



**AGENDA
REGULAR MEETING
FREDERICK COUNTY BOARD OF SUPERVISORS
WEDNESDAY, MARCH 11, 2015
7:00 P.M.
BOARD ROOM, COUNTY ADMINISTRATION BUILDING
107 NORTH KENT STREET, WINCHESTER, VIRGINIA**

5:00 P.M. – Closed Session:

There will be a Closed Session Pursuant to Virginia Code Section 2.2-711(A)(7), Involving Consultation with Legal Counsel and Briefing by Staff, Pertaining to a Legal Claim Against the County, Lake Holiday Country Club, Inc. v. Frederick County Board of Supervisors, et al., currently pending in the Frederick County Circuit Court, Where Such Consultation or Briefing in an Open Meeting would Adversely Affect the Negotiating or Litigating Posture of the Board, and the Matter Requires the Provision of Legal Advice by Such Counsel; and Pursuant to Virginia Code Section 2.2-711(A)(3), Involving Discussion or Consideration of the Acquisition of Real Property for a Public Purpose, Where Discussion in an Open Meeting would Adversely Affect the Bargaining Position or Negotiating Strategy of the Board.

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

Invocation

Pledge of Allegiance

Adoption of Agenda:

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

Consent Agenda:

(Tentative Agenda Items for Consent are Tabs: C and K)

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

Board of Supervisors Comments

**AGENDA
REGULAR MEETING
FREDERICK COUNTY BOARD OF SUPERVISORS
WEDNESDAY, MARCH 11, 2015
PAGE 2**

Minutes: (See Attached)----- A

1. Regular Meeting, February 11, 2015.
2. Budget Work Session, February 18, 2015.
3. Budget Work Session, February 25, 2015.

County Officials:

1. Committee Appointments. **(See Attached)----- B**
2. Memorandum Re: Closing of County Offices for Annual Apple Blossom Festival. **(See Attached)----- C**
3. Request from Commissioner of the Revenue for Refund. **(See Attached) ----- D**

Committee Reports:

1. Public Works Committee. **(See Attached)----- E**

Public Hearing:

1. Twelve Month Outdoor Festival Permit Request of Grove's Winchester Harley-Davidson. 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 Grove's Winchester Harley-Davidson, 140 Independence Drive, Winchester, Virginia. Property Owned by Jobalie, LLC. **(See Attached) ----- F**

Planning Commission Business:

Public Hearing:

1. Rezoning #05-14 CB Ventures, LLC, Submitted by CB Ventures, LLC, to Rezone 2.42 Acres of Property from B1 (Neighborhood Business) District to B2 (General Business) District with Proffers. The Property is Located at 1033 Aylor Road in Stephens City and is Identified by Property Identification Numbers 74-((A))-104 and 74-((A))-105 in the Opequon

**AGENDA
REGULAR MEETING
FREDERICK COUNTY BOARD OF SUPERVISORS
WEDNESDAY, MARCH 11, 2015
PAGE 3**

Magisterial District. **(See Attached)** ----- **G**

Other Planning Items:

1. 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 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 and January 14, 2015 Board Meetings.) (See Attached)** ----- **H**
2. Discussion - Addition of the OM (Office-Manufacturing Park) District to the R4 (Residential Planned Community) District Permitted Uses. **(See Attached)** ----- **I**
3. Discussion – Permeable Pavers for Parking Lots. **(See Attached)**----- **J**
4. Road Resolution – National Lutheran Boulevard. **(See Attached)**----- **K**

Board Liaison Reports (If Any)

Citizen Comments

Board of Supervisors Comments

Adjourn

A

**FREDERICK COUNTY BOARD OF
SUPERVISORS' MINUTES**

REGULAR MEETING

February 11, 2015

A Regular Meeting of the Frederick County Board of Supervisors was held on Wednesday, February 11, 2015 at 7:05 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 Fisher delivered the invocation.

PLEDGE OF ALLEGIANCE

Supervisor DeHaven led the Pledge of Allegiance.

ADOPTION OF AGENDA - APPROVED

Interim County Administrator Roderick B. Williams advised that he had no changes to the agenda.

Upon a motion by Vice-Chairman DeHaven, seconded by Supervisor Hess, the Board approved the agenda as presented.

The above motion was approved by the following recorded vote:

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

CONSENT AGENDA - APPROVED

Interim Administrator Williams offered the following items for the Board's consideration

under the consent agenda:

- Resolution Supporting the Funding of Public Education in Virginia – **Tab D**; and
- Road Resolutions – Snowden Bridge Boulevard; Snowden Bridge Subdivision, Section 1; and Snowden Bridge Subdivision, Section 4. – **Tab G**.

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

Richard C. Shickle	Aye
Christopher E. Collins	Aye
Charles S. DeHaven, Jr.	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 Lofton, seconded by Vice-Chairman DeHaven, the Board approved the minutes from the January 14, 2015 meeting with the addition of Technology Committee to the committee assignments for Supervisor Hess.

The above motion was approved by the following recorded vote:

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

Gary A. Lofton Aye
Robert W. Wells Aye

Upon a motion by Supervisor Hess, seconded by Supervisor Lofton, the Board approved the minutes from the January 21, 2015 budget work session by the following recorded vote:

Richard C. Shickle Aye
Christopher E. Collins Aye
Charles S. DeHaven, Jr. 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 Hess, the Board approved the minutes from the January 28, 2015 budget work session with the School Board by the following recorded vote:

Richard C. Shickle Aye
Christopher E. Collins Aye
Charles S. DeHaven, Jr. Aye
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 Fisher, the Board approved the minutes from the January 29, 2015 special meeting by the following recorded vote:

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

COUNTY OFFICIALS

COMMITTEE APPOINTMENTS

APPOINTMENT OF BILL M. EWING AS A CITIZEN REPRESENTATIVE TO THE FINANCE COMMITTEE

Chairman Shickle advised that he had appointed Bill M. Ewing to serve as a citizen member of the Finance Committee.

APPOINTMENT OF COUNTY ADMINISTRATOR AS FREDERICK COUNTY REPRESENTATIVE TO THE REGIONAL JAIL AUTHORITY, JUVENILE DETENTION CENTER COMMISSION ALTERNATE, AND COMMUNITY CORRECTIONS BOARD (CCJB) AND ALCOHOL SAFETY ACTION PROGRAM (ASAP) - APPROVED

Upon a motion by Supervisor Lofton, seconded by Vice-Chairman DeHaven, the Board appointed the county administrator or his/her designee to the following:

- Regional Jail Authority – This is a four year appointment. Term expires October 13, 2019;
- Juvenile Detention Center Commission alternate – Term expires September 27, 2016; and
- Community Corrections Justice Board (CCJB) and Alcohol Safety Action Program (ASAP) – Term expires February 22, 2017.

