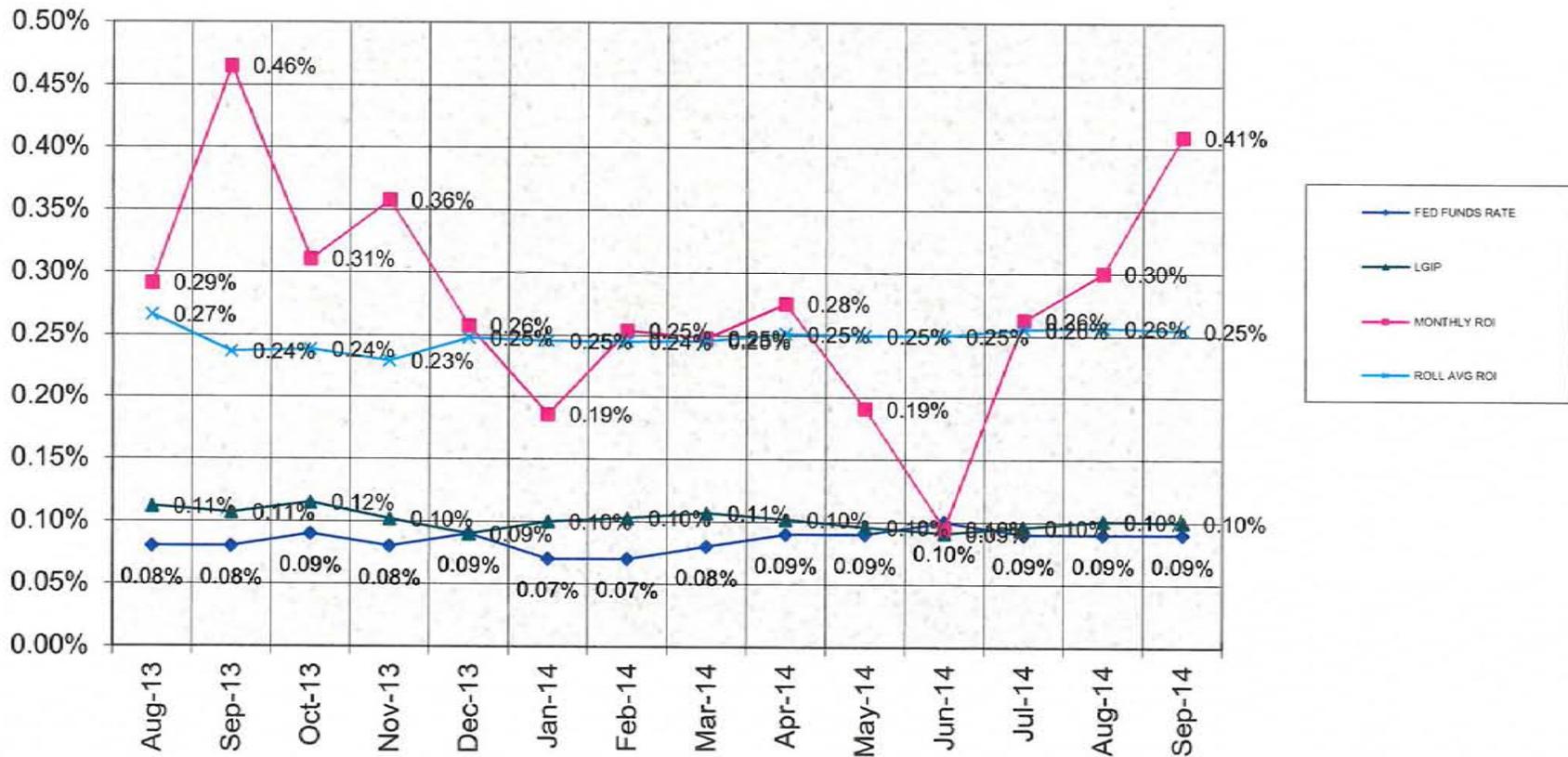
In the chart above, you notice that over the life of the levy, over 99% is accounted for. Collection formulas do not distinguish abatements from actual revenue since both are valid results of the billing/collection process. Abatements typically account for 3-5% of the levy.

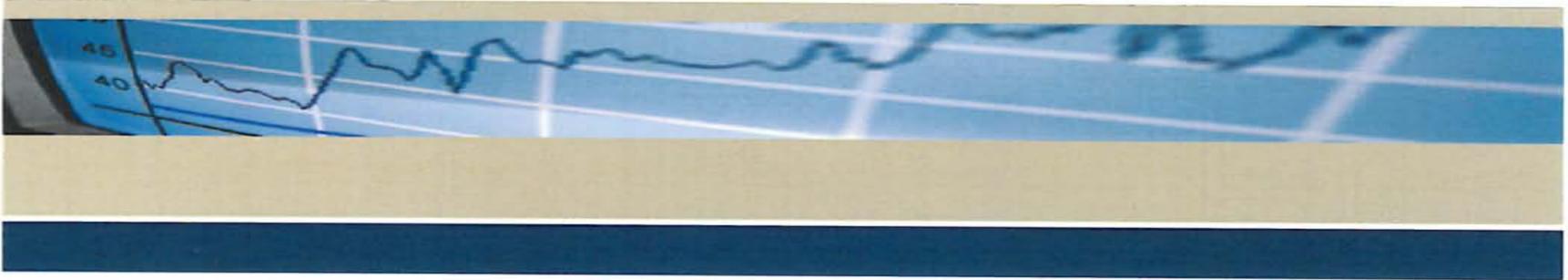




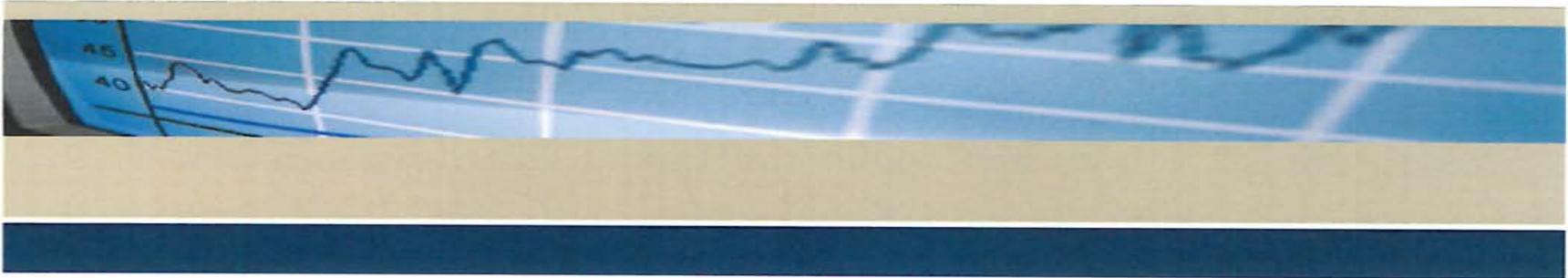
BY THE NUMBERS

ROI vs OTHER RATES





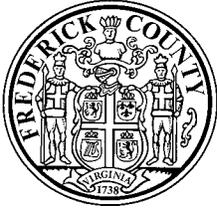
questions



Taxation with representation ain't so hot either.

-- Gerald Barzan, humorist

J



REZONING APPLICATION #02-14

Heritage Commons

Staff Report for the Board of Supervisors

Prepared: January 5, 2015

Staff Contacts: Candice E. Perkins, AICP, Senior Planner

John Bishop, AICP, Deputy Director - Transportation

PROPOSAL: To rezone 96.28 acres from B2 (Business General) District to R4 (Residential Planned Community) District and 54 acres from RP (Residential Performance) District to R4 (Residential Planned Community) District and .31 acres from the RA (Rural Areas) District to the R4 (Residential Planned Community) District with proffers.

LOCATION: The site fronts on the west side of Front Royal Pike (Route 522), opposite Airport Road (Route 645), and has frontage on the east side of Interstate 81.

EXECUTIVE SUMMARY FOR THE 01/14/2015 BOARD OF SUPERVISORS MEETING:

The Heritage Commons rezoning application is a request to use the R4 (Residential Planned Community) Zoning District, with modifications and proffers, to construct a development with 1,200 residential units and commercial uses. The project is located on the 150-acre property commonly known as Russell 150. The 1,200 residential units include 1,016 multifamily units and 184 townhomes.

The land uses shown with the Heritage Commons rezoning application are not consistent with the 2030 Comprehensive Plan. Additionally, the application does not adequately address the negative impacts associated with this request; in particular, the negative transportation and fiscal impacts.

The Planning Commission forwarded a unanimous recommendation for denial during their meeting on November 5, 2014. The Planning Commission reviewed a proffer statement with a revision date of October 9, 2014. It is noted that the proffer has been revised since the Planning Commission meeting, although the concerns raised during the Planning Commission meeting continue to remain valid. The current proffer has a revision date of November 24, 2014. This staff report is based on the proffer statement revised on November 24, 2014.

The Board of Supervisors held a public hearing for this rezoning application on December 10, 2014. There were no citizen comments during the public hearing portion of the meeting. Supervisors Fisher expressed concern regarding the impacts of the rezoning as well as the requested 80' height modification. The applicant requested that action on the rezoning be postponed until the Board's first meeting in January 2015. By unanimous vote the Board of Supervisors postponed the rezoning application to the first meeting in January and stated that a public comment portion would also be included at the January meeting.

Staff would note that the rezoning application and proffer statement remains the same as what was reviewed by the Board of Supervisors on December 10, 2014 – no revisions to the proffer statement nor an executable Revenue Sharing Agreement have been received from the applicant. The following items and any further issues raised by the Board of Supervisors should be addressed prior to securing a favorable decision from the Board of Supervisor on this rezoning application:

- 1) *Many of the Review Agency concerns and comments remain unaddressed, specifically*

VDOT, FCPS, Parks and Recreation, County Attorney and Public Works. The Winchester Regional Airport has also expressed concern with the increased height request in the modification document.

- 2) *The proposed R4 zoning being sought with this rezoning application could enable a mixed use development; however, as proffered, the development could consist of an 85 acre high density residential area with a 53 acre commercial area (12 acre environmental area), with the uses being clearly segregated from one another. The project appears to have lost its identity as a mixed use urban center as described by the applicant and illustrated at the Planning Commission's September 2014 staff application briefing session. The project was envisioned and described by the applicant as an urban center with surrounding office and apartments (illustrated by applicant's tour of NOVA, with luxury apartments (applicant's video illustrative) and a county office building complex). There are no assurances within the proffer statement as to what type of development would materialize.*
- 3) *The negative fiscal impacts associated with the residential uses proposed on the property have not been satisfactorily addressed. The applicant's Market and Fiscal Impact Analysis (MFIA) by S. Patz & Associates shows a positive fiscal gain; however, the MFIA utilizes a 15-year full build-out of the commercial and residential landbays to achieve this figure (15+/- years, 1,200 market rate residential units and 700,000sf of commercial). The phasing proffer proposed by the applicant falls grossly short of achieving what the MFIA is utilizing to achieve the positive fiscal gain. The County's development impact model projects a negative impact of \$13,437 per single family attached (townhouse) unit and \$12,697 per multifamily unit on County capital facilities. Therefore, based on the unit cap of proffer 2C, the potential negative impact the residential units could have on County facilities is \$15.3 million. The development should not utilize the future potential tax contributions of the commercial landbays to offset the negative impacts of residential landbays without guaranteed phasing of adequate commercial square footage to be built in conjunction with the residential uses.*
- 4) *The lack of proffered phasing consistent with the MFIA suggestions results is limited, if any, revenue to offset the residential impacts. The phasing proffer proposed states that the applicant would need to complete 50,000 square feet of commercial area with the first 300 multifamily residential units. The applicant would need to complete an additional 50,000 square feet of commercial area by the 600th multifamily residential unit. As written, the proffer would allow the construction of 600 multifamily residential units and 184 townhouses with the construction of 100,000 square feet of commercial area. This is not consistent with the Patz suggested phased approach to maintain economic balance, nor does this phasing proffer guarantee to offset impacts from residential uses. As written, the phasing proffer provides little if any benefit to the County.*
- 5) *The land uses shown within landbays 3 and 7 are not supported by the 2030 Comprehensive Plan. The proffers show landbay 3 with mixed residential and commercial land uses, the Comprehensive Plan designates this area for employment land uses. The proffers show landbay 7 (53.95 acres) with the ability to develop with 100% commercial uses. The Comprehensive Plan shows the entire area that encompasses landbay 7 as high density residential. Introducing commercial uses into landbay 7 is not supported by the 2030*

Comprehensive Plan.

Transportation Concerns:

1. ***Removal of \$1,000,000 cash proffer to transportation. The Russell 150 TIA, upon which this application is reliant and references with the trips limitation proffer, noted significant offsite impacts in addition to those that led to the proffered needs of the Warrior Drive connection to the south, connection to the north toward the Glaize property, and connection to the City via a bridge over I-81. This led to a \$1,000,000 cash proffer which is not in the current package.***
2. ***Development ahead of transportation. The current proffer needs to clarify that development will not occur ahead of implementation of the transportation system. While some concurrent development as the transportation system is being constructed would be sensible, protections need to be in place so that significant development could not occur ahead of key roadway connections being in place, particularly the bridge over I-81.***
3. ***Warrior Drive. The segment of Warrior Drive south is not clearly provided for in the proffer. Additionally, the proffer does not provide a trigger for when segment of Warrior Drive will be constructed. Performance triggers tied to development for the Warrior Drive revenue sharing agreement should be provided. The County can apply for additional revenue sharing funds for this project as early as November 2015.***
4. ***Revenue Sharing Agreement. The roadway construction proffers remain solely reliant upon a revenue sharing agreement that does not yet exist. The County draft was rejected and staff rendered comment on a subsequent draft from the applicant on 10/29/14. However, nothing further has been heard at the staff level. At this point, the proffers do not address what happens if the proffered agreement does not materialize. At a minimum, staff would suggest an additional proffer that would restrict development without an executed revenue sharing agreement between the County and the applicant that addresses the construction of the road network.***
5. ***Access to Landbay 7 as currently shown will solely be from Route 522. The land use table shows that this area (the largest landbay within the development) could be up to 90% residential and is proffered to contain all the townhouses. Staff has concerns that all the residential units could be constructed within this landbay (plus commercial) and there will be no access to Warrior Drive and the main transportation network within the development, nor requirement that the adjacent section of Warroir Drive be constructed.***

STAFF CONCLUSIONS FOR 01/14/15 BOARD OF SUPERVISORS MEETING:

The land uses shown with the Heritage Commons rezoning application are not consistent with the 2030 Comprehensive Plan. Additionally, the application does not adequately address the negative impacts associated with this request; in particular, the negative fiscal impacts and the failure to commit to construction of the necessary transportation improvements identified by the TIA. Throughout the report, Staff has noted a number of inaccuracies and concerns that are present with this rezoning application. Confirmation of the issues identified in the staff report, and any issues raised by the Board of

Rezoning #02-14 Heritage Commons
January 5, 2015
Page 4

Supervisors should be addressed prior to securing a favorable decision from the Board of Supervisors on this rezoning application.

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

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

	<u>Reviewed</u>	<u>Action</u>
Staff Application Briefing:	09/03/14	Reviewed
Planning Commission:	11/05/14	Recommended Denial
Board of Supervisors:	12/10/14	Public Hearing Held – Decision postponed until January 14, 2015
Board of Supervisors:	01/14/2015	Pending

PROPOSAL: To rezone 96.28 acres from B2 (Business General) District to R4 (Residential Planned Community) District and 54 acres from RP (Residential Performance) District to R4 (Residential Planned Community) District and .31 acres from the RA (Rural Areas) District to the R4 (Residential Planned Community) District with proffers.

LOCATION: The site fronts on the west side of Front Royal Pike (Route 522), opposite Airport Road (Route 645), and has frontage on the east side of Interstate 81.

MAGISTERIAL DISTRICT: Shawnee

PROPERTY ID NUMBER(S): 64-A-10, 64-A-12, 64-A-150

PROPERTY ZONING: B2 (Business General) District, RP (Residential Performance) District and RA (Rural Areas) District

PRESENT USE: Vacant

ADJOINING PROPERTY ZONING & PRESENT USE:

North:	RP (Residential Performance) B2 (Business General)	Use:	Residential/Institutional Vacant
South:	RP (Residential Performance) B2 (Business General)	Use:	Vacant (Madison Village) Vacant
East:	RP	Use:	Residential
West:	City of Winchester	Use:	Residential/Vacant

PROPOSED USES: Commercial uses and 1,200 residential units.

REVIEW EVALUATIONS:

Please see attached agency reviews:

Virginia Department of Transportation –Comments dated October 21, 2014 and December 1, 2014
Frederick County Public Schools – Comments dated September 25, 2014
Frederick County Public Works– Comments dated September 20, 2013 and September 26, 2014
Frederick County Attorney – Comments dated September 30, 2014
Frederick County Planning Department (Perkins) – Comments dated September 23, 2014, November 17, 2014 and December 1, 2014
Frederick County Planning Department (Bishop) – Comments dated September 24, 2014, November 17, 2014, and December 1, 2014
Frederick County Parks and Recreation– Comments dated September 24, 2014

Fire Marshal: Plans approved dated 9/20/13

Frederick County Sanitation Authority: *Please see attached letter dated September 16, 2013.*

Winchester Regional Airport: *Please see attached letter dated October 10, 2013 Serena Manuel.*

Planning & Zoning:

- 1) **Site History** The original Frederick County Zoning Map (U.S.G.S. Winchester Quadrangle) identifies these properties as being zoned R-1 (Residential Limited). The parcels were re-mapped from R-1 to A-2 (Agricultural General) pursuant to the County's comprehensive downzoning initiative (Zoning Amendment Petition #011-80), which was adopted on October 8, 1980. The County's agricultural zoning districts were subsequently combined to form the RA (Rural Areas) District upon adoption of an amendment to the Frederick County Zoning Ordinance on May 10, 1989. The corresponding revision of the zoning map resulted in the re-mapping of the subject property and all other A-1 and A-2 zoned land to the RA District. Properties 64-A-10 and 64-A-12 were rezoned in 2005 from the RA District to the B2 and RP Districts with Rezoning Application #01-05 for Russell 150 with proffers. The proffers approved with Rezoning #01-05 are attached.

- 2) **Comprehensive Policy Plan**
The Frederick County Comprehensive Policy Plan is an official public document that serves as the community's guide for making decisions regarding development, preservation, public facilities and other key components of community life. The primary goal of this plan is to protect and improve the living environment within Frederick County. It is in essence a composition of policies used to plan for the future physical development of Frederick County. *[Comprehensive Policy Plan, p. 1-1]*

Land Use

The parcels comprising this rezoning application are located within the County's Urban Development Area (UDA) and Sewer and Water Service Area (SWSA). The UDA defines the

general area in which more intensive forms of residential development will occur. In addition, the Heritage Commons property is located within the Senseny/Eastern Frederick Urban Area Plan. ***This land use plan calls for the area north of Buffalo Lick Run and between I-81 and the future Warrior Drive to be developed with Employment land uses and the area south of Buffalo Lick Run for High-Density Residential. The Heritage Commons application proposes land uses which are not consistent with these areas of the land use plan.***

Areas planned for employment land uses are envisioned to allow for intensive Retail, Office, Flex-Tech, and/or Light Industrial Land Use in planned business park settings.

Areas planned for higher density residential development are slated to develop with 12-16 units per acre and would generally consist of a mix of multifamily and a mix of other housing types. This density is necessary to accommodate the anticipated growth of the County within the urban areas and is essential to support the urban center concept identified in the Comprehensive Plan. The Heritage Commons rezoning is proposing to develop up to 1,200 residential units (maximum of 184 townhouse units, 1,016 multifamily units) on approximately 84.7 acres of the property which would equate to 14.2 units per acre within the residential land bays. The types of residential units and the proposed densities within the project are consistent with the goals of the 2030 Comprehensive Plan and specifically the Senseny/Eastern Frederick Urban Area Plan.

The Heritage Commons rezoning allows for commercial uses within all seven land bays and residential within three landbays:

Landbay 1 – 7.51 acres – 100% Commercial

Landbay 2 – 8.03 acres – 100% Commercial

Landbay 3 – 9.73 acres – 5%-95% Commercial (remainder residential)

Landbay 4 – 21.91 acres – 100% Commercial

Landbay 5 – 29.91 acres – 10%-20% Commercial (remainder residential)

Landbay 6 – 6.83 acres – 100% Commercial

Landbay 7 – 53.95 acres – 100% Commercial (or 90% residential and 10% commercial)

Landbay 3 is the area located between I-81 and the future Warrior Drive. The Comprehensive Plan calls for employment land uses within this area, and therefore the designation of this area for “mixed use” with an allowance for up to 95% residential uses is inconsistent with the Comprehensive Plan.

Landbay 7 is the area located south of Buffalo Lick Run. The Comprehensive Plan calls for high density residential in this area, and therefore the designation of this area for commercial uses is inconsistent with the Comprehensive Plan.

Zoning Ordinance – R4 District

The R4 (Residential Planned Community) District is a district that allows for a mix of commercial and residential land uses. The district is intended to create new neighborhoods with an appropriate balance between residential, employment and service uses. Innovative design is encouraged. Special care is taken in the approval of R4 developments to ensure that necessary facilities, roads and improvements are available or provided to support the R4 development.

Planned community developments shall only be approved in conformance with the policies in the Comprehensive Plan.

The R4 District is a flexible district that allows for an applicant to request a number of modifications to the Zoning Ordinance to tailor the requirements to meet the needs of their development. Done properly and in conformance with the Comprehensive Plan, the R4 District can produce a unique and beneficial development for the community. As stated in the intent of the district, *“special care is taken in the approval of R4 developments to ensure that necessary facilities, roads and improvements are available or provided to support the R4 development.”*

Staff Note: The proposed R4 zoning being sought with this rezoning application would enable a mixed use development; however, there are no assurances within the proffer statement that a core/town center area will be provided. As proffered, the development could be a traditional residential and commercial project, with the uses being clearly segregated from one another. This is contrary to the illustrations that the applicant has presented in a previous tour, staff application briefing session, PowerPoint presentation and video.

Transportation

The Frederick County Eastern Road Plan provides the guidance regarding future arterial and collector road connections in the eastern portion of the County by identifying needed connections and locations. Plans for new development should provide for the right-of-ways necessary to implement planned road improvements and new roads shown on the road plan should be constructed by the developer when warranted by the scale, intensity, or impacts of the development. Existing roads should be improved as necessary by adjacent development to implement the intentions of the plan.

Warrior Drive and the extension of Airport Road from its current terminus, over Interstate 81, into the City of Winchester are road improvement needs that are identified in the Eastern Road Plan that directly relate to the Russell 150 property. Both are important improvements for the County and the City of Winchester collectively. Warrior Drive in projects to the south of the subject rezoning have provided for a four-lane divided and raised median road section for Warrior Drive. *Accommodations for construction of these new major collector roads should be incorporated into the project.*

Corridor Appearance Buffers

The Senseny/Eastern Frederick Urban Area Plan calls for a significant corridor appearance buffer along Route 522 similar to that established for the Route 50 West corridor in the Round Hill Land Use Plan, which consisted of a 50 foot buffer area, landscaping, and bike path. *The Heritage Commons rezoning has not addressed this corridor enhancement.*

3) Potential Impacts

Fiscal Impacts

In its current format, the application’s proposed development of 1,200 residential dwellings and 700,000 square feet of office/retail space may have a negative fiscal impact on the county.

The phasing proffer proposed states that the applicant would need to complete 50,000 square feet of commercial area with the first 300 multifamily residential units. The applicant would need to complete an additional 50,000 square feet of commercial area by the 600th multifamily residential unit. As written, the proffer would allow the construction of 600 multifamily residential units and 184 townhouses with the construction of 100,000 square feet of commercial area. ***This phasing proffer is not consistent with the applicant’s Market and Fiscal Impacts Analysis (MFIA) suggested phased approach to maintain economic balance, nor does this phasing proffer guarantee to offset impacts from residential uses.*** As written, the phasing proffer provides little if any benefit to the County. Therefore, ***utilizing the future potential tax contributions of the commercial landbays to offset the residential landbays without phasing the commercial to be built in conjunction with the residential as outlined in the Applicant’s MFIA should carefully be evaluated.*** This reinforces the Board’s policy of not considering credits as part of the capital facilities evaluation processes.

County Development Impact Model

The County’s Development Impact Model (DIM) is utilized to project the capital fiscal impacts that a residential development will place on the county over a 20-year period. Through an extensive review in 2013/2014, the DIM policy was reaffirmed that the DIM projection would consider residential capital fiscal impacts and would not consider credits for commercial components of a development proposal. On June 25, 2014, the Board of Supervisors adopted the updated DIM for use in FY2014.

The following is a breakdown of the projected impacts per dwelling unit for each capital facility.

Capital facility	Town home	Apartment
Fire and Rescue	\$412	\$418
General Government	\$33	\$33
Public Safety	\$0	\$0
Library	\$379	\$379
Parks and Recreation	\$1,332	\$1,332
School Construction	\$11,281	\$10,535
Total	\$13,437	\$12,697

When applied to the residential mix used in the MFIA (1,050 apartments and 150 townhouses), the DIM projects negative capital fiscal impacts of \$15,347,400. This projection solely considers capital fiscal impacts; the DIM projects that operational fiscal impacts are generally much greater and collectively exceed the tax revenue generated by the multifamily residential use by a factor of 2:1.

In applying the DIM using the phased proffer approach, the DIM projects that 300 multifamily and 50,000 square feet commercial could result in a projected annual negative impact of \$400,000.

The application does not contain a proffered mitigation proposal that adequately addresses these impacts.

Applicant's Market and Fiscal Impacts Analysis (MFIA)

The applicant has submitted a *Market and Fiscal Impacts Analysis (MFIA)*; authored by S. Patz and Associates, dated August 2014 and revised November 3, 2014 (copy is attached to this Staff Report). The applicant's MFIA is based on the development's proposal of 1,200 housing units and 700,000 square feet of commercial development, including a new Frederick County office building. The 1,200 housing units include 1,050 apartments and 150 townhouses. The commercial space is modeled on: 220,000 square feet (county office and developer sponsored 70,000sf building); 380,000 square feet office; and 100,000 square feet retail. The applicant's MFIA evaluates on-site and off-site revenue and expenses at build-out; build-out is projected to occur over a 15-year period. The applicant's MFIA projects an annual net fiscal benefit of \$3,173,610 at build-out.

There are a number of concerns with the applicant's MFIA that should be considered when reviewing the applicant's MFIA's conclusions. Many of the MFIA's assumptions are not directly tied to a proffered commitment and therefore, do not directly relate to the development proposal.

Some of the concerns associated with the applicant's MFIA include:

- The applicant's MFIA presumes the establishment of a new county office building on site, and associated positive synergies that would be catalysts for on-site commercial and residential demands. This County office building concept would represent 1/3 of the proposed commercial use. ***The MFIA states that the public investment of the new County Administration Building on the Heritage Commons site will be a key anchor for the entire project and a catalyst for the MFIA's positive returns at the 15 year build-out.*** The applicant's MFIA models a development scenario that is not proffered. The proffer only guarantees 100,000 square feet of commercial, not nearly the 700,000 square feet identified in the MFIA as being necessary to achieve the positive revenue returns.
- The applicant's MFIA states that, "at best, Heritage Commons can attract 25,000 square feet of office space per year," which results in a 15+ year build-out (page 37 of MFIA). This statement further clarifies that the commercial land use is speculative, and therefore, may take over 15 years to be fully realized.
- The applicant's MFIA states that apartment unit rents would target household incomes of \$40,000 (page 26 of MFIA). Yet, the MFIA calculates off-site revenues reflective of on-site residents earning an average of \$65,000 (page 42 of MFIA). It might also be noted that the US Census indicates the average wage in Frederick County in 2014 was \$40,117. The MFIA projects that the residential component of the project could be developed and occupied before 2018. The MFIA states that the commercial land use would take more than 15 years to achieve build-out. Therefore, residential uses would dominate the site for many years prior to commercial build out and revenue recovery.

- The applicant’s MFIA is based on a phasing plan, including three five-year phases to add residential and commercial in a fiscally balanced approach over a 15-year period. The proffer does not adhere to this MFIA modeled three phase approach. In fact, the proffer enables all residential units to be constructed within the first six years, with the applicant only committing to the construction of 100,000sf of commercial area.
- The fiscal values are based on build-out, which is projected to be in 15 years. The MFIA fails to discuss the negative fiscal realities if the housing units are front loaded (proffer indicates a residential build-out within no sooner than six years), and commercial fails to materialize. The proffer does not link residential and commercial development; one can occur without the other.
- The MFIA uses an apartment Student Generation Ratio (SGR) of .1, while the County’s DIM uses a SGR of .256. The DIM uses the County’s average SGR for new apartments over the past eight years. ***The applicant has stated that this lower SGR rate is due to the construction of market rate multifamily units, however.***
- The MFIA indicates that smaller apartment units (1 and 2 bedroom) generate fewer students, yet the proffer does not address limits in apartment unit bedrooms to achieve the reduced student generation figures utilized by the MFIA.
- The MFIA utilizes a Cost Per Pupil value of \$5,845 (Table 21), while the Frederick County Public School’s budget is based on a Cost Per Pupil value of **\$9,773**.

The failure of the proffer to phase the development process as described in the MFIA, and outlined below, will result in significant negative fiscal impacts until such time as the site is fully developed.

from MFIA page 73

Phasing By Use	1st 5 Yrs.	2nd 5 Yrs.	3rd 5 Yrs.	Total
Apartment Units	300	375	375	1,050
Townhouse Units	100	50		150
Commercial Square Feet	50,000	25,000	25,000	100,000
Office Square Feet	100,000	175,000	175,000	450,000

Traffic Impact Analysis

The Traffic Impact Analysis (TIA) on file from the previously approved application (Russell 150) projects that the development of 294 single family attached residential units, 264,000 square feet of office use, and 440,450 square feet of retail use would generate 23,177 vehicle trips per day. The report was developed with primary access to the project to be via the proposed western extension of Airport Road which would extend into the City of Winchester via East Tevis Street extended. A secondary access point was modeled from the project onto Route 522. The continuation of East Tevis Street from the property to Route 522 was not modeled in the TIA.

It should be recognized that with the exception of the Route 522/50/17 intersection with the Interstate 81 ramp, a level of service “C” is achieved. The above noted intersection is currently operating at a level of service C(F). When the 2010 background is added this intersection is projected to operate at a level of service D(F). The inclusion of the 2010 build-out information results in a level of service D(F). *(*) represents AM(PM) LOS (level of service). The TIA also notes the need for regional improvements by others.

Transportation Approach

The previous application, as noted on the companion document which compares the two proffer packages, included detailed proffers which dedicated right-of-way and fully constructed Warrior Drive, Airport Drive Extended, East Tevis Street Extended, and the Flyover Bridge on I-81. These items were funded through the creation of a Community Development Association or CDA.

Staff Note: In the time since the previously approved development began to experience difficulty, the County has (of its own volition), secured in excess of \$8,000,000 in state funds to match with private dollars to aid in meeting these proffered obligations. This revenue sharing effort continues to be available to the Heritage Commons applicant should they elect to assume responsibility for the private share as Russell 150 proffers had committed. The funds could be revoked by VDOT in the event that the applicant or County elects not to utilize the funding by proceeding with the project and providing match. County staff also notes that applying for revenue sharing toward Warrior Drive would also be something they are willing to do provided that is the Board's desire.

The applicant's proposed proffer package relies upon revenue sharing funding procured by Frederick County and an agreement between the applicant and Frederick County for providing matching funds that does not yet exist. This agreement is being worked on, but is not in place.

The commitment of capital in the amount of \$3,500 per residential unit, for an approximate total of \$1,000,000, has been removed.

Finally, based on the GDP and the new proffers, staff is concerned that there are many ways that the ultimate agreement could end up not taking place, and would suggest some form of performance trigger tied to development of the property as being appropriate.

Access to Landbay 7 as currently shown will solely be from Route 522. The land use table shows that this area (the largest landbay within the development) could be up to 90% residential and is proffered to contain all the townhouses. Staff has concerns that all the residential units could be constructed within this landbay (plus commercial) and there will be no access to Warrior Drive and the main transportation network within the development.

Overall transportation concern is that the proffers lack a commitment to construct the road network, and a phased approach to when the network would be constructed. This could result in the development of residential and commercial units without realizing the construction of any of the necessary road network. ***Without the outside agreement, the proffers contain no commitments that the developer will construct the necessary road improvements.***

4) Proffer Statement – Dated September 6, 2013; revised August 7, 2014, September 24, 2014, October 9, 2014, November 24, 2014:

Executive Summary: The applicant has proffered a GDP (Generalized Development Plan) (Exhibit A) for the purpose of identifying the general road layout and landbays within the development.

1. Design Modification Document:

The applicant has proffered a number of ordinance modifications with this rezoning application. The R4 Zoning District allows an applicant to modify Zoning Ordinance requirements so that they may tailor the development to meet their needs. Below is an outline of the requested modifications contained within “Exhibit B” with staff’s comments:

- **Modification #1 – Proffered Master Development Plan.** The applicant is requesting to provide a GDP in lieu of a MDP (Master Development Plan). The MDP would come before the Planning Commission and the Board of Supervisors as an informational item at a later time.
- **Modification #2 – Permitted Uses.** The applicant is requesting to mix commercial and residential land uses within the same structure. “The mixed-use commercial/residential land bays identified on the proffered Generalized Development Plan are slated for dense urban commercial and residential land use, which may include commercial and residential land uses that are located within the same structure or within connected structures”.
- **Modification #3 – Mixture of Housing Types Required.** The applicant is requesting a modification from the requirement that no more than 40% of the residential areas may be used for housing other than single family (multifamily, townhouses, etc). The applicant is requesting to utilize 100% of the residential area for single family attached (townhouses) and multifamily residential units.
- **Modification #4 – Residential Density.** The applicant is requesting a modification from the maximum residential density of four units per acre. The applicant is requesting to utilize the densities specified in the RP District for townhouses (10 units/acre) and multifamily residential (20 units/acre).

This area is slated for high density residential land uses in the Comprehensive Plan with a density of 12-16 units/acre; therefore, this requested modification is in conformance with the Comprehensive Plan.

- **Modification #5 – Commercial & Industrial Areas.** The applicant is requesting a modification from the requirement that commercial uses may not exceed 50% of the gross area of the total planned community. The applicant would like the ability to exceed the commercial area beyond 50% of the project.

Fifty percent of the project would be 75.2 acres, the maximum commercial acreage shown under the applicant’s proffered landbay breakdown table is 113.48 acres and the minimum would be 53.18 acres.

- **Modification #6 – Open Space.** The applicant is requesting a modification from the minimum 30% open space requirement. They are requesting that a minimum of 15% of the gross area of the development and 100% of the Buffalo Lick Run Stream Valley area be designated as open space.

The decrease of open space from 30% to 10% seems excessive. The minimum open space for B2 zoned developments is 15% and the minimum for mixed residential development is 30%. The justification for the modification states that rooftop green spaces and amenities could be provided, however, there are no proffers or guarantees that these types of amenities will be provided. This modification has the potential to create a community with no outdoor areas for recreation, which is contrary to the intent of the R4 Residential Planned Community.

- **Modification #7 – Buffers and Screening.** The applicant is requesting a modification/elimination from the requirement for buffers between the internal uses (uses within the commercial and residential landbays). The applicant is proposing to provide perimeter zoning district buffers where required.

The elimination of buffers enables residential uses (i.e. apartment building) to be fronted on a street directly across from a commercial use, which creates more of an urban setting.

- **Modification #8 – Road Access.** The applicant is requesting a modification from the requirement that all streets within the planned community shall be provided with a complete system of public streets. The applicant is requesting that all major collector road systems identified in the Comprehensive Plan shall be public streets, but that all other streets within the development may be private. They are also requesting a modification to allow them to exceed the maximum distance a residential structure may be located from a public road.

Applicant should provide a commitment that the Major Collector Roads will be constructed by the applicant reflective and consistent with the MCR design as a complete street.

- **Modification #9 – Phasing.** The applicant is requesting a modification/elimination from the requirement that a schedule of phases be submitted. The ordinance requires an applicant to specify the year the phase will be completely developed.

The applicant has proffered a phasing schedule that states that the applicant would need to complete 50,000 square feet of commercial area with the first 300 multifamily residential units. The applicant would need to complete an additional 50,000 square feet of commercial area by the 600th multifamily residential unit. As written, the proffer would allow the construction of 600 multifamily residential units and 184 townhouses with the construction of 100,000 square feet of commercial area. This is not consistent with the MFIA suggested phased approach to maintain economic balance, nor does this phasing proffer guarantee to offset impacts from residential uses. As written, the phasing proffer provides little if any benefit to the County.

- **Modification #10 – Height Limitation and Dimensional and Intensity Requirements.** The applicant is requesting a modification of the maximum height of office buildings and hotel buildings. The current height maximum for those structures is 60'. The applicant is requesting

that commercial buildings, retail buildings, office buildings, hotel buildings, and shared commercial/residential buildings may be constructed up to 80' in height, not including architectural features and antenna structures. The applicant is also proposing a modification from the current floor-to-area ratio of 1.0 to 2.0.

- **Proximity to the Airport may be of concern.**
 - Staff would also suggest that architectural features and antenna structures not be entirely omitted from the height maximums. It may be appropriate to establish a secondary height limitation for architectural features and antenna structures so as to not exceed the building's height by more than 15 feet.
- **Modification #11 – Multifamily Residential Buildings.** The applicant is requesting a modification from the setback requirement for multifamily buildings. The ordinance currently requires that buildings over 60' be setback one foot for every foot over 60 up to the maximum height of 80'. The applicant is proposing that all buildings may be constructed within 20' of public or private street systems serving the community.

This results in a more urban setting which is consistent with that envisioned in the Comprehensive Plan.

- **Modification #12 – Modified Apartment Building.** The applicant is requesting a modification to the dimensional requirements for Garden Apartments (165-402.09I). The garden apartment housing type has a maximum of 16 units per structure, a height of 55', and setbacks of 35' from public roads, 20' from private roads, 20' side and 25' rear. Building separation per ordinance is 20' or 35' depending on the orientation. The applicant is proposing a modification that would allow for up to 64 units per structure, a height of up to 80' and setbacks of 20' from public roads, 10' from private roads, and 15' side and rear setbacks. Proposed building separation is 15'.

This modification results in more urban standards (density and setbacks) similar to those envisioned for UDA (Urban Development Area) Centers.

2. **Uses, Density and Mix:**

The applicant has proffered a mix of market rate residential types (single family attached, multifamily, gated single family attached, gated multifamily), shared residential and commercial uses. There are seven land bays and a Buffalo Lick Run landbay (the Buffalo Lick Run landbay consists of 12.35 acres of preserved environmental features).

Residential Uses: Landbays 3, 5 and 7 total 93.59 acres and permit 90-95% of the total landbay to be utilized for residential purposes. Utilizing the maximum residential percentage allowed within these landbays the total acreage for residential cannot exceed 84.7 acres (minimum of 24.4 acres). The proffers also state that the permitted townhouse within the development must be located within landbay 7 (184 units max).

Based on the landbay breakdown table it is reasonable to expect that up to 56% of the land area within the Heritage Commons development could develop with residential land uses. The previously approved proffers for Russell 150 (which are the approved proffers

for the site) limited residential uses to 35% of the site.

Commercial Uses: Landbays 1-6 total 83.95 acres and allow for a range of 20% to 100% of the landbay to be utilized for commercial uses. Utilizing the maximum commercial percentage allowed within these landbays the total acreage for commercial cannot exceed 59.5 acres (minimum of 47.78 acres).

Landbay 7 consists of 53.95 acres and allows for 100% of the landbay to be utilized for commercial uses. *The introduction of commercial uses within landbay 7 is inconsistent with the Comprehensive Plan.*

3. Multi-Modal Transportation Improvements:

The Applicant/Owner agrees to install the road network that is depicted on the Generalized Development Plan pursuant to the specific locations which shall be determined as a result of the collaborative effort between Frederick County and the Virginia Department of Transportation (“VDOT”) working together pursuant to Project Administration Agreements. Said Project Administration Agreements provide for the installation of a bridge over I-81 which connects to Tevis Street, a traffic circle as is depicted on the Generalized Development Plan, two roads which run across the Property and connect to Route 522, one across the Glaise property and the other across the Property, and a section of Warrior Drive running to the south from the traffic circle. An Exemplar Road Section is attached hereto and incorporated herein by reference as “Exhibit C.”

The proffer does not specifically commit to construct the necessary transportation infrastructure, nor delay land use construction until key transportation is constructed. This missing commitment in the proffer could enable the development to advance without construction of the necessary transportation infrastructure.

Applicant/Owner agrees to enter into a separate binding agreement with Frederick County to provide for the reimbursement of Frederick County’s share of the costs to construct the road improvements on the Property and the bridge pursuant to the terms of the Project Administration Agreement. The separate agreement between Applicant/Owner and Frederick County shall be materialized in a document entitled Revenue Sharing Agreement.

The proffer statement does not provide for the construction of any of the necessary roadways within the Heritage Commons development. The roadway construction proffers remain solely reliant upon a revenue sharing agreement that does not yet exist. The County draft was rejected and staff rendered comment on a subsequent draft from the applicant on 10/29/14. However, nothing further has been heard at the staff level. At this point, the proffers do not address what happens if the proffered agreement does not materialize. At a minimum, staff would suggest an additional proffer that would restrict development without an executed revenue sharing agreement between the County and the applicant that addresses the construction of the road network.

The applicant has proffered that there will be no more than an average of 23,177 vehicle trips per day generated from the Heritage Commons site. When the development reaches 23,177 vehicle trips per day, the owner shall conduct actual traffic counts to determine if the developed properties within Heritage Commons are generating an aggregate of 23,177 vehicle trips per day.

If as a result of the actual traffic counts it is determined that the developed properties within the Heritage Commons site are not generating in excess of an average of 23,177 vehicle trips per day, then the owner may proceed and develop additional square feet of commercial and/or residential (RP) uses until such time that analysis using the ITE Manual determines that the proposed additional development by Applicant/Owner shall generate in excess of 23,177 vehicle trips per day. After the Property has in fact generated in excess of an average of 23,177 vehicle trips per day then Applicant/Owner agrees to conduct a traffic study for the development of any remaining undeveloped portions of the Property and to install whatever road improvements are deemed to be necessary as a result of any conclusions of the aforementioned traffic study.

Warrior Drive is depicted on the GDP as a future road and the applicant proffers to dedicate right-of-way at the time the exact alignment of Warrior Drive has been established.