The above motion was approved by the following recorded vote:

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

COMMISSIONER OF THE REVENUE REFUND - APPROVED

Interim Administrator Williams advised this was a request from the Commissioner of the Revenue to authorize the Treasurer to refund Sonoco Sustainability LLC the amount of \$2,932.50 for business equipment taxed as machinery and tools for 2012, 2013, and 2014 on equipment used in the shipping department at Kraft Foods, a manufacturer. The equipment is tax

exempt because it is used by the manufacturer in the shipping and refuse section and not in the actual manufacturing.

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

RESOLUTION SUPPORTING THE FUNDING OF PUBLIC EDUCATION IN VIRGINIA – APPROVED UNDER CONSENT AGENDA

WHEREAS, Virginia Constitution, Article VIII, Section 1 provides that the General Assembly shall provide for a system of free public elementary and secondary schools for all children of school age throughout the Commonwealth, and shall seek to ensure that an educational program of high quality is established and continually maintained; and

WHEREAS, Virginia Constitution further expounds as to the responsibilities of the General Assembly as they pertain to the funding of a quality education system, to include cost apportionment and the adequate commitment of other resources; and

WHEREAS, increased funding for public education is needed to ensure that the state meets its responsibility to provide public education as a core function of state government and to promote economic development in Virginia (VASS Blueprint for Public Education); and

WHEREAS, Virginia’s state aid to public education has been declining since the 2009 recession with state direct aid K-12 appropriations currently at \$6.8 billion (all funds)/\$5.2 billion (GF) compared to \$7.1 billion (all funds)/\$5.6 billion (GF) in FY 2009; and

WHEREAS, state K-12 funding reductions have reduced K-12 funding from 35 percent of the General Fund in FY 2009 to below 30 percent in FY 2014 and beyond; and

WHEREAS, the state’s reduction in funding for K-12 education has occurred through policy changes since FY 2009, such as reduced state funds for school “support” personnel and administrative and employee benefits; and

WHEREAS, localities have paid for the increased costs of education required by state mandates to improve public school performance with localities currently paying 56 percent of the state versus local share of public education rather than the 45 percent they should be paying as defined by the Standards of Quality; and

WHEREAS, localities budgeted \$3.55 billion in FY 2013 above their state required local effort to maintain the actual costs of public education (Annual Superintendents Report to the Department of Education); and

WHEREAS, we believe our state's future prosperity relies on a high-quality education system that prepares students for college and careers, and that without it, Virginia's economic competitiveness and ability to attract new business will falter.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of the County of Frederick, Virginia, hereby call upon the Virginia General Assembly to immediately increase the state's share of funding for public education to the level of quality that is prescribed to them in the Standards of Quality and expected by all of the Commonwealth's citizens.

ADOPTED this 11th day of February, 2015.

COMMITTEE REPORTS

PUBLIC WORKS COMMITTEE – THE ACTION ITEMS ON THIS REPORT WERE REFERRED BACK TO THE COMMITTEE DUE TO THE LACK OF A QUORUM AT THE COMMITTEE'S MEETING.

The Public Works Committee met on Tuesday, January 27, 2015, at 8:00 a.m. All members were present except David Ganse, Bob Wells, and Jim Wilson. The following items were discussed:

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

1. Proposed Fire Prevention Code Permit Requirements and Fee Schedule

The Fire Marshal, Mr. Jay Bauserman, presented a proposal to implement fire prevention code permit requirements and associated fees. The attached memorandum dated January 20, 2015 highlights those requirements and includes a proposed fee schedule.

Mr. Bauserman indicated that his department is currently conducting approximately 400 annual fire inspections for local businesses to maintain compliance with state or federal agencies. He further indicated that they are in the process of expanding the current inspections to include a comprehensive list of all relevant businesses that fall within the purview of state fire code. The fees are being proposed to cover the costs of the inspections. The phasing and/or implementation of the proposed permitting and associated fees will be dependent on the availability of personnel and resources.

At the conclusion of the discussion, the committee members in attendance unanimously endorsed the proposal and recommended that the request be forwarded to the board of supervisors for their review and action. They further recommended that the fee schedule be implemented on July 1, 2015. They also suggested that the fire marshal prepare an implementation schedule and prioritize the businesses that are currently being inspected.

2. Request from the Landfill for Approval of Waste Acceptance and Supplemental Appropriation

The Landfill Manager, Mr. Steve Frye, presented a request to accept discarded (old) line poles from Rappahannock Electric Cooperative (REC). Even though REC is based in Warren County, a majority of their poles are derived from Frederick and Clarke counties. The committee members in attendance unanimously endorsed the request.

Mr. Frye requested a supplemental appropriation in the amount of \$1,575,000 to cover the cost of the closure of nine (9) acres within the construction/demolition debris landfill. The justification for this request is attached in a memorandum dated January 20, 2015 from Mr. Frye. The committee members in attendance unanimously endorsed this request and recommended that it be forwarded directly to the board of supervisors. The funds will be derived from the landfill reserve fund.

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

1. Discussion of Citizens' Convenience Sites

The public works director led a discussion related to the future disposition of three (3) existing citizen refuse collection sites: Clearbrook, Albin, and Greenwood. The attached memorandum from Ms. Gloria Puffinburger, solid waste manager, dated January 15, 2015 highlights the staff concerns related to these sites with several suggested courses of action.

The Clearbrook site is located on land currently leased from Carmeuse within a future mining area. The lease expires in December 2015. Ongoing discussions with Carmeuse indicate that they are willing to extend the lease to December 2016. Staff will pursue an agreement which documents this extension. In addition, Carmeuse has indicated a willingness to provide a potential site on their property which will not be impacted by future mining. Staff will pursue this opportunity with the assistance from the county attorney. Relocation costs have been included in the 2015/2016 CIP.

The Albin site is the most heavily utilized site outside of the landfill. Existing site constraints limit the expansion of this facility to accommodate the existing traffic volume. Staff is proposing to contact the Frederick County School System to determine the possibility of relocating this facility to the site of the old school transportation facility which is located off of Bryarly Road in very close proximity to the Albin site. The cost of the new site development has been included in the 2015/2016 CIP.

Staff has previously recommended closure of the Greenwood citizens' convenience site because of long standing safety issues. The committee suggested that staff explore the possibility of expanding the existing site to alleviate traffic congestion. Consequently, staff will pursue the availability of adjacent property that would provide sufficient area to accommodate expansion. This option will be presented at the next scheduled committee meeting.