The previous application included detailed proffers which dedicated right-of-way and fully constructed Warrior Drive, Airport Drive Extended, East Tevis Street Extended, and the Flyover Bridge on I-81. These items were funded through the creation of a Community Development Authority or CDA. The new rezoning proposes to change the method of funding to revenue sharing but does not guarantee construction if revenue sharing fails as the previous proffers did with the CDA. Consider adding performance triggers tied to development for the Warrior Drive revenue sharing agreement. Currently the proffer gives no ‘when’ regarding how this will be implemented. The County can apply for additional revenue sharing funds for this project as early as November 2015.

4. Stormwater Quality Measures:

The applicant will be utilizing Low Impact Development (LID) and Best Management Practices (BMP). A no-disturbance easement will also be provided within the Buffalo Lick Run Stream Valley.

5. Recreational Amenities:

Recreational amenities will be provided within Landbays 5 and 7 and identified on the MDP. The applicant will provide walking trails and sidewalks within the community and a 10’ wide path along the Buffalo Lick Run Stream Valley. The applicant may also install an additional 10’ wide path along Buffalo Lick Run which, if constructed, would be owned and maintained by the HOA, but available for public access.

Recreational amenities are already an ordinance requirement because of the housing type and lot size. Sidewalks are currently required along both sides of all streets. Only the inclusion of the trail goes beyond ordinance requirement.

6. EDA:

The applicant/owner is proffering to convey an 8.03 +/- tract of land located in the western portion of Landbay 4 to the Frederick County Economic Development Authority to be used at its discretion for the construction of a public commercial building, which may include the construction of a County administration building.

If Frederick County and the EDA do not construct a public commercial building of at least 25,000sf within four years of rezoning approval, the property will automatically revert back to the applicant.

The need for this proffer is unclear; the County has not entered into any commitments or agreements with the property owner to construct a new County administration building on this property. Also, the time frame specified in the proffer to construct (and obtain a certificate of occupancy) a public building on the site (within four years of rezoning approval) appears insufficient. And the location is inconsistent with the previously submitted PPEA.

7. Phasing:

No more than 400 units can be built within the first two years of the development (first year commencing on the date of the rezoning if approved). The remaining residential units will be installed with no more than 400 units within the following two-year term, and the remaining residential units commencing no earlier than two years after the completion of the 800th unit.

The applicant has proffered a phasing schedule that states that the applicant would need to complete 50,000 square feet of commercial area with the first 300 multifamily residential units. The applicant would need to complete an additional 50,000 square feet of commercial area by the 600th multifamily residential unit.

As written, the proffer would allow the construction of 600 multifamily residential units and 184 townhouses with the construction of 100,000 square feet of commercial area. This is not consistent with the MFIA suggested phased approach to maintain economic balance, nor does this phasing proffer guarantee to offset impacts from residential uses. As written, the phasing proffer provides little if any benefit to the County.

SUMMARY FROM THE 09/03/2014 STAFF APPLICATION BRIEFING:

On September 3, 2014 a Staff Application Briefing was held for the Heritage Commons rezoning. Following presentations by Staff and the Applicant, the Planning Commission and Board of Supervisors discussed the project. A Commissioner commented that there was considerable financial analysis shown by the applicant which was based on three five-year periods of proposed development; however, this development is not tied to a proffer. It was further stated that if the development proceeds differently than the assumptions made by the applicant's economist and the numbers are thrown off, it creates doubt about what the benefits will be to Frederick County. Commissioners questioned whether a new TIA was submitted with this development and whether the new entrances on Route 522 were modeled. It was also commented that the County is losing roads compared with what the original application had guaranteed and that Frederick County was losing a lot. It was noted that the taxpayers

would have to bear the burden of constructing what the applicant does not.

A Board of Supervisors member stated that without the commercial development, this project is not a winning situation for Frederick County. It was further commented that the applicants were quoted in the newspaper stating the county office building would be a cornerstone in bringing in commercial development, and that the applicant shouldn't be basing the project on that. It was questioned whether or not the development could survive and do what it needs to commercially, if the relocation of the county office building does not transpire. If it can't, the applicant needed to reconsider.

Commissioners raised concern regarding the land uses shown in Landbay #3, the Comprehensive Plan earmarked that particular area as an employment center and this application is designating it as residential. It was further stated that this was not a good location for residential because Warrior Drive is running north-south parallel to I-81 and the area between that road and I-81 should be commercial. Likewise, they believed Land Bay #7 should be the same way, as well.

Commissioners stated that this will be a community of 2,500-3,000 plus people, which results in considerable traffic and lots of impacts. If the development remains solely residential, it results in considerable impacts to Frederick County taxpayers and there is no hook with the developer to get the commercial in there. Commissioners expressed concern there was no new TIA (traffic impact analysis). This proposal is an intensification of what was originally envisioned for the site; it is certainly different in its composition. They felt it was necessary to get a grasp of what that means from an impact perspective; not just fiscally, but from brass tacks traffic perspective to assess just how effective these improvements will be and whether what is committed to at the end of the day is adequate for Frederick County. Commissioners believed a new TIA is important with this new application. Staff responded that there were things the applicant could do through proffers to keep themselves from having to do a new TIA. If the balance for trip generation remains the same as the Russell 150 TIA, the project may still be okay with the existing TIA. Commissioners remarked that if a new TIA is not done, it might not be a bad idea to at least do some type of addendum for the new project and what the maximum assumptions might be.

One Commissioner referred to the applicant's comment about Warrior Drive going to nowhere, and stated that they believed Warrior Drive was needed. Warrior Drive is a dead-end right now, but the reason for that is it has not developed any further. It was stated if this project is developed without Warrior Drive, then Warrior will never tie together correctly. Commissioners strongly believed Warrior Drive needed to be incorporated within this project.

Referring back to the discussion of the TIA, Commissioners stated there will be a considerable amount of traffic generated with this development. The demographics of this new proposal were significantly different than those in 2004 and it would be to the developer's benefit to come up with a new analysis based on the current traffic. It was noted that if a motorist is trying to access a major highway at this location, there are only two connection points; if 3,000 vehicles are going to two connection points and other traffic is going in and out of the development, there will be a considerable volume of traffic; concern was expressed about this detail, along with Warrior Road. It was further stated that old commitments need to be examined and made sure they are incorporated into the new project.

It was suggested that the developer compile a list of all the comments made during the briefing because the impacts of this development have not nearly been mitigated, even close to what they needed to be.

SUMMARY FROM THE 11/05/2014 PLANNING COMMISSION MEETING:

The Planning Staff provided a detailed history of the applicant's pursuit in Rezoning #02-14 Heritage Commons. Throughout the report, Staff reiterated the application continues to contain inaccuracies and does not adequately address the negative impacts nor does it adhere to the 2030 Comprehensive Plan. Planning Staff addressed Transportation questions that indicated some confusion on the road design, and clarified that the design work undertaken to date as part of a County-VDOT funded effort to further the Russell 150 proffers does not affect a majority of the roads within the Heritage Commons project. Concerns were raised in regards to Chapter 527 and possible conflicts with the current TIA. Any challenges to this rezoning and if it be in conflict with Chapter 527, poses a difficult situation for the County and could be a violation of State Code. Staff noted that a revenue sharing agreement between the County and the Applicant does not exist; it is the hope that an agreement can be met.

One Commissioner requested sharing the importance of Chapter 527. The Planning Staff explained that Chapter 527 is the state code that requires the study of development that is going to increase trips on state roads. Staff noted that it is the concern, knowingly accepting an application that should have been studied, puts the County contrary to Chapter 527. Note was made that VDOT was present for any questions or concerns. A Commissioner raised questions regarding the entrance language in the proffers and asked if it would be appropriate to have the GDP revised. Staff noted the language that has been added to the proffers adequately resolves that issue. A question was also raised in regards to how the proffers were currently written and that there is nothing in the proffers prohibiting 150 units of low income apartments. Staff noted that is correct.

The applicant's representative provided a presentation outlining various aspects of the current rezoning application and the modifications that have been made. Emphasis was placed on this development as being unique to the area and that a positive impact would transpire. An overview of the proposed property as well as other similar developments throughout Virginia was also discussed. The applicant's fiscal analyst also provided a presentation and stated that at build-out the project will be "tax positive".

A Frederick County citizen spoke in opposition of this project and the negative ramifications this project will have on all taxpayers within the County until fully developed. Another County resident spoke in favor of the project with positive emphasis placed on the transportation aspect as well as the overall clean-up of the property.

A Commissioner noted that from a macro standpoint this could be a nice project, however this project contains significant inconsistencies and many details that need to be resolved. Ultimately the Planning Commission unanimously recommended denial of Rezoning # 02-14 for Heritage Commons.

SUMMARY FROM THE 12/10/2014 BOARD OF SUPERVISORS MEETING:

The Board of Supervisors held a public hearing for the Heritage Commons rezoning application on December 10, 2014. There were no citizen comments during the public hearing portion of the meeting. Supervisors Fisher expressed concern regarding the impacts of the rezoning as well as the requested 80' height modification. By unanimous vote the Board of Supervisors postponed the rezoning

application to the first meeting in January and stated that a public comment portion would also be included at the January meeting.

STAFF CONCLUSIONS FOR 01/14/15 BOARD OF SUPERVISORS MEETING:

The land uses shown with the Heritage Commons rezoning application are not consistent with the 2030 Comprehensive Plan. Additionally, the application does not adequately address the negative impacts associated with this request; in particular, the negative fiscal impacts and the failure to commit to construction of the necessary transportation improvements identified by the TIA. Throughout the report, Staff has noted a number of inaccuracies and concerns that are present with this rezoning application. Confirmation of the issues identified in the staff report, and any issues raised by the Board of Supervisors should be addressed prior to securing a favorable decision from the Board of Supervisors on this rezoning application.

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

HERITAGE COMMONS PROFFER STATEMENT

REZONING: RZ# 02-14
Rural Areas (RA), Business General (B2), and Residential
Performance (RP) to Residential Planned Community District (R4)

PROPERTY: 150.59 acres +/-;
Tax Map Parcels #63-A-150, 64-A-10 and 64-A-12 (collectively
the "Property")

RECORD OWNER: R 150 SPE, LLC

APPLICANT: Heritage Commons, LLC ("Applicant")

PROJECT NAME: Heritage Commons

ORIGINAL DATE
OF PROFFERS: September 6, 2013

REVISION DATE(S): August 7, 2014, September 18, 2014, October 9, 2014, October 29,
2014, November 24, 2014

Executive Summary

The Property was originally rezoned in September 2005 under the name of Russell 150. The Property has since changed ownership and the new owner wishes to rezone the Property to Residential Planned Community District (R4). The undersigned and record owner, Heritage Commons, LLC and R 150 SPE, LLC, their successors and assigns (collectively "Applicant/Owner"), hereby proffers that the use and development of the subject property shall be in strict accordance with the following conditions and shall supersede and replace all other proffers made prior hereto. It is further the statement and intent that with the acceptance of the proffers contained herein any and all prior proffers affecting this Property shall be deemed null, void, and terminated. In the event the above-referenced amendments are not granted as applied for by Applicant/Owner, the below described proffers shall be withdrawn and be null and void. The headings of the proffers set forth below have been prepared for convenience or reference only and shall not control or affect the meaning or be taken as an interpretation of any provision of the proffers. The improvements proffered herein shall be provided at the time of development of that portion of the site adjacent to the improvement, unless otherwise specified herein or by applicable ordinance.

References made to the Master Development Plan, hereinafter referred to as the Generalized Development Plan dated August 7, 2014, as required by the Frederick County Zoning Ordinance, are to be interpreted to be references to the specific Generalized Development Plan sheets attached hereto and incorporated herein by reference as "Exhibit A."

The exact boundary and acreage of each land bay may be shifted to a reasonable degree at the time of site plan submission for each land bay in order to accommodate engineering or design considerations.

Applicant/Owner is submitting a Generalized Development Plan, Exhibit A, as part of a rezoning application. The Generalized Development Plan is provided in lieu of a Master Development Plan and contains all information deemed appropriate by the Frederick County Planning Department. The Generalized Development Plan does not eliminate the requirement for a Master Development Plan for the portion of the site to be developed, which will be provided following rezoning approval of the 150.59 +/- acre site.

1. DESIGN MODIFICATION DOCUMENT:

In order for Applicant/Owner and Frederick County to implement this Residential Planned Community District, it will be important for Applicant/Owner and Frederick County Planning Staff to have the opportunity to anticipate incorporate and develop new design types and configurations that may be suitable. Applicant/Owner proffers that all residential units within the development shall be market rate. Market-rate is being proffered in order to distinguish the multi-family apartment units that are being proffered in the Heritage Commons community from the existing multi-family apartment stock in Frederick County as of the time of the filing of this rezoning and Proffer Statement. This market-rate concept is further elaborated upon in the market analysis submitted contemporaneously with the Heritage Commons rezoning authored by S. Patz & Associates. Some of the new design types and configurations shall include the allowance for the installation of market rate multi-family immediately adjacent and in some cases in the same structure as business (commercial) uses. Applicant/Owner has proffered a Design Modification Document dated July 30, 2014, that is attached and incorporated hereto as "Exhibit B." Pursuant to Frederick County Code § 165-501.06(O), the design modifications set forth in Exhibit B shall apply to the Property.

In addition to the above, by approving the Amended Proffer Statement, the Frederick County Board of Supervisors agrees without need of any further Board of Supervisors or Planning Department approval to any modifications of any matter which has been previously agreed to and therefore approved by Frederick County. Further still, any submitted revisions to the approved Generalized Development Plan, and/or any of its requirements for any development zoned R4 which affect the perimeter of the development or which would increase the overall density of the development shall require the Board of Supervisors' approval. If, in the reasonable discretion of the Frederick County Planning Department, the Planning Department decides any requested modification should be reviewed by the Frederick County Board of Supervisors, it may secure said approval by placing this matter before the Frederick County Board of Supervisors at its next regularly scheduled meeting. However, and notwithstanding what is stated above, once a modification has been approved administratively, Applicant/Owner shall not be required to seek approval for any subsequent similar modification.

2. USES, DENSITY AND MIX:

A. (1) Applicant/Owner shall develop a mix of unit types that include, but are not limited to, single-family attached, market rate multi-family, gated single-family attached, market

rate gated multi-family, shared residential and commercial uses. The following list in (2) below contains those uses which could exist within the Property.

(2) The following list of Land Bays within the Land Bay Breakdown Table sets forth the general development parameters on the Property and is consistent with the proffered Generalized Development Plan identified as Exhibit A. The development will adhere to the land bay breakdown depicted in the Generalized Development Plan and the Land Bay Breakdown Table.

LAND BAY	POTENTIAL LAND USE	APPROX. ACREAGE	RESIDENTIAL MIN/MAX ACREAGE %	COMMERCIAL MIN/MAX ACREAGE %
1	Uses allowed in B-1; B-2; B-3 Districts and Design Modification Document	7.51 acres	0% MIN. AC. 0% MAX. AC	100% MIN. AC. 100% MAX. AC.
2	Uses allowed in B-1; B-2; B-3 Districts and Design Modification Document	8.03 acres	0% MIN. AC. 0% MAX. AC	100% MIN. AC. 100% MAX. AC.
3	Uses allowed in B-1; B-2; B-3; RP Districts and Design Modification Document	9.73 acres	5% MIN. AC. 95% MAX. AC	5% MIN. AC. 95% MAX. AC.
4	Uses allowed in B-1; B-2; B-3 Districts and Design Modification Document	21.94 acres	0% MIN. AC. 0% MAX. AC	100% MIN. AC. 100% MAX. AC
5	Uses allowed in B-1; B-2; B-3; RP Districts and Design Modification Document	29.91 acres	80% MIN. AC. 90% MAX. AC	10% MIN. AC. 20% MAX. AC.
6	Uses allowed in B-1; B-2; B-3 Districts and Design Modification Document	6.83 acres	0% MIN. AC. 0% MAX. AC	100% MIN. AC. 100% MAX. AC.
7	Uses allowed in B-1; B-2; B-3; RP Districts and Design Modification Document	53.95 acres	0% MIN. AC. 90% MAX. AC	10% MIN. AC. 100% MAX. AC.
Buffalo Lick Run	Open Space; Trail System; Utilities; Road Crossings	12.35 acres	N/A	N/A

The actual acreage identified for each Land Bay is based on the bubble diagram calculated on the proffered Generalized Development Plan and may fluctuate based on final survey work.

B. For purposes of calculating density pursuant to the Frederick County Zoning Ordinance, all dedications and conveyances of land for public use and/or for the use of the development or any Homeowners Association shall be credited in said calculations.

C. There shall be a unit cap of 1,200 residential units within Land Bays 3, 5, and 7 to include up to one hundred eighty-four (184) townhouses on the Property and any townhouses will only be built in Land Bay 7. There are no limits on the percentage or square feet of business, commercial, office and/or retail development as referenced above other than the trip generation limits set forth in paragraph 3 herein.

3. MULTI-MODAL TRANSPORTATION IMPROVEMENTS:

Applicant/Owner agrees to install the road network that is depicted on the Generalized Development Plan pursuant to the specific locations which shall be determined as a result of the collaborative effort between Frederick County and the Virginia Department of Transportation (“VDOT”) working together pursuant to Project Administration Agreements. Said Project Administration Agreements provide for the installation of a bridge over I-81 which connects to Tevis Street, a traffic circle as is depicted on the Generalized Development Plan, two roads which run across the Property and connect to Route 522, one across the Glaize property and the other across the Property, and a section of Warrior Drive running to the south from the traffic circle. An Exemplar Road Section is attached hereto and incorporated herein by reference as “Exhibit C.” Applicant/Owner proffers that subject to specific details which will come as a result of the work conducted and directed by Frederick County and VDOT pursuant to the Project Administration Agreements an exemplar of the road sections that will be installed on the Property for the segments of road that are depicted on the Property is shown on the Generalized Development Plan. Applicant/Owner also proffers that the bridge will be installed pursuant to the aforementioned Project Administration Agreements and the cross-section and details of said bridge will be dictated by Frederick County and VDOT pursuant to the terms of the Project Administration Agreements. Applicant/Owner agrees that the road section will be in an alignment and a form that meets VDOT geometric design standards. Said cross-section which is referenced in Exhibit C does include sidewalks and bike paths as well as two lanes of travel in either direction with a raised median separating the travel lanes.

Applicant/Owner agrees to enter into a separate binding agreement with Frederick County to provide for the reimbursement of Frederick County’s share of the costs to construct the road improvements on the Property and the bridge pursuant to the terms of the Project Administration Agreement. The separate agreement between Applicant/Owner and Frederick County shall be memorialized in a document entitled Revenue Sharing Agreement.

All points of access and connecting roads, driveways, etc. on the road network depicted on the Generalized Development Plan are for illustrative purposes and will be as approved by Frederick County and/or VDOT at such time as the submittal of site plans for development within the Land Bays.

Warrior Drive is intentionally depicted on the Generalized Development Plan as first a section of road which will be installed pursuant to the aforementioned Project Administration Agreements connecting to the traffic circle and second to a distance to the south that will be dictated by the final road design being conducted by Frederick County and VDOT but not less

than 400 feet. It is anticipated that the remaining portion of Warrior Drive will be installed pursuant to a separate Project Administration Agreement by and between Frederick County and VDOT and that as part of that future Project Administration Agreement the exact alignment will be engineered and determined by Frederick County and VDOT to provide connection to a future Warrior Drive to be installed on the Property to the south. It is further proffered that Applicant/Owner shall enter into a separate agreement with Frederick County to provide for the reimbursement of Frederick County's share of the cost to construct the remaining portions of Warrior Drive on the Property under the aforementioned Project Administration Agreement. The final design of the future Warrior Drive will be dictated by Frederick County and VDOT pursuant to the terms of the Project Administration Agreement, but Applicant/Owner proffers that said design will be in substantial conformance to the design and cross-section which is attached and incorporated as Exhibit C unless otherwise modified by Frederick County and VDOT. Applicant/Owner proffers and agrees to dedicate a right-of-way at such time as a dedicatable (i.e. metes and bounds description) tract of land has been established and which shall be as agreed to by Frederick County and VDOT.

In addition, Applicant/Owner has been made aware of and received copies of traffic studies performed by VDOT which confirm that the revised road alignment as shown on the attached and incorporated Generalized Development Plan is more than sufficient to address not only the impacts coming from and being generated by the proposed development of the Heritage Commons site but also will accommodate anticipated through trips as a result of constructing through connections (two to Route 522 and one to the City of Winchester at Tevis Street).

Notwithstanding the same and in order to confirm that the volumes of traffic being generated by the build out of the Heritage Commons community, Applicant/Owner does proffer that there will be no more than an average of 23,177 vehicle trips per day generated from the Heritage Commons site. Said maximum vehicle trips ensures there is no increase in trips generated as compared to prior traffic studies conducted for trips generated by the prior Russell 150 development and subsequent studies conducted by engineers working pursuant to the terms of the Project Administration Agreements. The maximum number of vehicle trips is assured because Heritage Commons is proffering a blend of commercial uses that are more office and less retail. By providing for a cap and a maximum of commercial uses there is no need to conduct any additional traffic studies to address any potential traffic impacts being generated by the Heritage Commons development. When Applicant/Owner reaches the maximum of vehicle trips per day (an average of 23,177 or greater) as determined by the ITE Manual resulting from development at the Heritage Commons site then Applicant/Owner shall conduct actual traffic counts to determine if the developed properties within Heritage Commons are generating an aggregate of 23,177 vehicle trips per day. If as a result of the actual traffic counts it is determined that the developed properties within the Heritage Commons site are not generating in excess of an average of 23,177 vehicle trips per day then Applicant/Owner may proceed and develop additional square feet of commercial and/or residential (RP) uses until such time that analysis using the ITE Manual determines that the proposed additional development by Applicant/Owner shall generate in excess of 23,177 vehicle trips per day (in the aggregate for the Heritage Commons site) and actual vehicle trips as counted by Applicant/Owner have in fact exceeded an average of 23,177 vehicle trips per day. After the Property has in fact generated in excess of an average of 23,177 vehicle trips per day then Applicant/Owner agrees to conduct a traffic study for the development of any remaining undeveloped portions of the Property and to

install whatever road improvements are deemed to be necessary as a result of any conclusions of the aforementioned traffic study.

4. STORMWATER QUALITY MEASURES:

Applicant/Owner hereby proffers that all business (commercial) and residential site plans submitted to Frederick County will be designed to implement Low Impact Development (LID) and/or Best Management Practices (BMP) to promote stormwater quality measures. A statement will be provided on each business (commercial) and residential site plan identifying the party or parties responsible for maintaining these LID and/or BMP facilities as a condition of site plan approval.

Applicant/Owner hereby proffers to establish a no disturbance easement within the Buffalo Lick Run Stream Valley that is depicted on the Generalized Development Plan. The purpose of this no disturbance easement is to prohibit development activities within the business (commercial) and residential land bays that are located within the defined area. The only improvements that may occur within this no disturbance easement will include road and pedestrian crossings, utility installations, stormwater management facilities, landscaping and walking trails.

5. RECREATIONAL AMENITIES:

Applicant/Owner also proffers to install walking trails and sidewalks within the community and to install a ten-foot (10') wide asphalt or concrete trail along the Buffalo Lick Run Stream Valley depicted on Exhibit A, the location of which will be identified on the Master Development Plan. In addition, and at Applicant/Owner's discretion, Applicant/Owner reserves the right to install a second ten-foot (10') wide asphalt or concrete trail (on the other side of Buffalo Lick Run Stream). In the event the Applicant/Owner does construct a second trail, the ten-foot (10') wide asphalt or concrete trail(s) will be owned and maintained by the Heritage Commons HOA and will be available for public access.

Applicant/Owner shall construct pedestrian trails and/or sidewalk systems, which connect each recreation area to the residential land uses within the defined Land Bay. The final location and the granting of any such easements and/or trails shall be at the subdivision design plan stage. Such trails or sidewalk system shall be constructed of materials selected by Applicant/Owner provided they are not part of the sidewalk system within the public right-of-way.

6. EDA

Applicant/Owner shall convey an 8.03 acre +/- tract of land located in the western portion of Land Bay 4 to the Frederick County Economic Development Authority to be used at its discretion for the construction of a public commercial building, which may include the construction of a County administration building.

Before the Frederick County Economic Development Authority develops the property, assigns or conveys any ownership interest in the tract conveyed herein by the Applicant/Owner, the Economic Development Authority and/or as applicable the third party will execute an agreement in a recordable form which is satisfactory to the Applicant/Owner and will provide

and confirm that said third party agrees to be bound by the provisions of this Proffer Statement, including, but not limited to, subject to all duly recorded and enforceable restrictions, easements and rights of way, and to comply with construction design standards which provide that the use is of an architectural style and of construction materials that are consistent with the restrictive covenants recorded against the property conveyed, as well as provisions governing the use of the Property to be conveyed, and also the application of all restrictive covenants governing the use of the property and the construction of improvements upon it.

Furthermore, the Frederick County Board of Supervisors and Frederick County Economic Development Authority agree that if a public commercial building of at least 25,000 square feet is not constructed on the tract identified herein and an occupancy certificate issued within four years of the date of the approval of this rezoning, said tract shall automatically revert with any and all improvements that may exist on or within the tract to the Applicant/Owner for whatever use which is consistent with this Proffer Statement the Applicant/Owner deems appropriate. The Frederick County Board of Supervisors hereby instructs and empowers its County Administrator to execute such other deeds or documents which shall be required to effect the terms of this provision.

The Applicant/Owner reserves the right to retain temporary and permanent grading, slope, construction, utility, drainage, storm water management and access easements on all public use parcels which are dedicated to Frederick County, provided said easements do not preclude reasonable use and development of the property for the intended purpose.

7. PHASING

A. Applicant/Owner proffers that no more than four hundred (400) residential units will be developed and built within the first two (2) years of development, with the first year commencing on the date of the approval of the rezoning. The remaining residential units will be proffered to be installed with no more than four hundred (400) residential units within the next two (2) year term following, and the remaining residential units commencing no earlier than two (2) years after the completion of the eight hundredth (800th) residential unit.

B. In addition, Applicant/Owner proffers that on or before the date that Applicant/Owner receives a Certificate of Occupancy for the 300th market rate multi-family residential units Applicant/Owner shall also have obtained a Certificate of Occupancy for a minimum of 50,000 square feet of commercial use property. Likewise, on or before the date Applicant/Owner receives a Certificate of Occupancy for the 600th market rate multi-family residential units Applicant/Owner shall have obtained a Certificate of Occupancy for an additional 50,000 square feet of commercial use property (a minimum total of 100,000 square feet). Applicant/Owner makes this proffer to assure that in addition to the Land Bay Breakdown and proffers pertaining to uses, density and mix that there shall be a guaranteed minimum development of commercial property occurring at the same time as development of market rate multi-family residential units.

SIGNATURE PAGE

The conditions set forth herein are the proffers for Heritage Commons and supersede all previous proffer statements submitted for this Property.

Respectfully submitted,

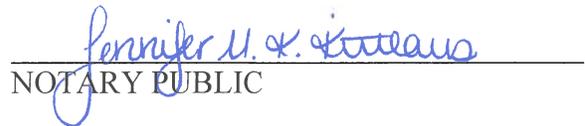
HERITAGE COMMONS, LLC



By: Matthew Milstead
Its: Manager

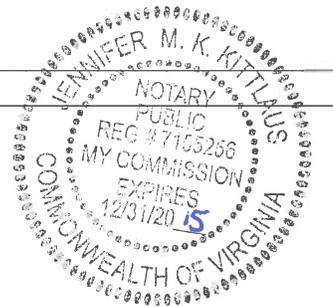
COMMONWEALTH OF VIRGINIA, AT LARGE
COUNTY OF FREDERICK, to-wit:

The foregoing instrument was acknowledged before me this 24th day of November, 2014 by Matthew Milstead, Manager of HERITAGE COMMONS, LLC.



NOTARY PUBLIC

My commission expires: _____
Registration number: _____



R 150 SPE, LLC

Earl W. Cole, III

By: Earl W. Cole, III

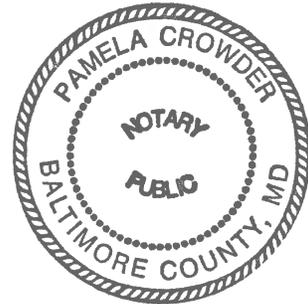
Its: Manager

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

The foregoing instrument was acknowledged before me this 24th day of NOVEMBER 2014 by Earl W. Cole, III, Manager of R 150 SPE, LLC.

Pamela Crowder
NOTARY PUBLIC PAMELA CROWDER

My commission expires: 4/3/2017
Registration number: _____



HERITAGE COMMONS

GENERALIZED DEVELOPMENT PLAN - PROFFER EXHIBIT A

HERITAGE COMMONS

DESIGN MODIFICATION DOCUMENT - PROFFER EXHIBIT B

July 30, 2014

MODIFICATION #1

§ 165-501.02 Rezoning Procedure

Ordinance Requirement:

In order to have land rezoned to the R4 District, a master development plan meeting all requirements of this chapter, shall be submitted with rezoning application.

Alternative Design Standard:

In order to have land rezoned to the R4 District, a proffered Generalized Development Plan identifying the concept of the overall acreage and its relationship to adjoining properties and adjoining roadways shall be submitted with rezoning application. The Generalized Development Plan for Heritage Commons will provide Land Bays to demonstrate the proposed general land use plan layout for the entire acreage. The Proffer Statement for Heritage Commons will also provide a matrix identifying the residential and non-residential land uses within each Land Bay, the projected acreage of each Land Bay and the percentage of residential and commercial land use within each Land Bay classified as Mixed-Use Commercial/Residential.

Justification for Modification:

A densely planned community on 150.28 +/- acres of land cannot be completely master planned as a condition of rezoning approval. These communities are dynamic due to the market; therefore, the exact location of residential units, internal roads, neighborhood commercial, recreational amenities, open space and significant environmental features are difficult to identify at this stage in the process. The Applicant should be prepared to identify basic information pertaining to the overall development of the planned community to inform decision makers and interested citizens how the general land use patterns and major road systems will be developed should a rezoning be approved. The use of a Generalized Development Plan and Proffer Statement as a tool for this purpose is reasonable, as it contains illustrative and general development information that can assist in understanding the basic concepts of a planned community and guide the more formalized Master Development Plan process following rezoning approval. Therefore, it is requested that a Generalized Development Plan be permitted to function in the place of a detailed Master Development Plan during the rezoning process. A Master Development Plan will be provided subsequent to the rezoning approval process to ensure consistency with subdivision design plans and site design plans within the project.

MODIFICATION #2

§165-501.03 Permitted Uses

Ordinance Requirement:

All uses are allowed in the R4 Residential Planned Community District that are allowed in the following zoning districts:

- RP Residential Performance District
- B1 Neighborhood Business District
- B2 Business General District
- B3 Industrial Transition District
- M1 Light Industrial District

Alternative Design Standard:

The Mixed-Use Commercial/Residential Land Bays identified on the proffered Generalized Development Plan are slated for dense urban commercial and residential land use, which may include commercial and residential land uses that are located within the same structure, or within connected structures. This is intended to include and allow the Traditional Neighborhood Design-Business (TNDB) Overlay District. No M1 (light industrial) uses will be permitted.

Justification for Modification:

Heritage Commons is planned as an urban center design form that will contain single-family attached, market rate multi-family units, commercial, retail and office structures, and structures that may comprise a combination of these land uses. The ability to provide for mixed-use residential and commercial, retail and/or office land use within the same structure or within connected structures is in keeping with urban form design, which provides a very efficient use of land and provides opportunities for residents to live, shop, and work within the same area of their community.

MODIFICATION #3

§165-501.05 Mixture of Housing Types Required

Ordinance Requirement:

Each planned community shall be expected to contain a mixture of housing types that is typical for existing and planned residential neighborhoods in Frederick County. No more than 40% of the area of portions of the planned community designated for residential uses shall be used for any of the following housing types: duplexes, multiplexes, atrium houses, weak-link townhouses, townhouses or garden apartments or any combination of those housing types.

Alternative Design Standard:

The Mixed-Use Commercial/Residential Land Bays identified on the proffered Generalized Development Plan are slated for dense urban residential housing types. To achieve this type of urban residential development, single-family detached residential units will not be required as a component of the residential mix, and single-family attached and market rate multi-family residential units will be allowed to comprise 100% of the residential housing units within the Heritage Commons project.

Justification for Modification:

Heritage Commons is planned as an urban center design form that will contain single-family attached and market rate multi-family housing units within a mixed-use commercial, retail and office development. The Residential Planned Community District promotes suburban residential design form that is predominately residential with a minimum percentage of non-residential land use. The implementation of significant percentages of non-residential land use within Heritage Commons dictates the need for higher density residential land use to facilitate this form of development.

MODIFICATION #4

§165-501.06(C) Residential Density

Ordinance Requirement:

Residential Density. The maximum allowed gross density for residences in the planned community development shall be four units per acre.

Alternative Design Standard:

The Mixed-Use Commercial/Residential Land Bays identified on the proffered Generalized Development Plan are slated for dense urban residential housing types. To achieve this type of urban residential development, the gross densities specified in Section 165-402.05B for market rate multi-family and single-family attached residential land use shall be permitted.

Justification for Modification:

Heritage Commons is planned as an urban center design form that will contain single-family attached and market rate multi-family housing units within a mixed-use commercial, retail and office development. The Board of Supervisors recently approved increased densities for residential development within the Urban Development Area (UDA) to maximize the residential development potential within this portion of the County. The 2030 Comprehensive Plan identifies this property as being planned for employment and high-density residential (12-16 units/acre) land use; therefore, it is appropriate to allow this type of residential density within the Heritage Commons development.

MODIFICATION #5

§165-501.06(D) Commercial & Industrial Areas

Ordinance Requirement:

Commercial and industrial areas. The areas for commercial or industrial uses shall not exceed 50% of the gross area of the total planned community. Sufficient commercial and industrial areas shall be provided to meet the needs of the planned community, to provide an appropriate balance of uses and to lessen the overall impact of the planned community on Frederick County. A minimum of 10% of the gross area of the project shall be used for business and industrial uses.

Alternative Design Standard:

Given the dense planning for the Heritage Commons Land Bays, the areas for commercial areas may exceed, and should be encouraged to, exceed 50% of the gross area. A Land Bay Breakdown Table has been incorporated into the Heritage Commons Proffer Statement to demonstrate the minimum and maximum acreages for commercial and residential development throughout the project.

Justification for Modification:

A densely planned community in an area that is designated under the Comprehensive Plan as such should provide for a higher percentage mix of commercial uses. Given the intensity and extent of commercial uses they would be more harmonious if they were mixed in with or adjacent to higher density residential development. The Generalized Development Plan will depict the Land Bays where it is anticipated that the higher density residential and commercial uses will be mixed and also areas that will be designated purely for commercial. With the transportation networks and connectivity of all the Land Bays, however, it is anticipated that the activity level of residences, commercial shopping, dining and work will be laid out so that the residents will be able to walk back and forth between these uses and not need use their automobiles to access these facilities and amenities.

MODIFICATION #6

§165-501.06(E) Open Space

Ordinance Requirement:

Open Space. A minimum of 30% of the gross area of any proposed development shall be designated as common open space.

Alternative Design Standard:

A minimum of 15% of the gross area of the Mixed-Use Commercial/Residential Land Bays, and 100% of the gross area of the Buffalo Lick Run Stream Valley Land Bay identified on the proffered Generalized Development Plan shall be designated as common open space.

Justification for Modification:

Heritage Commons is planned as an urban center design form that will contain single-family attached and market rate multi-family housing units within a mixed-use commercial, retail and office development. This type of urban center design provides opportunities for indoor and outdoor recreational amenities and facilities, pedestrian sidewalk and trail systems, central plazas and squares, small exterior urban-scale green-space areas, and rooftop green-space or rooftop amenity areas; therefore, vast expanses of green space area are not conducive for this type of development. The location of open space areas and the types of recreational amenities will be identified on the Master Development Plan to ensure conformity with ordinance requirements.

MODIFICATION #7

§165-501.06(G) Buffers and Screening

Ordinance Requirement:

Buffers and Screening. Buffers and screening shall be provided between various uses and housing types as if the uses were located within the RP, B1, B2, or M1 Zoning District according to the uses allowed in those districts. Buffers and screening shall be provided accordingly as specified in Section 165-203.02 of this Chapter. Road efficiency buffers shall be provided according to the requirements of that section. In addition, along the perimeter boundary of the Residential Planned Community District, buffers and screens shall be provided in relation to adjoining properties as if the uses in the planned community were located in the RP, B1, B2, or M1 Zoning Districts.

Alternative Design Standard:

Buffers and screening shall be provided along the perimeter boundary of the Residential Planned Community District where proposed Commercial Retail and Office Land Bays adjoin existing residential land use, or where single-family attached and multifamily residential units adjoin existing single-family detached residential land use. Buffers and screening shall be provided accordingly as specified in Section 165-203.02(C), Section 165-203.02(D), and Section 165-203.02(E) of this Chapter.

Justification for Modification:

Heritage Commons is planned as an urban center design form that will incorporate mixed-use commercial and residential land use immediately adjacent to each other. Land uses within this form of development are intended to be integrated, and in some instances located within the same structures; therefore, the requirement for internal buffers and screening are not practical in achieving this type of urban design. The alternative design standard provides for adequate buffers and screening along the perimeter of the Heritage Commons project to protect existing residential land uses. This buffer and screening standard is consistent with applicable residential separation buffers and zoning district buffers utilized in other portions of the Urban Development Area.

MODIFICATION #8

§165-501.06(I) Road Access

Ordinance Requirement:

Road Access. All planned community developments shall have direct access to an arterial or collector road or to roads improved to arterial or collector standards. The planned community development shall be provided with a complete system of public streets dedicated to the Virginia Department of Transportation.

Alternative Design Standard:

The proffered Generalized Development Plan shall provide for major collector road systems identified in the Comprehensive Policy Plan, which will be public streets dedicated to the Virginia Department of Transportation. All other street systems located within the Heritage Commons development may be designed and constructed as private streets, which will be maintained by a master association or sub-associations created during the subdivision design and site plan design process. All private streets shall be designed in general to meet vertical base design standards utilized by the Virginia Department of Transportation based on projected traffic volumes for the identified land uses within the project. All lots created within the Heritage Commons development may be located on private streets, which shall not be subject to distance limitations from planned public streets within the project.

Justification for Modification:

Heritage Commons is planned as an urban center design form that will contain a variety of street systems that are designed in general to meet vertical base design standards utilized by the Virginia Department of Transportation based on projected traffic volumes for the identified land uses within the project. The ability to utilize private street design will provide design flexibility throughout the project that would otherwise not be practical due to rigid Virginia Department of Transportation street design standards. The ability to utilize private street design will also allow for innovative storm water management low-impact design and landscaping design to assist in meeting water quality measures for the project.

MODIFICATION #9**§165-501.06(M) Phasing**Ordinance Requirement:

Phasing. A schedule of phases shall be submitted with each proposed planned community. The schedule shall specify the year in which each phase will be completely developed. No subdivision or site plans shall be approved in the planned community unless they are in accordance with the approved schedule.

Alternative Design Standard:

A Phasing Plan and Phasing Schedule shall not be required for the Heritage Commons project.

Justification for Modification:

Heritage Commons is planned as an urban center design form that will contain mixed land use including commercial, retail, office, single-family attached and market rate multi-family housing units within a master planned project. Heritage Commons exceeds the commercial, retail and office land use percentages from conventional residential planned community projects, and may incorporate mixed commercial and residential land use within the same structure. Therefore, it is not practical to require a phasing schedule and time line that limits the ability for the project to develop, as this will be dictated by market conditions.

MODIFICATION #10

§165-201.03(B)(6) Height Limitations

§165-601.02 Dimensional and Intensity Requirements

Ordinance Requirement:

General office buildings in the B2 and B3 Districts and hotel and motel buildings in the B2 Zoning District shall be exempt from the maximum height requirements of those zoning districts. In no case shall the height of such buildings exceed 60 feet. When such exemptions are proposed adjacent to existing residential uses, the Board of Supervisors shall review the site development plan pursuant to the provisions of Section 165-203.02A(3).

Alternative Design Standard:

Commercial buildings, retail buildings, office buildings, hotel buildings, and shared commercial and residential buildings may be constructed up to 80 feet in height, not to include architectural screening features and antenna structures. Additionally, commercial buildings, retail buildings, office buildings, hotel buildings, and shared commercial and residential buildings may be developed with a floor area to lot area ratio (FAR) of 2.0.

Justification for Modification:

Heritage Commons is planned as a dense urban center design form that will promote vertical construction throughout the project. The ability to construct buildings to 80 feet in height is consistent with the height allowance for multifamily residential buildings, which will be developed within the project. Other zoning districts within the County allow for office buildings and other structures to be constructed up to 90 feet in height and allow for a floor area to lot area ratio of 2.0; therefore, the Heritage Commons urban center design form is consistent with these more intensive types of development currently permitted by County Code.

MODIFICATION #11

§165-402.09(J)(D1) Multifamily Residential Buildings

Ordinance Requirement:

Principal building (max): 60 feet, provided that a multifamily residential building may be erected to a maximum of 80 feet if it is set back from road right-of-ways and from lot lines in addition to each of the required minimum yard dimensions, a distance of not less than one foot for each one foot of height that it exceeds the sixty-foot limit.

Alternative Design Standard:

Commercial buildings, retail buildings, office buildings, hotel buildings, and shared commercial and residential buildings may be constructed within 20 feet of public or private street systems serving the community.

Justification for Modification:

Heritage Commons is planned as a dense urban center design form that will promote vertical construction throughout the project. This design form should provide flexibility to promote building construction that abuts wide pedestrian walkway areas that adjoin public and private street systems. Urban center design promotes build-to setback lines, which are not proposed as a requirement for Heritage Commons; however, this alternative design standard will allow for this form of design should it be desired by the developer of the project.