2.

- a) Tonnage Report
- b) Recycling Report
- c) Animal Shelter Dog Report
- d) Animal Shelter Cat Report

TRANSPORTATION COMMITTEE - APPROVED

The Transportation Committee met on January 26, 2015 at 8:30 a.m.

Members Present

Chuck DeHaven (voting)
James Racey (voting)
Gene Fisher (voting)
Gary Oates (liaison PC)

Members Absent

Mark Davis (liaison Middletown)
Lewis Boyer (liaison Stephens City)
Christopher Collins (voting)

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

1. Gold's Orchard Road Abandonment - APPROVED

In August of 2012, the committee authorized staff to move forward to the Board of Supervisors on the abandonment of portions of Gold's Orchard Road that impacts the property of Mr. Cordell Watt so that he can take over maintenance and better secure his property. Following that meeting, staff was asked by the property owner to hold off due to the possible acquisition of additional property which might have increased the amount of roadway to abandon. Staff has now been asked to proceed again. The limits of the abandonment have not changed since the August 2012 action but due to the time that has passed; the committee was asked to recertify their position.

MOTION: Mr. Fisher moved to recommend that the Board direct staff to proceed with the abandonment, subject to checking with the one remaining property owner with frontage on the right-of-way. Motion seconded by Mr. Racey and passed unanimously.

Upon a motion by Vice-Chairman DeHaven, seconded by Supervisor Collins, the Board approved the abandonment of Gold's Orchard Road.

The above motion was approved by the following recorded vote:

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

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

2. Petticoat Gap Lane proffer modification

The property owners associated with the WWW rezoning and its associated proffer to build Petticoat Gap Lane as a 5 lane section are contemplating a revision of that proffer to build a lesser roadway in recognition of a significant change in surrounding conditions. Please review the attached materials.

Staff and the committee noted that while the amendment seems to make sense, it is difficult to say that the traffic from the hospital will forever be limited and so it would be a good idea to preserve the right-of-way for the future potential need for a larger facility and preserve an access point to the Solenberger property to the north via Retail Boulevard.

The committee concluded with a consensus that the proposal has merit provided future right of ways are preserved and subject to the actual language of the formal proposal as well as agency comments.

No formal action was taken.

The Board took no formal action on this item. The consensus was for the Transportation Committee to forward their comments to the Planning Commission once a rezoning application is received.

3. HB2 Implementation Update

Staff updated the committee on the meeting they attended on January 8th in the Edinburg residency as well as the surveys they have been asked to fill out regarding the implementation of HB2. Staff noted that while much input has been provided, nothing has yet come out of Richmond which would give an idea of whether that input is being received and heeded. As information comes forth, the committee and the Board will be updated.

4. Revenue Sharing Application Update

Staff updated the committee on the status of the current revenue sharing application which the Board acted on January 28, 2015.

5. Other

No items.

PLANNING COMMISSION BUSINESS

ROAD RESOLUTIONS – APPROVED UNDER CONSENT AGENDA

SNOWDEN BRIDGE BOULEVARD – APPROVED UNDER CONSENT AGENDA

WHEREAS, the streets described on the attached Form AM-4.3, fully incorporated herein by reference are shown on the 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 requirement 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.

SNOWDEN BRIDGE BOULEVARD SUBDIVISION, SECTION 1 – APPROVED UNDER CONSENT AGENDA

WHEREAS, the streets described on the attached Form AM-4.3, fully incorporated herein by reference are shown on the 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 requirement 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.

**SNOWDEN BRIDGE BOULEVEARD SUBDIVISION, SECTION 4 – APPROVED
UNDER CONSENT AGENDA**

WHEREAS, the streets described on the attached Form AM-4.3, fully incorporated herein by reference are shown on the 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 requirement 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

Gary Oates, Stonewall District, stated his support for the tax rate staying the same. He did not want to see it go up or down. He also noted that it was important for the new county administrator to be from the community and he encouraged the Board to hire from within.

BOARD OF SUPERVISORS COMMENTS

There were no Board of Supervisors' comments.

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. (7:38 P.M.)

**FREDERICK COUNTY BOARD OF
SUPERVISORS' MINUTES**

BUDGET WORK SESSION

February 18, 2015

A Budget Work Session of the Frederick County Board of Supervisors and Finance Committee was held on Wednesday, February 18, 2015 at 8:00 a.m., in the First Floor Conference Room, 107 North Kent Street, Winchester, VA.

PRESENT

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

OTHERS PRESENT

Finance Committee members Bill M. Ewing, Angela Rudolph, and Judith McCann-Slaughter; Roderick B. Williams, Interim-County Administrator; Kris C. Tierney, Assistant County Administrator; Jay E. Tibbs, Deputy County Administrator; Commissioner of the Revenue Ellen Murphy; Treasurer C. William Orndoff, Jr.; Finance Director Cheryl B. Shiffler; Assistant Finance Director Sharon Kibler; Budget Analyst Jennifer Place; Fire Chief Dennis Linaburg; Superintendent of Schools David Sovine; Executive Director of Finance for Frederick County Public Schools Lisa Frye; Frederick County School Board Chairman Ben Waterman; Frederick County School Board Vice-Chairman Dr. John Lamanna; Frederick County School Board member Peggy Clark; and Ann White, Operations and Business Manager, Handley Regional Library

CALL TO ORDER

Chairman Shickle called the work session to order.

Finance Director Shiffler reviewed the five funding scenarios. She noted that scenarios A, B, and C reflected a revenue neutral tax rate of \$0.56. Scenario D reflected the current tax rate of \$0.585, which resulted in a tax increase of \$0.025. Scenario E reflected a \$0.05 tax increase. She noted the proposed list of budget cuts were based on Scenario A. She went on

onto say that all positions and capital requests were eliminated under scenario A. She advised if the Board chose scenario B or C then the level of cuts would be more. If scenarios D or E were selected the amount of cuts would be reduced. She concluded by saying the Board had the option of increasing or decreasing the amount of fund balance used to balance the budget.

Supervisor Hess asked if department heads would have some flexibility regarding where to apply the cuts needed for scenario A.

Finance Director Shiffler responded yes.

Chairman Shickle polled the Board and Finance Committee regarding a scenario to advertise:

Vice-Chairman DeHaven – Scenario A with additional fund balance.

Mrs. McCann-Slaughter – Scenario A.

Supervisor Fisher – Scenario D with \$4.3 million from fund balance.

Mrs. Rudolph – Scenario D with \$4.3 million from fund balance

Supervisor Lofton – Scenario A.

Mr. Ewing – Scenario A.

Supervisor Collins – Scenario A with additional fund balance.

Supervisor Wells – Scenario A.

Commissioner Murphy – Scenario D.

Treasurer Orndoff – Deferred.

Supervisor Hess – Scenario A with additional fund balance.

Chairman Shickle stated Scenario A was selected, but there was interest in utilizing additional fund balance. He asked for further discussion on this topic.

Supervisor Collins suggested utilizing and additional \$3 million.

Supervisor Wells stated he would like to not use additional fund balance unless it was necessary. He believed it should be more of a security blanket and not used to splurge.

Supervisor Lofton stated he could agree to an additional \$3 million, if needed.

Mr. Ewing stated he could support up to an additional \$3 million, based on need.

Supervisor Hess stated he was okay with using an additional \$3 million.

Supervisor DeHaven stated he was initially thinking of an additional \$4.3 with a requirement that the first \$4.3 be replaced, but not the second. He went on to say that he was okay with an additional \$3 million.

The majority consensus was to utilize up to an additional \$3 million from fund balance.

Finance Director Shiffler asked if there was additional information the Board and committee would like to have for next week's work session.

Supervisor Fisher stated he was concerned about Fire and Rescue issues and how the chief's service plan would be implemented.

Vice-Chairman DeHaven asked the fire chief to show one time and recurring costs associated with the requested positions.

Mr. Ewing stated he would like to see the additional fund balance funding be used for public safety issues and possible budget reductions passed on by the state.

(Supervisor Collins left the meeting at 8:30 a.m.)

Supervisor Lofton stated he would like to see fire and rescue and sheriff's costs, salary survey, and a list of fees that are being increased.

The next budget work session will be held on Wednesday, February 25, 2011 at 5:00 p.m.

There being no further business, the work session adjourned at 8:35 a.m.

**FREDERICK COUNTY BOARD OF
SUPERVISORS' MINUTES**

BUDGET WORK SESSION

February 25, 2015

A Budget Work Session of the Frederick County Board of Supervisors and Finance Committee was held on Wednesday, February 25, 2015 at 5:00 p.m., in the Board of Supervisors' Meeting Room, 107 North Kent Street, Winchester, VA.

PRESENT

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

OTHERS PRESENT

Finance Committee members Bill M. Ewing, Angela Rudolph, and Judith McCann-Slaughter; Roderick B. Williams, Interim-County Administrator; Kris C. Tierney, Assistant County Administrator; Jay E. Tibbs, Deputy County Administrator; Commissioner of the Revenue Ellen Murphy; Treasurer C. William Orndoff, Jr.; Assistant Finance Director Sharon Kibler; Budget Analyst Jennifer Place; Fire Chief Dennis Linaburg; Executive Director of Finance for Frederick County Public Schools Lisa Frye; Planning Director Eric Lawrence; and Human Resources Director Paula Nofsinger.

CALL TO ORDER

Chairman Shickle called the work session to order.

Interim County Administrator Rod Williams introduced the materials in the agenda packet.

Assistant County Administrator Tierney noted that a large share of the FY2016 budget requests were public safety positions. He stated with the additional \$3 million taken out of fund balance would give the General Fund approximately \$1.4 million, based on the normal split between the General Fund and the schools. He went on to say that staff tried to provide a per position cost in order to give the Board an idea how that money could be spent.

Chairman Shickle stated it was unclear if the Board wanted that additional \$3 million to be spent on one-time costs or ongoing expenses. He stated that was a lot of money for unsustainable operating costs versus one-time costs.

Supervisor Fisher questioned the sustainability of using fund balance. He went on to say he did not understand how those funds were going to be used.

Budget Analyst Place advised if the funds were used for one-time costs then that would eliminate the Board's ability to fund any public safety positions.

Vice-Chairman DeHaven stated there was a need to address the public safety deficiencies; however, it might be better to wait until July. He noted the funding of positions from fund balance was not a sustainable use of those funds. He suggested postponing any use of additional fund balance dollars until July.

The Board asked how Frederick County schools might utilize their share of these dollars.

Executive Director of Finance Lisa Frey responded that if the schools were allowed to use the dollars for recurring costs then they would be used as part of the salary initiative.

The Board asked if the postponement of the use of the additional fund balance dollars was doable.

Budge Analyst Place responded it was doable, but it made the budget process complicated.

Supervisor Collins stated he thought the \$3 million was based on revenue projections. If that is not the case then waiting until July is probably a good idea.

Mrs. McCann-Slaughter echoed Vice-Chairman DeHaven's comments.

Supervisor Hess stated we need to find a way to address the needs in public safety and as long as we have a reasonable guesstimate then he would have no problem waiting until July.

Treasurer Orndoff agreed with Vice-Chairman DeHaven's approach. He noted there was no salary initiative in the numbers for county employees, but there was one for the schools. He went on to say the public safety needs might not be able to be put off much longer.

Supervisor Collins stated he had no issues with waiting until July.

Supervisor Fisher stated he could go along with Vice-Chairman DeHaven. He stated something had to be done, but he questioned the sustainability of what we were trying to do. He concluded by saying that next year steps would have to be taken to make it sustainable.

Mrs. Rudolph stated this was a temporary solution to a permanent expense. She did not know about waiting until July.

Vice-Chairman DeHaven stated public safety issues had to be addressed and they would be addressed as soon as we have a good revenue figure.

Supervisor Lofton stated that he agreed with staff and he agreed with Supervisor Collins that we might be conservative in our revenue estimates. He noted the sustainability of this approach could not be guaranteed. He concluded by saying he was struggling with waiting until July to make a decision.

Supervisor Wells stated if we could come up with the revenue then this was the best way to go.

Mr. Ewing stated a decision should be made now rather than wait. He stated we have to do it whether it is now or in July.

Chairman Shickle stated it sounds like the budget should be prepared in such a way that it delays the \$3 million of additional fund balance until July. He stated that \$3 million in expenditures needed to be identified and those funds would not be released until July.

Vice-Chairman DeHaven stated he liked conservative approach, but we have to do the public safety positions.

Supervisor Hess stated that the Board should have a discussion about what is an appropriate level of fund balance. He noted we should not retain all capital, but there was a need to have some reserve.

Supervisor Lofton asked for information regarding what a 1% salary increase for county employees would cost.

The next budget work session will be held on Wednesday, March 4, 2015 at 8:00 a.m.

There being no further business, the work session was adjourned at 5:41 p.m.