MODIFICATION #12

§165-4002.09(I) Modified Apartment Building

Ordinance Requirement:

This housing type consists of buildings that contain multiple dwelling units that share a common yard area. The entire dwelling unit does not necessarily have to be on the same floor. Garden apartments shall be at least two stories high but no more than four stories and shall contain six or more units in a single structure, not to exceed 16 units within a single structure. Dimensional requirements shall be as follows:

A. Lot Dimensions	
A1 Maximum site impervious surface ratio	0.60
B. Building Setbacks	
B1 From public road right-of-way	35 feet
B2 From private road right-of-way, off-street parking lot or driveway	20 feet
B3 Side (perimeter)	20 feet
B4 Rear (perimeter)	25 feet
B5 Rear for balconies and decks	20 feet
B6 Minimum on-site building spacing: Buildings placed side to side shall have a minimum distance of 20 feet between buildings; buildings placed side to back shall have a minimum distance of 35 feet between buildings. Buildings back to back shall have a minimum distance of 50 feet between buildings.	
C. Minimum Parking	
C1 Required off-street parking	2 per unit
D. Height	
D1 Principal building (max):	55 feet
D2 Accessory building (max)	20 feet

Alternative Design Standard:

This housing type consists of buildings that contain multiple dwelling units that share a common outdoor area. Dwellings can be on multiple floors with buildings being at least two stories but not more than six stories. Dwellings can have internal or external corridors at the discretion of the developer. Modified apartment buildings shall contain a minimum of 16 dwelling units but may not exceed more than 64 dwelling units within a single structure. Dimensional requirements shall be as follows:

A. Lot Dimensions	
A1 Maximum site impervious surface ratio	0.60
B. Building Setbacks	

B1 From public road right-of-way	20 feet
B2 From private road right-of-way, off-street parking lot or 10 feet driveway	
B3 Side (perimeter)	15 feet
B4 Rear (perimeter)	15 feet
B5 Rear for balconies and decks	20 feet
B6 Minimum on-site building spacing: 15 feet side to side; 15 feet side to back; 15 feet back to back	
C. Minimum Parking	
C1 Required off-street parking	2 per unit, inclusive of garage
D. Height	
D1 Principal building (max):	80 feet
D2 Accessory building (max):	50 feet
D3 Maintenance buildings (max):	20 feet

Justification for Modification:

Heritage Commons is planned as a dense urban center design form that will promote massing of dwelling units throughout the project. This design form should provide flexibility to promote building construction that accommodates an appropriate number of dwelling units within a single structure. The dimensional requirements provided for the Modified Apartment Building achieve appropriate setbacks for siting of buildings and protection of adjoining properties, while providing densities more in keeping with a dense urban center design form.

HERITAGE COMMONS

EXEMPLAR ROAD SECTION - PROFFER EXHIBIT C

2-8-2014
020222-00

PROJECT MANAGER: [Name] DATE: [Date]
 DESIGNED BY: [Name] DATE: [Date]
 CHECKED BY: [Name] DATE: [Date]
 SUBMITTED BY: [Name] DATE: [Date]

0788-034
RIS, P101

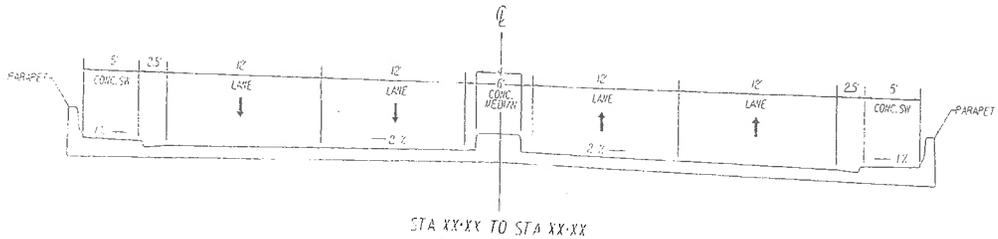
TYPICAL SECTIONS

REVISED	STATE	ROUTE	PROJECT	SHEET NO.
	VA.	XXX	0788-034 RIS, P101	24-1

DESIGN FEATURES RELATING TO CONSTRUCTION OR TO REGULATION AND CONTROL OF TRAFFIC MAY BE SUBJECT TO CHANGE AS DEEMED NECESSARY BY THE DEPARTMENT

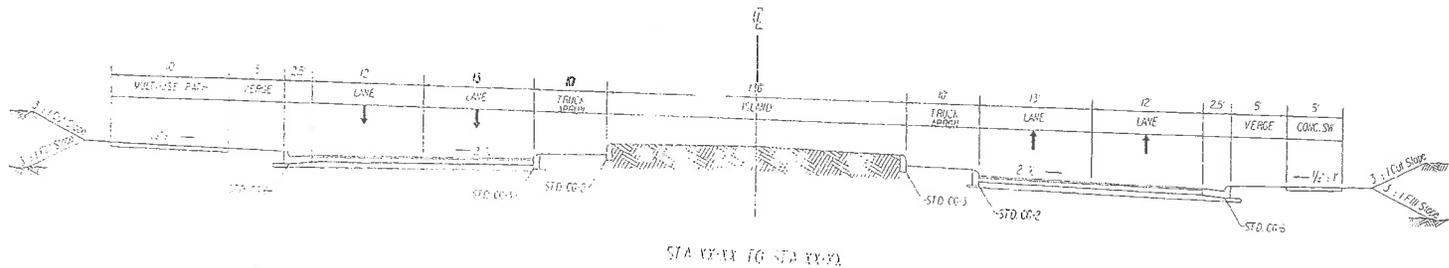
VOGT (Division or Co. Name) (Location), Virginia (TECHNICAL DISCIPLINE)	VOGT (Division or Co. Name) (Location), Virginia (TECHNICAL DISCIPLINE)
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TEVIS STREET BRIDGE



NOTE: THE CONTRACTOR SHALL COORDINATE BRIDGE TYPICALS FROM BRIDGE PLANS DEVELOPED BY CLAREN NEVISON TITLED "EAST TEVIS STREET OVER RTE 87"

TEVIS STREET ROUNDABOUT



SCALE N.T.S.	PROJECT 0788-034	SHEET NO. 24-1
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11-2-2004
8:54:42 AM

PROJECT MANAGER: JAMES B. LAMBERT, JR.
 SURVEYED BY: DATE: 08/18/03
 DESIGNED BY: DATE: 08/18/03
 SUBMITTED BY: DATE: 08/18/03

0788-034
RIS, P101
Plate B, Columns

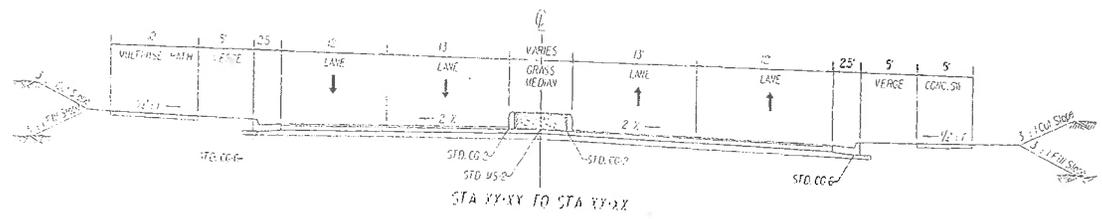
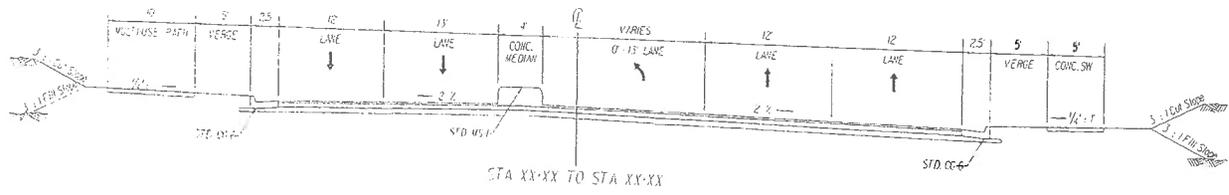
TYPICAL SECTIONS

TEVIS STREET

REVISED	DATE	ROUTE	STATE	SHEET NO.
			PROJECT	
		VA. XXX	0788-034 RIS, P101	2A/31

DESIGN FEATURES RELATING TO CONSTRUCTION OR TO REGULATION AND CONTROL OF TRAFFIC MAY BE SUBJECT TO CHANGE AS DEEMED NECESSARY BY THE DEPARTMENT.

VDOT (Division) of Co. Name (Location, Virginia) (TECHNICAL DISCIPLINE)	VDOT (Division) of Co. Name (Location, Virginia) (TECHNICAL DISCIPLINE)
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SCALE	PROJECT	SHEET NO.
N.T.S.	0788-034	2A/31



AMENDMENT

Action:

PLANNING COMMISSION: March 16, 2005 - Recommended Approval

BOARD OF SUPERVISORS: September 28, 2005 APPROVED DENIED

AN ORDINANCE AMENDING

THE ZONING DISTRICT MAP

REZONING #01-05 FOR RUSSELL 150

WHEREAS, Rezoning #01-05 for Russell 150, was submitted by Greenway Engineering to rezone 96.28 acres from RA (Rural Areas) District to B2 (General Business) District and 54 acres from RA (Rural Areas) District to RP (Residential Performance) District. This property fronts on the west side of Front Royal Pike (Route 522), opposite Airport Road (Route 645), in the Shawnee Magisterial District, and is identified by Property Identification Numbers (PINs) 64-A-10 and 64-A-12. The property also fronts on the east side of Interstate 81.

WHEREAS, the Planning Commission held a public hearing on this rezoning on March 16, 2005; and

WHEREAS, the Board of Supervisors held a public hearing on this rezoning on April 13, 2005; and

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

NOW, THEREFORE, BE IT ORDAINED by the Frederick County Board of Supervisors that Chapter 165 of the Frederick County Code, Zoning, is amended to revise the zoning District map to change 96.28 acres from RA (Rural Areas) District to B2 (General Business) District and 54 acres from RA (Rural Areas) District to RP (Residential Performance) District, as described by the application and plat submitted, subject to the attached conditions voluntarily proffered in writing by the applicant and the property owner.

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

Passed this 28th day of September, 2005 by the following recorded vote:

Richard C. Shickle, Chairman	<u>Aye</u>	Barbara E. Van Osten	<u>Aye</u>
Gina A. Forrester	<u>Nay</u>	Gary Dove	<u>Aye</u>
Lynda J. Tyler	<u>Aye</u>	Bill M. Ewing	<u>Aye</u>
Gene F. Fisher	<u>Aye</u>		

A COPY ATTEST



John K. Riley, Jr.
Frederick County Administrator

RUSSELL 150, LC - PROFFER STATEMENT

REZONING: RZ# 01-05
Rural Areas (RA)
to Business General (B2) and Residential Performance (RP)

PROPERTY: 150.28-acres +/-;
Tax Parcels #64-((A))-10 & 64-((A))-12

RECORD OWNER: Russell 150, LC

APPLICANT: Russell 150, LC (here-in after the “**Applicant**”)

PROJECT NAME: Russell 150

ORIGINAL DATE
OF PROFFERS: October 22, 2004

REVISION DATE: September 16, 2005

Preliminary Matters

Pursuant to Section 15.2-2296 Et. Seq. of the Code of Virginia, 1950, as amended, and the provisions of the Frederick County Zoning Ordinance with respect to conditional zoning, the undersigned applicant hereby proffers that in the event the Board of Supervisors of Frederick County, Virginia, shall approve Rezoning Application #01 -05_ for the rezoning of 150.28±-acres from the Rural Areas (RA) District to 96.28±-acres of Business General (B2) District and 54.0±-acres Residential Performance (RP) District, development of the subject property (“**Property**”) shall be done in conformity with the terms and conditions set forth herein, except to the extent that such terms and conditions may be subsequently amended or revised by the applicant and such be approved by the Frederick County Board of Supervisors in accordance with the said Code and Zoning Ordinance. In the event that such rezoning is not granted, then these proffers shall be deemed withdrawn and have no effect whatsoever. These proffers shall be binding upon the Applicant and any legal successors, heirs, or assigns.

The Property, identified as Russell 150, and more particularly described as the lands owned by Russell 150, LC, being all of Tax Map Parcels 64-((A))-10 and 64-((A))-12 and further as shown on a plat entitled Survey of the Remaining Lands of June H. Russell, by Ebert and Associates dated February 13, 1998.

I. Generalized Development Plan

The Applicant hereby proffers to develop the Property in substantial conformance with a Generalized Development Plan prepared by Greenway Engineering dated September 16, 2005 (“GDP”) approved as part of the rezoning application. The GDP is intended to delineate the major thoroughfares that will traverse the Property and provide access to the commercial and residential land bays. The roundabout design identified at the intersection of Warrior Drive and Airport Road Extended is intended to be developed unless the Virginia Department of Transportation (“VDOT”) determines that another intersection design is warranted during the review and approval of the Public Improvement Plan for this transportation improvement. VDOT approval of another intersection design at Warrior Drive and Airport Road Extended will not necessitate approval of a new GDP by the Board of Supervisors. The GDP identifies the 96.28±-acre Business General (B2) District land bay and the 54.0±-acre Residential Performance (RP) District land bay.

II. Transportation

A. Community Development Authority (Agreement to Participate)

The Applicant hereby proffers to participate fully in the Community Development Authority (“CDA”) special taxing district for the purpose of financing the construction of specified public infrastructure, briefly described as (1) the Interstate-81/East Tevis Street flyover bridge, (2) the thoroughfares of Warrior Drive, Airport Road Extended, and East Tevis Street and associated bicycle lanes within the Property, and (3) certain water and sewer capital facilities associated with these thoroughfares. The utilization of the CDA provides funding for the simultaneous development of all covered public infrastructure, thus enabling the construction of all of these facilities in a single unified project concurrent with the first phase of private improvements. If for any reason the described improvements within this section are unable to be completed through the CDA funding source, the Applicant agrees to fund and complete said improvements concurrent with the first phase of improvements by the Applicant.

B. Warrior Drive

The Applicant hereby proffers to construct the ultimate section of Warrior Drive within the Property in conformance with the Public Improvement Plan that will be approved by VDOT prior to any development activity on the Property. The Applicant shall dedicate a minimum 120-foot wide right-of-way extending from the intersection with East Tevis Street to the southern boundary of the Property, in an alignment consistent with the GDP and the VDOT approved Public Improvement Plan. The intersection of Warrior Drive and East Tevis Street shall be configured so as to maintain East Tevis Street as the through movement. The intersection with Airport Road Extended shall be in the form of

a roundabout, unless VDOT determines that another intersection design is warranted during the review and approval of the Public Improvement Plan for this transportation improvement. If for any reason the described improvements within this section are unable to be completed through the CDA funding source, the Applicant agrees to fund and complete said improvements concurrent with the first phase of improvements by the Applicant.

C. Airport Road Extended

The Applicant hereby proffers to construct the ultimate section of Airport Road Extended within the Property in conformance with the Public Improvement Plan that will be approved by VDOT prior to any development activity on the Property. The Applicant shall dedicate right-of-way as required by VDOT, extending from the eastern boundary of the Property to the intersection with Warrior Drive, in an alignment consistent with the GDP and the VDOT approved Public Improvement Plan. The Applicant shall install full intersection improvements at the Front Royal Pike (Route 522) and Airport Road Extended intersection as warranted by VDOT. The intersection with Warrior Drive shall be in the form of a roundabout unless VDOT determines that another intersection design is warranted during the review and approval of the Public Improvement Plan for this transportation improvement. If for any reason the described improvements within this section are unable to be completed through the CDA funding source, the Applicant agrees to fund and complete said improvements concurrent with the first phase of improvements by the Applicant.

D. Interstate 81/East Tevis Street Flyover Bridge

The Applicant hereby proffers to construct a four-lane flyover bridge crossing of Interstate 81 to allow for the East Tevis Street connection between Frederick County and the City of Winchester. The construction of the four-lane flyover bridge and associated sidewalks will be in conformance with the Public Improvement Plan that will be approved by VDOT prior to any development activity on the Property. If for any reason the described improvements within this section are unable to be completed through the CDA funding source, the Applicant agrees to fund and complete said improvements concurrent with the first phase of improvements by the Applicant.

E. East Tevis Street Within Property

The Applicant hereby proffers to construct the ultimate section of East Tevis Street within the Property in conformance with the Public Improvement Plan that will be approved by VDOT prior to any development activity on the Property. The Applicant shall dedicate a minimum 120-foot wide right-of-way extending from the western boundary of the Property to the northern boundary of the Property in an alignment consistent with the GDP and the VDOT approved Public Improvement Plan. If for any

reason the described improvements within this section are unable to be completed through the CDA funding source, the Applicant agrees to fund and complete said improvements concurrent with the first phase of improvements by the Applicant.

F. Contribution to Frederick County General Transportation Fund

The Applicant hereby proffers to provide a monetary contribution unconditionally to the Frederick County General Transportation Fund in the amount of \$1,000,000.00. This monetary contribution shall be paid to Frederick County at the time of building permit issuance for the residential portion of the Property. The Applicant shall provide a per unit monetary contribution of \$3,500.00 to fund the \$1,000,000.00 commitment, or such additional amounts based upon the total number of approved residential units which will equal \$1,000,000.00.

G. Tax Map Parcel 64-((A))-18 Inter-Parcel Connection

The Applicant hereby proffers to provide for an inter-parcel public street connection between the residential portion of the Property and Tax Map Parcel 64-((A))-18. If an inter-parcel connection cannot be constructed to connect with another public street on Tax Map Parcel 64-((A))-18 at the time of development of the final residential phase within the Property, the Applicant will dedicate a 50-foot right-of-way between the public street serving the residential portion of the Property and Tax Map Parcel 64-((A))-18, and will construct the public street serving the residential portion of the Property to connect to Front Royal Pike (Route 522).

H. Bicycle Lanes

The Applicant hereby proffers to construct bicycle lanes along Warrior Drive, Airport Road Extended, and East Tevis Street within the Property as depicted on the GDP. These bicycle lanes will be designed as 10-foot wide asphalt lanes separate from the vehicular travel lanes and included as part of the VDOT approved Public Improvement Plan for each of the roads described above. If for any reason the described improvements within this section are unable to be completed through the CDA funding source, the Applicant agrees to fund and complete said improvements concurrent with the first phase of improvements by the Applicant.

III. Residential

A. Residential Use Restriction

The Applicant hereby proffers to prohibit the following housing types within the Property:

1. Single-family detached rural traditional
2. Single-family detached traditional
3. Garden apartments

B. Phasing

The Applicant hereby proffers that residential development shall be phased to limit the number of residential dwelling unit building permits to forty (40) per calendar year beginning in the calendar year in which the Master Development Plan is approved.

C. Architectural Treatment

The applicant hereby proffers that primary structures within the Residential Performance (RP) District land bay shall be constructed with masonry wall treatments (i.e. brick, architectural block, natural or cultured stone, or equivalent) over a minimum of eighty percent (80%) of the exterior wall surface, exclusive of glazing and roofing.

D. Monetary Contribution to Establish Homeowners' Association Fund

The Applicant hereby proffers to establish a start-up fund for the residential development within the Property that will include an initial lump sum payment of \$2,500.00 by the Applicant and an additional payment of \$100.00 for each platted lot, of which the assessment for each platted lot is to be collected at the time of initial transfer of title and to be directed to the Homeowners' Association ("HOA") fund. Language will be incorporated into the Declaration of Restrictive Covenant Document and Deed of Dedication that ensures the availability of these funds prior to the transfer of ownership and maintenance responsibility from the Applicant to the HOA. The start-up funds for the HOA shall be made available for the purpose of maintenance of all improvements within the common open space areas, liability insurance, street light assessments, and property management and/or legal fees.

IV. Monetary Contributions to Offset Impact of Development

The undersigned owners of the above-described property hereby voluntarily proffer that in the event rezoning application # 01-05 is approved, the undersigned will pay to the Treasurer of Frederick County, Virginia contributions as follows. It is noted that the Fiscal Impact Model Output Module prepared by the Frederick County Planning Department on October 26, 2004 indicates the combined residential and commercial uses proffered through this rezoning will yield a substantial net fiscal impact gain to Frederick County. This monetary contribution exceeds that indicated by the results of the Fiscal Impact Model Output Module.

A. Public School System

The Applicant hereby proffers to contribute \$3,000.00 per residential unit to be directed to Frederick County Public Schools. This monetary contribution shall be paid at the time of building permit issuance of each residential dwelling unit on the Property.

B. Fire and Rescue Services

The Applicant hereby proffers to contribute \$10,000.00 for fire and rescue services to be directed to the local fire and rescue company providing first response service to the Property. This monetary contribution shall be paid at the time of issuance of the first building permit on the Property.

V. Stormwater Quality Measures

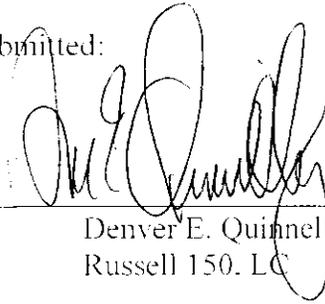
The applicant hereby proffers that all commercial and residential site plans submitted to Frederick County will be designed to implement Low Impact Development (LID) and/or Best Management Practices (BMP) to promote stormwater quality measures. A statement will be provided on each commercial and residential site plan identifying the party or parties responsible for maintaining these LID and/or BMP facilities as a condition of site plan approval.

The Applicant hereby proffers to establish a no disturbance easement within the Buffalo Lick Run stream valley that is depicted on the GDP. The purpose of this no disturbance easement is to prohibit development activities within the commercial and residential land bays that are located within the defined area. The only activity that may occur within this no disturbance easement will include utility installation and a single road crossing for the continuation of Warrior Drive.

VI. Signature

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

Respectfully Submitted:

By: 

Denver E. Quinnelly, Manager
Russell 150, LC

9-30-05
Date

Commonwealth of Virginia,

City County of Frederick To Wit:

The foregoing instrument was acknowledged before me this 30th day of September
2005 by Denver E. Quinnelly, manager - Russell 150, LC



Notary Public

My Commission Expires February 29, 2008

LINE DATA

L1	S 01°46'21" W	154.61'
L2	S 89°40'20" W	26.96'
L3	S 29°13'19" W	64.04'
L4	S 01°47'41" W	112.92'
L5	S 55°53'57" W	51.18'
L6	S 14°08'24" W	59.50'
L7	N 69°51'16" W	375.10'
L8	N 71°05'58" W	333.41'
L9	N 56°54'19" E	145.10'
L10	N 03°14'46" W	197.69'
L11	S 51°51'35" E	600.62'
L12	S 47°49'22" E	272.65'
L13	S 31°28'35" W	497.94'
L14	N 58°15'41" W	107.60'
L15	S 31°06'34" W	199.82'
L16	S 02°01'18" W	332.70'
L17	S 87°53'44" E	470.95'

CURVE DATA

CURVE	RADIUS	ARC	CHORD	BEARING	DELTA
C1	5674.58'	174.64'	174.63'	S 02°39'21" W	01°45'48"
C2	6161.16'	277.02'	276.99'	S 05°59'39" W	02°34'34"
C3	3169.87'	417.88'	417.58'	S 03°29'56" W	07°33'11"

NOTES

1. THE BOUNDARY INFORMATION SHOWN HEREON IS BASED ON A CURRENT FIELD SURVEY BY THIS FIRM, COMPLETED ON MAY 18, 2005.
2. NO TITLE REPORT FURNISHED. EASEMENTS MAY EXIST WHICH ARE NOT SHOWN.

LEGEND:

- IRF = 1/2" IRON REBAR FOUND
- IPF = IRON PIPE FOUND
- VDH MON = CONCRETE VDH MONUMENT FOUND
- PT = POINT (UNMONUMENTED)

EXHIBIT SHOWING
ZONING DISTRICT LINE BETWEEN RP ZONE AND B2 ZONE
 ON THE LAND OF
RUSSELL 150, LC
 SHAWNEE MAGISTERIAL DISTRICT, FREDERICK COUNTY, VIRGINIA

SCALE: N/A

DATE: SEPTEMBER 16, 2005

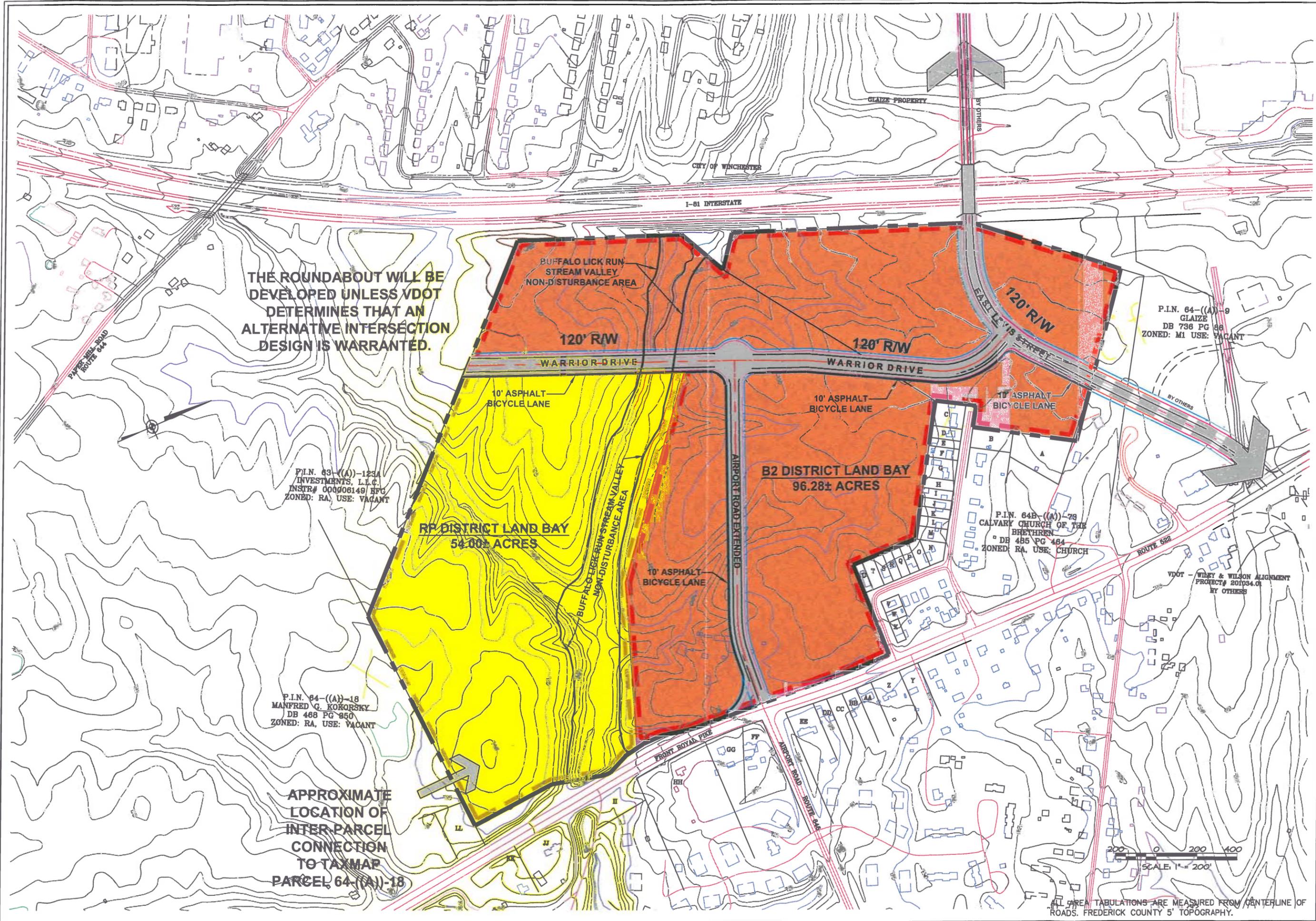


Engineers
Surveyors

GREENWAY ENGINEERING

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

Founded in 1971



THE ROUNDABOUT WILL BE DEVELOPED UNLESS VDOT DETERMINES THAT AN ALTERNATIVE INTERSECTION DESIGN IS WARRANTED.

P.I.N. 63-((A))-123A
INVESTMENTS, L.L.C.
INSTR# 00006149/ EFG
ZONED: RA, USE: VACANT

P.I.N. 64-((A))-18
MANFRED G. KOKORSKY
DB 468 PG 650
ZONED: RA, USE: VACANT

APPROXIMATE LOCATION OF INTER-PARCEL CONNECTION TO TAXMAP PARCEL 64-((A))-18

P.I.N. 64-((A))-9
GLAIZE
DB 736 PG 68
ZONED: M1 USE: VACANT

P.I.N. 64B-((A))-78
CALVARY CHURCH OF THE BRETHREN
DB 485 PG 484
ZONED: RA, USE: CHURCH

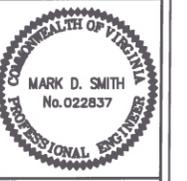


ALL AREA TABULATIONS ARE MEASURED FROM CENTERLINE OF ROADS. FREDERICK COUNTY 5' TOPOGRAPHY.

GREENWAY ENGINEERING
151 Windy Hill Lane
Winchester, Virginia 22602
Telephone 540-662-4185
FAX 540-722-9628
www.greenwayeng.com



REVISION	DATE



GENERALIZED DEVELOPMENT PLAN
RUSSELL 150
SHAWNEE MAGISTERIAL DISTRICT
FREDERICK COUNTY, VA

DATE: 08/16/05
SCALE: 1" = 400'
DESIGNED BY: SEW
FILE NO. 3701
SHEET 1 OF 3

**REZONING APPLICATION FORM
FREDERICK COUNTY, VIRGINIA**

To be completed by Planning Staff:

Zoning Amendment Number 02-14

PC Hearing Date _____

Fee Amount Paid \$ 25079.50

Date Received Aug. 8, 2014

BOS Hearing Date _____

The following information shall be provided by the applicant:

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

1. Applicant:

Name: Heritage Commons, LLC

Telephone: (703) 338-9599

Address: 140 N. Hatcher Avenue

Purcellville, VA 20132

2. Property Owner (if different than above):

Name: R 150 SPE, LLC

Telephone: (443) 263-2987

Address: 621 E. Pratt Street, Suite 600

Baltimore, MD 21202

3. Contact person if other than above:

Name: Thomas Moore Lawson, Esquire

Telephone: (540) 665-0050

4. Property Information:

- a. Property Identification Number(s): 63-A-150, 64-A-10, 64-A-12
- b. Total acreage to be rezoned: 150.59 +-
- c. Total acreage of the parcel(s) to be rezoned (if the entirety of the parcel(s) is not being rezoned): _____
- d. Current zoning designation(s) and acreage(s) in each designation: RA and B2/RP
- e. Proposed zoning designation(s) and acreage(s) in each designation: R4
- f. Magisterial District(s): Shawnee



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

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

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

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

R 150 SPE, LLC; Heritage Commons, LLC; Frederick County Center, LLC

7. Adjoining Property:

<u>PARCEL ID NUMBER</u>	<u>USE</u>	<u>ZONING</u>
see attached		
<hr/>	<hr/>	<hr/>

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

west side of Front Royal Pike (Route 522) opposite Airport Road (route 645) and has frontage on the east side of Interstate 81

9. The following information should be provided according to the type of rezoning proposed: See attached Amended Proffer Statement

Number of Units Proposed

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

Square Footage of Proposed Uses

Office: _____ Service Station: _____
Retail: _____ Manufacturing: _____
Restaurant: _____ Warehouse: _____
Commercial: _____ Other: _____

10. Signature:

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

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

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

Applicant(s): _____ Date: _____

_____ Date: _____

Owner(s): Earl W. Cole III _____ Date: 8-6-2014

_____ Date: _____

Earl W. Cole III
Executive Vice President

9. The following information should be provided according to the type of rezoning proposed: See attached Amended Proffer Statement

Number of Units Proposed

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

Square Footage of Proposed Uses

Office: _____ Service Station: _____
 Retail: _____ Manufacturing: _____
 Restaurant: _____ Warehouse: _____
 Commercial: _____ Other: _____

10. Signature:

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

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

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

Applicant(s): Matthew B. Milstead Date: 8-6-14
Matthew B. Milstead, mgr
Heritage Commons, LLC Date: _____

Owner(s): Earl W. Cole III Date: 8-6-2014
 _____ Date: _____
 Earl W. Cole III
 Executive Vice President

7. Adjoining Property:

PARCEL ID NUMBER	USE	ZONING
63-A-123A	Vacant land	RA
64-A-9	Vacant land	B2
64-A-10A	Vacant land for Church	RA
64-A-11	Residential	RP
64-A-14	Vacant land	B2
64-A-18	Vacant land	B2/RP
64B-A-4-91	Residential	RP
64B-A-73	Church	B2
64B-A-73B	Vacant land	RP
64B-A-89	Residential	RP
64B-A-92	Residential	RP
64B-4-E	Vacant land	RP
64B-4-F	Residential	RP
64B-4-H	Residential	RP
64B-4-8	Residential	RP
64B-4-9A	Residential	RP
64B-4-10A	Residential	RP
64B-4-25J	Residential	RP
64B-4-26	Vacant land	RP
64B-4-27	Vacant land	RP
64B-4-28	Residential	RP
64B-4-29	Vacant land	RP
64B-4-30	Residential	RP
64B-4-31	Vacant land	RP
64B-4-32	Vacant land	RP
64B-4-33	Residential	RP
64B-4-34	Residential	RP
64B-4-35	Vacant land	RP
64B-4-36	Vacant land	RP
64B-4-37	Residential	RP
64B-4-38	Residential	RP
64B-4-39	Vacant land	RP
64C-A-1	Residential	RP
64C-A-2	Residential	RP
64C-A-3	Residential	RP
64C-A-4	Residential	RP
64C-A-7	Residential	RP
64C-A-9	Vacant land	RP
64C-A-11	Residential	RP
64C-A-13	Residential	RP
64C-A-13A	Residential	RP
64C-1-15	Residential	RP

ADJOINING PROPERTY OWNERS

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

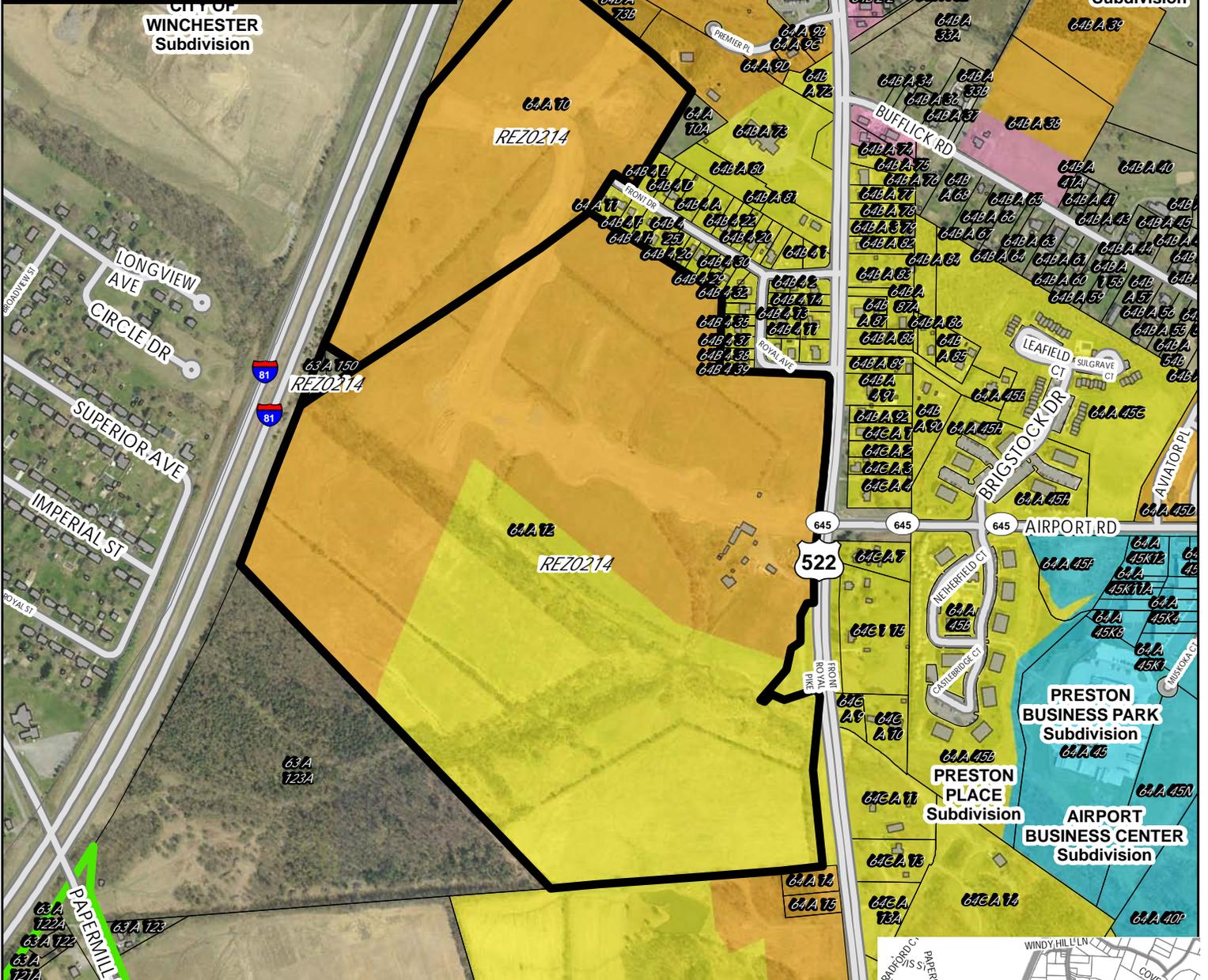
Name and Property Identification Number	Address
Name EFG Investments, LLC	340 W. Parkins Mill Road Winchester, VA 22602
Property # 63-A-123A	
Name Madison II, LLC	558 Bennys Beach Road Front Royal, VA 22630
Property # 64-A-18	
Name Michael and Cheryl Shepard	179 George Drive Winchester, VA 22602
Property # 64-A-14	
Name Montie Gibson, Jr.	867 Front Royal Pike Winchester, VA 22602
Property # 64C-A-13 and 64C-A-13A	
Name William and Krista Lucas	831 Front Royal Pike Winchester, VA 22602
Property # 64C-A-11	
Name Winchester Outdoor	355 S. Potomac Street Hagerstown, MD 21740
Property # 64C-A-9	
Name Cornerstone LP, LLP	PO Box 2497 Winchester, VA 22604
Property # 64C-1-15	
Name Elwood H. Whitacre, Sr.	721 Front Royal Pike Winchester, VA 22602
Property # 64C-A-7	
Name Charles and Darlene Barnard	PO Box 4585 Winchester, VA 22604
Property # 64C-A-4	

Name and Property Identification Number	Address
Name Joseph and Lynnette Embree	687 Front Royal Pike
Property # 64C-A-2 and 64C-A-3	Winchester, VA 22602
Name Ronald and Monica Grim	673 Front Royal Pike
Property # 64C-A-1	Winchester, VA 22602
Name Shelton and Geneve Conway	667 Front Royal Pike
Property # 64B-A-92	Winchester, VA 22602
Name Philip and Judy Young	655 Front Royal Pike
Property # 64B-A-4-91	Winchester, VA 22602
Name Scottie D. Dotson	371 Chimney Circle
Property # 64B-A-89	Middletown, VA 22645
Name Barbara Ann Hott, et al. c/o Wayne Godlove	325 Tevis Street
Property # 64B-4-8	Winchester, VA 22601
Name Charles and Elener McFarland and Charles C. McFarland, Jr.	116 Royal Avenue
Property # 64B-4-9A and 64B-4-10A	Winchester, VA 22602
Name Calvin and Dorothy Hott	131 Royal Avenue
Property # 64B-4-38 and 64B-4-39	Winchester, VA 22602
Name John and Marsha Kelly	137 Royal Avenue
Property # 64B-4-36 and 64B-4-37	Winchester, VA 22602
Name Eric P. Yowell	149 Royal Avenue
Property # 64B-4-34 and 64B-4-35	Winchester, VA 22602
Name The Brincefield Group, LLC	PO Box 337
Property # 64B-4-32 and 64B-4-33	Ashton, MD 20861
Name Bonnie Jean Oates and Misty Dawn Miller	151 Front Drive
Property # 64B-4-30 and 64B-4-31	Winchester, VA 22602
Name Charles and Betty Courtney	161 Front Drive
Property # 64B-4-26, 64B-4-27, 64B-4-28 and 64B-4-29	Winchester, VA 22602
Name Thomas S. Mudd	179 Front Drive
Property # 64B-4-25J	Winchester, VA 22602

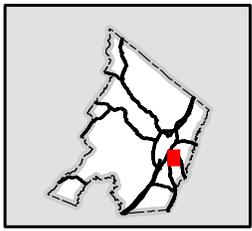
Name and Property Identification Number	Address
Name Robert and Patricia Shank	185 Front Drive
Property # 64B-4-H	Winchester, VA 22602
Name Tara M. Crosen	189 Front Drive
Property # 64B-4-F	Winchester, VA 22602
Name Arthur and Juanita Belt	201 Front Drive
Property # 64-A-11	Winchester, VA 22602
Name Daniel and Angela Hepner	256 Devland Drive
Property # 64B-4-E	Winchester, VA 22603
Name Calvary Church of the Brethren	578 Front Royal Pike
Property # 64-A-10A and 64B-A-73	Winchester, VA 22602
Name FLG Residual Trust Properties, LLC	PO Box 888
Property # 64-A-9	Winchester, VA 22604
Name FLG Residual Trust Properties, LLC and Campfield, LLC	PO Box 888
Property # 64B-A-73B	Winchester, VA 22604
Name	
Property #	
Name	
Property #	
Name	
Property #	
Name	
Property #	
Name	
Property #	
Name	
Property #	
Name	
Property #	

REZ # 02 - 14 Heritage Commons, LLC

PINs:
63 - A - 150, 64 - A - 10,
64 - A - 12



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



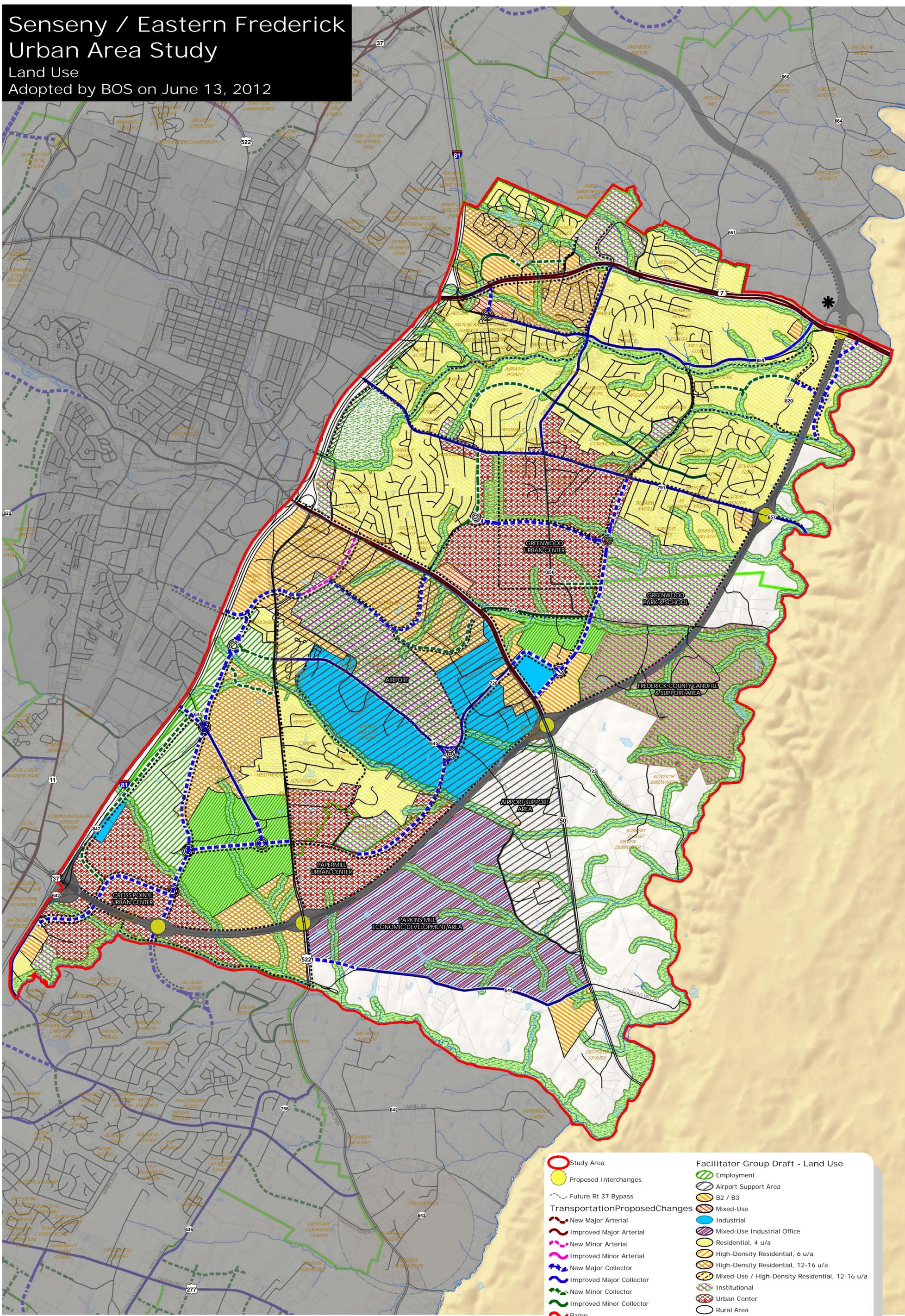
REZ # 02 - 14
Heritage Commons, LLC
PINs:
63 - A - 150, 64 - A - 10,
64 - A - 12

Note:
Frederick County Dept of
Planning & Development
107 N Kent St
Suite 202
Winchester, VA 22601
540 - 665 - 5651
Map Created: August 15, 2014
Staff: cperkins



Senseny / Eastern Frederick Urban Area Study

Land Use
Adopted by BOS on June 13, 2012



<ul style="list-style-type: none"> Study Area Proposed Interchanges Future Rt 37 Bypass New Major Arterial Improved Major Arterial New Minor Arterial Improved Minor Arterial New Major Collector Improved Major Collector New Minor Collector Improved Minor Collector Ramp Trails Roundabout 	<p>Facilitator Group Draft - Land Use</p> <ul style="list-style-type: none"> Employment Airport Support Area B2 / B3 Mixed-Use Industrial Mixed-Use Industrial Office Residential, 4 u/a High-Density Residential, 6 u/a High-Density Residential, 12-16 u/a Mixed-Use / High-Density Residential, 12-16 u/a Institutional Urban Center Rural Area Interstate Buffer Park Natural Resources & Recreation Landfill Support Area Future Route 37 ramps to be adjusted to align with future relocated Valley Mill Road.
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Heritage Commons, LLC Rezoning – VDOT Proffer Review Comments

December 1, 2014

VDOT Staunton District Planning has completed a review of the revised proffers for the Heritage Commons, LLC rezoning, dated November 12, 2014 and offers the following comments. Previous proffer submissions in August 2014, September 2014, and October 2014 have been previously reviewed and comments generated by VDOT. In addition to the proffer reviews, VDOT submitted a letter to Frederick County planning staff on October 21, 2014, prior to the Planning Commission public hearing that summarized outstanding concerns and comments:

1. The current proffers still provide no indication of the level of nonresidential development to be proposed on the property. Proffer #3 states that the nonresidential development on the site will be limited by the previously approved total site trip generation of 23,177 vehicles per day provided in the Russell 150 Traffic Impact Analysis (TIA). This figure includes the residential uses on the site and is calculated by utilizing the Institute of Transportation Engineers (ITE) land use trip rates. The proffer goes on to state that once the maximum trip generation is reached based on residential units and nonresidential floor area, the applicant/owner may conduct traffic counts to determine daily trips. If the results of the counts are less than the maximum 23,177 total site trips, then the applicant/owner can proceed with additional nonresidential development on the site until such time that traffic counts illustrate that the 23,177 figure is achieved. There are two issues with this proffer. First, there is no method that VDOT or Frederick County can utilize to track the level of development in terms of accumulating vehicle trips through the phasing/site plan submission process of this development. Second, the former Russell 150 TIA utilized the proposed development, as well as future background development and growth in the analysis and development of proposed mitigation improvements. This project is not a standalone entity, but a major component in the regional transportation network that provides an important link across Interstate 81. The effectiveness of the roadway system proposed through the development cannot and should not be measured from the site specific development alone.