B



Roderick B. Williams
Interim County Administrator

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

MEMORANDUM

TO: Board of Supervisors
FROM: Roderick B. Williams, Interim County Administrator *RBW*
DATE: March 4, 2015
RE: Committee Appointments

Listed below are the vacancies/appointments due through April, 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

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

APRIL 2015

Historic Resources Advisory Board

Stacey Yost – Stonewall District Representative
1031 Payne Road
Winchester, VA 22603
Home: (540)662-8418
Term Expires: 04/13/15
Four year term

Memorandum – Board of Supervisors
March 4, 2015
Page 2

Sanitation Authority

John V. Stevens – County Representative
324 Round Hill Road
Winchester, VA 22602
Home: (540)667-4527
Term Expires: 04/15/15
Four year term

(The Sanitation Authority is composed of five members as stated in their Articles of Incorporation.)

RBW/tjp

C



Roderick B. Williams
Interim County Administrator

MEMORANDUM

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

TO: Board of Supervisors
FROM: Roderick B. Williams, Interim County Administrator *RBW*
DATE: March 3, 2015
RE: Closing of County Offices for Annual Apple Blossom Festival

As in the past, the Board of Supervisors will need to take action on the closing of county offices on Friday, May 1, 2015, for the 88th Shenandoah Apple Blossom Festival. This is a regularly scheduled holiday for county employees; however, the court offices need official action by the Board in order to close their offices for this day. Action at the March 11, 2015 meeting will give the courts time to arrange their schedules accordingly.

Thank you.

RBW/tjp

U:\TJP\miscmemos\CountyAdministrator\BdOfSupAppleBlossom(2015).docx

D



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: County Administration

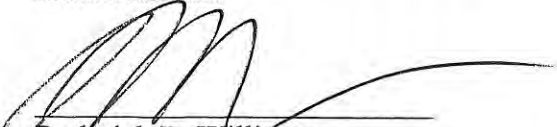
FROM: Roderick B. Williams, County Attorney

DATE: March 4, 2015

RE: Refund – United Rentals (North America)

I am in receipt of the Commissioner's request, dated March 3, 2015, to authorize the Treasurer to refund United Rentals (North America) the amount of \$5,522.62, for business asset taxes in 2014. This refund was a result a duplication of assets in filing vehicles separately but including them in total business assets for business equipment.

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



Roderick B. Williams
County Attorney

Attachment



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



March 03, 2015

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 United Rentals (North America)

Please approve a refund of \$5,522.62 for business asset taxes in 2014 for United Rentals (North America). Taxpayer has a duplication of assets in filing vehicles separately but including them in total business assets for BE.

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

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

Exoneration is \$5,522.62.

2/24/2015

Abatement Register
COUNTY OF FREDERICK

-UPDATE-

***TK306ABP**

FOR DATE - 2/24/2015

ACCOUNTING PERIOD - 2015/02

Type	Dept	Ticket#	Date	Amt. Charged	Customer	Tran#
ABA	FP2014	00564720001	2/24/2015	\$2,761.31-	UNITED RENTALS (NORTH AMERICA)	97072
ABA	FP2014	00564720002	2/24/2015	\$2,761.31-	UNITED RENTALS (NORTH AMERICA)	97073
Total for Dept.				\$5,522.62-		
Total for Tran Type				\$5,522.62-		
Abatement count =	2	Total for Company		\$5,522.62-		

E



MEMORANDUM

TO: Board of Supervisors

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

SUBJECT: Public Works Committee Report for Meeting of February 24, 2015

DATE: February 25, 2015

The Public Works and Green Advisory Committees met on Tuesday, February 24, 2015, at 8:00 a.m. All members were present. The following items were discussed:

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

1. Request from the Landfill for Approval of Waste Acceptance and Supplemental Appropriation

The committee reviewed and unanimously approved the following requests from the Landfill Manager, Mr. Steve Frye:

- a) Permission to accept discarded line poles from Rappahannock Electric Cooperative (REC).
- b) Supplemental appropriation in the amount of \$1,575,000 to cover the cost of the closure of nine (9) acres within the construction/demolition debris landfill.

The justification for these requests is highlighted in the attached memorandum from Mr. Frye dated January 20, 2015. Funds for the supplemental appropriation will be derived from the landfill reserve. (**Attachment 1**)

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

1. Fire and Rescue Proposed Fees

After a brief presentation by The Fire Marshal, Mr. John J. Bauserman, the committee recommended that the proposed fee schedule and related inspections be returned to the fire and

Public Works Committee Report

Page 2

February 25, 2015

rescue department for further evaluation. Specifically, the committee recommended that the scope of services be prioritized to limit the number of required inspections. No time table was established for returning the request to this committee.

2. Green Advisory Committee Presentation

Mr. Jon Turkel presented a brief summary of his efforts regarding the continual monitoring of energy usage throughout the county. A summary of this presentation is attached. No action was taken by the committee. **(Attachment 2)**

3. Closed Session

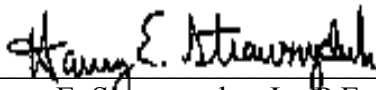
The committee convened into a closed session to discuss property acquisition for multiple citizens' convenience sites in accordance with the Code of Virginia §2.2-3711 Subsection A, (3), Acquisition and Disposition of Real Estate. After reconvening from closed session, each committee member certified that only items related to property acquisition were discussed in closed session. No action resulted from the closed session.

4. Miscellaneous Reports

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

THROUGH: Harvey E. Strawsnyder, Director of Public Works *HEE*

FROM: Steve Frye, Landfill Manager

SUBJECT: Waste Acceptance Approval and Request for Supplemental Appropriation

DATE: January 20, 2015

We request that the Public Works Committee take action on the following two requests:

Rappahannock Electric Cooperative has asked the landfill to accept old telephone poles generated from their service area. Rappahannock's service area includes Frederick County, Clarke County and Warren County with their Blue Ridge office being located in Warren County. This request is being brought to the committee due to the fact that their office is located outside of the landfill's service area. Please see the attached email from Darrell Potter, REC's Director of Operations and Construction for further details.

A supplemental appropriation from the landfill reserve in the amount of \$1,575,000 is being requested in order to proceed with closure of nine acres of Construction Demolition Debris Landfill area. This request is being made in order to facilitate closure of this area which has reached final grades ahead of the projected schedule. Closure plans are currently being prepared by our landfill engineer and the project will be ready for bidding by the middle of March.

Steve Frye

From: Darrell Potter <dpotter@myrec.coop>
Sent: Monday, January 05, 2015 1:47 PM
To: Steve Frye
Cc: Mark Stuckey; Randye Butcher; Mike Riley
Subject: poles


Steve per our discussion I am writing this letter to seek permission to take our discarded poles to the Frederick County Landfill location. The Blue Ridge Office in Front Royal had been taking the poles to Page County landfill but they will no longer accept them due to reasons I cannot figure out. We have done everything they have asked of us to do and yet they all of a sudden refuse. The Blue Ridge office serves 3 counties in Va. (Clarke, Frederick, and Warren). Clarke and Frederick Counties account for 72% of our members and Warren Co. accounts for the other 28%. We would greatly appreciate any help you could give us as we have nowhere else to go. Thank you for your time.

Darrell Potter
Director of Operations and Construction
Rappahannock Electric Cooperative
137 Kelley Court
Front Royal, VA 22630
(540) 622-5151 (O)
(540) 247-2506 (C)
www.myrec.coop



"This message may contain confidential and/or proprietary information, and is intended for person/entity to whom it was originally addressed. Any use by others is strictly prohibited."

MEMORANDUM

TO: Board of Supervisors
FROM: Jonathan M. Turkel, Park & Stewardship Planner 
SUBJECT: Green Advisory Committee Report for Meeting of February 24, 2015
DATE: February 24, 2015

The Green Advisory Committee met on Tuesday, February 24, 2015 at 8:00 a.m. in the Public Works conference Room 2nd Floor, 107 N. Kent Street, Winchester, VA. Members present were: Gene Fischer, Gary Lofton, Bob Wells, James Wilson, Whitney Wagner and Dave Ganse.

Information Items Only

Energy Management Update

The Green Advisory Committee discussed the energy management program and agreed staff should continue to monitor energy consumption as it has since FY11. Below summarizes key points of the program:

Energy management program:

Frederick County processes 69 electric meters and 21 natural gas meters with a combined cost of near \$900,000 per year. Since 2010 these bills have been collected, monitored, and graphically represented by a subscription service. These bills represent electric and natural gas consumption for County Administration, NRADC, Landfill, Airport, and Shawneeland.

Why did tracking start?

Primarily as a means of seeing if money could be saved. Keeping track of utility cost and use was seen as a means by which opportunities could be identified and costs managed. Energy reduction goals adopted in 2010 added to the interest in tracking energy consumption. As energy efficiency measures were pursued, ongoing monitoring of energy consumption was used as a means for validating results.

Why a subscription service?

Having a repository of accurate utility data is a useful tool for understanding usage patterns and monitoring intentional or unintentional changes. It was found that while some meters were being formally tracked the vast majority were not. Managing and tracking utility bills in-house was found to be overly time consuming and the data format difficult to use. Based on a calculation of staff time the subscription service offered cost savings.

How much does the subscription cost?

Originally \$4,200 per year in 2011 the service cost \$5,200 in 2014. Cost increase has been due to improved service capabilities of the provider and general inflation. If the program is to continue staff will likely pursue a subscription with the new service provider with improved data outputs. The annual fee with the new provider would be \$4,500, but with one time historical data import and utility setup costs of \$2,000.

How has the program worked?

The program has validated a 15% drop in consumption from FY2011 – FY2014, although program utilization has been mixed. The program provided \$6,900 in annual cost avoidance associated with the FY11 Energy Performance Contract with Siemens, however this savings is no longer contingent on the program continuation. Small opportunities (primarily behavioral changes) have been identified as a result of program anomaly identifications on meters that would not otherwise be tracked, but cause and effect relationships are difficult to determine in larger facilities and when considering the influence of weather on consumption.

On the whole, monitoring of energy meters has found that consumption and billing is progressing as anticipated. Facilities where energy efficiency measures have taken place are performing better than previously, and monitoring of billing for errors has shown that billing is accurate.

What is next?

If staff is directed to continue the program, staff will pursue a new service provider. The new service will provide monthly (rather than quarterly) reporting and integrated weather normalization in addition to tracking and monitoring. A primary purpose being to provide more relevant information to decision makers to allow for continued diligence in energy utilization.


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: February 12, 2015

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:	12,693 TONS (UP 225 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	11,194
DECEMBER	11,614	12,132
JANUARY	11,411	10,297
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	58,960	27,293	2,540	7,400	120,000	67,630	1,340	1,600	44,340	130,486	461,589
DEC	88,020	35,800	3,975	11,185	149,220	90,070	2,280	2,640	24,900	142,880	550,970
JAN	80,980	30,440	3,485	8,120	85,460	71,900	1,160	1,760	38,020	79,720	401,045
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	542,540	232,603	23,660	56,375	763,200	530,690	9,860	14,380	273,600	979,746	3,426,654
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	61	35	35	2	0	37	24	6	3	0	63
DEC	63	32	23	2	0	54	24	9	0	0	33
JAN	33	44	47	0	0	46	21	8	1	0	48
FEB											
MAR											
APR											
MAY											
JUN											
TOTAL	354	277	245	9	0	290	196	42	5	0	352

In the month of January - 124 dogs in and out of kennel. 5 dogs transferred to Clarke County, 1 dog to S.P.C.A., 1 dog transferred to rescue.

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	107	89	8	2	4	27	4	95	18	0	66
DEC	66	58	24	0	0	25	1	68	6	0	48
JAN	48	43	34	0	0	17	3	46	10	0	49
FEB											
MAR											
APR											
MAY											
JUN											
TOTAL	720	950	152	14	19	185	18	910	116	0	626

In the month of January - 125 cats in and out of shelter.

F

APPLICANT INFORMATION

Name of Applicant: **Grove's Winchester Harley- Davidson**

Telephone Number(s): **540-662-4468** home office cell **918-457-0104** home office cell

Address: **140 Independence Drive Winchester, VA 22602**



FESTIVAL EVENT ORGANIZATIONAL INFORMATION

Festival Event Name of Festival: **Summer Open House, Bikini Bike Wash, Bluegrass Family Day0 & Fall Open House**

Cost of Admission to Festival: Free

Business License Obtained: Yes No

Date(s)	Start Time	End Time	Maximum No. of Tickets Offered For Sale Per Day	Estimated No. of Attendees Per Day
June 20, 2015	10:00am.	3:00pm.	N/A	500
July 25, 2015	10:00am.	3:00pm.	N/A	500
August 22, 2015	10:00am.	3:00pm.	N/A	500
September 26, 2015	10:00am.	3:00pm.	N/A	500

Location Address: **140 Independence Drive Winchester , VA 22062**

Owner of Property Name(s): **Barbara Grove**

Address: **190 BALLYGAR DRIVE Winchester, VA 22602**

(*NOTE: Applicant may be required to provide a statement or other documentation indicating consent by the owner(s) for use of the property and related parking for the festival.)