In VDOT's opinion, Proffer #3 should be revised to provide specific maximum nonresidential development floor areas within each proposed land bay that as a total project generates less than the 23,177 vehicles per day threshold. If the applicant/owner wishes to exceed these proffered maximum development levels for any reason in the future, a proffer amendment should be required that includes a new traffic study in order for the additional development to be properly evaluated and approved.

It should be noted that the applicants phrasing of the 23,177 daily trips expands with each new sentence, which clouds the intent of the proffer. For example, the applicant first states that they will proffer that their development will generate no more than an average of 23,177 daily trips. Followed later with a statement that they will conduct counts once an average 23,177 *or greater* has been reached. Followed by a statement that once an *aggregate* total of daily trips

of their development has been determined that they may proceed with either (a) additional development measured only by a yet to be determined counting method or phasing or (b) additional transportation mitigation. Since traffic growth is incremental, and in certain cases dependent upon the success of adjacent development projects, the proffer as written offers no protection to the County, and in essence risks near unlimited development density with no ability to retract approval once granted.

2. An updated GDP has not been included with the current proffer submission to verify if changes have been made per previous VDOT review comments.
3. The Department strongly objects to the use of the term “dictate(s)” as suggested by the applicant as it relates to all aspects of the road and bridge projects. These road systems are of mutual interest to the applicant, Frederick County and VDOT as evidenced by the applicant’s willingness to wholly fund the Counties future revenue sharing apportionments. The Department has no intention to dictate the road requirements to serve a private development.
4. Proffer #3 has been revised to state the “applicant/owner agrees to enter into a separate binding agreement with Frederick County to provide for the reimbursement of Frederick County’s share of the cost to construct the road improvements on the Property and the bridge pursuant to the terms of the Project Administration Agreement”. However, specific details regarding the project related transportation improvements that the applicant/owner will be responsible for reimbursement to the county are not included in the proffer. If this detail is included in the referenced Project Administration Agreement, VDOT recommends that this document be included in the proffers as an exhibit and submitted for review.
5. Proffer #3 language addressing Warrior Drive states it is anticipated that the applicant/owner will enter into a separate Revenue Sharing Agreement with Frederick County at which time there is a separate Project Administration Agreement between Frederick County and VDOT to construct Warrior Drive through the property to the southern boundary. This proffer language does not provide a guarantee that Warrior Drive will be extended at a future date. It is VDOT’s opinion that the proffer be expanded to include at a minimum a requirement to provide a full design of Warrior Drive through the property to the southern boundary with the initial site plan submission on the property. This would ensure that a full design of the road is documented and approved.
6. The applicant continues to include the following false statement in their proffer *“In addition, Applicant/Owner has been made aware of and received copies of traffic studies performed by VDOT which confirm that the revised road alignment as shown on the attached and incorporated Generalized Development Plan is more than sufficient to address not only the impacts coming from and being generated by the proposed development of the Heritage Commons site but also will accommodate anticipated through trips as a result of constructing through connections (two*

to Route 522 and one to the City of Winchester at Tevis Street).” As the Department has stated on numerous times, **VDOT has never performed a study** to confirm the adequacy of a road alignment to support this private development project. Continuing to include this statement *after repeated attempts* by the Department requesting its removal, clouds the intent of the applicant’s proffers.



COMMONWEALTH of VIRGINIA

DEPARTMENT OF TRANSPORTATION
811 COMMERCE ROAD
STAUNTON, VIRGINIA 24401-9029
www.VirginiaDOT.org

Charles A. Kilpatrick, P.E.
Commissioner

October 21, 2014

Eric Lawrence
Director of Planning
Frederick County
107 North Kent Street, Suite 202
Winchester, VA 22601

Dear Mr. Lawrence:

This letter is in response to the current rezoning application for Heritage Commons (RZ# 02-14) as submitted to Frederick County on October 17, 2014 and scheduled for Planning Commission public hearing on November 5, 2014. Due to the limited review time in which the Virginia Department of Transportation (VDOT) received on the draft set of proffers prior to submission to the county, we would like to offer the additional observations for consideration by county planning staff and the Planning Commission. In a meeting held October 8, 2014 with the County, the Department and the Applicant, we feel it important to confer our understanding of the applicant's verbal commitments articulated during this meeting.

1. Proffer 2.C: To ensure that the wording more closely matches what we recall as the intent of the applicant's verbal proffer, we would suggest that the last sentence be revised as "The allowable percentage of business, commercial, industrial (Land Bay 7 only), office and/or retail development within individual Land Bays will be in accordance with the Land Bay Breakdown chart in Proffer 2.A.(2) above". We believe that the current wording of the proffer is unintentionally confusing in that it suggests there is no limit to the amount of nonresidential development associated with the project. The finalized maximum nonresidential development to be provided in Proffer 4 should also be included / referenced in Proffer 2.
2. Proffer 4: Throughout Proffer 4, the design of the internal road network on the subject property is referred to as a collaboration between Frederick County and VDOT only, when in fact, the land owner / developer has been included in the process from the beginning and will continue to be included in the process as the designs move forward.
3. Proffer 4: To ensure that the wording more closely matches what we recall as the intent of the applicant's proffer; we would suggest that the second paragraph contain additional description on the work included in the current Revenue Sharing Agreement between Frederick County and that the developer will be responsible for any reimbursements to the County. The current wording of the proffer could be misinterpreted that the developer will only be responsible for the road improvement on the subject property, but we recall that the developer would also be responsible for a portion of the roundabout and the Tevis Street bridge. We believe this is an important point requiring clarification to protect the County's interests.

4. Proffer 4: The third paragraph should be revised to state that all points of access, connections, and entrances as shown on the Generalized Development Plan (GDP) are conceptual. The placement and design of all development entrances shall be reviewed and approved during Final Site Plan. The GDP should be revised to add the word “potential” to all points of access / entrance labels and a general note that states the above should be included on the GDP.
5. Proffer 4: Please remove the fifth paragraph of Proffer 4 from the proffer statement. As previously discussed with the applicant, there have been no VDOT studies that indicate the current internal road design is sufficient to accommodate the Heritage Commons development. The only previous traffic study associated with the property is the Russell Farm Traffic Impact Analysis (TIA), prepared by Patton, Harris, Rust & Associates in 2004 that was part of the initial 2005 rezoning of the property.
6. Proffer 4: Paragraph six indicates that the nonresidential component of the project will not exceed 1,200,000 Gross Square Feet of use and that this will ensure that the overall project trip generation will not exceed the original Russell 150 rezoning traffic study (Russell Farm TIA). The trip generation summary from the Russell Farm TIA is provided below.

Table 2
Russell Farm
Trip Generation Summary

Code	Land Use	Amount	AM Peak Hour			PM Peak Hour			ADT
			In	Out	Total	In	Out	Total	
230	Townhouse/Condo	294 units	21	102	122	98	48	146	2,558
820	Retail	440,450 SF	232	149	381	799	866	1,666	17,802
710	Office	264,000 SF	359	49	408	64	311	374	2,817
	Total		612	299	911	961	1,225	2,186	23,177

Based on the proffered residential component of 1,200 single-family attached / multifamily units, there would be 12,737 remaining available daily trips for nonresidential use from the previous 23,177 daily trip total. This daily trip total could accommodate the following development based on Institute of Transportation Engineers (ITE) version 9 trip generation rates:

298,000 S.F. retail (ITE land use code 820)

Or

1,150,000 S.F. office (ITE land use code 710)

Or a *sample* combination of

175,000 S.F. retail, 100,000 S.F. light industrial (ITE land use code 110), and 400,000 S.F. office

As a result of this comparison of potential trip generation associated with the property and to ensure that the development will not exceed the total daily trips proposed in the Russell Farm TIA, in our opinion the nonresidential development described within the proffers should be more specific and maximum limits should be assigned for each type of nonresidential development. We're unclear who would be responsible for tallying, recording and approving the vehicle volume sub-totals created as part of future year site plan submittals as outlined in the current proffered arrangement.

7. Proffer 4: Consideration should be given to revise paragraph six to remove the language regarding the applicant/owner's ability to exceed the nonresidential development cap if the additional trip generation can be demonstrated to not have adverse impacts on the road network on the property. Once the maximum nonresidential development is determined and approved in the proffers, then any future deviation of that maximum development would require a proffer amendment, at which time a traffic study may be required to determine the potential impacts of the additional development.
8. Proffer 4: The fourth paragraph should be expanded upon in VDOT's opinion to include language to require a full design of Warrior Drive through the property to the southern property line be included with the initial site plan submission on the property by the applicant / developer. This would ensure that a full design of the road is documented and approved until such time that the road can be constructed by private developer or an additional Revenue Sharing Agreement between Frederick County and VDOT.
9. Exhibit C: Tevis Street typical sections should be revised to provide a minimum 16' wide to variable width median, which is consistent with current VDOT roadway design guidelines. This will ensure a minimum 4' wide concrete median along road segments where a left turn lane is introduced.

Should you have any questions, please feel free to contact me at 540-332 -2265.

Sincerely,

Jeffery A. Lineberry, P.E.
Transportation and Land Use Director
Virginia Department of Transportation - Staunton District
jeff.lineberry@VDOT.Virginia.gov

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Frederick County Public Schools

... to ensure all students an excellent education

K. Wayne Lee, Jr. LEED AP • Coordinator of Planning and Development • leew@frederick.k12.va.us

September 25, 2014

Mr. Ty Lawson
Lawson and Silek, P.L.C.
P.O. Box 2740
Winchester, VA 22604

Re: Heritage Commons Rezoning Application

Dear Ty:

Frederick County Public Schools has reviewed the Heritage Commons rezoning application submitted to us on September 18, 2014. We offer the following comments:

1. It is noted that there are no cash proffers and that the applicant's consultant has used an impact calculation different from the County's Development Impact Model. The applicant's calculation uses student generation rates based on only one existing development in Frederick County and does not match countywide student generation data. Please refer to the County's Development Impact Model for student generation rates based on countywide data.
2. The cumulative impact of this development and other developments in Frederick County will require construction of new schools and support facilities to accommodate increased student enrollment. This development proposal includes a range of possibilities. The case that generates the most students is 184 townhouses and 1,016 apartments. We estimate that, in this case, the development will house 309 students: 81 high school students, 69 middle school students, and 159 elementary school students. In order to properly serve these additional students, Frederick County Public Schools would spend an estimated \$3,482,000 more per year in operating costs (or \$2,902 average per unit per year) and an estimated \$12,693,000 in one-time capital expenditures (or \$10,578 average per unit). You will find, enclosed with this letter, a more detailed assessment of the estimated impact of Heritage Commons on FCPS, including attendance zone information.

Please feel free to contact me at leew@frederick.k12.va.us or 540-662-3888 x88249 if you have any questions or comments.

Sincerely,

K. Wayne Lee, Jr., LEED AP
Coordinator of Planning and Development

enclosure

cc: Dr. David Sovine, Superintendent of Schools
Mr. Albert Orndorff, Assistant Superintendent for Administration
Mr. John Grubbs, Transportation Director
Mrs. Elizabeth Brown, Supervisor of Driver Operations

Frederick County Public Schools
Development Assessment

Project Name: Heritage Commons
Assessment Date: September 25, 2014

Student Generation					
Housing Type	Housing Units#	Elementary School Student Generation	Middle School Student Generation	High School Student Generation	Total Student Generation
Single-Family Detached	0	0	0	0	0
Single-Family Attached	184	23	13	13	49
Multifamily	1,016	136	56	68	260
Mobile Home/Other	0	0	0	0	0
Totals	1,200	159	69	81	<u>309</u>

Capital Costs				
	Elementary School Cost (2014-19 CIP + one 3% inflation factor)	Middle School Cost (2015-20 CIP)	High School Cost (2015-20 CIP)	Total Capital Costs
School Cost	\$24,179,250	\$49,500,000	\$70,000,000	
Program Capacity	850	940	1,250	
Per Student Cost	\$28,446	\$52,660	\$56,000	
Students Generated by this Development	159	69	81	
This Development's Impact on FCPS Capital Costs	\$4,523,000	\$3,634,000	\$4,536,000	<u>\$12,693,000</u>
Average Capital Cost Per Unit				<u>\$10,578</u>

Annual Operational Costs			
	FY 2015 Budgeted Cost Per Student (FY2015 Budget)	Total Student Generation	Annual Impact
This Development's Impact on FCPS Operational Costs	\$11,269	309	<u>\$3,482,000</u>
Average Annual Operational Cost Per Unit			<u>\$2,902</u>

School Facility Information			
	Elementary School (Grades K-5)	Middle School (Grades 6-8)	High School (Grades 9-12)
2014-15 School Attendance Zone*	Evendale	Admiral Byrd	Millbrook
September 15, 2014 Student Enrollment	535	901	1,301
2014-15 Program Capacity	680	850	1,250

* - School Attendance Zones are subject to change.

- Using applicant's assumptions regarding number of housing units.

Frederick County Public Schools Comment #	Agency Comments *All comments are verbatim from FCPS's comment letter.	Applicant's Response to FCPS Comment	Agency Comments Addressed in Proffer?
Comment #1	No cash proffers	Agreed that no cash proffers are provided.	No
Comment #2	Consultant used an impact calculation different from the County's Development Impact Model.	Agreed that the Impacts analysis utilizes a different calculation. Applicant will be constructing market rate apartments and this is why a different student generation calculation is utilized instead of basing it on actual numbers from existing projects in Frederick County	No
Comment #3	Calculation uses student generation rates based on only one existing development in Frederick County and does not match countywide student generation data.	Market rate units will have higher rents, younger tenants, older professionals with a higher than average household income and therefore fewer school age children.	No
Comment #4	The cumulative impact of this development and other developments in Frederick County will require construction of new schools and support facilities to accommodate increased student enrollment.	(No Response)	No
Comment #5	This development proposal includes a range of possibilities. The case that generates the most students is 184 townhouses and 1,016 apartments. We estimate that, in this case, the development will house 309 students: 81 high school students, 69 middle school students, and 159 elementary school students.	The school impact models that have been generated from actual students living in existing apartment stock in Frederick County have no application to the Heritage Commons proposed rezoning. Looking at the market analysis the market rate multi-family projects are tax positive to Frederick County taking into account all expenses including, but not limited to, school expenses.	No
Comment #6	In order to properly serve these additional students, Frederick County Public Schools would spend an estimated \$3,482,000 more per year in operating costs (or \$2,902 average per unit per year) and an estimated \$12,693,000 in one-time capital expenditures (or \$10,578 average per unit).	The Impact Analysis report shows that the mix proposed by the Heritage Commons rezoning generates a net positive tax generation to Frederick County taking account all expenses including, but not limited to, the school expenses incurred by Frederick County.	No

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COUNTY of FREDERICK

Department of Public Works

540/665-5643

FAX: 540/678-0682

September 26, 2014

Mr. Thomas Moore Lawson
Lawson and Silek, PLC
120 Exeter Drive, Suite 200
P.O. Box 2740
Winchester, Virginia 22604

RE: Heritage Commons Rezoning Application
Frederick County, Virginia

Dear Mr. Lawson:

We have completed our review of the revised Proffers for the Heritage Commons development. Our review was aided in part by your timely response to our request for the latest copies of Exhibits A and B. Contrary to your response that these exhibits had not been changed from the last submittal, our review revealed numerous changes to both documents.

It should be noted that our previous review was based on documents and exhibits dated September 5, 2013. We never received any responses to this previous review dated September 20, 2013. I have attached copies of these previous comments so that you will not need to go to the trouble of researching your files.

The following comments are related to our review of the September 18, 2014 proffer revisions and related Exhibit A and B dated August 7, 2014 and July 30, 2014, respectively:

1. Refer to the Executive Summary, Page 1: The summary indicates that the proffered improvements shall be provided at the time of development of that portion of the site adjacent to the improvement. This statement is a marked deviation from the approved rezoning dated September 5, 2005 which indicates that all improvements will be constructed prior to granting the first building permit.
2. Refer to Paragraph 3, Capital Facility Impacts, Page 4: A copy of the economic market analysis was not included with the review package. Therefore, there is no way to determine if the actual construction of commercial development will offset the impact of the development of 1,200 residential units.

Heritage Commons Rezoning Application

Page 2

September 26, 2014

3. Refer to Paragraph 4, Multi-Modal Transportation Improvements, Page 4: The applicant has made the assumption that revenue sharing will be available for the construction of the road network within the proposed development. This assumption is a marked deviation from the approved rezoning which indicates that the applicant will be responsible for the design and construction of the entire road network within the proposed development. It should also be noted that the approved proffers included the design and construction of the Tevis Bridge over I-81. Accepting a proffer statement in the proposed format could possibly obligate Frederick County to pay for half the cost of the road network if the Virginia Department of Transportation (VDOT) failed to approve the revenue sharing request.

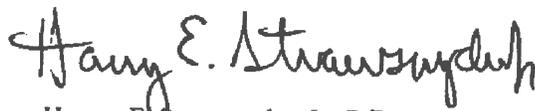
The discussion related to the construction of Warrior Drive is ambiguous and again assumes that revenue sharing will be available. This paragraph should be revised to indicate that the applicant will be responsible for providing the right-of-way, design and construction of Warrior Drive within the project limits.

4. Refer to Paragraph 8, Phasing, Page 6/7: The discussion of the residential development in paragraph 8A limits the construction to no more than four hundred (400) units every two (2) years. Consequently, Frederick County could anticipate that the proposed 1,200 residential units could conceivably be built out in six (6) years.

The subsequent discussion in paragraph 8B attempts to provide phasing between residential and commercial development. However, the construction of residential units is only limited to obtaining building permits for the commercial development. The phases should be specifically tied to actual completed construction, not just obtaining building permits. In addition, this discussion does not account for the entire 1,200 residential development and only references a total of 100,000 square feet of commercial development. We anticipate that the actual market analysis includes considerably more commercial development to justify a positive benefit. However, without a copy of the capital impact analysis, it is impossible to determine if the proposed phasing will provide an actual benefit to Frederick County. It is recommended that the phasing be revised so that the board of supervisors can clearly determine the potential impact to Frederick County.

I can be reached at 722-8214 if you should have any comments regarding the above comments.

Sincerely,



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

HES/rls

Attachments: as stated

cc: Planning and Development
file



SCANNED → NIA
ALLOCATED → 1
EMAILED → 9/20/13 als

COUNTY of FREDERICK

Department of Public Works

540/665-5643

FAX: 540/678-0682

September 20, 2013

Mr. Thomas M. Lawson, Esquire
Lawson and Silek, P.L.C.
120 Exeter Drive, Suite 200
P.O. Box 2740
Winchester, Virginia 22604

RE: Rezoning Application for Heritage Commons f/k/a Russell 150
Frederick County, Virginia

Dear Mr. Lawson:

We have completed our review of the proposed rezoning application for Heritage Commons (f/k/a Russell 150) and offer the following comments:

1. Refer to the amended proffer statement, page 4, paragraph 4, multi-modal transportation improvements: Expand the narrative to adequately describe the road network that will be installed by the owner. Also, revise the Generalized Development Plan included as proffer Exhibit "A" to adequately depict the road network that will be the responsibility of the owner outlined on this rezoning application. For example, the GDP does not clearly indicate that the bridge over I-81 is the total responsibility of the owner.

The amended proffer indicates that there will be a new design and installation that will occur as a result of a Revenue Sharing Agreement entered into by and between the Virginia Department of Transportation (VDOT) and Frederick County. This statement should be revised to indicate that this opportunity may be a potential possibility, but does not relieve the owner of the ultimate responsibility for installing the road network ultimately approved in this rezoning application.

2. Refer to Modification #8, Phasing: Phasing will be critical to the impact of this development on the services provided by Frederick County. Without phasing accountability, the actual financial impact cannot be realistically modeled. It could conceivably be possible to develop the entire residential component of 1,200 units without developing any of the commercial development. This occurrence would have a significant negative impact on Frederick County.
3. Refer to the Impact Analysis Statement: Provide separate narratives evaluating the impact of the proposed development on services provided by Frederick County including, but not limited to, water, sewer, solid waste and transportation.
4. Refer to Impact Analysis, Assumption for Development Program, Item #1: The tabulation of assumptions indicates that table #1 was based on 1,000 housing units. The narrative furnished

Heritage Commons Rezoning Application Comments

Page 2

September 20, 2013

with the revised proffer statement indicates that the proposed development will include 1,200 units. Rectify the conflict in the number of residential units.

I can be reached at 722-8214 if you should have any questions regarding the above comments.

Sincerely,

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

HES/rls

cc: Planning and Development
file

Frederick County Public Works Comment #	Agency Comments *All comments are verbatim from the Public Work's comment letter.	Applicant's Response to Public Works' Comment *All comments are verbatim from the applicant's response letter.	Agency Comments Addressed in Proffer?
<p>Comment #1 (9/20/2013)</p>	<p>Refer to the amended proffer statement, page 4, paragraph 4, multi-modal transportation improvements: Expand the narrative to adequately describe the road network that will be installed by the owner. Also, revise the Generalized Development Plan included as proffer Exhibit "A" to adequately depict the road network that will be the responsibility of the owner outlined on this rezoning application. For example, the GDP does not clearly indicate that the bridge over I-81 is the total responsibility of the owner.</p> <p>The amended proffer indicates that there will be a new design and installation that will occur as a result of a Revenue Sharing Agreement entered into by and between the Virginia Department of Transportation (VDOT) and Frederick County. This statement should be revised to indicate that this opportunity may be a potential possibility, but does not relieve the owner of the ultimate responsibility for installing the road network ultimately approved in this rezoning application.</p>	<p>As the Frederick County department of Public Works well knows, the road network is being designed by Pennoni Associates, which was engaged to do the work that is the subject of a cost sharing agreement between Frederick County and VDOT for not only the road network, which runs across Heritage Commons, but also connects to the City's Tevis Street by bridge over I-81 and also crosses the property owned by the neighbor (Glaize) to connect to Route 522 at a traffic lighted intersection.</p> <p>The applicant and owner are not able to commit to the exact details of said transportation system until such time as that design has been approved by Frederick County and VDOT.</p>	<p>Not all responsive changes made.</p> <p>The County is not designing the roads on the applicant's property, nor have the county and the applicant entered into any agreements.</p> <p>*Cross sections have not been proffered by the applicant.</p>
<p>Comment #2 (9/20/2013)</p>	<p>Refer to Modification #8, Phasing: Phasing will be critical to the impact of this development on the services provided by Frederick County. Without phasing accountability, the actual financial impact cannot be realistically modeled. It could conceivably be possible to develop the entire residential component of 1,200 units</p>	<p>We believe that the revised proffers do address in greater detail phasing and, in particular, a commitment to the delivery of 50,000sf of commercial for every 300 multifamily residential units. The applicant further points out that according to the economic analysis performed by Patz, the multifamily component as it is proffered as market rate project will, in fact, have a net positive fiscal</p>	<p>Not all responsive changes made.</p> <p>*This project is not proffered to be market rate.</p> <p>*The proffer does not</p>

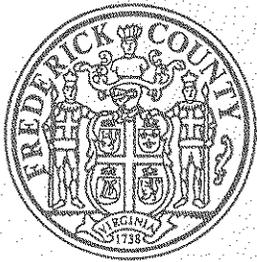
Frederick County Public Works Comment #	Agency Comments *All comments are verbatim from the Public Work's comment letter.	Applicant's Response to Public Works' Comment *All comments are verbatim from the applicant's response letter.	Agency Comments Addressed in Proffer?
	without developing any of the commercial development. This occurrence would have a significant negative impact on Frederick County.	impact and as such phasing of same is not warranted.	guarantee the construction of any commercial, only that building permits will be obtained.
Comment #3 (9/20/2013)	Refer to the Impact Analysis Statement: Provide separate narratives evaluating the impact of the proposed development on services provided by Frederick County including, but not limited to, water, sewer, solid waste and transportation.	With regard to the impact analysis for water, sewer, solid waste and transportation, the application has received a positive comment on the availability of water/sewer services from the Sanitation Authority. With regard to solid waste, the Applicant has proffered to install dumpsters as part of its development, which will through private service arrangements, dispose of any and all solid waste,	No The applicant has not proffered any form of trash removal on the property.
Comment #4 (9/20/2013)	Refer to Impact Analysis, Assumption for Development Program, Item #1: The tabulation of assumptions indicates that table #1 was based on 1,000 housing units. The narrative furnished with the revised proffer statement indicates that the proposed development will include 1,200 units. Rectify the conflict in the number of residential units.	The comment regarding the cap on residential units of 1,200 is correct.	N/A
9/26/2014 Comments			
Comment #1 (9/26/2014)	Refer to the Executive Summary, Page 1: The summary indicates that the proffered improvements shall be provided at the time of development of that portion of the site adjacent to the improvement. This statement is a marked deviation from the approved rezoning dated September 5, 2005 which indicates that all improvements will be constructed prior to granting the first building	The comment correctly confirms that development of the site can commence after rezoning is approved. It should be noted, however, that road transportation improvements are on a construction schedule wherein all road and bridge improvements are anticipated to be completed and installed by the summer of 2016. The applicant would very much like to commence construction and delivery of the improvements described by the rezoning, but as a practical matter, it is believed that under the aforementioned	Not all responsive changes made.

Frederick County Public Works Comment #	Agency Comments *All comments are verbatim from the Public Work's comment letter.	Applicant's Response to Public Works' Comment *All comments are verbatim from the applicant's response letter.	Agency Comments Addressed in Proffer?
	permit.	schedule the road and bridge improvements will be completed before the applicant receives certificate of occupancy for the properties.	
Comment #2 (9/26/2014)	Refer to Paragraph 3, Capital Facility Impacts, Page 4: A copy of the economic market analysis was not included with the review package. Therefore, there is no way to determine if the actual construction of commercial development will offset the impact of the development of 1,200 residential units.	A copy of the most recent report has been provided to the department. The report confirms that the proposed commercial development and the multifamily development, each tested separately, provide for a net positive fiscal impacts to the County. The revised proffer, which provides there will be a minimum of 50,000sf of commercial delivered with every 300 multifamily units delivers an even greater net positive fiscal impact.	Not all responsive changes made. *The proffer does not guarantee the construction of any commercial, only that building permits will be obtained.
Comment #3 (9/26/2014)	Refer to Paragraph 4, Multi-Modal Transportation Improvements, Page 4: The applicant has made the assumption that revenue sharing will be available for the construction of the road network within the proposed development. This assumption is a marked deviation from the approved rezoning which indicates that the applicant will be responsible for the design and construction of the entire road network within the proposed development. It should also be noted that the approved proffers included the design and construction of the Tevis Bridge over I-81. Accepting a proffer statement in the proposed format could possibly obligate Frederick County to pay for half the cost of the road network if the Virginia Department of Transportation (VDOT) failed to approve the revenue sharing request. The discussion related to the construction of Warrior Drive is ambiguous and again assumes that revenue sharing will be available. This	The applicant does understand that VDOT has approved a cost sharing agreement that allows for the construction system across Heritage Commons and also the adjoining property (Glaize) and then provides for a connection to Tevis street by a bridge crossing over i-81. The applicant is further aware that ther is yet another agreement entered into between the adjoining property owner (Glaize) and the City of Winchester, which provides for the connection of the bridge to Tevis street. The comment appears to question the interpretation of the cost sharing agreement. As the applicant understands this said agreement there is an obligation on both the locality and VDOT by virtue of the cost sharing agreement to complete construction and pay for said improvements. Thos agreements available, in fact, by and between municipality and VDOT and are commonly used throughout the Commonwealth to complete and deliver necessary road systems. The applicant has proffered to pay for Frederick County's share of said costs pursuant to the terms of said agreement. There is a proffer to dedicate Warrior Drive when there is a need for same and, in particular when the connection of Warrior Drive is made available through the dedication and	Not all responsive changes made. *The applicant has not entered into any agreement with Frederick County or VDOT to pay the county match for the revenue sharing agreement.

Frederick County Public Works Comment #	Agency Comments *All comments are verbatim from the Public Work's comment letter.	Applicant's Response to Public Works' Comment *All comments are verbatim from the applicant's response letter.	Agency Comments Addressed in Proffer?
	<p>paragraph should be revised to indicate that the applicant will be responsible for providing the right-of-way, design and construction of Warrior Drive within the project limits.</p>	<p>construction of Warrior Drive on the adjoining property to the south. The applicant does not see any benefit in building a road at great cost and expense that dead-ends and provides no additional access at this point in time. The applicant is certainly most interested in providing for Warrior Drive when the road does connect to the adjoining property and, therefore the road construction will be put in use for not only vehicular, but also multi-modal transportation.</p>	
<p>Comment #4 (9/26/2014)</p>	<p>Refer to Paragraph 8, Phasing, Page 6/7: The discussion of the residential development in paragraph 8A limits the construction to no more than four hundred (400) units every two (2) years. Consequently, Frederick County could anticipate that the proposed 1,200 residential units could conceivably be built out in six (6) years.</p> <ul style="list-style-type: none"> The subsequent discussion in paragraph 8B attempts to provide phasing between residential and commercial development. However, the construction of residential units is only limited to obtaining building permits for the commercial development. The phases should be specifically tied to actual completed construction, not just obtaining building permits. In addition, this discussion does not account for the entire 1,200 residential development and only references a total of 100,000 square feet of commercial development. We anticipate that the actual market analysis 	<p>As stated previously, it should be noted that the multifamily residential units are a net positive impact to Frederick County and, therefore, limiting same does not seem to be in Frederick County's interest. With regard to the comment about the proffer to deliver commercial along with multifamily residential, the applicant is, in fact, committing to deliver at least 50,000sf of commercial for every 300 multifamily units. To the extent that Frederick County believes this is ambiguous, the Applicant will be pleased to rephrase the proffer to confirm same.</p>	<p>Not all responsive changes made.</p> <p>*The proffer does not guarantee the construction of any commercial, only that building permits will be obtained.</p>

Frederick County Public Works Comment #	Agency Comments *All comments are verbatim from the Public Work's comment letter.	Applicant's Response to Public Works' Comment *All comments are verbatim from the applicant's response letter.	Agency Comments Addressed in Proffer?
	<p>includes considerably more commercial development to justify a positive benefit. However, without a copy of the capital impact analysis, it is impossible to determine if the proposed phasing will provide an actual benefit to Frederick County. It is recommended that the phasing be revised so that the board of supervisors can clearly determine the potential impact to Frederick County.</p>		

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December 3, 2014

Thomas Moore Lawson, Esq.
Lawson and Silek, P.L.C.
P.O. Box 2740
Winchester, Virginia 22604

Re: Rezoning Application – R 150 SPE, LLC property “Heritage Commons” (f/k/a Russell 150), Parcel Numbers 63-A-150, 64-A-10, 64-A-12, consisting of 150.59± acres – Proffer Statement, 8th revision, dated November 24, 2014

Dear Ty:

You have submitted to Frederick County for review the above-referenced proposed 8th revised proffer statement (the “Proffer Statement”) for the proposed rezoning of the indicated property (the “Property”) in the Shawnee Magisterial District from the RA (Rural Areas) District, the RP (Residential Performance) District, with proffers, and the B2 (General Business) District, with proffers, to the R4 (Residential Planned Community) District, with proffers. I have reviewed the Proffer Statement and it is my opinion that the Proffer Statement would only be in a form to meet the requirements of the Frederick County Zoning Ordinance and the Code of Virginia, and would only be legally sufficient as a proffer statement, subject to the following comments:

- Executive Summary – 1st paragraph, last sentence – When we met on November 10, we discussed revision of the “unless” clause to read “unless otherwise specified herein or required by ordinance”.
- Proffer 1 – Design Modifications – 1st paragraph – Clarity would be best achieved if the term “market rate” were defined.
- Proffer 1 – Design Modifications – 2nd paragraph – This remains unclear, in particular the first sentence, which appears to require County approval of any modifications with respect to any subject previously addressed in the Proffer Statement. This would illegally

divest the Board of Supervisors of its authority to determine the zoning of properties, including as to allowed uses.

- Proffer 1 – Design Modification 9 – Phasing – To avoid any ambiguity, it would be helpful if the alternative design standard set forth in this modification stated, “A Phasing Plan and Phasing Schedule shall not be required for the Heritage Commons project, other than as set forth in Section 7 of the Proffer Statement.”
- Proffer 1 – Design Modification 11 – Multifamily Residential Buildings – The modification does not make clear that, for these structures, which in fact may contain mixed residential and commercial uses, the only design modification is to the front setback.
- Proffer 2(A)(1) – Uses, Density, and Mix – Some of the housing types do not appear in the County Code; they should each have a design modification stating the design standards for such types, such as is proposed for modified apartment buildings in Design Modification 12.
- Proffer 4 – Transportation – 1st through 4th paragraphs:
 - As a general comment for the Board of Supervisors and staff, the Proffer does not actually commit to construct any roads other than those directly necessary to serve specific structures and specific aspects of development on the site.¹ The most recent draft we have received of a Revenue Sharing Agreement provides for the County to extend unsecured financing to R 150 SPE, LLC and/or Heritage Commons, LLC, neither of which is believed to hold any assets other than interests in the Property itself.² Accordingly, upon any default by R 150 SPE, LLC and Heritage Commons, LLC, no means would exist for the construction of the road system, other than the use of public funds.
 - Also as a comment for the Board of Supervisors and staff, Exhibit C identifies the exemplar road sections as pertaining only to Tevis Street and the bridge. The Proffer makes no commitment as to the lane configurations and road section for any road other than Tevis Street and the bridge.
 - Finally, I note that it seems that the language in these paragraphs could be simplified considerably by stating, in not more than two or three short sentences, just that the roads shall be as depicted in the GDP and Exhibit C and that Applicant/Owner will enter into a Revenue Sharing Agreement (no need for

¹ Considered in the context of the phasing provisions of Proffer 7, the Applicant/Owner could, for instance, develop as many as 599 housing units and 50,000 square feet of commercial space and only be required to construct the roads necessary to serve that housing and commercial space. The majority of the roads necessary would not be those shown on the GDP, but instead be just those internal to the residential portion.

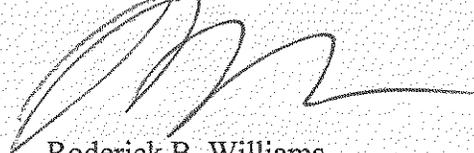
² Use of the Property as security is not viable, in light of the substantial future CDA Assessment obligations against the Property, which obligations would have priority over any mortgage or deed of trust against the Property.

separate Project Administration and Revenue Sharing Agreements) for their construction.

- Proffer 4 – Transportation – 5th and 6th paragraphs – To ensure enforceability of these provisions, the Proffer should state that no further building permits shall be issued if the development exceeds the indicated trip generation. Also, the Board of Supervisors and staff should be aware that the Proffer requires an actual vehicle count (which would likely involve measurements at a number of different locations within the Property and potentially be impractical) in addition to an ITE Manual determination.
- Proffer 7(B) – Phasing – The term “market rate” should be deleted, so that, in the event of any impediments to the development of market rate units, the Proffer remains clear that no units (market rate or otherwise) shall be constructed prior to satisfaction of the commercial development provisions.

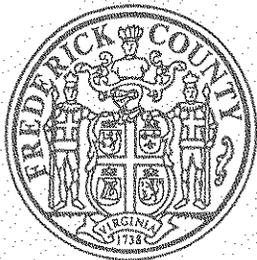
I have not reviewed the substance of the proffers as to whether the proffers are suitable and appropriate for this specific development.

Sincerely yours,



Roderick B. Williams
County Attorney

cc: Board of Supervisors
John R. Riley, Jr., County Administrator
Eric R. Lawrence, Director of Planning and Development
Candice E. Perkins, Senior Planner



COUNTY of FREDERICK

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September 30, 2014

VIA E-MAIL – tlawson@lsplc.com – AND REGULAR MAIL

Thomas Moore Lawson, Esq.
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P.O. Box 2740
Winchester, Virginia 22604

Re: Rezoning Application – R 150 SPE, LLC property “Heritage Commons” (f/k/a Russell 150), Parcel Numbers 63-A-150, 64-A-10, 64-A-12, consisting of 150.59± acres – Proffer Statement dated September 18, 2014

Dear Ty:

You have submitted to Frederick County for review the above-referenced proposed proffer statement (the “Proffer Statement”) for the proposed rezoning of the indicated property (the “Property”) in the Shawnee Magisterial District from the RA (Rural Areas) District, the RP (Residential Performance) District, with proffers, and the B2 (General Business) District, with proffers, to the R4 (Residential Planned Community) District, with proffers. I have now reviewed the Proffer Statement and it is my opinion that the Proffer Statement would only be in a form to meet the requirements of the Frederick County Zoning Ordinance and the Code of Virginia, and would only be legally sufficient as a proffer statement, subject to the following comments:

1. Designation of “Applicant” and “Record Owner”; power of attorney – The materials indicate that Heritage Commons, LLC is the Applicant and that R 150 SPE, LLC is the Record Owner. As the materials, including the Proffer Statement, already contemplate, signatures on behalf of R 150 SPE, LLC will be necessary. In addition, if Heritage Commons, LLC and/or any other person or entity is going to represent the interests of R 150 SPE, LLC with respect to the rezoning application, then R 150 SPE, LLC will need to execute a power of attorney granting authority to such person(s). Finally, I note that, repeatedly throughout the Proffer Statement, the

Proffer Statement indicates that the "Applicant" commits certain undertakings. In order to be effective, the commitments in the Proffer Statement need to be made by the "Record Owner" or, if so defined, the "Owner".

2. Rezoning Number – The Proffer Statement currently identifies the rezoning as RZ# 01-05. This reference should be to the current rezoning, RZ# 02-14.

3. Executive Summary – 1st sentence – Proffer statements themselves customarily include only specific future commitments with respect to the subject property and, as such, do not customarily and in fact have no reason to recite the zoning history of the subject property. Accordingly, the first sentence is completely unnecessary surplusage and should be deleted.

4. Executive Summary – 1st paragraph, last sentence – The timing commitment in this sentence, that proffered improvements "shall be provided at the time of development of that portion of the site adjacent to the improvement", renders the Proffer Statement inappropriately vague. Does "time of development" mean prior to site plan, prior to building permit, prior to occupancy permit, or something else? Not only does this vagueness substantially limit the efficacy of staff review of the Proffer Statement, but it would also present a myriad of potentially significant interpretation problems as the Property develops.