Promoter Name(s): **Grove's Winchester Harley-Davidson**

Address: **140 Independence Drive, Winchester, VA 22602**

(*NOTE: For festivals other than not-for-profit, promoter may need to check with the Frederick County Commissioner of Revenue to determine compliance with County business license requirements; in addition, promoters who have repeat or ongoing business in Virginia may be required to register with the VA State Corporation Commission for legal authority to conduct business in Virginia.)

Financial Backer Name(s): **Barbara Grove**

Address: **190 BALLYGAR DRIVE Winchester, VA 22602**

(*NOTE: Applicant may need to update information as performers are booked for festival event.)

FESTIVAL EVENT LOGISTICS INFORMATION AND DOCUMENTATION

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

We have sufficient bathroom and garbage disposal on site at the dealership.

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

We have local food vendor and submit forms for health permits. No lodging is required.

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

Millwood Fire company will be notified about events.

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

Millwood Fire Company will be notified of events.

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

Dealership has more than sufficient parking facility.

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

If yes, provide a plan or submit a diagram showing the location of such lights and the proximity relative to the property boundaries and neighboring properties. In addition, show the location of shielding devices or other equipment to be used to

8. State whether alcoholic beverages will be served: YES NO
If yes, provide details on how it will be controlled.

Alcoholic beverages will served by members of the Child Parent Center and also profits will benefit the local Charity. ABC license will also be obtained by them.

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

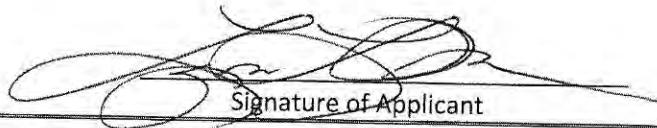
FESTIVAL PROVISIONS

Applicant makes the following statements:

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

CERTIFICATION

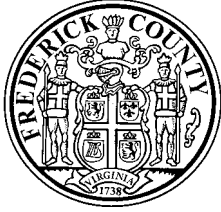
I, the undersigned Applicant, hereby certify that all information, statements, and documents provided in connection with this Application are true and correct to the best of my knowledge. In addition, Applicant agrees that the festival event and its attendees shall comply with the provisions of the Frederick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



Signature of Applicant

Lynn Kesner
Marketing Manager

G



REZONING APPLICATION #05-14

CB VENTURES, LLC

Staff Report for the Board of Supervisors

Prepared: March 3, 2015.

Staff Contact: Michael T. Ruddy, AICP, Deputy Director

	<u>Reviewed</u>	<u>Action</u>
Planning Commission:	01/07/15	Tabled for 45 days
Planning Commission:	02/18/15	Denied
Board of Supervisors:	03/11/15	Pending

PROPOSAL: To rezone 2.42 acres from the B1 (Neighborhood Business) District to B2 (General Business) District with proffers.

LOCATION: The property is located at 1033 Aylor Road in Stephens City.

PLANNING COMMISSION RECOMMENDATION AND EXECUTIVE SUMMARY FOR THE 03/11/15 BOARD OF SUPERVISORS MEETING:

The Planning Commission recommended denial of this rezoning request, an application to rezone a total of 2.42 acres of land from the B1 (Neighborhood Business) District to the B2 (General Business) District with proffers, to accommodate commercial uses. Planning Commission members stated their belief that the B2 (General Business) District uses were too intensive for this location and would have a detrimental impact to the adjacent residential neighborhood, in particular the existing residences immediately adjacent to the property. The Planning Commission expressed that the B2 District designation is more appropriate for larger commercial parcels such as in those areas planned for larger scale commercial development adjacent to Route 277, Fairfax Pike.

Previously, the Planning Commission had tabled this request to give the Applicant the ability to address the concerns that were expressed by the Planning Commission and members of the public during the public hearing. In response to the Planning Commission's initial discussion of this rezoning request, the Applicant modified their proffer statement (Revision Date; February 5, 2015) to prohibit two uses; Veterinary Offices and Gasoline Service Stations. In addition, a proffer addressing the allowed building height has been added. The maximum building height for office buildings and hotels/motels shall be fifty (50) feet. This is a reduction of ten (10) feet from that which is currently permitted by the Frederick County Zoning Ordinance. The Applicant also provided an exhibit depicting the potential cross section and scale of the adjacent commercial and residential land uses.

The B2 (General Business) District land use proposed in this rezoning is generally consistent with the commercial designation of the Southern Frederick Area Plan and the 2030 Comprehensive Plan. However, the existing neighborhood character of the adjacent land uses should be a consideration when evaluating this proposed rezoning. B1 (Neighborhood Business) District scale commercial uses exist in this general location.

The transportation impacts associated with this request appear to have generally been addressed by the Applicant, subject to the approval of the County Attorney regarding right-of-way dedication proffer, Proffer 2 (provided). The community facility impacts associated with this request should be addressed to a greater extent.

The adjacent properties are a consideration with this rezoning application. With this rezoning, the applicant has proffered height restrictions on site lighting to mitigate potential impacts to the adjacent residential properties. Initially, no additional site development standards were proffered. The Applicant subsequently proffered a height limitation of fifty (50) feet for hotels, motels, and office buildings. The Planning Commission ultimately determined that the neighborhood character of the area will be adversely impacted by this rezoning request.

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

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

	<u>Reviewed</u>	<u>Action</u>
Planning Commission:	01/07/15	Tabled for 45 days
Planning Commission:	02/18/15	Denied
Board of Supervisors:	03/11/15	Pending

PROPOSAL: To rezone 2.42 acres from the B1 (Neighborhood Business) District to B2 (General Business) District with proffers.

LOCATION: The property is located at 1033 Aylor Road in Stephens City.

MAGISTERIAL DISTRICT: Opequon

PROPERTY ID NUMBERS: 74-((A))-104 and 74-((A))-105

PROPERTY ZONING: B1 (Neighborhood Business) District

PRESENT USE: Car wash / vacant

ADJOINING PROPERTY ZONING & PRESENT USE:

North: B1 (Neighborhood Business)	Use: Commercial
South: B1 (Neighborhood Business)	Use: Commercial
East: RP (Residential Performance)	Use: Residential
West: Aylor Road/Interstate 81	Use: State Highway Town of Stephens City

REVIEW EVALUATIONS:

Virginia Dept. of Transportation: *Please see attached email dated August 8, 2014, from Lloyd Ingram, VDOT.*

Fire Marshall: Plan approved

Fire and Rescue: Plan approved

Public Works Department: Recommend approval

Frederick County Sanitation Authority: *Please see attached letter dated June 6, 2014, from Uwe Weindel, Engineer-Director FCSA.*

Service Authority: No comments

Frederick County Attorney: Proffer is in correct legal form (*Please see attached letter dated December 4, 2014, from Rod Williams, County Attorney, for initial comments.*)

Town of Stephens City: No issues

Planning & Zoning:

1) **Site History**

The original Frederick County zoning map (U.S.G.S. Stephens City Quadrangle) identifies the subject parcels as being zoned B-1 (Neighborhood Business) District. The intent of this district is to provide small business areas to serve the daily household needs of surrounding residential neighborhoods. Uses allowed primarily consist of limited retailing and personal service uses. Business uses in this district should be small in size and should not produce substantial vehicle traffic in excess of what is usual in the residential neighborhoods.