5. Proffer 1 – Design Modifications – County Code § 165-501.06(O) provides, in pertinent part, "An applicant may request as part of an application for rezoning to the R4 District that a modification to specific requirements of the Subdivision Ordinance, this chapter or other requirements of the Frederick County Code applicable to physical development be granted." Therefore, this proffer could simply state, "Pursuant to County Code § 165-501.06(O), the design modifications set forth in Exhibit B shall apply to the Property." The lengthy language of this proffer, in particular that of the paragraph following A and B, is unnecessary and unclear. If there is an actual need for the concluding paragraph, then it needs to be simplified down to perhaps a single sentence and it should under no circumstance purport to state any obligation on behalf of the County. With respect to the particular design modifications proposed, the following comments are in order:

- Modification #1 – § 165-501.02 – Rezoning procedure – While the Proffer Statement proffers reasons for waiving the requirement of a master development plan to be submitted with the Proffer Statement, the proposed modification lacks specificity with respect to precisely when any master development plan(s) would be provided. It might be appropriate to state that a master development plan would be provided for a particular land bay prior to issuance of any permits for work on that land bay.
- Modification #2 – § 165-501.03 – Permitted Uses – The proposed alternative standard states that M1 uses would be permitted, but this is inconsistent with Modification #5,

which states that “industrial uses should ... not [be] allowed” in the Heritage Commons Land Bays.

- Modification #5 – § 165-501.06(D) – Commercial and industrial areas – The proposed alternative standard states that “industrial uses should ... not [be] allowed”, but does not indicate exactly which uses/zoning district uses would not be allowed, namely whether this is just uses in the M1 District or also those in the B3 District or some subset(s) of one or both of those districts. Also, the proffer would do well to replace the word “should” with “shall”.
- Modification #9 – § 165-501.06(M) – Phasing – Please see the comment in number 15 below regarding phasing for this development. I also note that § 165-501.06(M)(3) requires that a “reasonable balance shall be maintained between residential and nonresidential uses”.
- Modification #10 – § 165.201.03(B)(6) – Height Limitations – Staff should be aware that this proposed modification has been revised now to exclude entirely from the height limitations “architectural screening features” and “antenna structures.” Such features and structures would apparently be subject to no limit under the proposed modification.
- Modification #11 – § 165-402.09(J)(D1) – Multifamily residential buildings – This modification, and the Proffer Statement in other places, refers to residential and commercial uses being contained in the same buildings in some instances, but the Proffer Statement does not include any design standards for carrying out such a concept.

6. Proffer 2(A)(1) – Uses, Density and Mix – This proffer identifies certain housing types – single-family attached, multi-family, gated single-family attached, and gated multi-family – that the Property “may include”. Some of the housing type terms do not appear in the County Code. To prevent any ambiguities, a best practice would be for this proffer to use only those terms contained in County Code § 165-402.09. Also, by use of the term “may include”, this proffer is ambiguous as to whether it prohibits other housing types that the County Code otherwise allows in RP zoning (which the R4 zoning follows for residential uses). If other housing types are to be prohibited, then this proffer should so state. If other housing types are not to be prohibited, then there is no purpose for the inclusion of Proffer 2(A)(1), as it has no effect.

7. Proffer 2(C) – Uses, Density and Mix – Other than stating the unit cap of 1,200 residential units within Land Bays 3, 5, and 7 and stating that no townhouses will be built in any Land Bay other than Land Bay 7, the proffer does not state any obligation and, accordingly, the remainder of the language in the proffer should be deleted.

8. Proffer 3 – Capital Facility Impacts – The purpose of a proffer statement is to state the obligations to be imposed upon the property being rezoned. Proffer 3 states no obligations. If the desire of the Owner and/or the Applicant is to include a paragraph regarding capital facility

impacts, the paragraph, should simply state, "Owner makes no monetary proffers to address any County capital facilities impacts." Also, please see the comment in number 15 below regarding phasing for this development. Finally, the undersigned previously provided certain comments on the impact analysis statement dated September 5, 2013, accompanying the proposed Proffer Statement of the same date; the County has since received an impact analysis statement dated October 2013 and this letter does not attempt to respond to that analysis.

9. Proffer 4 – Transportation – Paragraph 1 – The second sentence does not state an obligation of the Owner and therefore is inappropriate for inclusion in the proffer and should be deleted. The third sentence purports to obligate the County to enter into agreements with VDOT and the Applicant (should be Owner). The Board of Supervisors does not have the authority to commit to a future affirmative act in the context of a proffer statement and, therefore, the sentence should be deleted. With the deletion of the third sentence, the fourth sentence might best read, "Owner agrees to participate in one or more VDOT revenue sharing agreements for the funding of the design and the funding of the installation of the road network, which shall be in substantial conformance with the designs set forth in Exhibit A." The sentence should also indicate the level of Owner's "participation". Finally, the last sentence is not sufficiently definite at this point.

10. Proffer 4 – Transportation – Paragraph 2 (Warrior Drive) – The proffer is not sufficiently definite. With respect to right-of-way dedication, the proffer would best commit to a general location for right-of-way and to dedicate, at a specific time, right-of-way in substantial conformance with such location.

11. Proffer 4 – Transportation – Paragraph 3 – The proffer does not appear to state any obligation.

12. Proffer 6 – Recreational Amenities – The first two sentences do not state any obligations beyond any existing ordinance obligations and, as such, are not appropriate for inclusion in a proffer statement. Also, with respect to the provision of the last sentence of the first paragraph, it likewise does not state an obligation, with respect to public access, as it states only that "it is intended that the ... trail(s) ... will be available for public access."

13. Proffer 7 – Comprehensive Plan Conformity – This proffer is inappropriate, as it does not provide for what would be considered adequate notice for purposes of mandatory reviews under Va. Code § 15.2-2232. Specifically, at present, the Proffer Statement itself identifies only the trail as a public facility. Section 15.2-2232 requires: "unless a feature is already shown on the adopted master plan or part thereof or is deemed so under subsection D, no street or connection to an existing street, park or other public area, public building or public structure, ... whether publicly or privately owned, shall be constructed, established or authorized, unless and until the

general location or approximate location, character, and extent thereof has been submitted to and approved by the commission as being substantially in accord with the adopted comprehensive plan or part thereof.” The effect of the proffer, if approved, would prevent any and all review under Va. Code § 15.2-2232 of any and all additional public facilities, including in particular as to the “character” and “extent” of such facilities, and again, other than the trail, the Proffer Statement currently provides no information regarding the “character” and “extent” of any such future facilities.¹

14. Proffer 8(A) – Phasing (biannual development limits) – The statement that “Applicant is prepared to commit that no more than four hundred (400) residential units will be developed and built within the first two (2) years of development” does not state an obligation. It should simply state that “no more than 400 residential units will be built” within the stated period.

15. Proffer 8(B) – Phasing (commercial development triggers) – The proffer, by referring to the issuance of building permits for commercial development, does not state a meaningful obligation for purposes of phasing. Mere issuance of a building permit, as the proffer currently commits, in no way obligates the construction of a structure, for purposes of rendering the phasing meaningful. Furthermore, not even the building permit trigger would affect the maximum 184 townhouses permitted on the Property. The proffer would best refer to issuance of an occupancy permit as the relevant event.

I have not reviewed the substance of the proffers as to whether the proffers are suitable and appropriate for this specific development, as it is my understanding that review will be done by staff and the Planning Commission.

Sincerely yours,



Roderick B. Williams
County Attorney

cc: Eric R. Lawrence, Director of Planning and Development
Candice E. Perkins, Senior Planner

¹ The exception in subsection D of Va. Code § 15.2-2232 does not apply in the current circumstances because subsection D requires: “the governing body has by ordinance or resolution defined standards governing the construction, establishment or authorization of such public area, facility or use or has approved it through acceptance of a proffer made pursuant to § 15.2-2303.” The Board of Supervisors has not by ordinance or resolution defined such standards. Likewise, as the Proffer Statement identifies only the trail, the Board of Supervisors cannot be considered to have approved any other facilities by acceptance of the Proffer Statement.



September 23, 2014

Mr. Thomas Moore Lawson
Lawson and Silek, P.L.C.
P.O. Box 2740
Winchester, Virginia 22601

**RE: Rezoning #02-14 of the Heritage Commons Project (former Russell 150)
Property Identification Number (PIN): 63-A-150, 64-A10, 64-A-12
Second Comments**

Dear Mr. Lawson:

I have had the opportunity to review the revised proffer for the Heritage Commons project dated September 7, 2013 and revised September 18, 2014. Staff's review comments are listed below for your consideration. A revised modification document and GDP were not provided with this submittal and therefore staff's previous comment letter dated September 12, 2013 should also be referenced.

Rezoning Comments

- 1. Proffer 2 Uses, Density and Mix.** As stated in staff's September 12, 2013 comment letter, the proffer should show a maximum and minimum percentage of commercial and residential acreage being proposed with this rezoning. This area is proposed to consist of business/commercial and residential land uses and therefore, B3 (Industrial Transition) uses should be prohibited on the site.
- 2. Impact on Community Facilities.** As previously stated in staff's September 12, 2013 comment letter, as part of your rezoning package a market and fiscal impact analysis was submitted that showed a positive fiscal gain; however, there is no proffered phasing or requirement that the commercial portion be constructed before the residential. The development impact model projects a negative impact of \$13,062 per single family attached unit and \$11,339 per multifamily unit on County capital facilities. Therefore, based on the unit cap of proffer 2C, the potential impact the residential units will have on County facilities is \$13.9 million. The development should not utilize the future potential tax contributions of the commercial landbays to offset the residential landbays without phasing the commercial to be built in conjunction with the residential.

3. **Updated Fiscal Impact Analysis.** Staff was advised that the Fiscal Impact Analysis was updated to address inaccuracies in the input data. To date staff has not received a copy of this updated document.
4. **Monetary Proffers Omitted from New Rezoning.** As stated in staff's September 12, 2013 comment letter, it should be clarified why the new rezoning application has removed the following previously proffered monetary proffers:
 - \$10,000 to Fire and Rescue
 - \$3,000 per unit for Schools
 - \$2,500 HOA start up proffer
 - 1 million for the general transportation fund (\$3,500 per residential unit)
5. **Proffer 6 – Recreational Amenities.** As previously stated in staff's September 12, 2013 comment letter, this proffer speaks in general terms of what could be constructed as recreational amenities for the project, but does not commit to construct anything. Unless the owner is proffering a specific amenity, the proffer should be eliminated and the exact recreational unit type would be specified at the MDP stage. The proffer also states that walking trails and sidewalks will be provided within the community; the trail locations should be located on the GDP. Please note that sidewalks along roadways are required by County Code.
6. **Proffer 6 – Phasing.** The revised phasing proffer states that the applicant would need to apply for and receive a building permit for 50,000sf of commercial in order to construct the first 300 multifamily units. The proffer also states that this 50,000sf of commercial area would need to be constructed before the applicant could construct the 600th or greater multifamily units. This proffer does not guarantee the construction of any commercial square footage to offset impacts from the first 300 residential units; it simply guarantees that a building permit for a commercial use would be obtained. A more appropriate proffer should address acquisition of a Certificate of Occupancy for the commercial use. As written, the proffer would allow the construction of 599 multifamily units and 184 townhouses prior to any commercial development being constructed. This is not consistent with the Patz suggested phased approach to maintain economic balance, nor does this phasing proffer guarantee to offset impacts from residential uses. As written, the phasing proffer provides little if any benefit to the County and development.
7. **Mixed Use Development.** The proposed R4 zoning being sought with this rezoning application would enable a mixed use development; however, there are no assurances within the proffer statement that a core/town center area will be provided. As proffered, the development would be a traditional residential and commercial project, with the uses being clearly separate from one another.

Other

8. **Transportation Comments.** Please note that transportation comments on the rezoning application from John Bishop, Deputy Director of Transportation, are being provided to you in a separate letter.
9. **Agency Comments.** Please provide updated agency comments from the following (based on the updated proffer statement): Virginia Department of Transportation, Frederick County Department of Public Works, Frederick County Fire Marshall, Frederick County Department of Parks and Recreation, Frederick County Sanitation Authority, Frederick-Winchester Health Department, Frederick County Public Schools, the local Fire and Rescue Company and the Frederick-Winchester Service Authority. Once attorney comments are received by the Planning Department, they will be forwarded to your office. Attorney comments are required for scheduling of the rezoning application.

Please feel free to contact me with questions regarding this application.

Sincerely,


Candice E. Perkins, AICP
Senior Planner

CEP/pd



September 24, 2014

Mr. Thomas Moore Lawson
Lawson and Silek, P.L.C.
P.O. Box 2740
Winchester, Virginia 22604

**RE: Rezoning #02-14 of the Heritage Commons Project (former Russell 150) Property
Identification Number (PIN): 63-A-150, 64-A-10, 64-A-12**

Dear Mr. Lawson:

This letter contains my comments on the updated proffer statement for the above noted rezoning received in this office on 09/18/2014 at approximately 4:00 p.m. and with a revision date of September 18, 2014. Thank you for the opportunity to comment. Please note that I am commenting from the transportation perspective.

My comments are as follows:

1. The version I received did not initially have a GDP which was referenced in the proffers. However, a GDP (unchanged from the original) was received in our office on September 23, 2014 and I will consider that as the GDP being referenced. If for some reason this is incorrect, I can modify my comments as needed.
2. Regarding the GDP, as I noted at the work session on September 3, 2014, it denotes several entrances that have not been modeled or evaluated and should be removed from this graphic. Proposed entrances should stand on their own merits relative to the prevailing VDOT standards for design and safety as well as local planning and should not be proffered unless what is being proffered is more restrictive than the current standard. I do not have concern with the updated general alignment that is shown.
3. While residential units are capped, there is no such limitation of office and commercial. This leads me to be concerned that this application may not be in compliance with Chapter 527. I have requested a determination on this from VDOT. To avoid this issue, I would recommend proffering a development cap that would keep trip generation in line with what was considered at the previous rezoning. The current narrative in the third paragraph of section 4 does not accomplish this. Right now that paragraph only seems to state what the author's interpretation of what studies have said, and what the applicant's engineer has said, and doesn't really appear to proffer anything. As such, it likely should not be in the proffer statement, but would more appropriately be included in another portion of the application.

Page 2

Mr. Thomas Moore Lawson

Re: Rezoning Heritage Commons

September 24, 2014

4. As noted on September 3, 2014 the proffer continues to lack the detail, assurances, and performance triggers that were included in the existing proffer. The existing proffer is very specific in regards to Tevis St, Airport Rd, Warrior Drive, and the bridge over I-81. This proposed proffer relies instead on the GDP, which does not include an appropriate level of detail and does not have any performance triggers. While it is clear that the applicant intends to enter into agreement with the County for revenue sharing, there is no protection should the applicant and County be unable to come to terms. I would note that the existing proffer package guarantees the roads, details the roadways and performance triggers, and notes that the roads will be built even if the CDA is unable to do so.
5. This proposed proffer has no mention of the currently proffered bridge over I-81.
6. The proffered \$1,000,000 in funds toward the transportation system has been removed as previously noted on September 3, 2014.
7. Paragraph 1 of section 4 continues to place the County into the position of agreeing that what is being proposed is substantially similar to what is already proffered. As noted on September 3, 2014, this is inappropriate.

Thank you for the opportunity to comment. If I can be of further assistance, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'John A. Bishop', with a large, stylized flourish extending to the right.

John A. Bishop, AICP
Deputy Director-Transportation

JAB/pd



November 17, 2014

Mr. Thomas Moore Lawson
Lawson and Silek, P.L.C.
P.O. Box 2740
Winchester, Virginia 22604

**RE: Rezoning #02-14 of the Heritage Commons Project (former Russell 150)
Property Identification Number (PIN): 63-A-150, 64-A10, 64-A-12**

Dear Mr. Lawson:

I have had the opportunity to review the revised proffer for the Heritage Commons project dated September 7, 2013 and revised November 12, 2014. Staff acknowledges that many of the issues discussed at our meeting on Monday, November 10, 2014 have been addressed in the revised proffer; however, there are additional concerns still present with this rezoning application. Staff's review comments are listed below for your consideration.

Rezoning Comments

- 1. Agency Comments.** Many of the Review Agency concerns and comments remain unaddressed, specifically VDOT, FCPS, Parks and Recreation, County Attorney and Public Works.
- 2. Phasing and Impact on Community Facilities.** The negative fiscal impacts associated with the residential uses proposed on the property have not been satisfactorily addressed. The applicant's Market and Fiscal Impact Analysis (MFIA) by S. Patz & Associates shows a positive fiscal gain; however, the Patz report utilizes full build-out of the commercial and residential landbays to achieve this figure (15+/- years, 1,200 market rate residential units and 700,000sf of commercial). The phasing proffer does not achieve what the Patz model is utilizing to achieve the positive fiscal gain. The MFIA also fails to have addressed concerns raised by the Commissioner of the Revenue and the Treasurer, so its results are questionable.
- 3. Access to Landbay 7.** As currently depicted, access to this landbay will solely be from Route 522. The land use table shows that this area (the largest landbay within the development) could be up to 90% residential and is proffered to contain all the townhouses. Staff has concerns that all the residential units could be constructed within this landbay (plus commercial) and there will be no access to Warrior Drive and the main transportation network within the development.
- 4. Compliance with the 2030 Comprehensive Plan.** The land uses shown within landbays 3 and 7 are not supported by the 2030 Comprehensive Plan. The proffers

show landbay 3 with mixed residential and commercial land uses, the Comprehensive Plan designates this area for employment land uses. The proffers show landbay 7 (53.95 acres) with the ability to develop with 100% commercial uses. The Comprehensive Plan shows the entire area that encompasses landbay 7 as high density residential. Introducing commercial uses into landbay 7 is not supported by the 2030 Comprehensive Plan.

- 5. Mixed Use Development.** The proposed R4 zoning being sought with this rezoning application would enable a mixed use development; however, there are no assurances within the proffer statement that a core/town center area will be provided. As proffered, the development would be a traditional residential and commercial project, with the uses being clearly separate from one another.

Transportation Comments

- 6. Removal of \$1,000,000 cash proffer to transportation.** The Russell 150 TIA, upon which this application is reliant and references with the trips limitation proffer, noted significant offsite impacts in addition to those that led to the proffered needs of the Warrior Drive connection to the south, connection to the north toward the Glaize property, and connection to the City via a bridge over I-81. This led to a \$1,000,000 cash proffer which is not in the current package.
- 7. Development ahead of transportation.** The current proffer should clarify that development will not occur ahead of implementation of the transportation system. While some concurrent development as the transportation system is being constructed would be sensible, protections should be in place so that significant development could not occur ahead of key roadway connections being in place, particularly the bridge over I-81.
- 8. Warrior Drive.** Consider adding performance triggers tied to development for the Warrior Drive revenue sharing agreement. Currently the proffer gives no 'when' regarding how this will be implemented. The County can apply for additional revenue sharing funds for this project as early as November 2015.
- 9. Revenue Sharing Agreement.** The roadway construction proffers remain solely reliant upon a revenue sharing agreement that does not yet exist. The County draft was rejected and staff rendered comment on a subsequent draft from the applicant on 10/29/14. However, nothing further has been heard at the staff level. At this point, the proffers do not address what happens if the proffered agreement does not materialize. At a minimum, staff would suggest an additional proffer that would restrict development without an executed revenue sharing agreement between the County and the applicant.
- 10. Narrative comments in the proffer statement.** Staff would continue to note that

the narrative comments in the proffer statement that are not actual proffers should be removed and such comments confined to your write up and/or presentation to the Board.

Modification Document

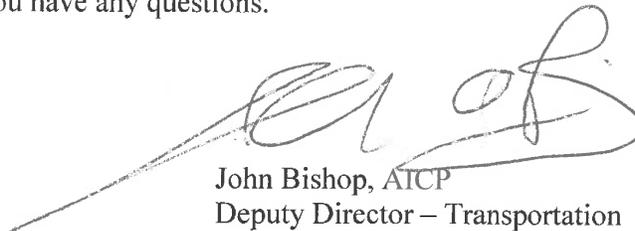
- 11. Modification #5.** The decrease of open space from 30 to 10% seems excessive. The minimum open space for B2 zoned developments is 15% and the minimum for mixed residential development is 30%. The justification for the modification states that rooftop green spaces and amenities could be provided, however there are no proffers or guarantees that these types of amenities will be provided. This modification has the potential to create a community with no outdoor areas for recreation and/or open space. Please note that open spaces do not have to be green areas, they can consist of central plazas and squares and therefore a proffer to provide these types of amenities is encouraged to justify any open space modifications. The modification needs to include the total acreage contained within the stream valley and within the developed portions of the property. It does not appear that the justification provided supports the request for the reduction.

- 12. Modifications.** The rezoning package indicates that there is a desire to build residential units connected to commercial units (either on the second or higher floors or attached). As discussed the modification document should be updated to also allow uses and setbacks currently allowed in the TNDB Overlay District.

Please contact staff should you have any questions.

Sincerely,


Candice E. Perkins, AICP
Senior Planner


John Bishop, AICP
Deputy Director – Transportation

CEP/pd



COUNTY of FREDERICK

Department of Planning and Development
540/ 665-5651
Fax: 540/ 665-6395

December 1, 2014

Mr. Thomas Moore Lawson
Lawson and Silek, P.L.C.
P.O. Box 2740
Winchester, Virginia 22604

**RE: Rezoning #02-14 of the Heritage Commons Project (former Russell 150)
Property Identification Number (PIN): 63-A-150, 64-A10, 64-A-12**

Dear Mr. Lawson:

Staff is currently finalizing the staff report for this application, which is scheduled for a public hearing before the Board of Supervisors on December 10, 2014. While the staff report will be outlining a number of concerns still present with the rezoning application (which have been provided to you in previous correspondence), there are two primary impacts that are present with this rezoning application that staff feels need to be reiterated. The Heritage Commons rezoning application fails to address the impacts to the Frederick County Public School System and the transportation impacts.

1. **Fiscal Impacts:** The negative fiscal impacts associated with the residential uses proposed on the property have not been satisfactorily addressed.
2. **Transportation Concerns:** The proffer statement does not provide for the construction of any of the necessary roadways within the Heritage Commons development. The roadway construction proffers continue to remain solely reliant upon a revenue sharing agreement (developer-county agreement) that does not yet exist, and there are no proffered commitments that guarantee that the developer will construct roads prior to development of residential and commercial uses.

Fiscal Impacts

The negative fiscal impacts associated with the residential uses proposed on the property have not been satisfactorily addressed.

The *Market and Fiscal Impacts Analysis (MFIA)*; authored by S. Patz and Associates, dated August 2014 and revised November 3, 2014 is based on the development's proposal of 1,200 housing units and 700,000 square feet of commercial development, including a new Frederick County office building. The 1,200 housing units include 1,050 apartments and 150 townhouses. The commercial space is modeled on: 220,000 square feet (county office and developer sponsored 70,000square foot building); 380,000 square feet office; and 100,000

square feet retail. The applicant's MFIA evaluates on-site and off-site revenue and expenses at build-out; build-out is projected to occur over a 15-year period. The applicant's MFIA projects an annual net fiscal benefit of \$3,173,610 at build-out.

The phasing proffer does not achieve what the Patz model is utilizing to achieve the positive fiscal gain. As written, the proffer would allow the construction of 600 multifamily residential units and 184 townhouses with the construction of 100,000 square feet of commercial area. ***This phasing proffer is not consistent with the Patz suggested phased approach to maintain economic balance, nor does this phasing proffer guarantee to offset impacts from residential uses. If the applicant wants to rely on the outcome of the Patz study, the applicant should be proffering to implement the Patz study.*** As written, the phasing proffer provides little if any benefit to the County.

County Development Impact Model

The County's Development Impact Model (DIM) is utilized to project the capital fiscal impacts that a residential development will place on the county over a 20-year period. Through an extensive review in 2013/2014, the DIM policy was reaffirmed that the DIM projection would consider residential capital fiscal impacts and would not consider credits for commercial components of a development proposal. On June 25, 2014, the Board of Supervisors adopted the updated DIM for use in FY2014.

The following is a breakdown of the projected impacts per dwelling unit for each capital facility:

Capital facility	Town home	Apartment
Fire and Rescue	\$412	\$418
General Government	\$33	\$33
Public Safety	\$0	\$0
Library	\$379	\$379
Parks and Recreation	\$1,332	\$1,332
<u>School Construction</u>	<u>\$11,281</u>	<u>\$10,535</u>
Total	\$13,437	\$12,697

When applied to the residential mix used in the Patz report (1,050 apartments and 150 townhouses), the DIM projects negative capital fiscal impacts of \$15,347,400. This projection solely considers capital fiscal impacts; the DIM projects that operational fiscal

impacts are generally much greater and collectively exceed the tax revenue generated by the multifamily residential use by a factor of 2:1.

In applying the DIM using the phasing proffer, the DIM projects that 300 multifamily and 50,000 square feet commercial could result in a projected annual negative impact of \$400,000.

Transportation Concerns:

The proffer statement does not provide for the construction of any of the necessary roadways within the Heritage Commons development. The roadway construction proffers continue to remain solely reliant upon a revenue sharing agreement that does not yet exist. At a minimum, staff would suggest an additional proffer that would restrict development without an executed revenue sharing agreement between the County and the applicant.

The current proffer should clarify that development will not occur ahead of implementation of the transportation system. While some concurrent development as the transportation system is being constructed would be sensible, protections should be in place so that significant development could not occur ahead of key roadway connections being in place, particularly the bridge over I-81.

The proffers lack a commitment to construct the road network, and a phased approach when the network would be constructed. This could result in the development of residential and commercial units without realizing the construction of any of the necessary road network. ***Without the outside agreement, the proffers contain no commitments that the developer will construct the necessary road improvements.***

Please contact staff should you have any questions.

Sincerely,



Candice E. Perkins, AICP
Senior Planner



John Bishop, AICP
Deputy Director – Transportation

CEP/pd

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Candice Perkins

From: Jonathan Turkel
Sent: Wednesday, September 24, 2014 3:45 PM
To: Candice Perkins
Cc: Jason Robertson; Eric Lawrence
Subject: Heritage Commons Proffer Revision of 9/18/14 - P&R Comments

RE: Heritage Commons proffer revision dated Sept 18, 2014

Candice,

The updated proffer statement does not sufficiently address the concerns of the Parks and Recreation Department. The following outlines our comments:

1. We are not satisfied that monetary contributions are adequately addressed.
2. Proffer should clearly state that Airport Rd, Warrior Dr, and Tevis St, will have 10' bicycle/ pedestrian accommodation, (as is clearly identified in the Russell 150 proffer). Current language is vague in stating "road" when presumably referring to all roads, and stating a "ten foot (10') or such other appropriate width" rather than committing to a 10' width (as is recommended).
3. Beyond reference to ordinance requirements, The Recreational Amenities section appears to proffer:
 - a. To "construct pedestrian trails and/or sidewalk systems, which connect each recreation area to the residential land uses within the Land Bay."
Comment: Connecting recreation areas to users is appropriate.
 - b. "to install a ten-foot (10') wide asphalt or concrete trail along the Buffalo Lick Run Stream Valley"
Comment: Some indication of length should be provided for this proffer.
4. Bike/Pedestrian accommodation on the I-81 flyover bridge should be provided. This is greatly needed.
5. DESIGN MODIFICATION DOCUMENT – Modification #6
Parks and Recreation recommends denial of this modification. This request significantly diminishes the open space requirement and leaves open the potential to claim other environmentally sensitive areas (flood plain, wetlands, and steep slopes) as open space.

Please let me know if you have any questions on any of the above.

Thank you,

Jon

Jon Turkel
Park and Stewardship Planner
Frederick County Parks and Recreation
107 N. Kent St.
Winchester, VA 22601
jturkel@fcva.us
O: (540) 722-8300
F: (540) 665-9687

Frederick County Parks & Recreation Comment #:	Agency Comment *All comments are verbatim from Staff's comment letter.	Applicant's Response to Parks & Recreation Comment	Agency Comments Addressed in Proffer?
	flyover bridge should be provided. This is greatly needed.	accommodations are being made part of the design of the transportation network.	been proffered for the bridge which show 5' sidewalks on each side.
Comment #5	DESIGN MODIFICATION DOCUMENT – Modification #6 Parks and Recreation recommends denial of this modification. This request significantly diminishes the open space requirement and leaves open the potential to claim other environmentally sensitive areas (flood plain, wetlands, and steep slopes) as open space.	Purpose is to allow for the construction of a more compact mix of uses. The Comprehensive Plan calls for higher density uses, and said uses will be located close to one another to encourage a walkable community as opposed to one where the uses are separated and discourage this walkable aspect.	Not all responsive changes made. Applicant has made no changes and is requesting the open space modification.

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FREDERICK COUNTY
SANITATION AUTHORITY

Post Office Box 1277
Winchester Virginia 22604-8377

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

Uwe E. Weindel, P.E.
Engineer-Director

September 16, 2013

Mr. Thomas M. Lawson
Frederick County Center, LLC
C/o Lawson & Silek, PLC
P. O. Box 2740
Winchester, Virginia 22604

Ref.: Rezoning Comments
R 150 SPE, LLC
Tax Map # 63-A-150, 64-A-10 & 64-A-12

Dear Sir:

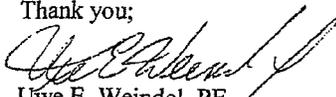
Per your request, a review of the proposed rezoning has been performed. The Frederick County Sanitation Authority offers comments limited to the anticipated impact/effect upon the Authority's public water and sanitary sewer system and the demands thereon.

The parcel is in the water and sanitary sewer area served by the Authority. Based on the location both water service and sanitary sewer service is available. Sanitary sewer treatment capacity at the waste water treatment plant is also presently available. Sanitary sewer conveyance capacity and layout will be contingent on the applicant performing a technical analysis of the existing sanitary sewer system within the area to be served and the ability of the existing conveyance system to accept additional load. Likewise, water distribution capacity will require the applicant to perform a technical analysis of the existing system within the area to be served to determine available capacity. Both water and sanitary sewer facilities are located within a reasonable distance from this site.

Since certain easements have already been filed, any modification to the previous existing layout will need to modify the FCSA easements for both water and sanitary sewer. In addition, any material exposed to weather and contemplated to be used will require manufacturer certification as to the integrity of the material to be used in constructing either the water or sanitary sewer system.

Please be aware that the Authority does not review or comment upon proffers and/or conditions proposed or submitted by the applicant in support of or in conjunction with this application for rezoning, nor does the Authority assume or undertake any responsibility to review or comment upon any amended proffers and/or conditions which the Applicant may hereafter provide to Frederick County.

Thank you;


Uwe E. Weindel, PE
Engineer-Director

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WINCHESTER REGIONAL AIRPORT

491 AIRPORT ROAD
WINCHESTER, VIRGINIA 22602
(540) 662-5786

October 10, 2013

Thomas M. Lawson, Esquire
Frederick County Center, LLC
Post Office Box 2740
Winchester, Virginia 22604

Re: Rezoning Application – RA & B2/RP to R4
Frederick County Center, LLC
R 150 SPE, LLC
Shawnee Magisterial District

Dear Mr. Lawson:

On behalf of the Winchester Regional Airport Authority I have reviewed the referenced proposed rezoning application and offer the following comments related to possible negative impacts on existing and future operations of the Winchester Regional Airport.

1. The request to change the current RP zoning to R4: - The proposal would allow an increase in acreage for residential use from fifty-four (54) acres to approximately seventy-two (72) acres and an increase in the current maximum allowance of two hundred ninety-four (294) townhomes to nine hundred (900) apartment units and one hundred (100) townhomes.
 - This parcel is located within close proximity and immediately under the traffic pattern of Winchester Regional Airport which is approximately 1,200 feet above the ground elevation. Residential development adjacent to or under a flight path used regularly by aircraft as they arrive or depart the Winchester Airport is subject to aircraft noise. Property owners or tenants are likely to experience aircraft noise from over flights of aircraft entering or departing the flight patterns. As the airport continues to expand services and operations, interactions between aircraft operations and residents are likely to increase. To ensure that potential buyers and tenants are made aware of the airport's existence and aircraft noise and fly-over potential, the County should work with the developer to develop a proffer provision that it will give written notice to future property owners or tenants of this potential through a disclosure statement as a covenant in their property deed or statement within their rental lease agreement. This would be consistent with previous requirements for residential zoning within close proximity of the airport.
 - Winchester Regional Airport is a vital link in the National Air Transportation System used by private citizens, commercial charter users, commercial aircraft, businesses and industries throughout the region to transport people and goods around the world. The system of airports in the Commonwealth provides numerous critical services to enhance the quality of life, health, safety and welfare of Virginia citizens.

- The Winchester Regional Airport has a direct and significant economic impact on our community and we continually work towards expanding its operations. The Virginia Department of Aviation 2011 Economic Impact Study shows that Winchester Regional Airport generated: 168 jobs, payroll of \$5,882,000.00 and economic activity of \$22,538,000.00 during 2010. To be successful in our ventures, we need citizen support, which is the reason for our concern regarding potential complaints about aircraft noise which could have a negative impact on the airport's twenty-four operation.
2. The Airport Authority is very concerned with the request to modify Frederick County zoning ordinance §165-201.03 (B) (6) Height Limitations increasing the maximum allowable height from sixty (60) feet to eighty (80) feet.
- Because the parcel lies within the airport's flight pattern and CFR Part 77 protected airspace surfaces and close proximity to the extended centerline of Runway 14/32, future development(s) would require an airspace study in accordance with the Code of Virginia, Section 15.2-2294, and Title 14 of the Code of Federal Regulations (14 CFR) Part 77.
 - The prime objectives of the FAA are to promote air safety and the efficient use of the navigable airspace. To accomplish this aeronautical studies are conducted based on information provided by proponents on an FAA Form 7460-1, Notice of Proposed Construction or Alteration.
 - Determination of any impact to the navigable airspace of the Winchester Regional Airport by the proposed increase in the maximum allowable height to eighty (80) feet cannot be established at this time as the need for this increase has not been provided. The Airport Authority encourages the developer to submit this information at the time a specific development project has been identified.

The Winchester Regional Airport Authority cannot support high density residential development within close proximity of the airport. We also recognize the need to allow progress within the County of Frederick and the ability for land owners to propose what they feel best fits their needs however we must try to protect the future viability of the Winchester Regional Airport.

Thank you for giving this your consideration and should you have questions, please contact my office.

Sincerely,



Serena R. Manuel
Executive Director

Cc: Mark K. Flynn, WRAA Legal Counselor
Chad Carper, FAA/WADO
Scott Denny, VDOA

Market and Fiscal Impacts Analyses
Heritage Commons
Frederick County, Virginia

Prepared for:

**Mr. Bruce A. Griffin &
Mr. Matt Millstead
Frederick County Center, LLC**

August, 2014

**S. Patz and Associates, Inc.
46175 Westlake Drive, Suite 400
Potomac Falls, Virginia 20165**



▪ S. PATZ & ASSOCIATES, INC ▪
 ▪ REAL ESTATE CONSULTANTS ▪

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November 3, 2014

Mr. Bruce A. Griffin
 &
 Mr. Matt Milstead
 C/o Frederick County Center, LLC
 140 North Hatcher Avenue
 Purcellville, Virginia 20132

Dear Mr. Griffin and Mr. Millstead:

This will submit our corrected report for the market and fiscal impacts analyses of the proposed Heritage Commons mixed-use development. We were provided input from Ms. Ellen Murphy, Commissioner of Revenue for Frederick County, Virginia, related to our evaluation of the personal property tax analysis used in our report. This is the only substitute change required for our analysis. Ms. Murphy provided other comments related to our report, which are included in the analysis, but these do not affect the report conclusions.

With the suggested changes to the personal property tax calculation from Ms. Murphy, our net fiscal analysis, shown below, generates nearly \$3.2 million in net benefits to Frederick County, at project build-out. The suggested changes resulted in a reduction of \$407,000 in net benefits to the County, as a result of the full build-out of Heritage Commons.

The chart below summarizes the net fiscal benefits at build out. These benefits include both on-site and off-site net revenues. We show the fiscal impacts analysis over a 15-year build out period, separated by five-year development periods, to show the net benefit if full project development does not occur.

Table A-8. <u>Total On-site and Off-site Net Fiscal Benefits by Phase, Heritage Commons at Buildout (constant\$2014)</u>				
	<u>1st 5 yrs</u>	<u>2nd 5 Yrs</u>	<u>3rd 5 Yrs</u>	<u>Total</u>
Apartments	\$22,210	\$22,210	\$22,210	\$66,640
Townhouses	\$1,460	\$730		\$2,190
Commercial	\$453,455	\$226,723	\$226,723	\$906,900
Office	\$488,420	\$854,730	\$854,730	\$2,197,880
Total Net Benefit	\$965,550	\$1,104,390	\$1,103,660	\$3,173,610

Mr. Bruce A. Griffin
Mr. Matt Milstead
November 3, 2014

The development program for Heritage Commons is fully described in the body of the attached report. We included a detailed site analysis and project setting, which shows the prime location of Heritage Commons near the Route 50 and I-81 interchange and within the right-of-way of a new bridge over I-81 which will connect to U.S. Route 522, the frontage road for Heritage Commons.

The market analysis section evaluates each of the four land uses under study for Heritage Commons, which includes demand factors such as the proposed bridge over I-81, the proposed new County Administration Building planned for the Heritage Commons site, and the expected large expansion of FBI employment.

We do understand that the timing of these proposals/projects can change from current plans, but all are currently committed/announced. Changes to construction timing of these projects will not change the overall "at build out" net benefit analysis.

Of special note is the value of the location of the new County Administration Building at Heritage Commons. This public investment will be one key anchor for the entire project and a catalyst for the \$3.2 million annual net project benefit for the County.

We used conservative numbers in our analysis. All are shown in constant 2014 dollars. The detailed market and economic data that support our conclusions are presented in the attached report. Our methodology for the FIA calculation is fully described. If additional data or clarification are needed, please do not hesitate to contact us.

We remain available to continue to assist you with the successful development of Heritage Commons. The appendix to this report presents our evaluation of the County's proposed Development Impact Model.

Sincerely,

A handwritten signature in black ink, appearing to read "Stuart M. Patz". The signature is fluid and cursive, with a long, sweeping underline that extends to the left.

Stuart M. Patz
President

TABLE OF CONTENTS

	<u>PAGE</u>
Introduction	5
Site Description and Development Proposal.....	8
Site Description.....	8
Heritage Commons Development Plan.....	19
East Tevis Street/Freedom Plaza Bridge.....	22
Section I Market Analysis	24
Demographic Analysis	24
Household Trends.....	25
Renter Households.....	26
Higher-Income Renter Households	26
Owner Households.....	27
Base Economic Trends.....	27
Apartment Market Analysis.....	30
Competitive Apartment Market	31
Pipeline Proposals.....	33
Conclusions	34
Townhomes.....	37
Office Space	39
Retail Space.....	41
Market Study Conclusion	43
Section II Fiscal and Economic Impacts Analysis	45
Summary of Fiscal Impacts.....	45
On-Site Impacts: Tax Revenues.....	47
Real Property Tax.....	47
Personal Property Taxes.....	49
Retail Sales Tax	52
Business License Taxes	53
Consumer Utility Taxes.....	54
Meals Tax.....	55
Motor Vehicle Licenses.....	56
Recordation Tax.....	56
Summary of On-Site Tax Revenues.....	57
Costs to the County.....	60
County Budget Revenues	61
County Budget Expenditures.....	61
Per Capita County Costs.....	62
On-Site Costs to the County	63
Net Fiscal Impact.....	67
Off-Site Impacts: Economic and Fiscal.....	68
Business Receipts.....	69
Employment and Earnings.....	70
Off-Site Fiscal Impacts	70
Summary of On-Site and Off-Site Fiscal Impacts.....	71
Phasing of Heritage Commons	72
Appendix A: Review of Development Impacts Model.....	75
Appendix B: Tables.....	78

Introduction

The following is the market study and Fiscal Impacts Analysis (FIA), prepared in August, 2014, in support of the proposed mixed-use development of the 150.6-acre Heritage Commons development proposal (formerly Russell 150, LLC) located along the west side of Front Royal Pike (U.S. Route 522), south of the I-81/U.S. Route 50 interchange and opposite Airport Road. The site extends approximately 1,250 feet along Route 522 and has frontage (1,300 feet) on the east side of I-81, at a location where a new overpass is planned that will extend East Tevis Street in the City of Winchester east into the Heritage Commons site and ultimately to an intersection with U.S. Route 522 at two locations.

The following report is prepared in two sections. The first section presents the market analysis in support of the mixed-use development proposal for Heritage Commons. The market analysis demonstrates that market support for the Heritage Commons proposal exists and is based on evolving market trends in a market area that consists of the City of Winchester and Frederick County. The expected development period for this 150± acre property, based on the development proposal and market trends, is approximately 15 years, from the projected start of building development in 2015 or 2016.

The second section of the report is the Fiscal Impacts Analysis, which shows the net revenues projected from project build-out compared with increased expenses to the County from the proposed on-site development. Given the fact that the development proposal has considerable commercial space planned within the 40± acres of commercially zoned area, or 30.0% of the total developable acreage, Heritage Commons will generate a positive FIA and will provide considerable new net tax revenue to Frederick County over the 2015 to 2030 period and beyond.

The FIA is prepared in three five-year development phases to illustrate that net revenues will accrue to the County during the entire 15+ year development period. All revenue and expense data are presented in constant 2014 dollar values. The phasing of

new development is based, in part, on the sponsor’s existing commitments for site development at the time of the start of development, and in part, on the evolving development trends within the market area as calculated by the market analysis.

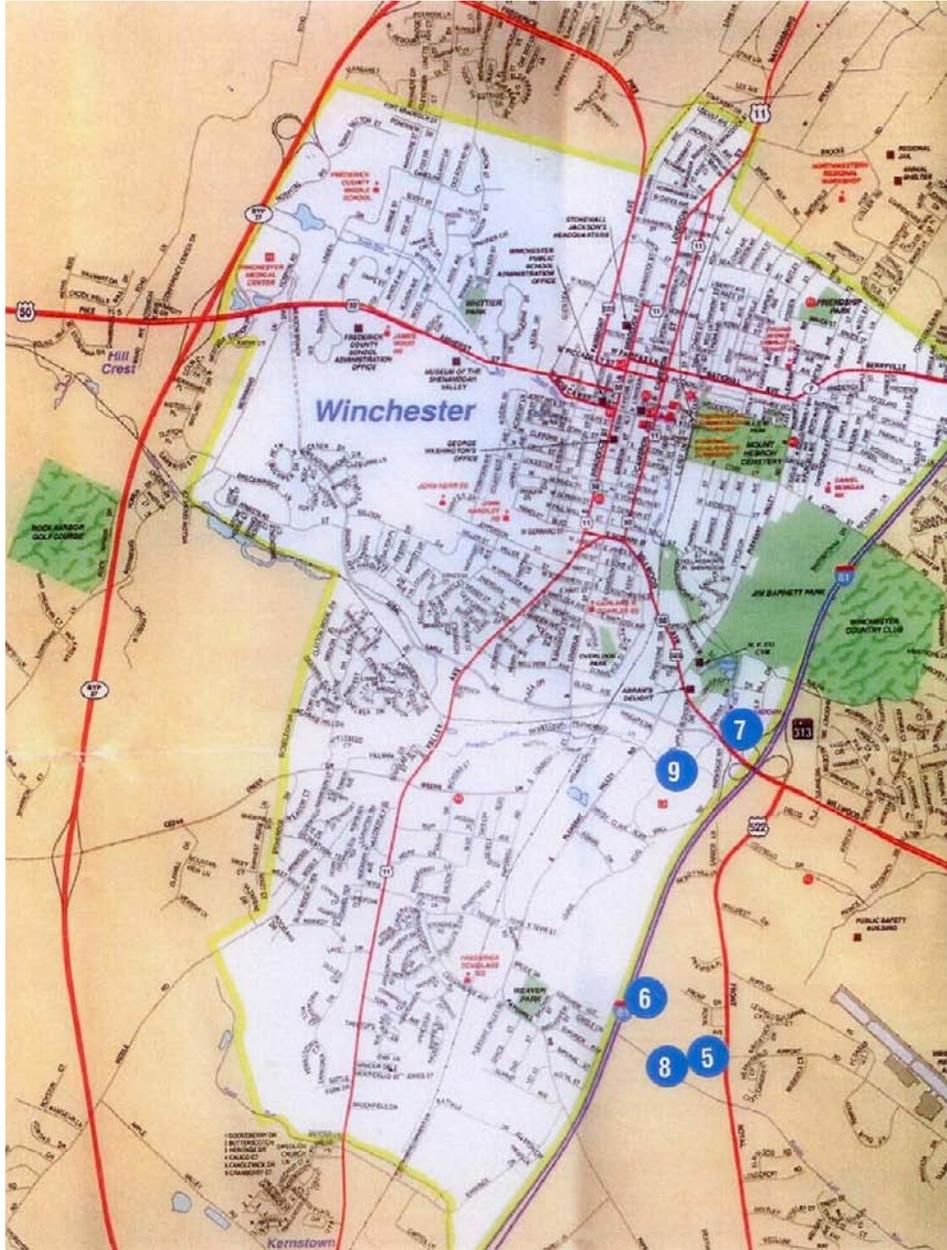
The following chart summarizes the overall development plan for Heritage Commons. It shows a master plan for 1,200 housing units on 75.3 acres of residential zoned land and 700,000 square feet of commercial development, including a proposed new Frederick County office building. The planned development program will be more fully expanded upon in the following analysis.

	<u>Housing Units and Square Footage of Commercial Space</u>
• Market Rate Apartments	1,050
• For-Sale Townhomes	<u>150</u>
Total residential	1,200
• Office Space, excluding County Bldg.	450,000
• County Office Building	150,000
• Retail & Service Commercial	<u>100,000</u>
Total Commercial	700,000

The site setting map of the Heritage Commons site is shown next. The site is adjacent to the City of Winchester along I-81 and located just over one mile south of the Route 50/17 interchange with I-81 near the Shenandoah University Campus. Number 5 on the map shows the location to the primary site entrance to Heritage Commons across from Airport Road. Number 6 is the location of the proposed new bridge over I-81. The Shenandoah University Campus is shown by Number 7. The site frontage runs north from just south of Buffalo Lick Run (No. 8) to the small residential subdivision along Front Royal Avenue on the north.

Map A also shows the site’s close proximity to several of the Winchester area’s regional highways. The Winchester Regional Airport, Shenandoah University Campus, historic downtown Winchester and Apple Blossom Mall (Number 9) are all within close proximity to the site. The new bridge over I-81, along with the extension of East Tevis

Street, will provide direct access to the Pleasant Valley Road corridor and to Jubal Early Drive, both area roadways with an abundance of retail space, medical office space and employment centers.



Map A - Heritage Commons Site Location Map

Site Description and Development Proposal

Site Description

The Heritage Commons site is a slightly rolling, irregularly shaped, 150-acre property located between Interstate 81 on the west and Front Royal Pike (U.S. 522) on the east at a location directly across from the entrance to Airport Road. The property is vacant and partially covered with small trees and bushes, but the property is predominantly meadowland. Part of the Buffalo Run stream runs through the property in an east-west direction and will be retained as open space and an amenity feature for the development.

Following are photos of the site and its setting along U.S. Route 522. The photos show views into the property from U.S. Route 522 West into the site and photos of the Route 522 corridor. At present, this is an undeveloped section of Front Royal Pike, but a second development proposal, adjacent to Heritage Commons, called Madison Village, is also being studied for new development, as described below.



View Into Site Showing Topography and Tree Coverage

Photos of Heritage Commons & Route 522 Corridor



View West From U.S. Route 522



Expanded View of Site



View North Along U.S. Route 522



**View South From U.S. Route
522/Airport Road Intersection**

Adjacent land uses consist of residential developments and vacant land. Development north of the site consists of the 40± unit Funkhouser single-family subdivision, which was developed in the mid-1990s. East of the site, along Front Royal Pike, are mature single-family homes in the Miller Heights subdivision.

Land south of the Heritage Commons site is largely vacant, but with the adjacent parcel of 51.3 acres planned for a mixed-use development with a mix of towns and

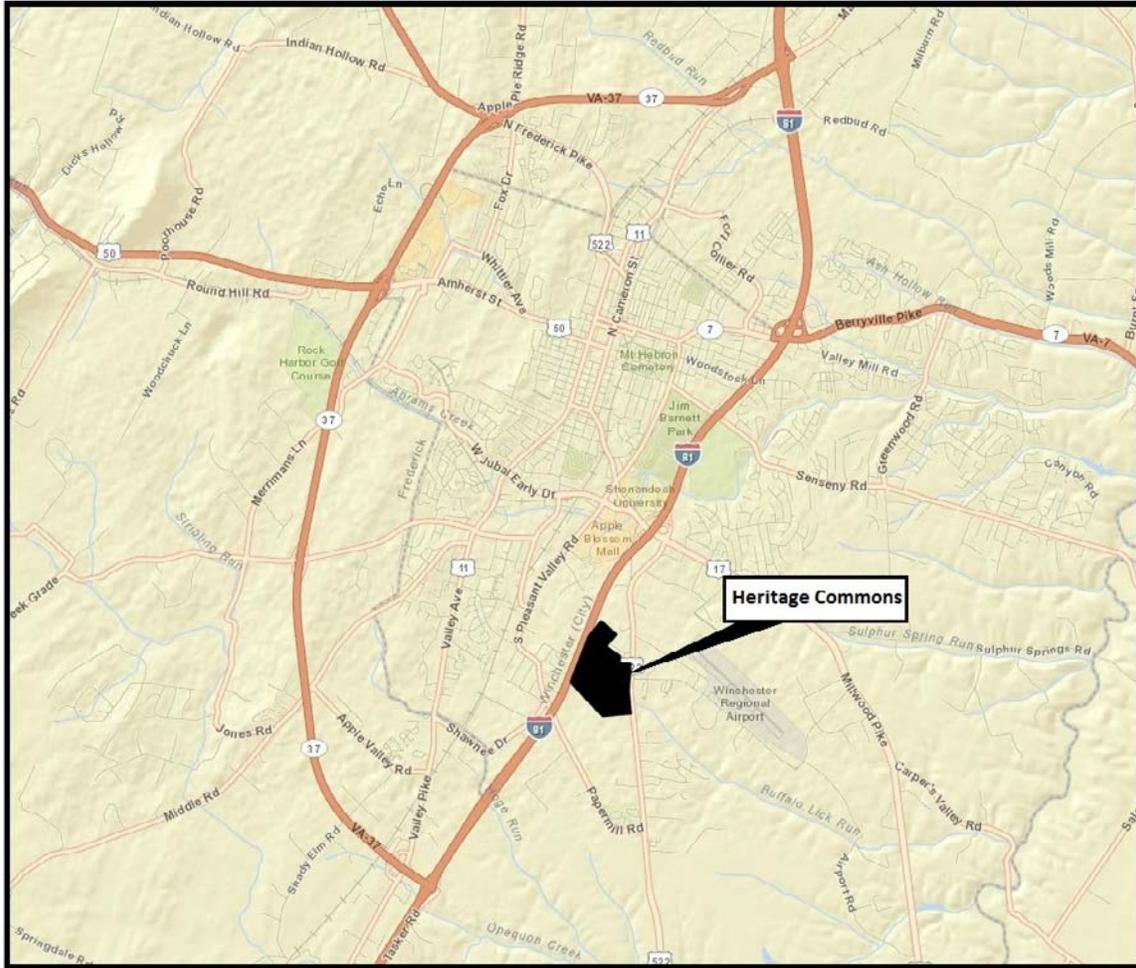
apartments, called Madison Village (see Number 10). The 46.26-acre Madison Village site was rezoned recently to allow for 160 townhomes and 480 apartment units, plus 107,000± square feet of retail space. It is reported that some development on this property will be started by early- to mid-2015.



Aerial of Heritage Commons

The Heritage Commons site is presently only accessible via Front Royal Pike (Route 522). Route 522 is a regional arterial that runs north-south from the Frederick County line into the City of Winchester and then north somewhat circulating into West Virginia. Relevant for the Heritage Commons proposal is its interchange with Route 50 and close proximity to the Route 50/17 interchange with I-81.

In front of Heritage Commons, Route 522 is a four lane, undivided roadway that runs in a generally north-south direction parallel to Interstate 81. Route 522 provides quick access to Millwood Pike (U.S. Route 68), about one mile north, which accesses Interstate 81's Exit 313 and the City of Winchester. Route 522 also provides direct access to a 150,000± square foot Walmart located south at its intersection with Tasker Road that opened in early-2012. About 300 full-time employees work at the retailer, which includes a full grocery store, garden center and pharmacy.



Heritage Commons Site Setting

Adjacent to the Walmart are two small industrial parks: Eastgate Industrial Park and Jouan Global Center, which collectively include four tenants. The largest tenants in the industrial park are the FBI Records Management Division, which occupies 160,300± square feet at 170 Marcel Drive, and Home Depot Distribution Center, which occupies 755,860± square feet of space at 201 Rainville Road. Tenants in these parks are detailed in the table below.

<u>Developments at Eastgate Industrial Park and Jouan Global Center</u>			
<u>Industrial Park</u>	<u>Building Size</u> <u>(Sq Ft)</u>	<u>Years</u> <u>Built</u>	<u>Tenant</u>
<u>Eastgate Industrial Park</u>			
195 Rainville Rd	20,453	2003	Comcast Cable Communications
201 Rainville Rd	<u>755,855</u>	2003	Home Depot Distribution Center
<i>(Subtotal)</i>	<i>(776,308)</i>		
<u>Jouan Global Center</u>			
141 Marcel Dr	70,000	1998	SpecialMade Goods & Services
170 Marcel Dr	<u>106,296</u>	1997	FBI Records Management Division
<i>(Subtotal)</i>	<i>(176,296)</i>		
Total	952,604		

The next important development area near Heritage Commons is located along and off of Airport Road, immediately east of the site. Developments along Airport Road, which include residential, office and industrial uses, are detailed in the paragraphs below.

- **Preston Place**. East of the single-family homes that front Front Royal Pike is Preston Place, a 236-unit affordable apartment complex that was built in three phases under the federal LIHTC program during the 1992 to 1997 period. This property is typically fully occupied and was recently renovated.
- **Winchester Regional Airport**, a public use airport owned by the Winchester Regional Airport Authority, is located along this roadway. The airport covers 375 acres and has one asphalt paved runway. Approximately 45 people work at the airport.
- **Airport Business Park** is located across the street from the Winchester Regional Airport along Airport Road. The park consists of a total of nine structures on Aviation Drive, Airport Road, Admiral Byrd Drive and Muskoka Court. Collectively, development in this park contains 724,760± square feet of office and industrial space on 110± acres, though much of this space is flex space with office and industrial use.

The largest tenant in the industrial park is Kohl's, which operates a 422,660± square foot distribution center that opened on a 64.27-acre parcel in 1997 and employs 300± people. M.I.C. Industries, a company that manufactures machines that build steel buildings, operates its International Manufacturing Facility in a 150,000± square foot facility at 390 Airport Road. The company opened with 100 employees and added an additional 139 employees in 2004.

The most recent building to open in the industrial park is a 17,340± square foot structure at 170 Muskoka Court, a service center operated by Averitt Express, a provider of freight transportation and supply chain management.

- **Westview Business Centre** is located east of the Winchester Regional Airport along Millwood Pike's intersections with Arbor Court and Victory Lane. This industrial park consists of 27 structures. Collectively, Westview Business Centre includes 802,310± square feet of space. The average structure size in this industrial park is 29,720± square feet.

Several tenants in Westview Business Centre are not industrial in nature such as Valley Cycle Center and Grove's Winchester Harley-Davidson, two auto dealers that occupy over 50,000 square feet in the park. The largest structure in the park is a 100,000± square foot warehouse owned by Virginia Storage Services. Larger tenants in the park include:

- **Blue Ridge Industries** is a Winchester-based company that specialize in manufacturing custom injecting molding. Blue Ridge Industries employs 60± people.
- **Annandale Millwork and Allied Systems Corporation** is a Winchester-based manufacturer of wall panels, hand rails and stairs. The company employs 100± people on 40,000 square foot facility.
- **Clariant Corporation**, a 30-employee chemical merchant wholesaler, occupies 30,000 square feet.
- **Winchester Woodworking Corporation**, a manufacturer of custom millwork, employs 30 people and occupies 56,920 square feet.
- **Probuild**, a manufacturer of wall panels, roof and floor trusses, employs over 100 people and occupies 28,320 square feet.
- **Creative Urethanes**, a manufacturer of castable and reaction injecting molding and stamping, employs 30 people and occupies 30,000 square feet.
- **A Prolawn Service Corp.**, a 15-employee Winchester-based landscaping company that occupies 12,150 square feet.

- **Action Concrete Supplies**, a 15-employee material merchant wholesaler that occupies 24,000 square feet.
- **Navy Federal Credit Union**, which operates in a 109,300 square foot office structure on Security Drive, where it employs 900± people.

These area industrial and manufacturing firms employ approximately 3,000 people and represent a ready market for new retail space at Heritage Commons.

There are also five modest sized office buildings along Airport Road with a total of nearly 70,000 square feet. These likely have 150+ employees.

The paragraphs to follow describe the developments north of Heritage Commons along Front Royal Pike and Millwood Pike, east of Interstate 81. Included in this area are structures occupied by FedEx Freight and Wilson Trucking Corporation, among others. This area consists primarily of hotels, retailers, and offices. There are older facilities but, in addition to the 3,000± employees at the industrial and office buildings along Airport Road, another 1,500± employees are located here in the following businesses.

- **Costco Warehouse**. The Costco store is 129,220± square feet with 200± employee.
- **Delco Plaza** is a 162,630± square foot retail center with a 52,690± square foot Gabriel Brothers, a 29,000± square foot Food Lion, a 24,480± square foot Room Store and a 14,400± square foot Body Renew.
- **Horizon Development Shopping Center** has a 34,150± square foot Big Lots Store and a 13,440± square foot Jo-Anne Fabrics & Crafts.
- **Restaurants** in this area include: Cracker Barrel, IHOP, Texas Steakhouse & Saloon, Hibachi Grill & Supreme Buffet, Golden Coral, Blue Fox Billiards Bar and Grill Waffle House, Subway and Los Toltecos Mexican Restaurant.
- **Gas Stations** in this area include: Citgo, Exxon, Shell and BP.
- **Office**. The newest office developments built in this area were constructed in the late-1980s and account for 73,100± square feet. The offices of the Middle East District, U.S. Army Corps of Engineers, has 600± people employed here.
- **Hotels**. Eight hotels consisting of a total of 808 rooms are located within this area. Four were built during the 1980s, none were built in the 1990s and four were

built during the 2000s decade. The newest of these hotels is the 70-room, six-story Aloft Winchester, which opened in June, 2010.

In summary, approximately 4,500± people are employed near the Heritage Commons property in the locations described above. The larger County employers close to the Heritage Commons site are shown in the map below. The purpose of the detailed analysis of area employment is for the evaluation of one source of demand for market support for the retail space planned for Heritage Commons.



Several retailers are located west of Interstate 81 along S. Pleasant Valley Road and Millwood Pike, south of Shenandoah University and near the Heritage Commons site. Retailers in this area are shown in the aerial below.



The above retailers consist of a mix of the large enclosed Apple Blossom Mall, several retail strip centers (Winchester Commons, Winchester Station, Apple Blossom Corners), and several large free-standing retailers such as K-Mart, Wal-Mart, Lowe's, and Best Buy. Major retailers in this area are listed in the chart below.

<u>Retailers Along S. Pleasant Valley Road</u>		
<u>Name</u>	<u>Size</u>	<u>Anchors</u>
Apple Blossom Corners	240,560	Martin's, Office Max, Kohl's, Books-A-Million
Apple Blossom Mall	440,600	Belk, JCPenney, Sears
Delco Plaza	162,630	Gabriel Brothers, Food Lion, Room Store, Body Renew
Free Standing	--	K-Mart, Lowe's, Walmart, Best Buy
Pleasant Valley Marketplace	120,000	Staples, Dollar Tree
Winchester Commons	173,790	Target, T.J. Maxx, PetSmart, Home Depot, Pier 1 Imports,
Winchester Station	167,000	hhgregg, Ross, Bed Bath & Beyond, Michaels, Old Navy
Source: S. Patz & Associates field survey		

Shenandoah University. The only university in Winchester-Frederick County is Shenandoah University, located approximately two miles north of the Heritage Commons site. The university currently employs 238 full-time and 189-part time

employees for a total of 427 employees. Enrollment trends are presented in the table below and show a Fall, 2013 enrollment of 4,003 students, of which 53.7% are undergraduate students and 46.3% are either graduate or professional students. Enrollment dropped by 173 in the Fall, 2013 semester, driven largely by a 252-student decline in undergraduate enrollment. Graduate and professional enrollment grew during this period.

Table 1: <u>Fall Headcount Enrollment, Shenandoah University, Fall 2003 – Fall 2013</u>				
	<u>Undergraduate</u>	<u>Graduate</u>	<u>Professional</u>	<u>Total</u>
2003	1,415	1,030	406	2,851
2004	1,538	1,041	421	3,000
2005	1,606	968	424	2,998
2006	1,527	1,175	408	3,110
2007	1,658	1,295	440	3,393
2008	1,720	1,371	420	3,511
2009	1,767	1,418	434	3,619
2010	1,882	1,330	467	3,679
2011	2,290	1,301	461	4,052
2012	2,402	1,280	494	4,176
2013	2,150	1,320	533	4,003
Change	735	290	127	1,152
Source: State Council of Higher Education for Virginia				

In terms of projected enrollment, Shenandoah University officials anticipate enrollment to remain essentially flat until at least 2019. The University’s official enrollment projection for 2019 is 3,919 students, slightly below the current number.

Shenandoah University currently has 840 on-campus dorm beds for undergraduates, which are typically fully occupied, with the remaining non-commuting undergraduate and graduate students residing in off-campus, non-institutional supported housing. No exclusive graduate housing is provided at the University. Seventy-six percent of all First Year students (including transfer students) have lived on-campus in recent years.

Shenandoah University has early plans to increase their on-campus bed count from 840 to a target of 1,300 beds, which would allow the University to increase

enrollment. New construction in a phased-approach is planned to achieve this goal. With the net gain of beds, several existing residence halls will be phased out while the 115-bed Parker Residence Hall will be remodeled for first year students and reduced to 95 beds.

Due to planned expansion at the university, the existing 840 beds could increase to 950 beds by 2017, 1,190 beds by 2022 and 1,310 beds by 2027. This expansion plan could be speculative, but will clearly be set in place well after Heritage Commons is started and the addition of on-campus beds will be modest in the early stages of expansion. Data indicates that about 3,400± university students currently live off-campus, primarily in private apartments with some students living at their family home.

Data indicates that about 3,400± university students currently live off-campus, primarily in private apartments with some students living at their family home. Even with the planned expansion of on-campus beds to 1,300±, there will be at least 3,000± students living off-campus, not including any increases in enrollment. The presence of these students creates a strong market for apartments at nearby locations.

Summary. The above analysis has a three-fold purpose. First and foremost is to identify the site location and determine whether the setting is marketable for the types of land uses proposed. The site has excellent highway access, proximity to employment centers and commercial facilities and no nearby blighting land uses. It is an ideal location for students and staff from Shenandoah University.

Second, Heritage Commons is planned to have 100,000± square feet of retail space at build out. The 4,500± employees working in the immediate area, along Airport Road and Millwood Avenue, and 2,500± new employees in office and retail space to be built on site, represent a ready market for new retail tenants.

The third issue is to establish that, along with the new County office building that is planned for the site, this location will be competitive for new office space

development. The data presented above shows that between office space and flex industrial space, the Route 522/Airport Road corridor, have an abundance of office and flex space, albeit primarily mature space. As of the date of our study, the County office building is planned for the Heritage Commons site, however, a final decision has not been made.

Heritage Commons Development Plan

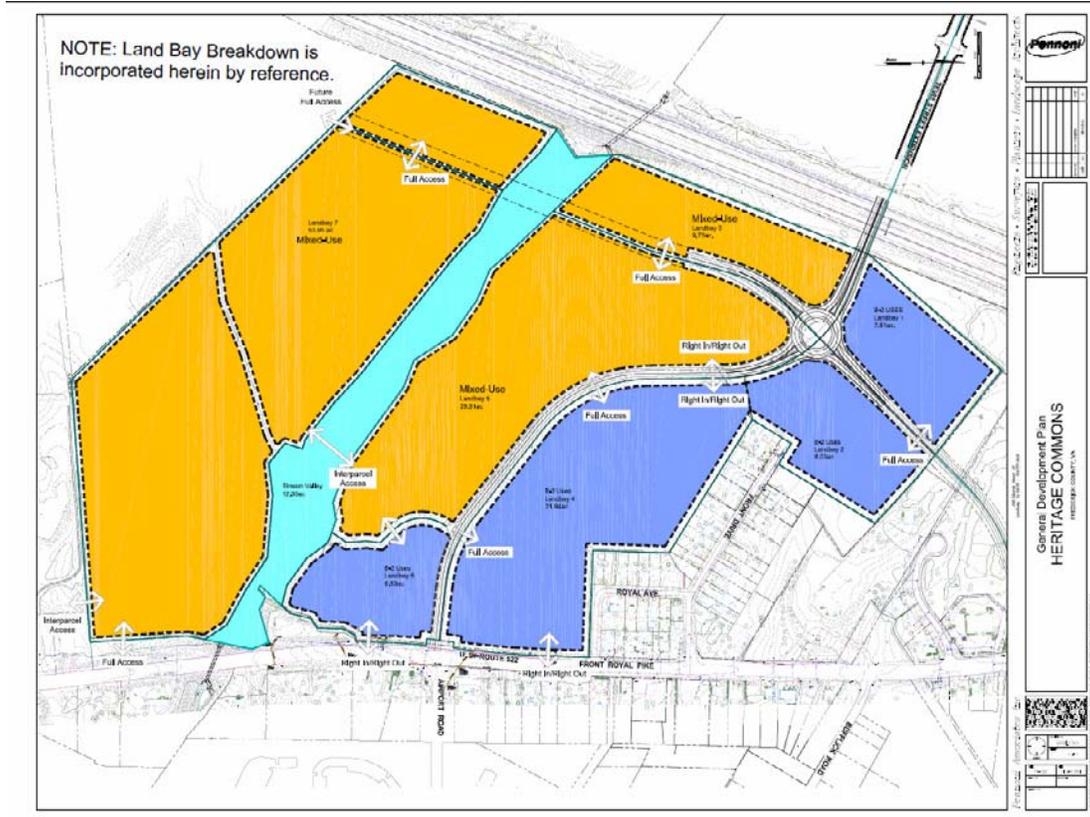
The proposed Generalized Development Plan (GDP) for Heritage Commons is presented below. It shows four commercial land bays with a total of 44± acres. These are located on the north side of the property. Two have frontage along Front Royal Pike and two have frontage on the new bridge that is planned for a I-81 crossing. The new 150,000 square foot County Administration Building could be located in Land Bay IV at the corner of Freedom Plaza and Front Royal Drive. Some changes may be made on land use locations, but the proposed level of development is set.

The County Administration Building is proposed to relocate to Heritage Commons. The relocation is not finalized. However, our research showed a likelihood for the relocation, and a tremendous economic benefit to the County with the building relocation as an "anchor" tenant for Heritage Commons. Thus, our analysis is based on the new County Administration Building being on site. The alternative is an expanded amount of retail space.

The residential area consists of two large and one small land bays with about 94 acres. These land bays are designated for apartment unit development and townhome development, as shown on page 3 above.

The GDP has 12.35 acres set aside for open space as part of an internal site trail system. The open space area includes the attractive Buffalo Lick Run Stream Valley. There are 23.42 acres of road network planned within the 150-acre property, including

the traffic circle that connects Freedom Plaza Boulevard, Warrior Drive and Center Boulevard.



The GDP is prepared in a general format at this time, as the site requires rezoning with Frederick County staff input to the plan. A more detailed development plan will be prepared as the planning process progresses. However, at this time, 1,050 market rate, upscale apartment units are planned and these will likely be built in several phases of 150 units per phase. This, of course, can change based on market trends, but a phased development is likely.

The townhomes are to be priced at approximately \$240,000, when reported in constant 2014 dollars. This price excludes any “add-ons” to the base price. These homes will also be built in phases, with an expectation of 30± home sales per year, with the development pace dependent on the expected sales pace.

Site development could start by Spring, 2015 with the development of the access road. The County office building could be started at that time, or prior, pending final approval. The new bridge over I-81 is also expected to be started by early-2015, with completion scheduled for Summer, 2016. Construction timing of the bridge could change.

As noted above, Frederick County officials have selected the Heritage Commons property for the location of a new County administration building, which will be relocated from downtown Winchester.

- The County's current 65,000+ square foot office building at 107 No. Kent Street and other County occupied buildings contain approximately 100,000 square feet. The new building at Heritage Commons will have 150,000 square feet and may include employees of the County's School Board. In total, at least 300 people are expected to work at the building. Project opening is likely in 2015/16. Following is the conceptual rendering for the building with an exterior that is designed to resemble a historic textile mill.



County Office Building Elevation

With the County office building on site, the sponsors of Heritage Commons have committed to construct an adjacent 70,000± square foot office building to house offices

for companies that do business with County government staff. This building is planned to be built at the same time frame as the County office building.

These two buildings will account for 220,000 square feet of the proposed 600,000 square foot office space. The remaining 380,000 square feet will be built over the following 15± years, at a likely rate of 25,000 square feet per year on average, based on market trends, as presented in the paragraphs which follow.

Heritage Commons will also have 100,000± square feet of retail space. At this time, the Heritage Commons sponsor has verbal commitments for at least 30,000 square feet, including:

- A convenience center
- Two restaurants
- Bank
- Child day care center

This total is likely to be expanded to at least 50,000 square feet by project opening. Retail/Commercial space includes a wide range of uses for both residential consumers and area businesses.

Thus, at project opening, Heritage Commons is likely to have:

- 150± apartment units available for lease
- 30± townhomes for sale
- 220,000± square feet of office space built
- 50,000 square feet of retail space within a small center, on pad sites or as ground floor space within office buildings

The remaining portions of the development will be built over time, as described in the market analysis for each land use.

East Tevis Street/Freedom Plaza Bridge. In addition to the new County office building on site, Winchester City officials and Frederick County officials have approved the construction of the East Tevis Street extension through the Glaze Property in

Winchester east and on to the Heritage Commons property via a new bridge over I-81, as shown in the aerial to follow. The road alignment through the Heritage Commons property is also noted. Current plans are for the roadway improvements to be started in early-2015 and be completed in mid- 2016. No timing changes have been announced.

The Glaize Property is a proposed commercial site that will likely be developed with new retail space in time. The original site proposal for the Glaize Property was a project named The Shoppes at Tevis, but this is no longer active. The connection of the bridge to East Tevis Street at Legge Boulevard provides a direct connection to the Apple Blossom Mall area and the adjacent retail centers along Legge Boulevard and Pleasant Valley Road. The bridge connection at Freedom Plaza Boulevard through Heritage Commons extends to the primary site entrance at Front Royal Pike. Center Boulevard is another major arterial through Heritage Commons and could be extended past the site to Front Royal Pike near Patsy Cline Boulevard as part of this project, but that section is not part of the bridge funding.

This will be a major roadway improvement for the Heritage Commons site and is likely to be greatly used in time due to the planned replacement of the I-81 bridge at Exit 313 at the Route 50/522 interchange, as the current bridge requires replacement. This construction project could take 10 years before construction begins.



Alignment of East Tevis Street Extension and New I-81 Overpass

Section I Market Analysis

This section of the report is a summary market analysis in support of the four land uses proposed for Heritage Commons, including apartment unit development, for-sale townhome sales, office space and retail space. The analysis of each land use follows a demographic and economic analysis of the market area of Winchester and Frederick County.

Demographic Analysis

The Census total population count for 2010 for the two jurisdictions of the market area is a combined 104,510. The 2010 market area census is nearly 22,000 above the 2000 count, which is an average net population growth of 2,000 per year. The majority of the market area population, and most of the growth over the past 30± years, has been in the County. The most recent (2013) population estimate for the two jurisdiction market area is 108,540, or 4,000 above the 2010 census count.

The population forecast of 118,800 by 2018 is based on a lower growth rate in the market area compared with the 2000 decade. The growth during the 2010 to 2013 period has been slower due to the past recession and the effects of expected continued modest growth in the new home sales market. This trend is reflected in the American Community Survey (ACS) by the Census, which shows a 2012 population of 107,200 and a 2010 population of 108,540. However, jobs and employment are now increasing and the FBI, in particular, is expected to bring in 1,200 employees to the market area by 2016. While that is not a “hard and fast” date, many of the new employees are likely to move to the market area by 2018. The FBI already has staff in the County.

We used a four-year projection period, as that is likely the maximum period for a comfort level in forecasting for real estate development. The first phase of development at Heritage Commons will occur during this period. Thus, for housing, in particular, current trends are used for the post-2018 time frame.

Additionally, the comparison between at-place jobs and employment is modest in terms of out-commuting. The past higher gas prices have been a deterrent for market area workers to commute to Northern Virginia. This would change. All of these factors were taken into account for our forecast population of 118,800 by 2018.

Table 2: Trends and Projections of Population and Households by Tenure and Income, Heritage Commons, VA Market Area, 1990-2018 (Constant 2013 Dollars)				
	1990	2000	2010	2018
Market Area Population	67,670	82,790	104,510	118,800
Winchester City	21,950	23,590	26,200	--
Frederick County	45,720	59,210	78,310	--
Group Quarters Population	1,220	1,570	1,940	2,100
Household Population	66,450	81,220	102,570	116,700
Persons Per Household	2.60	2.53	2.60	2.53
Households	25,550	32,100	39,470	46,130
Percent Renters	32.9%	30.5%	30.2%	30.7%
Renter Households	8,500	9,780	11,940	14,160
Renters Within Income Category 1/	4,220	4,530	5,140	6,070
Percent Within Income Category 1/	49.6%	46.4%	43.1%	42.9%

Note: 1/ Renter households with incomes exceeding \$40,000.

Source: 1990, 2000 and 2010 U.S. Department of Commerce, Bureau of the Census; and S. Patz and Associates, Inc.

Half of the market area’s Group Quarters population consists of students in on-campus dorms at Shenandoah University. The other part of the Group Quarters population is persons in hospitals, assisted living facilities and institutions. The growth in Group Quarters shown in Table 1 is based on the new dorm rooms expected to be built by Shenandoah University by 2018. The subtraction of Group Quarters population from total population is Household Population, which are the basis for the projection new housing unit demand.

Household Trends. In 2010, the market area had 39,470 households based on the census count. This total is 7,400± more than in 2000. A key point in the growth of households is that the average household size increased considerably during the 2000 decade from 2.53 to 2.60 in 2010. This is the result of persons doubling up during the recession due to job losses and/or salary deductions. It is also the result of persons not

forming their own household due to the overall economy. The increase in the average household size meant that growth in 2010 was below the level normally created by population growth.

For 2018, a reversal of the increase in the average household size is expected to decrease to 2.53, the same rate as in 2000. At this rate, households are expected to increase to 46,130 by 2018, a net growth of nearly 6,700 households.

Renter Households. In 2010, the census count showed that 30.2 percent of all market area households were renters. That percentage would include Shenandoah University students who live off campus. The percentage of renters in the market area declined over the past 20+ years. It has continuously been below the state and national averages. However, based on the data to be presented below on new apartment unit additions to the market area since 2010, and for the post-2013 period, a slight increase in the percentage of renters is expected. The market area is projected to have 30.6 percent renter households by 2018, or 14,110 renters.

Higher-Income Renter Households. We used \$40,000 as the minimum household income for renters who can afford the rents at new apartment developments. Those rents are approximately \$950 to \$1,000 net for a new one-bedroom unit and \$1,100 to \$1,150 net for a two-bedroom with two full baths. At 30% of income allocated to net rent, a household with an income of \$40,000 can afford a net rent of approximately \$1,000. That is currently the market for new apartment units.

The 2010 Census did not provide income data. The ACS data are not fully usable related to household income calculation, as they are not consistent with past biannual census counts. Thus, the 2010 estimate for renters with incomes of \$40,000, when incomes are reported in 2013 dollars, is based on a calculation of trend data from the 1990 and 2000 census by the staff of SPA.

Our estimates show that the market area has 5,100+ renters in the income category under study in 2010 and that total is expected to expand to 6,070 renters by 2018. The percentage of higher income renters is likely to continue to decline, due to the expected increase in the for-sale home market, but the absolute totals are expanding.

Overall, there has been steady demographic growth in the market area and that trend should continue. There has been a sizable growth in renters during the 2000 decade, with approximately 30 percent of net household growth renter households. These data show a continued need for new rental housing. In the paragraphs below, the rental household data and trends will be compared with past apartment unit development and active proposals to calculate net apartment unit demand over the forecast period.

Owner Households. As of 2010, the market area had 15,000± owner households with incomes, reported in constant 2013 dollars, of \$75,000 and above. That is the income range identified as the target market for new home sales in the market area, including the type of for-sale housing proposed at Heritage Commons. By 2018, the number of home owners with incomes of \$75,000 and above is expected to increase by 3,500.

Base Economic Trends. At-place jobs in the market area increased in 2010, 2011, 2012 and 2013, after a decline in 2009 during the recession. The 2013 data, not yet published, are likely to show the market area's at-place jobs are at or above the peak year of 2008 and are likely to continue to expand with an improving national economy.

This trend is also true for employment, which differs from at-place jobs and refers to the number of market area residents who are employed. Market area employment is increasing and unemployment is decreasing.

There are a few large developments in the market area that are expected to generate net population, employment and job growth, including:

- **Navy Federal Credit Union** completed construction on a 56,000 square foot Building II of its existing Frederick County campus on Security Drive in August, 2013, where 450 people will be hired by 2018. Since locating to the County in 2006, Navy Federal has grown from 60 to more than 1,000 employees. Most of the new jobs are customer support positions with salaries above \$40,000.
- **Dorneo Octaspring**, a mattress manufacturer, opened its 2nd U.S. facility at 259 Brooke Road in the Fort Collier Industrial Park. Twenty people are now employed at the 38,000 square foot facility. The plant allows the company, part of London-based Studio Moderna Group, to produce its foam coils in the United States for the first time.
- **Barrett Machine**, a metal fabrication company, announced in March, 2014 that it would expand its Frederick County facility and hire 27 new employees.
- **M & H Plastics**, a manufacturer of plastic bottles and containers, announced in July, 2014 that it would add 45 new jobs.
- **Evolve Stone**, a manufacturer of natural themed play environments, announced in March, 2013 that it would hire 46 people at its 15,000 square foot facility in the Stonewall Industrial Park. Operations in the new factory began in May, 2013.
- **Creative Urethanes**, manufacturer of castable and reaction injecting molding and stamping, announced in February, 2014 that it would expand its Winchester operation at Westview Business Centre by adding 54 new employees.
- **White House Foods**, an apple products processing company, announced in March, 2014 that it would expand in Winchester by adding 31 new jobs.
- **Joe's Steakhouse** opened a new 11,000 square foot restaurant in Winchester in June, 2014 where it employs about 150 people.
- **Henkel-Harris Co.**, a household furniture manufacturer, announced in April, 2014 that it would hire 18 new employees at its Winchester location.
- **HP Hood** operates a 375,080± square foot milk plant at 160 Hood Way where it employs over 420 people. The company announced in May, 2013 that it would expand the facility to increase ultra-high temperature production capacity, creating 75 new jobs. The Winchester plant first opened in 2001 with 170 employees and has been steadily growing since then. The 75 additional jobs will bring its total employment up to 500 workers. The majority of these new jobs will be operating positions from within the plant and will be permanent hourly positions.
- **Pactiv Corporation**, a manufacturer of corrugated containers, announced in November, 2013 that it would hire 25 new employees.

- **Amherst Medical Office Building.** Construction on this three-story Class B office building began in early-2013 and was completed in mid-2014. This 57,695 square foot building is fully occupied with medical office tenants.
- **McKesson Corp.,** a health care services and information technology company, completed a new distribution center in 2013 that employs 200 people. The company distributes medical and surgical supplies to physician offices, surgery centers, long-term care facilities and home care businesses.
- **The Shenandoah Valley Discovery Museum** opened in a new 20,000 square foot location in mid-2014 at 19 W. Cork Street.
- **Chuck E. Cheese** opened a new location in August, 2013 in Winchester where it employs 50 people.
- **The FBI** is currently planning on building a 256,430± square foot facility in Frederick County, called the Records Management Facility. The facility will consolidate FBI's paper records and also provides storage for National Archives and Records Administration's (NARA) compliant records in an environmentally conditioned, fire-protected space. The proposed facility will include a record management building. This facility was anticipated to open in 2016 and employ as many as 1,200 people, but the timeline has been delayed. Construction could begin in 2017. As always, there is no certainty with this proposal, but our research shows a strong likelihood that it will occur.
- **The Village at Orchard Ridge.** Plans are ongoing for the second phase of The Village at Orchard Ridge, a continuing care retirement community. The community is currently in pre-sales for its Phase II expansion, which will include additional 80 independent living apartments and 18 cottages, a 15,000 square foot wellness center with an indoor swimming pool, the expansion of the dining areas and an expansion of 10 suites to the skilled nursing neighborhood of Orchard Woods Health Center. Construction on the cottages began in April, 2014, with an expected completion date of spring 2015. Construction on all other buildings will commence in late-2014, and should be completed by the end of 2016.
- **Winchester Marketplace.** This 50,000 square foot retail center, to be located at 1523 S. Pleasant Valley Road, is currently under construction. It is located across South Pleasant Valley Road from Sheetz and beside Kmart. The property would include a 3,450 square foot Roy Rogers restaurant. Up to 180 permanent jobs could be created at the new retail center. The site plan includes a 5,700 square foot commercial pad site located behind the existing Jiffy Lube. Two more buildings are included in the site plans: an L-shaped building with wings measuring 21,000 and 12,000 square feet and another building measuring 8,141 square feet.

- Several small developments are in planning within the Frederick County, primarily in and around the industrial parks. These include a planned 75,000 square foot building expansion by Greenbay Packaging at 285 Park Center Drive and a 29,000 square foot warehouse expansion at 774 Smithfield Avenue.

In total, these new companies and local expansions will add approximately 2,600 new full-time employment, in addition to new construction jobs. These totals will increase on an annual basis.

There have been four major job loss announcements in Winchester-Fredrick County since 2013 that accounted for the loss of 240± jobs. These are detailed below.

- **Rubbermaid** announced in December, 2013 that it would move the headquarters of its Rubbermaid Commercial Products division from Winchester to Huntersville, N.C. The move will relocate 65 jobs in marketing, finance, planning and research and development, but will not affect the 750 employees involved in the factory, warehousing operations and distribution center.
- **Valley Health** announced in January, 2014 that it cut 33 positions as part of the health system's response to national changes in health care. In addition to those 33 job cuts, four employees within the system experienced a reduction in hours and 25 vacant positions were eliminated.
- **Chenega Integrated Systems**, a security service provider, announced in May, 2013 that it would reduce its Winchester employment base by 55 people by July, 2013.
- **Kmart** announced in February, 2014 that it would close its store on South Pleasant Valley Avenue in Winchester, resulting in the loss of 91 jobs.

Apartment Market Analysis

Following is a summary market analysis for new apartment unit development in the market area. For this analysis, we studied the market for 150-200 new units for initial project development at Heritage Commons. The study is for a new modern apartment complex with only one- and two-bedroom units. The forecast date for unit delivery is 2016/17. Current market area net rents (2014 dollars) for new attractive units at an amenitized apartment complex are \$950 to \$1,000 for a one-bedroom and \$1,100+

net for a two-bedroom with two full baths. We also assume an apartment complex with a competitive mix of on-site amenities.

Within these parameters, market support is analyzed for renter households with incomes of \$40,000 and above. A \$950 net rent will require an income of \$38,000 and above, based on 2014 dollars. Thus, to be somewhat conservative, we used \$40,000 as the minimum household income for the target market.

The market area demographic analysis was presented in Table 1. The key demographic factor under study for new apartment unit development is the magnitude and growth of renters with incomes of \$40,000 and above. Our analysis shows that the market area had approximately 5,100 renter households with incomes of \$40,000+ in 2010, at the time of the Census count. By 2018, this total is expected to increase to about 6,100, or a growth of 900+ renters for the 2010 to 2018 period, or 100+ households per year on average.

Competitive Apartment Market. The following table shows a list of existing rental housing units that would be competitive, or somewhat competitive, with new units at Heritage Commons, once built. While most marketplaces throughout Virginia have had an abundance of new apartment unit development since the recession, this is not the case in the Winchester area.

The two newest apartment developments were built in 2005. There has been a considerable number of adaptive reuse buildings opened for apartment units in downtown Winchester, but overall, the Winchester area apartment market is modest with only a few upscale properties.

Summerfield and Stuart Hill are the two newer and better apartment properties in the market area. In studying the Winchester area apartment market, only 40± percent of the identified better rental units are in defined apartment complexes. There are

condos for rent, a sizable number of towns for rent by professional real estate companies, and currently 80± rentals in adaptive reuse buildings in Old Town.

This list does not include rentals by individual owners – we found very few available units on Craig’s List – and does not include single-family rentals. Some of the units are rented by university students, but that is a small total of the occupancy shown in Table 3.

There are five key points shown by the data in Table 2 in regard to the magnitude and quality of the Winchester apartment market:

1. For a marketplace with 5,400+ renters (in 2013/14) with incomes of \$40,000+, the total competitive apartment unit count is modest, at 1,360±, particularly given the fact that many of the apartment units listed in Table 2 are below the rents proposed for new apartment unit development and will not compete for the \$40,000+ income renter;
2. The vacancy rate is near zero for the identified higher rent properties;
3. Most of the new apartment units being placed on the market at this time are one-bedroom units in upper floors of renovated Old Town buildings; (except for the units recently opened at Cedar Hill as noted below);
4. Nearly 60 percent of the apartment units that are listed in Table 2 were built prior to 2000; and
5. Tasker Village, with 64 units, is the only market rent newer apartment complex in Frederick County. Many of the other rental units in the County are at towns and condos for rent.

Table 3 Characteristics of Competitive Apartment Complexes and Other Higher End Rentals, Heritage Commons Market Area, August, 2014

	<u>Date Built</u>	<u>Total Units</u>
<u>Apartment Complexes</u>		
Summerfield	2005	64
Treetops	1995	52
Stuart Hill	2003	180
Tasker Village	2005	64
Pemberton	1998	120
Peppertree	1987/89	<u>194</u>
(Subtotal)		(672)
<u>Other Rentals 1/</u>		
Lakeside Condo	Mid-2000's	50
Tevis St. Apartments	1997	20
Fox Court	2002/03	25
Windstone TH's	2003	75
Limestone TH's	Mid-2000's	20
Old Town Rentals	2006/13	45
Saunders Construction Rentals	NA	120
Oakcrest Realtors	NA	130
Hables Real Estate	NA	<u>210</u>
(Subtotal)		<u>(695)</u>
Total 2/		1,359 2/
Notes: 1/ Totals include rentals that are managed by these companies.		
2/ Excludes the recently built Cedar Hill Apartments.		
Source: Field and telephone survey by S. Patz & Associates, Inc.		

Pipeline Proposals. At this time, there are two active proposals for new apartment unit development in the market area.

1. Jubal Square is a 140-unit apartment proposal that has been approved by City officials for rezoning. Jubal Square is expected to attract Shenandoah University students for at least 40 of the 140 planned units. This proposal will likely be ready for occupancy by sometime in 2016/17. The expected start date is late-2014 or early-2015. The proposal includes 28 three-bedroom units and 20 two-bedroom units with dens. The remainder are one- and two-bedroom units.
2. Old town Properties. City officials have approved the addition of 120 apartment units in adaptive reuse buildings in Old Town. These will open for lease-up over the next year or two.

3. Cedar Hill is a new construction 48-unit apartment building that was opened in 12-unit phases. The first building opened in mid-2013. The second building was available for occupancy by the end of 2013. Both of these buildings are fully occupied. The last two buildings are still under construction, with one planned for completion in November, 2014 and the last expected to open in early-2015. This is a non-amenitized property and likely an attractive property for university students given its location. The units are two- and three-bedroom.

These pipeline proposals are summarized in the chart to follow with an adjustment for apartment units expected to have some units occupied by Shenandoah University students. These active pipeline proposals are all in the City. These data show, if Jubal Square is built as planned, the number of new competitive market area apartment units for families will be increased by 250 units. Twenty-four of the units at Cedar Hill are occupied and no longer pipeline.

<u>Number of Planned Apartment Units</u> (2013-2018)	
Jubal Square	100 1/
Cedar Hill	30 1/
Old Town Properties	<u>120</u>
Total	250 (rounded)
Note: 1/ Adjusted to exclude college student occupancy.	

Within the County, there are two active development proposals with apartment units as plan components. One is Heritage Commons. The other is Madison Village, which is located adjacent to the south side of Heritage Commons. Madison Village is planned for 640 housing units, of which 480 units will be apartment units. It too will likely be built in phases.

Conclusions. Our demand analysis shows market support for 800± new apartment units in the market area for the 2010 to 2018 period, excluding units to be occupied by area college students. This projection could be conservative, given the large number of rental units in investor-owned units and the recent increase and success of new apartment complexes. The chart on the above page shows that 250± units are likely to be built in the near future, with the 48-unit Cedar Hill Apartment currently under

construction with the last two buildings and continued addition of new units in the downtown with 120± units planned in adaptive reuse buildings in Old Town Winchester. Jubal Square is the only planned amenitized apartment property. The net demand for new units by 2018 is 550 units.

Jubal Square will be an attractive apartment property, but will have a large percentage of large two's and three's. In time, a large percentage of these apartment units may be occupied by college students. The photo below shows the type of apartment units to be built at Jubal Square.



Prototype for Jubal Square

Cedar Hill is a small, non-amenitized apartment complex with a mix of two's and three's. These units should be fully occupied by mid-2015.

Cedar Hill



Completed Building



Building Under Construction

The adaptive reuse apartment units in downtown Winchester are attractive, but serve a small, select segment of the rental housing market.

Overall, the existing apartment market in the greater Winchester area is modest. The pipeline units will not change that condition. The Winchester area has an abundance of mature townhomes for rent due to an underserved rental apartment market.

The sponsor of Madison Village has not yet submitted a site plan for review by County staff. This may not happen until mid-Fall, at the earliest. The project engineer reports that the initial part of the development will be for towns, not apartment unit development. This is opposite the development concept for Heritage Commons. Apartment unit development at Madison Village is likely to start by late-2016 at the earliest. The number of units to be built in the first phase is not now known.

Thus, the likely magnitude of new units to be built during the 2014-2018 period is 250±, excluding units designated to students at Shenandoah University. This total is well below the projected demand of 860± units. Under these expected market trends,

sufficient demand exists for new apartment unit development at Heritage Commons for delivery during the 2016 to 2018 period.

Townhomes

Heritage Commons will also have 150 townhomes that will be priced in the \$240,000 range, as an average, with upgrades to the base price, and reported in constant 2014 dollars. The chart below shows that there are five active townhome subdivisions in the market area at this time. Excluded is Orchard Hill, which closed out in early-2013 and Brookland Manor, which closed out in 2012. The Towns at Tasker opened in May, 2014. The average base sales price for these homes is \$244,000. These prices are in the same price range planned for Heritage Commons.

Table 4: <u>Active Townhome Communities,</u> <u>Winchester-Frederick County, August, 2014</u>				
	<u>Year</u> <u>Started</u>	<u>Approved</u> <u>Lots</u>	<u>Built</u> <u>Lots</u>	<u>2014 Average Sales</u> <u>Prices</u>
Autumn Glen	1999	211	199	\$290,670
Fieldstone	2004	225	69	\$246,600
Snowden Bridge	2007	104	90	\$222,890
Sovereign Village	2013	62	4	\$244,900
Towns at Tasker	5/14	<u>81</u>	<u>1</u>	\$207,000-\$238,000
Total/Average		683	363	\$244,000
Source: Frederick County Department of Planning and Development				

There are only 300± lots available at these townhouse subdivisions at this time. Except for Sovereign Village and The Towns at Tasker, the other subdivisions were started prior to the recession and are large in terms of units planned.

Construction is ongoing on the first phase of 16 homes at The Townes at Tasker, developed by Dan Ryan Builders and located near the intersection of Tasker Road and Rutherford Lane between Winchester and Stephens City along Schramm Loop. This community will have 81 units at built out. The second phase will include 15 units, the third will include 18 units and the final phase will include 32 units.



Towns at Tasker

The two newest townhome subdivisions are modest in terms of the number of units planned. Clearly, the affects of the recession are still an issue with new home sales, but Sovereign Village opened in 2013 and The Townes at Tasker opened in 2014. New towns are likely to open in Madison Village in 2015 or 2016.

A smaller townhome community is proposed in Winchester City called 1570 Commerce Street. Commerce Street Apartments will consist of 26 three-bedroom townhome units ranging in size between 1,800 and 2,200 square feet. The developer is targeting households earning \$60,000 per year. Occupancy could begin as soon as 2015.

Following are photos of townhomes at the other four active subdivisions. Autumn Glen is not included, as it is marketed as age-restricted housing.



Sovereign Village



Fieldstone



Orchard Hill



Snowden Bridge

The sales pace for new townhome sales in the market area was 10± in 2011, 50± in 2012, 60± in 2013 and approximately 20± to date in 2014. If current trends continue, the 2014 total will be near or slightly below the 2013 figure, when reported on an annualized basis. 2012 and 2013 represent start-up years for new home sales after the recent recession. None of the four townhomes built at Sovereign Village have sold yet.

These data show market support for new towns at Heritage Commons in time and the proposed price range for towns at Heritage Commons. New townhome sales are not likely at Heritage Commons during the first one or two phases of development. However, there has been an increase in new home development and this is expected to continue.

Office Space

Heritage Commons is planned for 600,000 square feet of office space. That total includes the proposed 150,000 square foot County office building and a 70,000 square foot building planned for development by the sponsor of Heritage Commons as new space for businesses that need close proximity to County government offices. The County office building will likely not open before 2016. The sponsor's planned building will likely open at the same time. In addition to the 220,000 square feet of office space in

these two buildings, Heritage Commons will have land and approved master plan for 380,000 square feet of additional space.

Excluding some of the older office buildings in the historic downtown of Winchester, and elsewhere in the region, and the buildings occupied by City agencies, the market area has approximately 1.4 million square feet of newer office space, with “newer” defined as space built since 1988. This total also excludes the existing 65,300 square foot County office building.

The following paragraphs summarize the findings of our research on the market area office space:

- Of the 1.4± million square feet of office space in the market area, 457,700± square feet (33±%) is medical office space. These buildings are clustered near the hospital on Amherst Street and along Jubal Early Drive. Both are locations in the City of Winchester. The Heritage Commons site is not likely to be a competitive location for medical office space.
- The only recent office construction is the Amherst Medical Office Building, which was completed in mid-2014 with 57,695 square feet of office space. The building includes 8 condo suites that have all sold as condominium sales. Most of the suites were sold to medical tenants.
- The medical office space is at a near 100% occupancy rate.
- Excluding the large government buildings, such as FEMA and USACE, the market area has 650,000± square feet of newer space. These are building buildings of mostly 10,000 to 50,000 square feet.
- For the 2000 to 2009 period, 12 non-medial related, general purpose office buildings were built with a total of 280,000 square feet. For the 2000 decade, the average annual building pace for general purpose office space was 28,000 square feet per year. This space has a 10± percent vacancy rate.
- The 501-519 Jubal Early Drive building with 39,500 square feet is the newest non-medical office building in the market area. The building was started during the recession and completed in 2012. It was purchased by a tenant who will occupy the majority of the building.

- The office space market in the market area “stopped” during the post-2008 recession period.
- Along Airport Road are several “flex” office buildings with a mix of office and industrial space. These buildings include 120,000 square feet of space, plus the 110,000 square foot Navy Federal Credit Union.

Overall, the general purpose office space market is somewhat stagnant with only the 39,000± square foot building on Jubal Early Drive built since 2009. The vacancy rate is high. However, there are three positive issues to reemphasize:

1. The Federal Government is increasing its “presence” in the area and expanding the amount of office space that it requires. In 2012, FEMA opened a 111,000 square foot building for 570 employees;
2. Over half of the general office space in the market area is mature; and
3. The County’s mature market area flex space represents an expansion market for new office space.

The Heritage Commons site is well located for office space development, particularly with the new County office building on site. Thus, Heritage Commons will likely be competitive for new office space after the new County office building is open. At best, Heritage Commons will likely attract 25,000 square feet of office space per year, with expected additional County space and possibly a large federal government space. This pace of development would require 15± year for full build out of the “available” sites for 380,000 square feet of office space over and above the 220,000 committed square feet.

Retail Space

Heritage Commons will have approximately 100,000 square feet of retail/commercial space. This will be primarily restaurant space, personnel service space and non-retail space such as banks, child day care center, business service space, coffee shops, computer store, etc. Only half of the space is expected to be classified as retail space for resident expenditure potential. As shown above, the sponsor already has

discussions with businesses that would occupy 30,000 square feet, of which 20,000 square feet will compete for expenditure potential for consumer goods.

At build out, Heritage Commons will have 1,200 homes occupied by households with an average income (2014 dollars) of \$65,000. These households have a combined household income of \$78 million. Households in this income category will spend 15 percent of their income for: (1) food consumed away from home; (2) some food for home preparation; (3) miscellaneous purchases; (4) personal services; etc. That total is \$11.7 million, of which 20 percent can be “captured” by on-site retailers, if retail space is available, or about \$2.34 million.

<u>On-Site Residential Retail Sales Analysis at Buildout</u>	
(2014 dollars)	
	<u>Number</u>
On-Site Households	1,200
Average Household Income	\$65,000
Total Household Income	\$78,000,000
Convenience Purchases (at 15%)	\$11,700,000
On-Site Capture (20%)	\$2,340,000

There will be 2,000 on-site employees at the 600,000 square feet of on-site office space, if built, and 5,000± employees in area businesses. These employees will likely spend an average of \$10 per day for 260 work days for lunch and other local purchases, for a total of \$18.2 million. If attractive retail stores are available on site at Heritage Commons, 20 percent of this expenditure potential, or \$3.6 million can be captured by on-site retail stores.

<u>On-Site and Area Employee Retail Lunch Time Expenditure Potential</u>	
(2014 dollars)	
	<u>Number</u>
On-Site and Area Employees	7,000
Lunchtime Daily Expenditure Potential (260 days)	\$10.00
Annual Lunchtime Expenditure Potential	\$18,200,000
Heritage Commons Retail Store Capture (at 20%)	\$3,600,000

These two sources of retail sales expenditure, plus a 20% inflow sales from other area households, will generate total retail sales potential for on-site retailers of \$7.13 million. At an average sales per square foot of \$400, this annual sales potential will support nearly 30,000 square feet of retail space.

Thus, to support 100,000 square feet of commercial space on Heritage Commons, the majority of the space needs to be service and business related. This could be feasible with quality office tenants on site.

Market Study Conclusion

The projection of real estate development over a 15+ year period is speculative, at best. However, there are sufficient data to provide a comfort level that full market support exists for the Heritage Commons proposal, as presented, with the following qualifications:

- Even with increased competition, the apartment unit and townhome unit totals of 1,200 homes are marketable within a 15-year development period at Heritage Commons, an average occupancy of 80 homes per year. The market area population growth supports new housing unit demand, and current and pipeline competition is modest and not fully competitive for the market.
- To achieve 600,000 square feet of office space, in or beyond the 15± year development period, will require attracting one or more sizable users. The site setting and new bridge over I-81 should allow for that. However, reaching the 600,000 square foot total will require a strong marketing effort.
- To achieve 100,000 square feet of retail space, given the nearby competition, at least one sizable tenant of 15,000+ square feet will be required. This is likely.

We used the proposed land use totals for the FIA to follow. The results of the FIA are positive for the current development plan. Of special note is that the County office building is one key for project success for the commercial uses. The building will attract other office uses to the County and represents an important project component

for the large positive economic impact that Heritage Commons will generate for Frederick County.

Section II Fiscal and Economic Impacts Analysis

The fiscal and economic impacts analysis to follow is presented in two ways: first, those impacts which occur directly from activities on-site at Heritage Commons; and, second, those impacts which occur off-site due to multiplier or spin-off effects of resident and business expenditures in the County. The off-site impacts will be explained further on in this report; the present section deals with the on-site impacts. The on-site impacts include taxes generated by the development that will accrue to the County, such as the real property and personal property taxes for the development and its residents and businesses.

The fiscal impacts analysis also projects the public service and facility costs to be incurred by Frederick County by development on-site and for off-site spin-off effects. The results of the fiscal impacts analysis will be to compare the tax revenues generated by property development with the tax-supported costs incurred by the County to determine the net fiscal impacts in terms of a revenue surplus or deficit over costs. This is done for both on-site and off-site impacts. Total annual impacts for the property at buildout of the project will be projected at the outset, to be followed by impacts by five-year phases over the 15-year course of development of the site. Results are given in constant year 2014 dollars, rounded to the nearest ten dollars.

Summary of Fiscal Impacts

This section of the report for Heritage Commons will detail the economic and fiscal impacts of the planned Heritage Commons development as described above over as 15-year development period, with the recognition that the off-site impacts may lag somewhat behind development and on-site impacts as the market responds to changes in demand for goods and services. Table 6 presents a summary of the fiscal impacts that will be derived in this section of the report. It shows the sources of net fiscal benefits, being the difference between tax revenues generated and tax-supported costs incurred by the County to serve Heritage Commons. These are annual impacts, expressed in constant 2014 dollars, to avoid projecting inflation rates. The overall yearly impact of

Heritage Commons after buildout and full response by the local economy would be \$3.2 million in net revenue surplus for Frederick County. The paragraphs to follow present the derivations of these figures.

Table 6. <u>Summary of Tax Revenues, Tax-supported Costs, and Net Fiscal Benefits, On-site and Off-site, by Development Components at Buildout, Heritage Commons, Frederick County, Virginia (constant \$2014)</u>			
<u>Development Component</u>	<u>Tax Revenue</u>	<u>Tax-supported Costs</u>	<u>Net Fiscal Benefit</u>
<u>Apartments</u>			
On-site Impacts	\$1,537,250	\$1,778,000	-\$240,750
Off-site Impacts	<u>\$453,980</u>	<u>\$146,590</u>	<u>\$307,390</u>
Total Impact	\$1,991,230	\$1,924,590	\$66,640
<u>Townhouses</u>			
On-site Impacts	\$351,460	\$446,770	-\$95,310
Off-site Impacts	<u>\$138,590</u>	<u>\$41,090</u>	<u>\$97,500</u>
Total Impact	\$490,050	\$487,860	\$2,190
<u>Commercial Floor Space</u>			
On-site Impacts	\$612,030	\$73,980	\$538,050
Off-site Impacts	<u>\$515,440</u>	<u>\$146,590</u>	<u>\$368,850</u>
Total Impact	\$1,127,470	\$220,570	\$906,900
<u>Office Floor Space</u>			
On-site Impacts	\$1,336,010	\$554,850	\$811,160
Off-site Impacts	<u>\$1,877,450</u>	<u>\$490,730</u>	<u>\$1,386,720</u>
Total Impact	\$3,243,460	\$1,045,580	\$2,197,880
<u>Total Heritage Commons</u>			
On-site Impacts	\$3,866,750	\$2,853,600	\$1,013,150
Off-site Impacts	<u>\$2,985,460</u>	<u>\$825,000</u>	<u>\$2,160,460</u>
Total Impact	\$6,852,210	\$3,678,600	\$3,173,610
Sources: FY2015 Adopted Budget of Frederick County, Virginia; U.S. Department of Commerce; and S. Patz & Associates, Inc.			

On-site Impacts: Tax Revenues

The revenues to be considered in this report are taxes collected by Frederick County for General Fund use. These include the property taxes, utility tax, and other smaller taxes. The paragraphs to follow document the derivation of the tax amounts for the on-site development at the property.

Real Property Tax. For convenience, the real property (or real estate) tax is treated, first, for the residential development on-site, and then for the non-residential development on-site. This separation is done to simplify the presentation. Total taxes for residential and non-residential will then be combined to give total on-site taxes. Table 7 presents the findings for the real property tax for the residential units to be built at Heritage Commons, which include both rental apartments and for-sale townhouses. The table is straightforward: numbers of units are multiplied by average market value per unit, and the result is taxes at the County tax rate of \$0.585 per \$100 of value. Market values per unit were confirmed by field research on competitive projects. The total tax from residential units at the property would be almost \$917,000 at buildout.

Table 7. <u>Derivation of Real Property Tax for Residential Units On-site at Heritage Commons, at Buildout, Frederick County, Virginia (constant \$2014)</u>			
	<u>Apartments</u>	<u>Townhouses</u>	<u>Subtotal</u>
Cost Per Unit	\$115,000	\$240,000	\$130,630
Number of Units	1,050	150	1,200
Total Market Value	\$120,750,000	\$36,000,000	\$156,750,000
Real Estate Tax Per \$100	\$0.585	\$0.585	\$0.585
Total Real Estate Tax	\$706,390	\$210,600	\$916,990
Tax Per Unit	\$673	\$1,404	\$764

Sources: FY 2015 Adopted Budget for Frederick County, Virginia, and S. Patz & Assoc., Inc.

Market value for the non-residential (commercial and office) uses on site are based on developer hard costs, plus soft costs, land costs and site work. The commercial space includes both retail and services space. For the office space, only the taxable amount is included, which is 450,000 square feet out of the total of 600,000 square feet to be built on site. The remaining 150,000 square feet will be in public use and will be non-taxable. The methodology follows that for the commercial uses, with unit costs multiplied by number of square feet, and the resulting value multiplied by the real property tax rate. Together, the non-residential uses would produce almost \$555,000 in taxes per year.

Table 8. Derivation of Real Property Tax for Non-residential Units On-site at Heritage Commons at Buildout (constant \$2014)			
	<u>Commercial</u>	<u>Office</u>	<u>Subtotal</u>
Cost Per Square foot	\$122.00	\$183.50	\$172.32
Number of Square Feet	100,000	450,000	550,000
Total Market Value	\$12,200,000	\$82,575,000	\$94,775,000
Real Estate Tax Per \$100	\$0.585	\$0.585	\$0.585
Total Real Estate Tax	\$71,370	\$483,060	\$554,430
Tax Per Square Foot	\$0.71	\$1.07	\$1.01

Sources: FY 2015 Adopted Budget for Frederick County, Virginia, and S. Patz & Assoc., Inc.

The chart below summarizes real property taxes at the property for all residential and non-residential uses. The total real property taxes from on-site development equals approximately \$1.5 million at buildout.

	<u>Residential</u>	<u>Non-residential</u>	<u>Total</u>
Total Market Value	\$156,750,000	\$94,775,000	\$251,525,000
Real Estate Tax Per \$100	\$0.585	\$0.585	\$0.585
Total Real Estate Tax	\$916,990	\$554,430	\$1,471,420

Personal Property Taxes. Both residents and businesses are assessed personal (business) property taxes. For residents, this is a tax on motor vehicles; for businesses it is a tax on furniture, fixtures, and equipment (FF&E). To address residential personal property taxes, the first step is to estimate the average depreciated value per vehicle in the County. The sequence of calculation to achieve this are shown in Table 9 and summarized as follows:

- The FY 2015 Adopted Budget for Frederick County gives an allocation of \$44.1 million for expected personal property taxes.
- Based on the percent of real estate assessments that are residential – 69 percent – it is estimated that residential personal property taxes are \$30 million.
- Dividing the total residential personal property tax by the tax rate produces the total assessed value of vehicles in the County, \$626 million.
- According to the statistics section of the current budget, there are over 31,000 households (occupied housing units) in the County, each having an average of 2.3 vehicles, for a County total of almost 72,000 vehicles.
- Dividing the number of vehicles into the total assessed value of vehicles gives an average assessed value per vehicle of \$8,700.

Table 9. Estimation of the Average Depreciated Value of Residential Vehicles, Frederick County, Virginia (constant \$2014)

	<u>Amount</u>
Personal Property Tax	\$44,070,226
Percent Residential	0.69
Residential Prop. Tax	\$30,408,456
Residential Depreciated Value	\$625,688,394
Number of Households	31,345
Ave Vehicles Per Household	2.3
Number of Vehicles	72,094
Depreciated Value per Vehicle	\$8,679

Sources: FY 2015 Adopted Budget and Statistical Section for Frederick County, Virginia, and Frederick County Department of Revenue

Table 10 applies the average assessed value per vehicle and the personal tax rate in the County to the numbers of apartments and townhouses to be built at Heritage Commons. This yields a personal property tax of \$673,000 for the apartments and \$114,000 for the townhouses, for a residential total of over \$787,000. In the analysis, an occupancy rate of 95 percent is assumed to account for normal vacancy and turnover. This is a conservative figure, as actual occupancies may be higher.

Table 10. Personal Property Taxes For Residential Uses at Heritage Commons at Buildout (constant \$2014)

	<u>Apartments</u>	<u>Townhouses</u>	<u>Subtotal</u>
Number of Households @95%	998	143	1,140
Vehicles Per Household	1.60	1.90	1.64
Number of Vehicles	1,596	271	1,867
Value Per Vehicle	\$8,679	\$8,679	\$8,679
Total Depreciated Value	\$13,851,290	\$2,349,770	\$16,201,060
Tax @ \$4.86/\$100	\$673,170	\$114,200	\$787,370
Tax Per Unit	\$641	\$761	\$691

Sources: S. Patz & Associates, Inc.

For non-residential floor space, an average and total FF&E cost is shown in Table 11. This is depreciated to an average of 40 percent. Multiplying by the tax rate yields the projected business property tax for the proposed development, a total of \$204,000 for the non-residential properties.

Table 11 Personal Property Taxes For Non-residential Uses at Heritage Commons, at Buildout (constant \$2014)

	<u>Commercial</u>	<u>Office</u>	<u>Subtotal</u>
Total Floor Space (Sq. Ft.)	100,000	450,000	550,000
FF&E/Square Foot	\$15	\$20	\$19
Total FF&E	\$1,500,000	\$9,000,000	\$10,500,000
Depreciated to 40%	\$600,000	\$3,600,000	\$4,200,000
Tax @ \$4.86/\$100	\$29,160	\$174,960	\$204,120
Tax Per Square Foot	\$0.29	\$0.39	\$0.37

Sources: S. Patz & Assoc., Inc.

In the chart below, the on-site residential and non-residential personal property taxes at Heritage Commons are added to give \$1.0 million in annual taxes after buildout.

	<u>Residential</u>	<u>Non-residential</u>	<u>Total</u>
Total Depreciated Taxable Value	\$16,201,060	\$4,200,000	\$20,401,060
Tax at \$4.86 Per \$100	\$787,370	\$204,120	\$991,490
Tax Per Unit/Square Foot	\$691	\$0.37	

Retail Sales Tax. Of the 100,000 square feet of commercial space, at Heritage Commons, it is estimated that 80 percent will be in convenience retail or restaurant space, both subject to the retail sales tax. The remaining 20 percent would be comprised of non-taxable personal and business services. This is a “best guess” estimate at this time as the list of expected retail tenants is not yet known. However, for the fiscal impacts analysis, it is a small tax and any changes will not greatly affect the overall net tax revenue analysis.

With average annual store sales of \$400 per square foot (an estimate that may change over time depending on the retail/service space mix), sales receipts for the retail and restaurant space would come to \$32 million annually. This sales level represents an average for small retailers and restaurants. There is a wide variation of sales at retail spaces depending upon the type of store and whether the store is a company store or is individually owned. The estimate of \$400 per square foot in sales comes from area retail brokers and developers of retail space.

These are modest levels of business receipts. Retail stores at Heritage Commons will not have an anchor tenant such as a big box store or supermarket, so sales may be lower compared with larger retail centers. Taxable sales from on-site retail stores would yield \$320,000 at 1.0 percent tax rate, based on a rate of sales of \$400 per square foot.

<u>Table 12. Retail Sales Tax for the Commercial Space at Heritage Commons at Buildout (constant \$2014)</u>	
	<u>Amount</u>
Commercial Floor Space	100,000
Percent Retail/Restaurant	0.80
Retail/Restaurant Sq. Feet	80,000
Sales Per Square Foot	\$400
Total Taxable Sales	\$32,000,000
Sales Tax Rate	0.01
Total Sales Tax	\$320,000
Sales Tax Per Gross SF	\$3.20

Source: S/ Patz & Assoc., Inc.

Business License Taxes. Certain businesses are taxed in the County under the Business, Professional, and Occupational License (BPOL) tax. The two cases in effect here are taxes on retail sales and professional services, which include all private office space. The commercial space is limited to retail space, and the office space excludes government space. In Table 13, the respective BPOL tax rates are applied to the taxable receipts in commercial and private office space, yielding a total of \$716,500 in BPOL taxes annually.

Table 13. Business, Professional, and Occupational (BPOL) Tax at the Non-residential Uses at Heritage Commons at Buildout (constant \$2014)

	<u>Commercial</u>	<u>Office</u>	<u>Total</u>
Taxable Floor Space	80,000	450,000	530,000
Receipts Per Square Foot	\$400	\$250	
Total Receipts	\$32,000,000	\$112,500,000	\$144,500,000
Tax Rate Per \$100	\$0.20	\$0.58	
BPOL Tax	\$64,000	\$652,500	\$716,500
Tax Per Gross Square Foot	\$0.64	\$1.45	\$1.45

Source: S. Patz & Assoc., Inc.

Consumer Utility Taxes. Expenditures on utilities are typically taxed in Virginia municipalities on at least three of the following utilities: electric, gas, water, land line, cell phone, and internet. For households most utility taxes are approximately \$3.00 per month per utility; for three utilities this is \$108 per household per year. For the approximately 1,000 households in apartments, this comes to a tax of \$107,730, and for the approximately 140 households in townhouses this tax comes to \$15,390, for a total in residential units of \$123,120.

Non-residential utility taxes are determined by backing residential utility taxes out of the total County FY 2015 budget for utilities of \$4.25 million. This is done in Table 14, resulting in an estimate of \$32 in utility taxes per employee per year. With an estimated 200 employees in commercial space, the utility tax for that space would come to \$6,480. Similarly, with 1,500 employees in private office space, the utility taxes in offices would come to \$48,610, for total non-residential utility taxes of \$55,090.

**Table 14. Utility Taxes Per Employee,
Frederick County, Virginia (constant
\$2014)**

	<u>Amount</u>
County Utility Taxes FY 2015	\$4,250,000
Number of Households	31,345
Utility Taxes Per Household	\$108
Residential Utility Taxes	\$3,385,297
Non-Residential Utility Taxes	\$864,703
Employment	26,684
Taxes Per Employee	\$32

Sources: FY 2015 Adopted Budget and Statistical
Section for Frederick County, Virginia

Total residential and non-residential utility taxes would total \$178,210 annually after buildout in constant year 2014 dollars.

Meals Tax. Of the 100,000 square feet of commercial space at the site, up to 80,000 square feet could be convenience retail or restaurants, the latter comprising 10,000 square approximately. Restaurants are fairly receipts intensive, here assumed at \$300 per square foot, for sales (receipts) of \$3.0 million. Tax on \$3.0 million of sales at four percent gives an amount of \$120,000, as Table 15 shows.

Table 15. <u>Meal Taxes at Heritage Commons at Buildout (constant \$2014)</u>	
	<u>Amount</u>
Restaurant Floor Space Sq. Feet	10,000
Sales Per Square Foot	\$300
Total Sales	\$3,000,000
Tax at 4.0%	\$120,000
Tax Per Gross SF	\$1.20
Sources: S. Patz & Assoc., Inc.	

Motor Vehicle Licenses. The analysis for personal property taxes estimated 1,596 vehicles at the apartments, and 271 at the townhouses. The license fee is \$25 per vehicle, giving total fees of \$39,900 at the apartments and \$6,770 at the townhouses. Total fees would be \$46,670.

Recordation Tax. Real estate ownership transfers are taxes at the state level at the rate of \$0.25 per \$100 of value. One third of this is returned to the municipality, a rate of \$.0833 per \$100. Assuming that townhouse units are registered for recordation three times in 20 years – initial recordation plus resales every 10 years – and apartments and non-residential are recorded twice in 20 years, the following annual average recordation taxes would accrue (see Table 16).

Table 16. <u>Annual Average Recordation Tax at Heritage Commons, at Buildout (constant \$2014)</u>			
	<u>Taxable Value</u>	<u>Total 20-Year Tax</u>	<u>Annual Ave. Tax.</u>
Apartments	\$241,500,000	\$201,250	\$10,060
Townhouses	<u>\$108,000,000</u>	<u>\$90,000</u>	<u>\$4,500</u>
Residential	\$349,500,000	\$291,250	\$14,560
Commercial	\$24,400,000	\$20,330	\$1,020
Office	<u>\$165,150,000</u>	<u>\$137,630</u>	<u>\$6,880</u>
Non-residential	\$189,550,000	\$157,960	\$7,900
Total Recordation Tax	\$539,050,000	\$449,210	\$22,460
Source: S. Patz & Assoc., Inc.			

Summary of On-site Tax Revenues. Table 17 summarizes the taxes by type for residential uses at the site, and Table 18 presents those taxes for non-residential uses. Both tables are for project buildout. Residential taxes total \$1.9 million and non-residential taxes total \$2.0 million. As Table 16 shows, the total tax revenue to accrue to Frederick County at buildout of the site would come to \$3.9 million annually, in constant year 2014 dollars. Among the residential taxes, the major source is the apartments, as they comprise many more units than do the townhouses.

Table 17. Summary of Taxes Residential Uses at Heritage Commons, at Buildout, Frederick County, Virginia (constant \$2014)

	<u>Apartments</u>	<u>Townhouses</u>	<u>Residential</u>
Real Estate Tax	\$706,390	\$210,600	\$916,990
Personal Property Tax	\$673,170	\$114,200	\$787,370
Retail Sales Tax	\$0	\$0	\$0
BPOL Tax	\$0	\$0	\$0
Consumer Utility Tax	\$107,730	\$15,390	\$123,120
Meals Tax	\$0	\$0	\$0
Motor Vehicle Lic. Fee	\$39,900	\$6,770	\$46,670
Recordation Tax	<u>\$10,060</u>	<u>\$4,500</u>	<u>\$14,560</u>
Total Annual Taxes	\$1,537,250	\$351,460	\$1,888,710
Taxes Per Unit	\$1,464	\$2,343	\$1,574
Sources: S. Patz & Assoc., Inc.			

Commercial space, being much less than office space, contributes a much smaller portion of the non-residential tax revenue, just over 30 percent. The total non-residential tax of \$2.0 million averages \$3.60 per square foot in taxes.

Table 18. Summary of Taxes Non-residential Uses at Heritage Commons, at Buildout, Frederick County, Virginia (constant \$2014)

	<u>Commercial</u>	<u>Office</u>	<u>Non-resid.</u>
Real Estate Tax	\$71,370	\$483,060	\$554,430
Personal Property Tax	\$29,160	\$174,960	\$204,120
Retail Sales Tax	\$320,000	\$0	\$320,000
BPOL Tax	\$64,000	\$652,500	\$716,500
Consumer Utility Tax	\$6,480	\$48,610	\$55,090
Meals Tax	\$120,000	\$0	\$120,000
Motor Vehicle Lic. Fee	\$0	\$0	\$0
Recordation Tax	<u>\$1,020</u>	<u>\$6,880</u>	<u>\$7,900</u>
Total Annual Taxes	\$612,030	\$1,366,010	\$1,978,040
Taxes Per Sq. Foot	\$6.12	\$3.04	\$3.60

Sources: S. Patz & Assoc., Inc.

Among all taxes from the site, the two predominant ones are the two property taxes, with approximately \$2.5 million in tax receipts for the County. This means that the property taxes account for almost 64 percent of total taxes. The BPOL tax is third in size, at \$0.7 million, or 20 percent of the total. This tax derives primarily from the office space.

Table 19. Summary of Taxes From Residential and Non-residential Uses at Heritage Commons, at Buildout (constant \$2014)

	<u>Residential</u>	<u>Non-Resid.</u>	<u>Total Amount</u>
Real Estate Tax	\$916,990	\$554,430	\$1,471,420
Personal Property Tax	\$1,150,590	\$247,860	\$991,490
Retail Sales Tax	\$0	\$320,000	\$320,000
BPOL Tax	\$0	\$716,500	\$716,500
Consumer Utility Tax	\$123,120	\$55,090	\$178,210
Meals Tax	\$0	\$120,000	\$120,000
Motor Vehicle Lic. Fee	\$46,670	\$0	\$46,670
Recordation Tax	<u>\$14,560</u>	<u>\$7,900</u>	<u>\$22,460</u>
Total Annual Taxes	\$2,251,930	\$2,021,780	\$3,866,750
Sources: S. Patz & Assoc., Inc.			

Costs to the County

The previous section derived the major tax revenues that would accrue to Frederick County from the on-site development at Heritage Commons, as planned. The fiscal impacts analysis compares revenues with costs. In this case, since taxes are deposited in the County’s General Fund, those revenues for the site are compared with the tax-supported costs that the County would incur in serving the residents and businesses at the site. Other sources of revenue and costs are excluded, since they accrue to separate funds in which expenditures generally equal revenues.

The source for the tax-supported costs the County would incur for service to the residences and businesses at Heritage Commons is the County’s FY 2015 Adopted Budget. In the succeeding paragraphs the budget is presented both in terms of budgeted revenues and budgeted expenses. The tax-supported portion of the budgeted expenditures is derived and expressed on a per capita basis - for population (representing residents), employment (representing businesses), and pupils

(representing costs of public education. The per capita costs to the County will be applied to the population, employment and pupils at the site to determine the overall costs to the County from the development of the site.

County Budget Revenues. The purpose of presenting a summary of County revenues in the chart below is to show what portion is from local taxes. This proportion represents the “tax burden” for the budget, representing the amount of the County’s local revenues that County residents and businesses must make up in taxes. The chart shows that of \$129.5 million in revenue from local sources in the FY2015 budget, fully 95.5 percent must come from local taxes.

<u>General Fund Revenues</u>	<u>FY2015</u>
General Property Taxes	\$93,490,226
Other Local Taxes	<u>\$30,213,611</u>
Subtotal Local Taxes	\$123,703,837
Local Non-tax Revenue	<u>\$5,837,265</u>
Total Local Revenue	\$129,541,102
Percent Local Taxes	95.49%

County Budget Expenditures. Table 20 summaries FY2015 budgeted General Fund expenditures by major function for Frederick County and the portion that is to be funded from local sources. (A detailed table of expenditures is presented in Appendix Table A-1.) These data will be applied below to determine per capita costs of County services and facilities that must be supported by local taxes based on the ratio derived above that 95.5 percent of local funding for the General Fund must come from local taxes. The total General Fund budget for FY2015 is \$142 million, of which \$130 million must come from local sources. This is over 90 percent. Other sources are transfers from the State and Federal governments.

Table 20. Summary of Budgeted General Fund Expenditures and the Amount to come from Local Funds, Frederick County, Virginia, FY2015

<u>General Fund Functional Areas Expenditure Budget</u>	<u>FY2015 Adopted</u>	<u>FY2015 Local Funds</u>
General Gov't Administration	\$8,834,088	\$8,037,938
Judicial Administration	\$2,273,085	\$1,198,643
Public Safety	\$28,411,307	\$24,551,146
Public Works	\$4,172,249	\$3,312,968
Health and Welfare	\$6,910,546	\$3,490,604
Community College	\$56,000	\$56,000
Parks, Recreation & Culture	\$5,530,713	\$3,227,880
Community Development	\$1,924,902	\$1,514,744
County Debt Service	\$2,561,645	\$2,561,645
Other Departmental ex. Schools	<u>\$1,739,136</u>	<u>\$1,739,136</u>
Subtotal	\$62,413,671	\$49,690,704
Transfer to School Operating Fund	\$65,347,740	\$65,347,740
Transfer to School Debt Service	<u>\$14,626,151</u>	<u>\$14,626,151</u>
Subtotal Schools	\$79,973,891	\$79,973,891
Total General Fund	\$142,387,562	\$129,664,595

Source: Adopted FY2015 Annual Budget for Frederick County, Virginia

Per Capita County Costs. In Table 21 budgeted General Fund expenditures funded from local sources for FY2015 are allocated to population, employment, and public school pupils, and the local tax share is calculated. One hundred percent of the General Fund transfer to the School Fund is tax supported, meaning that General Fund tax-supported costs per pupil are \$5,845 based on recent enrollment of 13,066 pupils in the County school system. Non-school expenditures are allocated by department to the two other classes of users, population and employment. For most functional non-school departments, total FY2015 expenditures are allocated to the users in proportion to their numbers, 76 percent population and 24 percent employment. The exceptions are health and welfare, community college, and parks, recreation and culture, which are allocated in their entirety to population. The table shows that the per capita tax-supported cost of

services and facilities for the population average \$447 per capita; for employees, the amount is \$370 per capita.

Table 21. General Fund Expenditures for Population, Employment, and Public School Pupils, Frederick County, Virginia, FY2015			
<u>General Fund Functional Areas Expenditure Budget</u>	<u>Population Share</u>	<u>Employment Share</u>	<u>Local Funding</u>
	0.759154459	0.240845541	
General Gov't Administration	\$6,102,036	\$1,935,902	\$8,037,938
Judicial Administration	\$909,955	\$288,688	\$1,198,643
Public Safety	\$18,638,112	\$5,913,034	\$24,551,146
Public Works	\$2,515,054	\$797,914	\$3,312,968
Health and Welfare	\$3,490,604	\$0	\$3,490,604
Community College	\$56,000	\$0	\$56,000
Parks, Recreation & Culture	\$3,227,880	\$0	\$3,227,880
Community Development	\$1,149,925	\$364,819	\$1,514,744
County Debt Service	\$1,944,684	\$616,961	\$2,561,645
Other Departmental ex. Schools	\$1,320,273	\$418,863	\$1,739,136
Subtotal	\$39,354,524	\$10,336,180	\$49,690,704
Percent Taxes	\$1	\$1	\$1
Subtotal Taxes	\$37,581,166	\$9,870,421	\$47,451,586
Number of Persons	84,109	26,684	110,793
Tax-expenditures Per Capita	\$447	\$370	\$428
Transfer to School Oper. Fund	\$65,347,740	\$0	\$65,347,740
Transfer to School Debt Serv.	\$14,626,151	\$0	\$14,626,151
Subtotal Schools	\$79,973,891	\$0	\$79,973,891
Subtotal School Taxes	\$76,370,179	\$0	\$76,370,179
FY2015 Pupil Enrollment	13,066	0	13,066
School Tax-cost Per Pupil	\$5,845	\$0	\$5,845
Total General Fund Expenditures	\$119,328,415	\$10,336,180	\$129,664,595
Source: Adopted FY2015 Annual Budget for Frederick County, Virginia and Statistical Section.			

On-site Costs to the County. Per capita costs for the County are multiplied by population, employees and pupils at Heritage Commons to estimate the tax-supported costs that Frederick County will incur in serving the Heritage Commons development at buildout. The following paragraphs derive the estimated costs to the County from the

development, first population, next pupils, and finally employment. Data in Table 19 show the number of households at 95 percent of all residential units, which it has been shown is conservative. At \$447 per capita, the apartments entail County population tax-supported costs of \$758,000 annually, in constant year 2014 dollars. By comparison, the townhouses entail \$172,000 in population costs.

Table 22. <u>General Fund Costs for Frederick County Allocated to Residents at Heritage Commons,(constant \$2014)</u>			
	<u>Apartments</u>	<u>Townhouses</u>	<u>Total</u>
No. of Households	998	143	1,140
Population/Household	1.7	2.7	1.83
Total Population	1,696	385	2,081
Cost Per Capita	\$447	\$447	\$447
Population Costs	\$757,690	\$171,910	\$929,600
Costs Per Unit	\$722	\$1,146	

Sources: FY 2015 Adopted General Fund Budget and Statistical Section, Frederick County, Virginia, and S. Patz & Assoc., Inc.

School costs have the greatest cost impact from the site on the County. The key to school costs is the pupil generation rate, that is, the number of public school pupils that can be expected, on average, from each housing unit. The pupil generation rate for apartments is based on our research of the area's two better and most comparable apartments. Both happen to be in Winchester; there is only one non-subsidized apartment complex in the County, and it is not of the quality that will be developed at the Heritage Commons site. There are few decent apartment comparables to evaluate student generation rates for the study of Heritage Commons, as most area apartment communities are at lower rents. Pepper Tree and Stuart Hill are the two best examples of comparables to Heritage Commons where data were available. Pupil generation rates for those two apartments are shown in the chart below.

<u>Apartments</u>	<u>Pupils</u>	<u>Units</u>	<u>Rate</u>
Pepper Tree	20	194	0.103
Stuart Hill	<u>9</u>	<u>180</u>	0.050
Total	29	374	0.078

To be more conservative, a pupil generation rate of 0.175 pupils per apartment unit is assumed. For townhouses, the rate for better properties is 0.3 pupils per unit. For the townhouses, a similar approach had been taken, in the survey of existing new, active comparable townhouse developments to assess their pupil generation rates. There were more comparables for the townhome market. Overall, these are 0.33 pupils per townhouse, as follows (these data are from the Frederick County School District).

<u>Townhouses</u>	<u>Pupils</u>	<u>Units</u>	<u>Rate</u>
Brookland Manor	20	68	0.294
Snowden Bridge	20	44	0.455
Fieldstone	<u>8</u>	<u>34</u>	0.235
Total	48	146	0.329

There is considerable discussion on the per pupil ratio to use for Heritage Commons and other like properties. The two apartment buildings shown in the chart above would “suggest” a 0.1± rate of pupil per apartment unit. Higher rent apartment properties generate lower rates of students than lower rent properties. We used the ratio of 0.175 to be conservative, which is almost double the rate shown in the chart. Using this higher rate reduces net tax revenue by \$440,000 annually at project built-out.

We believe that the 0.175 ratio for pupils per apartment unit is a current and conservative number based on our research for this study and others. Apartment units at Heritage Commons will be in a suburban setting. Within the Winchester marketplace, only the more modest rent apartment properties generate a sizable number of school children. The rate used for the apartment units at Heritage Commons is one-half the rate used for the townhomes. This is an appropriate ratio.

At \$5,845 in General Fund taxes per pupil using the above ratios, the 222 pupils expected at the on-site housing would generate \$1.3 million in tax-supported school costs for the County, \$1.0 million from the apartments and \$0.3 million for the townhouses.

Table 23. <u>Costs to Support Public School Pupils at Heritage Commons by Housing Type (constant \$2014)</u>			
	<u>Apartments</u>	<u>Townhouses</u>	<u>Total</u>
No. of Households	998	143	1,140
Pupils Per H'Hold	0.175	0.330	0.194
No. of Pupils	175	47	222
Cost Per Pupil	\$5,845	\$5,845	\$5,845
School Costs	\$1,020,310	\$274,860	\$1,295,170
Cost Per Unit	\$972	\$1,832	\$1,079

Sources: FY 2015 Adopted General Fund Budget and Statistical Section, Frederick County, Virginia, Frederick County School District, and S. Patz & Assoc., Inc.

The following chart summarizes the costs to the County from the residential development proposed for the site:

	<u>Apartments</u>	<u>Townhouses</u>	<u>Total</u>
Population Costs	\$757,690	\$171,910	\$929,600
School Costs	<u>\$1,020,310</u>	<u>\$274,860</u>	<u>\$1,295,170</u>
Total Costs	\$1,778,000	\$446,770	\$2,224,770

Costs from the businesses at Heritage Commons come from the number of employees at the establishments. Costs are relatively small from the commercial space since it is of limited extent, at \$74,000 annually. Costs attributed to employees in office space would come to \$555,000 for 1,500 employees.

Table 24. Costs for to Support Employees at Heritage Commons (constant \$2014)

	<u>Commercial</u>	<u>Office (Taxable)</u>	<u>Total</u>
Floor Space SF	100,000	450,000	550,000
Sq. Ft./Employee	500	300	324
Employees	200	1,500	1,700
Cost Per Employee	\$370	\$370	\$370
Employment Costs	\$73,980	\$554,850	\$628,830
Costs Per Sq. Ft.	\$0.74	\$1.23	\$1.14

Sources: FY 2015 Adopted General Fund Budget and Statistical Section, Frederick County, Virginia, and S. Patz & Assoc., Inc.

Net Fiscal Impact. The net fiscal impact is the net benefit in terms of the surplus (or deficit) of tax revenues compared to tax-supported costs for Frederick County from Heritage Commons, as planned. At buildout Heritage Commons would produce a total net surplus revenue of \$1.0 million, as shown in Table 25. This is the difference between revenue of \$3.9 million and costs of \$2.9 million annually.

Table 25. Summary of On-site Tax Revenues, County Costs, and Net Fiscal Benefit, by Type of Development at Heritage Commons at Buildout (constant \$2014)

	<u>Apartments</u>	<u>Townhouses</u>	<u>Residential</u>
Total Tax Revenue	\$1,537,250	\$351,460	\$1,888,710
Tax-supported Costs	\$1,778,000	\$446,770	\$2,224,770
Net Fiscal Benefit	-\$240,750	-\$95,310	-\$336,060
Number of Units	1,050	150	1,200
Net Benefit Per Unit	-\$229	-\$635	
	<u>Commercial</u>	<u>Office</u>	<u>Non-residential</u>
Total Tax Revenue	\$612,030	\$1,366,010	\$1,978,040
Tax-supported Costs	\$73,980	\$554,850	\$628,830
Net Fiscal Benefit	\$538,050	\$811,160	\$1,349,210
Number of Sq. Feet	100,000	450,000	550,000
Net Benefit Per S.F.	\$5.38	\$1.80	
	<u>Residential</u>	<u>Non-residential</u>	<u>Total</u>
Total Tax Revenue	\$1,888,710	\$1,978,040	\$3,866,750
Tax-supported Costs	\$2,224,770	\$628,830	\$2,853,600
Net Fiscal Benefit	-\$336,060	\$1,349,210	\$1,013,150

Source: S. Patz & Associates, Inc.

Off-site Impacts: Economic and Fiscal

In addition to the revenues and costs that accrue to Frederick County from the development “on-site,” as described above, there are also off-site impacts that occur as a result of residents, employees and businesses expenditures throughout the County, and as other businesses re-spend the business receipts off-site for the purchase of goods and services from other vendors in the County. The multipliers used in this analysis are specific to Frederick County, Virginia. Consumer budgets are identified by the U.S. Bureau of Labor Statistics by area and income level. There is no direct budget information for Frederick County, and the income level for the Washington, D.C. area is

too high to be applicable here. Instead, national data for a budget for household income in the \$50,000's has been chosen for the apartments, and household incomes of \$90,000 for residents in the townhouses.

About 77 percent of this income is spent, other uses being taxes, savings and transfers to others not living in the household. It is assumed that 40 percent of all consumer and businesses expenditures from the on-site development are made outside of Frederick County, and 60 percent are retained within the County. Among the larger expenditures by consumers are 19 percent for shelter and 27 percent for retail trade, including automobiles.

Consumer expenditures made off-site in the County are translated into economic impacts in the County using multiplier matrices provided for the local area by the U.S. Bureau of Economic Analysis. These multipliers capture the round-by-round flows of expenditures in the County initiated by residents and businesses from on-site. There are separate matrices for business receipts, employment and employee earnings. The items in the consumer budget are multiplied in turn by these expenditure-specific categories in each matrix and summed to give the "ripple effect," "spin-off," or "multiplier effect" of circulation of money through the economy. The ripple effects, plus the original consumer expenditures, equal the total economic impacts of apartment residents on the City economy.

Business Receipts

The chart below sets forth the economic dollar flows set in motion by expenditures off-site by residents and businesses at the Heritage Commons. The direct expenditures in the County represent the expenditures by on-site residents and businesses off-site directly. They total \$170 million when housing units are occupied and businesses in operation. The largest component would come from the 450,000 square feet of privately-occupied office space.

This \$170 million in expenditures for goods and services would be expected to comprise 60 percent in-county dollar flows, which would create another \$221 million in ripple effects or spin-off within the County. The ripple effect would be two to three times direct expenditures. The exception is commercial, where retail trade can be expected to make most of its wholesale purchases of goods and services from sources outside the County. Residents of townhouses create relatively greater impacts than do apartment renters because of higher income of households in townhouses. Altogether, the business impact in Frederick County would come to \$391 million. These off-site impacts also create tax receipts and costs to the County as do on-site impacts (see above).

<u>Off-site Impacts by Land Use</u>	<u>Apartments</u>	<u>Townhouses</u>	<u>Commercial</u>	<u>Office</u>
Direct Expenditures	\$23,206,000	\$6,365,000	\$28,000,000	\$112,500,000
Indirect Spin-off Effect	<u>\$47,651,000</u>	<u>\$17,669,000</u>	<u>\$8,026,000</u>	<u>\$147,938,000</u>
Total Business Receipts	\$70,857,000	\$24,034,000	\$36,026,000	\$260,438,000

Employment and Earnings

Previous analysis identified 1,700 employees that would be on-site at the property, most being occupants of office space. Another 2,240 jobs would be created off-site by the spin-off from the on-site development. The office space on-site at Heritage Commons would have the greatest impact, creating over 1,300 off-site jobs off-site in the County. These off-site employment impacts would generate \$149 million in employee earnings in the County. This would be an average of about \$67,000 per employee. This is heavily influenced by the higher income jobs spun-off from the offices on site.

Off-site Fiscal Impacts

The methodology used in projecting fiscal impacts off-site mirror those used to project fiscal impacts on-site. As before, revenues will be limited to taxes, and costs will be those that must be tax-supported, as based on employment. The RIMS II multipliers

from the Bureau of Economic Analysis break receipts, employment and earnings impacts down into 21 different sectors, and the impact dollar amounts (business revenues) in the sectors form the basis for determining taxes. Many taxes can be calculated directly from these receipts, or from employment created off-site in the same fashion as for on-site taxes. Costs to the County can likewise be calculated from off-site employment created.

Because of their commercial nature, the non-residential components at Heritage Commons would be expected to yield considerably greater off-site impacts than would the off-site expenditures of residents at the site. This is the case, with the non-residential components having a net fiscal benefit of \$1.8 million annually, compared to \$0.4 million for the residential components, for a total of \$2.2 million annually after buildout in constant 2014 dollars. Table 26 below summarizes the off-site fiscal impacts by type of use. Appendix Tables A-2, A-3, and A-4 give the individual tax sources for each type of use.

Table 26. <u>Summary of Off-site Spin-off Impacts for Heritage Commons, at Buildout, by Type of Use (constant \$2014)</u>			
<u>Type of Use</u>	<u>Tax Revenue</u>	<u>Tax-supported Costs</u>	<u>Net Fiscal Benefit</u>
Apartments	\$453,980	\$146,590	\$307,390
Townhouses	\$138,590	\$41,090	\$97,500
Commercial	\$515,440	\$146,590	\$368,850
Office	<u>\$1,877,450</u>	<u>\$490,730</u>	<u>\$1,386,720</u>
Total Off-site Impacts	\$2,985,460	\$825,000	\$2,160,460
Sources: Bureau of Economic Development and Bureau of Labor Statistics, U.S. Department of Commerce, Adopted FY2015 Budget for Frederick County, Virginia, and S. Patz & Associates, Inc.			

Summary of On- and Off-site Impacts

The overall annual impacts, both on-site and off-site spinoff, would be substantial from Heritage Commons for Frederick County. Total tax revenue each year would be \$6.9 million, compared to costs to the County of \$3.7 million. This would leave a net fiscal benefit of \$3.2 million annually for the County. These overall impacts are summarized in Table 27 by type of use on-site at Heritage Commons. Table 6, above in the introduction to this section, and Appendix Table A-5 provide detail on both the on-site and off-site impacts from the development.

Table 27. <u>Summary of Total On-site and Off-site Impacts for Heritage Commons, at Buildout, by Type of Use (constant \$2014)</u>			
	<u>Tax Revenue</u>	<u>Tax-supported Costs</u>	<u>Net Fiscal Benefit</u>
Apartments	\$1,991,230	\$1,924,590	\$66,640
Townhouses	\$490,050	\$487,860	\$2,190
Commercial	\$1,127,470	\$220,570	\$906,900
Office	<u>\$3,243,460</u>	<u>\$1,045,580</u>	<u>\$2,197,880</u>
Total Off-site Impacts	\$6,852,210	\$3,678,600	\$3,173,610
Sources: Bureau of Economic Development and Bureau of Labor Statistics, U.S. Department of Commerce, Adopted FY2015 Budget for Frederick County, Virginia, and S. Patz & Associates, Inc.			

Phasing of Heritage Commons

The development of Heritage Commons is planned for three five-year phases, for a buildout period of 15 years. The chart below sets forth the phasing scheme for Heritage Commons, and the discussion following the chart addresses the net fiscal benefit to accrue to the County for each type of use for each phase.

<u>Phasing By Use</u>	<u>1st 5 yrs</u>	<u>2nd 5 Yrs</u>	<u>3rd 5 Yrs</u>	<u>Total</u>
Apartment Units	350	350	350	1,050
Townhouse Units	100	50		150
Commercial Square Feet	50,000	25,000	25,000	100,000
Office Square Feet	100,000	175,000	175,000	450,000

The net fiscal benefits for each phase are calculated by multiplying the number of units or square feet of development for each development component times the net benefit per unit (for residential) or square foot (for non-residential). All of these benefit parameters have been derived and set forth in previous tables in this economic and fiscal impacts section of the report, or in Appendix tables in the case of off-site benefits. The calculations are summarized in Appendix Tables A-6, A-7, and A-8.

Heritage Commons would generate on-site net benefits of \$300,000± during each phase of the three five-year phases in the 15-year development program. Only the townhouses show any on-site deficits, as has been shown previously, due to the high cost of educating public school students living in townhouses. These are annual amounts, in constant 2014 dollars. Total annual on-site benefits at the end of the 15-year development program would come to \$1.0 million each year. Off-site net fiscal benefits average about \$700,000 each year, for a total of \$2.2 million over the 15-year buildout period. It should be reiterated actual off-site benefits may lag behind on-site development and impacts due to give the market time to respond to increased demand in the County from Heritage Commons.

Total net fiscal benefits - on-site and off-site - would be in the \$1.0 million to \$1.1 million range for each five year development phase in the 15-year development program. The commercial space would contribute about \$900,000 in benefits over buildout, with the office space contributing \$2.2 million. The total annual net fiscal benefit for Heritage Commons would be \$3.2 million. Total on-site and off-site net fiscal benefits are summarized in Table 28 by type of development component and five-year phase (see Appendix tables).

Table 28. Total On-site and Off-site Net Fiscal Benefits for Heritage Commons, By Five-Year Phase, at Buildout, Frederick County, Virginia (constant \$2014)

<u>Phases</u>	<u>1st 5 yrs</u>	<u>2nd 5 Yrs</u>	<u>3rd 5 Yrs</u>	<u>Total</u>
Apartments	\$22,210	\$22,210	\$22,210	\$66,640
Townhouses	\$1,460	\$730		\$2,190
Commercial Floor Space	\$453,450	\$226,725	\$226,725	\$906,900
Office Floor Space	<u>\$488,420</u>	<u>\$854,730</u>	<u>\$854,730</u>	<u>\$2,197,880</u>
Total Net Benefit	\$965,545	\$1,104,393	\$1,103,663	\$3,173,610

Source: S. Patz & Associates, Inc.

APPENDIX A: Review of Development Impacts Model

APPENDIX A: Review of Development Impacts Model

Following is our brief review of the County's proposed Development Impact Model (DIM), which is a planning tool to provide guidance to County staff and elected officials on the evaluation of new development proposals and rezoning. There are a number of factors described in the DIM that, in our judgment, are incorrect or poor comparables and thus could generate an incorrect conclusion for some reviews.

It is not the purpose of this brief analysis and evaluation of the DIM to be critical, rather, our purpose is to identify issues that may require more review. Following is a list of report assumptions that we would like to discuss, as County officials review our attached FIA for Heritage Commons.

1. The DIM uses U.S. Census data to determine the average household size in the County and the number of students per housing unit by type. While these are clearly correct data, they often do not represent comparable data for the evaluation of a new development proposal, particularly a more upscale new proposal compared with the County average.

Using census data for both calculations includes all housing types, i.e., market rent, affordable, mature, new, etc. For apartment units, the older and lower rent units often have an abundance of three-bedroom units, which in turn, generates more school children. The comparison of census data is therefore problematic in the evaluation of a new apartment proposal without three-bedroom units, in particular. The pupil generation ratio could be much lower for these higher rent apartment units compared with the County average.

2. If our analysis of the DIM is correct, it does not include all taxes paid by home owners or renters. There is a wide range of taxes, in addition to real estate and personal property taxes, that accrue to the County from County households. These are shown in our FIA of Heritage Commons.
3. Most important in the comparison of revenues and expenses from County households is the off-site expenditures from households, i.e., the amount of money spent at local commercial establishments. This expenditure creates a "spin-off" or "ripple effect" of monies within a jurisdiction which generates a ratio of 1.8 times the on-site benefits of real estate and personnel taxes.

This ratio, calculated by officials of the Federal Bureau of Economic Analysis, shows that total net revenues from new housing units is nearly double the on-site benefits of real estate and personnel taxes.

In conclusion, our analysis is intended to state that new housing units can generate a net positive economic impact for the County, depending upon the value of the home and incomes of the occupants. This conclusion is not evident in the DIM.

Additionally, retail space and office space, in particular, cannot be successful without a sizable and expanding population. That can only come from the addition of new housing. The DIM does not calculate the amount of tax revenue from commercial establishments that are derived from household expenditures.

Our FIA for Heritage Commons includes the assumptions and calculations discussed in this Appendix. We welcome any discussion as we present our report to County officials.

APPENDIX B: TABLES

Table A-1. Detailed General Fund Budget for FY2015 Showing Share of Expenditures Coming From Local Funds, Frederick County, Virginia (current dollars)

<u>General Fund Functional Areas</u> <u>Expenditure Budget</u>	<u>FY2015</u> <u>Adopted</u>	<u>FY2015</u> <u>Local Funds</u>
GENERAL GOV'T ADMINISTRATION		
Board of Supervisors	\$248,336	\$248,336
County Administrator	\$702,539	\$702,539
County Attorney	\$239,668	\$239,668
Human Resources	\$320,209	\$320,209
Independent Auditor	\$66,000	\$66,000
Commissioner of Revenue	\$1,200,010	\$1,000,106
Reassessment	\$193,948	\$193,948
Treasurer	\$1,179,735	\$655,235
Finance	\$763,469	\$763,469
Information Technologies	\$1,191,998	\$1,163,298
Management Information System	\$523,810	\$523,810
Other	\$1,935,084	\$1,935,084
Electoral Board	\$106,413	\$106,413
General Registrar	<u>\$162,769</u>	<u>\$119,823</u>
Subtotal	\$8,834,088	\$8,037,938
JUDICIAL ADMINISTRATION		
Circuit Court	\$61,300	\$61,300
General District Court	\$15,926	\$15,926
Juvenile & Domestic Relations Court	\$19,785	\$19,785
Clerk of the Circuit Court	\$741,447	\$242,185
Law Library	\$12,000	\$0
Commonwealth's Attorney	\$1,296,557	\$833,377
Virginia Witness Program	<u>\$126,070</u>	<u>\$26,070</u>
Subtotal	\$2,273,085	\$1,198,643
PUBLIC SAFETY		
Sheriff	\$11,241,515	\$8,426,862
Volunteer Fire Departments	\$842,560	\$642,560
Ambulance and Rescue Services	\$395,200	\$315,200
Public Safety Contributions	\$5,467,925	\$5,467,925
Juvenile Court Probation	\$141,780	\$21,780
Inspections	\$1,090,017	\$399,917
Fire and Rescue	\$7,871,989	\$7,983,581
Public Safety Commission	<u>\$1,360,321</u>	<u>\$1,293,321</u>
Subtotal	\$28,411,307	\$24,551,146

Table A-1. Detailed General Fund Budget for FY2015 Showing Share of Expenditures Coming From Local Funds, Frederick County, Virginia (current dollars), continued

<u>General Fund Functional Areas Expenditure Budget</u>	<u>FY2015 Adopted</u>	<u>FY2015 Local Funds</u>
PUBLIC WORKS		
Road Administration	\$28,000	\$27,000
Street Lights	\$43,000	\$0
General Engineering	\$356,788	\$219,788
Refuse Collection	\$1,232,983	\$974,215
Refuse Disposal	\$375,000	\$322,644
Litter Control	\$24,384	\$12,207
Maintenance Administration	\$576,750	\$273,645
County Office Buildings	\$964,638	\$964,638
Animal Shelter	<u>\$570,706</u>	<u>\$518,831</u>
Subtotal	\$4,172,249	\$3,312,968
HEALTH AND WELFARE		
Local Health Department	\$301,000	\$301,000
Northwestern Community Service	\$318,000	\$318,000
Area Agency on Aging	\$60,000	\$60,000
Property Tax Relief - Elderly	\$520,000	\$520,000
Social Services Administration	\$4,248,461	\$2,141,614
Public Assistance	<u>\$1,463,085</u>	<u>\$149,990</u>
Subtotal	\$6,910,546	\$3,490,604
COMMUNITY COLLEGE		
	\$56,000	\$56,000
PARKS, RECREATION & CULTURE		
Parks & Recreation - Administration	\$582,853	\$582,853
Parks Maintenance	\$1,798,301	\$1,434,601
Recreation Centers	\$1,643,041	\$30,008
Clearbrook Park	\$346,984	\$145,484
Sherando Park	\$359,534	\$234,934
Regional Library	<u>\$800,000</u>	<u>\$800,000</u>
Subtotal	\$5,530,713	\$3,227,880
COMMUNITY DEVELOPMENT		
Planning and Development	\$1,098,754	\$688,846
Economic Development Authority	\$544,223	\$543,973
Zoning Board	\$6,368	\$6,368
Building appeals Board	\$550	\$550
N.S.V. Regional Commission	\$43,000	\$43,000
Soil and Water Conservation	\$7,000	\$7,000
Extension	<u>\$225,007</u>	<u>\$225,007</u>
Subtotal	\$1,924,902	\$1,514,744

Table A-1. Detailed General Fund Budget for FY2015 Showing Share of Expenditures Coming From Local Funds, Frederick County, Virginia (current dollars), continued

<u>General Fund Functional Areas Expenditure Budget</u>	<u>FY2015 Adopted</u>	<u>FY2015 Local Funds</u>
COMMUNITY DEVELOPMENT		
Planning and Development	\$1,098,754	\$688,846
Economic Development Authority	\$544,223	\$543,973
Zoning Board	\$6,368	\$6,368
Building appeals Board	\$550	\$550
N.S.V. Regional Commission	\$43,000	\$43,000
Soil and Water Conservation	\$7,000	\$7,000
Extension	<u>\$225,007</u>	<u>\$225,007</u>
Subtotal	\$1,924,902	\$1,514,744
NON-DEPARTMENTAL		
Transfer to School Operating Fund	\$65,347,740	\$65,347,740
Transfer to School Debt Serv. Fund	\$14,626,151	\$14,626,151
Transfer to County Debt Service	\$2,561,645	\$2,561,645
Other Non-departmental	<u>\$1,739,136</u>	<u>\$1,739,136</u>
Subtotal	\$84,274,672	\$84,274,672
Total General Fund	\$142,387,562	\$129,664,595
Source: Adopted Budget for FY2015, Frederick County, Virginia		

Table A-2. Summary of Annual Tax Revenues, County Costs, and Net Fiscal Benefit Created Off-site by the Residential Units at Heritage Commons, at Buildout (constant \$2014)

	<u>Apartments</u> <u>Impacts</u>	<u>Townhouses</u> <u>Impacts</u>	<u>Residential</u> <u>Impacts</u>
Real Estate Tax	\$104,320	\$30,650	\$134,970
Business Property Tax	\$86,670	\$25,460	\$112,130
BPOL Tax	\$81,900	\$22,800	\$104,700
Retail Sales Tax	\$73,430	\$24,910	\$98,340
Motel Tax	\$12,880	\$4,370	\$17,250
Meals Tax	\$65,100	\$22,080	\$87,180
Motor Vehicle Licenses	\$16,840	\$4,720	\$21,560
Utility Tax	<u>\$12,840</u>	<u>\$3,600</u>	<u>\$16,440</u>
Total Revenue	\$453,980	\$138,590	\$592,570
Less Costs	-\$146,590	-\$41,090	-\$187,680
Net Fiscal Benefit	\$307,390	\$97,500	\$404,890
Number Of Units	\$293	\$650	\$337

Sources: Bureau of Economic Development and Bureau of Labor Statistics, U.S. Department of Commerce, Adopted FY2014 Budget for Frederick County, Virginia, and S. Patz & Associates, Inc.

Table A-3. Summary of Annual Tax Revenues, County Costs, and Net Fiscal Benefit Created Off-site by the Non-residential Components at Heritage Commons, at Buildout (constant \$2014)

	<u>Commercial</u> <u>Impacts</u>	<u>Office</u> <u>Impacts</u>	<u>Non-residential</u> <u>Impacts</u>
Real Estate Tax	\$104,320	\$349,240	\$453,560
Business Property Tax	\$86,670	\$290,140	\$376,810
BPOL Tax	\$11,020	\$961,280	\$972,300
Retail Sales Tax	\$161,290	\$21,040	\$182,330
Motel Tax	\$4,340	\$71,780	\$76,120
Meals Tax	\$130,530	\$84,600	\$215,130
Motor Vehicle Licenses	\$4,430	\$56,380	\$60,810
Utility Tax	<u>\$12,840</u>	<u>\$42,990</u>	<u>\$55,830</u>
Total Revenue	\$515,440	\$1,877,450	\$2,392,890
Less Costs	-\$146,590	-\$490,730	-\$637,320
Net Fiscal Benefit	\$368,850	\$1,386,720	\$1,755,570
Number of Sq. Feet	\$3.69	\$3.08	\$3.19
Net Benefit Per S.F.	\$104,320	\$349,240	\$453,560

Sources: Bureau of Economic Development and Bureau of Labor Statistics, U.S. Department of Commerce, Adopted FY2014 Budget for Frederick County, Virginia, and S. Patz & Associates, Inc.

Table A-4. Summary of Annual Tax Revenues, County Costs, and Net Fiscal Benefit Created Off-site by the Residential and Non-residential Components at Heritage Commons, at Buildout, Frederick County, Virginia (constant \$2014)

	<u>Residential</u> <u>Impacts</u>	<u>Non-residential</u> <u>Impacts</u>	<u>Total</u> <u>Impacts</u>
Real Estate Tax	\$134,970	\$453,560	\$588,530
Business Property Tax	\$112,130	\$376,810	\$488,940
BPOL Tax	\$104,700	\$972,300	\$1,077,000
Retail Sales Tax	\$98,340	\$182,330	\$280,670
Motel Tax	\$17,250	\$76,120	\$93,370
Meals Tax	\$87,180	\$215,130	\$302,310
Motor Vehicle Licenses	\$21,560	\$60,810	\$82,370
Utility Tax	<u>\$16,440</u>	<u>\$55,830</u>	<u>\$72,270</u>
Total Revenue	\$592,570	\$2,392,890	\$2,985,460
Less Costs	-\$187,680	-\$637,320	-\$825,000
Net Fiscal Benefit	\$404,890	\$1,755,570	\$2,160,460

Sources: Bureau of Economic Development and Bureau of Labor Statistics, U.S. Department of Commerce, Adopted FY2014 Budget for Frederick County, Virginia, and S. Patz & Associates, Inc.

Table A-5. Summary of All Annual On-site and Off-site Impacts of Heritage Commons by Type of Use on Site, at Buildout, Frederick County, Virginia (constant \$2014)

	<u>Apartments</u>	<u>Townhouses</u>	<u>Residential</u>
Total Tax Revenue	\$1,991,230	\$490,050	\$2,481,280
Tax-supported Costs	<u>-\$1,924,590</u>	<u>-\$487,860</u>	<u>-\$2,412,450</u>
Net Fiscal Benefit	\$66,640	\$2,190	\$68,830
Units	1,050	150	1,200
Net Benefit Per Unit	\$63	\$15	
	<u>Commercial</u>	<u>Office</u>	<u>Non-residential</u>
Total Tax Revenue	\$1,127,470	\$3,243,460	\$4,370,930
Tax-supported Costs	<u>-\$220,570</u>	<u>-\$1,045,580</u>	<u>-\$1,266,150</u>
Net Fiscal Benefit	\$906,900	\$2,197,880	\$3,104,780
Square Feet	100,000	450,000	550,000
Net Benefit Per S.F.	\$9.07	\$4.88	
	<u>Residential</u>	<u>Non-residential</u>	<u>Total</u>
Total Tax Revenue	\$2,481,280	\$4,370,930	\$6,852,210
Tax-supported Costs	<u>-\$2,412,450</u>	<u>-\$1,266,150</u>	<u>-\$3,678,600</u>
Net Fiscal Benefit	\$68,830	\$3,104,780	\$3,173,610

Sources: Bureau of Economic Development and Bureau of Labor Statistics, U.S. Department of Commerce, Adopted FY2014 Budget for Frederick County, Virginia, and S. Patz & Associates, Inc.

Table A-6. Summary of On-site Net Fiscal Benefits for Each Development Component for Each Phase of the Development Program, Heritage Commons at Buildout, Frederick County, Virginia (constant \$2014)

<u>Phases</u>	<u>1st 5 yrs</u>	<u>2nd 5 Yrs</u>	<u>3rd 5 Yrs</u>	<u>Total</u>
Number of Apartment Units	350	350	350	1,050
Net Benefit at -\$229/Unit	-\$80,250	-\$80,250	-\$80,250	-\$240,750
Number of Townhouse Units	100	50		150
Net Benefit at -\$635/Unit	-\$63,540	-\$31,770		-\$95,310
Number of Commercial Sq. Ft.	50,000	25,000	25,000	100,000
Net Benefit at \$5.38/SF	\$269,030	\$134,510	\$134,510	\$538,050
Number of Office Square Feet	100,000	175,000	175,000	450,000
Net Benefit at \$1.80/SF	\$180,260	\$315,450	\$315,450	\$811,160
Total Net On-site Benefit	\$305,500	\$337,940	\$369,710	\$1,013,150

Source: S. Patz & Associates, Inc.

Table A-7. Summary of Off-site Net Fiscal Benefits for Each Development Component for Each Phase of the Development Program, Heritage Commons at Buildout, Frederick County, Virginia (constant \$2014)

<u>Phases</u>	<u>1st 5 yrs</u>	<u>2nd 5 Yrs</u>	<u>3rd 5 Yrs</u>	<u>Total</u>
Number of Apartment Units	350	350	3580	1,050
Net Benefit at \$293/Unit	\$102,460	\$102,460	\$102,460	\$307,390
Number of Townhouse Units	100	50		150
Net Benefit at \$650/Unit	\$65,000	\$32,500		\$97,500
Number of Commercial Sq. Ft.	50,000	25,000	25,000	100,000
Net Benefit at \$3.69/SF	\$184,425	\$92,213	\$92,213	\$368,850
Number of Office Square Feet	100,000	175,000	175,000	450,000
Net Benefit at \$3.08/SF	\$308,160	\$539,280	\$539,280	\$1,386,720
Total Off-site Benefit	\$660,050	\$766,450	\$733,950	\$2,160,460

Source: S. Patz & Associates, Inc.

Table A-8. Total On-site and Off-site Net Fiscal Benefits by Phase, Heritage Commons at Buildout (constant\$2014)

	<u>1st 5 yrs</u>	<u>2nd 5 Yrs</u>	<u>3rd 5 Yrs</u>	<u>Total</u>
Apartments	\$22,210	\$22,210	\$22,210	\$66,640
Townhouses	\$1,460	\$730		\$2,190
Commercial	\$453,455	\$226,723	\$226,723	\$906,900
Office	\$488,420	\$854,730	\$854,730	\$2,197,880
Total Net Benefit	\$965,550	\$1,104,390	\$1,103,660	\$3,173,610

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Source: S. Patz & Associates, Inc.

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MEMORANDUM

TO: Frederick County Board of Supervisors

FROM: Candice E. Perkins, AICP, Senior Planner *CEP*

SUBJECT: **Public Meeting – Request to Waive a Category C Zoning District Buffer**

DATE: January 6, 2015

Staff has received a request from GreyWolfe, Inc. on behalf of R & J Land Development, LLC to waive a Category C Zoning District buffer between their property (Clearbrook Business Center Parcel 33-A-123) and the adjacent parcel owned by Mohebatullah Vahidi (Parcel 33-A-125). The Clearbrook Business Center site is located at 3625 Martinsburg Pike, on the west side of Route 11, approximately 2,000' north of Hopewell Road (Route 672). The Master Development Plan for this property was reviewed by the Planning Commission on June 18, 2014 and the Board of Supervisors on July 9, 2014. The MDP was administratively approved on August 25, 2014.

The Clearbrook Business Center property is zoned B3 (Industrial Transition) District and the adjacent Vahidi property is zoned RA (Rural Areas) District and also contains a residential structure. Because the Vahidi property contains a residential structure, a Category C buffer (100' distance with full screen landscaping) is required on the Clearbrook Business Center property. The 2030 Comprehensive Plan depicts the Vahidi property with future commercial business use. Therefore if the Vahidi property was rezoned, consistent with the 2030 Comprehensive Plan, a buffer would not be required between the two properties.

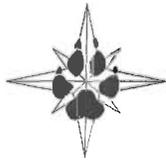
The Zoning Ordinance allows the Board of Supervisors to waive or modify a required zoning district buffer between land being developed in the B1, B2, B3, OM, M1 or M2 Zoning Districts that is adjacent to land primarily used for residential purposes in the RA (Rural Areas) Zoning District provided that:

- (a) The adjoining land is designated in the adopted Comprehensive Plan for a use which would not require a buffer between the land under site plan and the adjoining property.
- (b) The owner of the adjoining RA zoned property provides written and notarized consent to the waiver of the required buffer.

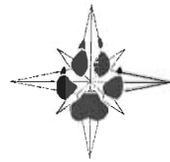
This waiver request meets the criteria set forth in the Zoning Ordinance. The Planning Commission recommended approval at their December 17, 2014 meeting. Staff is seeking a decision from the Board of Supervisors on this requested waiver. Please contact me if you have any questions.

Attachments: **1. Request Letter from the Applicant.**
2. Approval from Mr. Vahidi to waive the buffer.
3. MDP for Clearbrook Business Center.

CEP/pd



GREYWOLFE, INC.
1073 REDBUD ROAD • WINCHESTER, VA 22603
(540) 667-2001 • (540) 545-4001 FAX
GREYWOLFEINC@AOL.COM



Frederick County Planning & Development
107 North Kent Street
Winchester, VA 22603

November 21, 2014

Mr. Cheran:

On behalf of my client, R & J Land Development, LLC, I would like to request of waiver to remove the zoning buffer along the shared property line with parcel 33-(A)-125.

A Class C buffer would be required between these two properties. However, the Comprehensive Plan has designated his land for commercial use for over 30 years and the Northeast Land use Plan (NELUP) has a frontage road along Interstate 81 that cuts through the old farm house. This meets the requirements of Frederick County Zoning Ordinance Section 165-203.2.D.9a

I have contacted Mr. Vahidi and he is not interested in a having a buffer or participating in a shared buffer agreement. Furthermore, he has provided a notarized letter agreeing to remove the buffer per Frederick County Zoning Ordinance Section 165-203.2.D.9b

Therefore, I request that a Category C be waived the shared property per Frederick County Zoning Ordinance Section 165-203.2.D.9

Thank you,

Gary R. Oates, LS-B, PE
GreyWolfe, Inc

Mohebatullah Vahidi
794 Center Street
Herndon, VA 20170
April 1, 2014

Frederick County Department of Planning
107 North Kent Street, Suite 202
Winchester, VA 22601-5000

To whom it may concern:

I hereby consent to the waiver of the required zoning buffer adjacent to my southern property line as requested by R & J Land Development, LLC. I understand the Category C buffer will not be installed, if approved, and this will not interfere with the existing and planned use of my property.

Sincerely,



Mohebatullah Vahidi

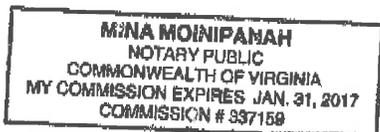
STATE OF VIRGINIA
CITY/COUNTY OF FAIRFAX TO WIT:

I MINA MOINIPANAH Notary Public in and for the State of Virginia and City/County of FAIRFAX, do hereby certify that this day personally appeared before me Mohebatullah Vahidi, whose name is signed to the forgoing instrument.

Given under my hand this 2nd day of November, 2014.

My commission expires 01-31-2017.

My registration number is 337159.


Notary Public



**Special Limited Power of Attorney
County of Frederick, Virginia
Frederick Planning Website: www.co.frederick.va.us**

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

Know All Men By These Presents: That I (We)

(Name) K. J. LAND Development, LLC (Phone) 974-6768

(Address) 1631 REDBUD ROAD, WINCHESTER, VA 22603

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. _____ on Page _____, and is described as

Parcel: 33 Lot: A Block: 123 Section: _____ Subdivision: _____

do hereby make, constitute and appoint:

(Name) GARY OATES (Phone) 667-2401

(Address) 1073 REDBUD ROAD, WINCHESTER, VA 22603

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

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

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

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

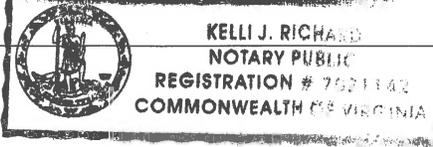
In witness thereof I (we) have hereto set my (our) hand and seal this _____ day of _____, 20____.

Signature(s) _____

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

I, Kelli J. Richard, 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 21 day of Nov, 2014.

Kelli J. Richard My Commission Expires: 1-31-15
Notary Public





APPLICATION FOR A WAIVER OR ORDINANCE EXCEPTION

Applicant/Agent: GreyWolfe, Inc. - Gary R. Oates, LS-B, PE

Address: 1073 Redbud Road

Winchester, VA 22603 Phone Number: 667-2001

Property Owner's Name (if different from applicant): R & J Land Development, LLC

Address: 1631 Redbud Road Clearbrook Business Center

Winchester, VA 22603 Phone Number: 974-6768

Contact Person (if different from applicant):

Phone Number:

Waiver request details (include specific ordinance requirements to be waived):

Frederick County Zoning Ordinance Section 165-203.2.D.9

Zoning Buffer Waiver along northern property line

Property Location (give exact location based on nearest road and distance from nearest intersection, using road names and route numbers): 3625 Martinsburg Pike, Clear Brook, VA 22624

Parcel Identification/Location: 33-(A)-123

Magisterial District: Stonewall

Zoning and Current Use: Zoning District: B-3 Current Use: Residential/Vacant

Attachments: Adjoining Property Owners List X Existing/recorded and Proposed Plats

****For Office Use Only****
FEES FOR WAIVER OR ORDINANCE EXCEPTION AND CHECKLIST:
> \$500.00
> Attachments Existing/recorded and proposed plat(s)
> Completed adjoining properties info. sheet(s) 500.00
> Receipt #: 577504 Received by: RD Date: 11-21-14

Frederick County Department of Planning and Development
107 North Kent Street • North Building • 2nd Floor
Winchester, Virginia 22601
Phone: (540) 665-5651 - Fax: (540) 665-6395

33-(A)-123B
OPEN DOOR BAPTIST CHURCH, INC.
#060003086
ZONED: RA
USE: CHURCH
±23 ACRES

INTERSTATE 81
VARIABLE WIDTH R.O.W.
DB 284, PG 76

33-(A)-125
MOHEBATULLAH VAHIDI
#050012825
ZONED: RA
USE: AGR.
±14 ACRES

Buffer Area
Waiver Request

ZONING DISTRICT BUFFER CATEGORY
"C" FULL SCREEN PLUS ADDITIONAL
ROW OF PROFFERED EVERGREEN TREES

ZONING DISTRICT BUFFER CATEGORY
"C" FULL SCREEN PLUS ADDITIONAL
ROW OF PROFFERED EVERGREEN TREES

Buffer Area
Waiver Request

33-(A)-124A
SILVERWOLFE, LLC
060018520
ZONED: B-3
USE: AGRICULTURAL
±8.8 ACRES

33-(A)-124B
FREDERICK STRONKO,
DB 889, PG 1369
ZONED: RA
USE: RESIDENTIAL
±5 ACRES

33-(A)-123
R & J DEVELOPMENT, LLC
#030022368
USE: AGR.
14.278 ACRES

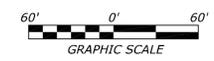
33-(A)-122A
R & J DEVELOPMENT, LLC
#050002818
ZONED: B-3
USE: AGR.
2.608 ACRES

33-(A)-121
BARBARA DEVERS
DB 866, PG 1257
ZONED: RA
USE: AGRICULTURAL
±6 ACRES

33-(A)-122
KRISTIN HOWERTON WICKERSON
130004823
ZONED: RA
USE: RESIDENTIAL
±5 AC.

33-(A)-114A
MSD INVESTMENTS, LLC
#030016289
ZONED: RA
USE: AGR.
±34 ACRES

#	RADIUS	LENGTH	DELTA	TANGENT	BEARING	CHORD
C-1	11,499.16	150.042'	00° 44' 51"	75.02'	S 26° 48' 05" W	150.04'
C-2	11,499.16	400.513'	01° 59' 44"	200.28'	S 28° 10' 23" W	400.49'



GreyWolfe, Inc.
Land Surveying and Consulting
1073 Redbud Road
Winchester, VA 22603
GreyWolfeInc@aol.com (540) 667-2001 OFC
(540) 545-4001 FAX



COMMONWEALTH OF VIRGINIA
GARY R. OATES
Lic. No. 40616
PROFESSIONAL ENGINEER

THESE PLANS ARE IN
CONFORMANCE WITH COUNTY
OF FREDERICK STANDARDS AND
ORDINANCES. ANY DEVIATION
HEREFROM SHALL BE AT THE
OWNER'S RISK AND SHALL BE
APPROVED BY THE
ZONING ADMINISTRATOR PRIOR
TO CONSTRUCTION.

DATE	REVISION
5/14/14	REV. PER PLANNING COMMENTS
6/02/14	REV. PER PLANNING COMMENTS
6/23/14	REV. PER PLANNING COMMENTS

MASTER DEVELOPMENT PLAN
FOR
Clearbrook Business Center
STONEMALL MAGISTERIAL DISTRICT
FREDERICK COUNTY, VIRGINIA

DATE: February 18, 2014
SCALE: 1"=60'
FILE NO. 0119
SHEET 2 OF 2