2) **Comprehensive Policy Plan**

The 2030 Comprehensive Plan is the guide for the future growth of Frederick County.

The 2030 Comprehensive Plan is an official public document that serves as the community's guide for making decisions regarding development, preservation, public facilities and other key components of community life. The primary goal of this plan is to protect and improve the living environment within Frederick County. It is in essence a composition of policies used to plan for the future physical development of Frederick County.

Land Use.

The 2030 Comprehensive Plan and the Southern Frederick Area Plan provide guidance on the future development of the property. The property is located within the UDA and SWSA. The 2030 Comprehensive Plan identifies the general area surrounding this property with a Business land use designation. In general, the proposed commercial land use designation for this property is consistent with this land use designation of the Comprehensive Plan. Commercial land uses would include both B1 Neighborhood Business and B2 General Business zoning designations. The existing land use in this area is neighborhood business in character. The existing character of the land use is a consideration when evaluating this proposed rezoning.

Immediately to the east of this property is an existing residential neighborhood. The Plan recognizes the existing residential land uses. Care should be afforded to the transition between the business and residential land uses, both of which are located in this general area.

Site Access and Transportation.

The subject properties have frontage on and access to Route 647, Aylor Road. Aylor Road is identified as a major collector road in the County's Eastern Road Plan.

Transportation improvements to Route 277, Fairfax Pike, are planned on the VDOT Six-Year Improvement Plan. This project includes improvements to Aylor Road. *A copy of this section of the VDOT plans has been attached to the package for your information.* Similar to other recent projects in the vicinity, it is not anticipated that this project constructs improvements to Route 277 or Aylor Road at this time, rather, dedicates appropriate right-of-way, designs access to this site that is consistent with those improvements anticipated with the VDOT Six-Year Plan Project, and provides some contribution to transportation improvements resulting from the impacts of this new development; further, that the value of any contribution has a nexus to the project and its impacts.

The rezoning application should fully address this road project as designed by VDOT in the most recent improvement plans for this project. In particular, the right-of-way needs of the project. Any improvements associated with the development of the site within the future road right-of-way should be consistent with those identified in the plans and to the satisfaction of VDOT.

The provision of two entrances is proposed. Given the anticipated design for Aylor Road, such an approach may work in this location. The southernmost entrance appears to align with the new and existing road configuration.

3) Site Suitability/Environment

The site does not contain any environmental features that would either constrain or preclude site development. There are no identified areas of steep slopes, floodplains or woodlands.

4) Potential Impacts

The subject properties are currently zoned B1 (Neighborhood Business) District. Therefore, the rezoning of these properties to the B2 (General Business) District will have the potential to generate additional impacts. However, it is recognized that the impacts associated may not be as significant as if this property was zoned RA (Rural Areas) District.

As noted previously, immediately to the east of this property is an existing residential neighborhood. Care should be afforded to the transition between the business and residential land uses that are both located in this general area. With the exception of addressing the potential lighting impacts by limiting the height of any lighting to twenty feet, the Applicant has not provided any additional means to minimize the potential impact associated with the more intensive commercial use of the property beyond the requirements of the Zoning Ordinance. It

should be noted that the height of certain commercial structures may increase to sixty feet from the currently enabled thirty-five feet.

With regards to the potential transportation impacts, at this time, the project has the intention of providing the right-of-way for the future improvements to Aylor Road. This should be unconditionally guaranteed. Otherwise, the transportation impacts associated with this request would not be fully addressed. The additional trips would simply add to the transportation issues in this area.

The Applicants Impact Analysis states that this site will negatively impact Police Protection, Fire and Rescue Protection, Water and Sewer Usage, and Solid Waste Disposal. The capital needs associated with these impacts have not been quantified and have not been addressed by way of mitigation other than to say that there may be a potential increase in tax revenue and fees from this development.

5) **Proffer Statement** – Dated May 13, 2014 and revised on November 19, 2014

A) **Generalized Development Plan**

The Applicant has proffered a Generalized Development Plan. The Plan identifies the properties to be developed and recognizes the transportation and access related commitments made with this rezoning application; including the Aylor Road right-of-way dedication area and the two potential entrances to the site.

B) **Land Use**

The Applicant's proffer statement does not place any limitation on the amount or type of commercial development that may occur on the property. ***It is recognized that this is a relatively small parcel, however, the potential increase in intensity of the use including the size of the structure should be considered.***

The Applicant has, in Proffer 3, addressed the potential impacts associated with site lighting by proffering that all lighting shall be no higher than 20'.

C) **Transportation**

The proffer statement supports the Route 277 Improvement Project as the Applicant has identified the correct area of right-of-way dedication consistent with the VDOT project along Aylor Road and described this in proffer 2, right-of-way dedication.

In general, the trigger for conveying said right-of-way is acceptable. The proffer states that the right-of-way shall be conveyed within 90 days of a written request from VDOT or the County. The final sentence of proffer 2 should be carefully evaluated as it contains a mechanism that removes the conveyance of the right-of-way. This would be problematic as the language is vague and the right-of-way is necessary. In addition, this would result in a rezoning application that in no way addresses the additional transportation impacts generated from the more intensive commercial use of the property.

Recent rezoning applications in the vicinity of this project have also proffered a monetary contribution to transportation improvements in the County in an amount they believed was consistent with the transportation impacts of their project.

D) Community Facilities

This application does not include a proffer aimed at mitigating the community facility impacts of this request. The Applicant has stated that the additional tax revenue generated would address this. Recent rezoning applications in the vicinity of this project have also proffered a monetary contribution to offset the fire and rescue impacts of their project.

Revised Proffer Statement (Revision Date; February 5, 2015).

The Applicant has modified their proffer statement to prohibit two uses; Veterinary Offices and Gasoline Service Stations.

In addition, a proffer addressing the allowed building height has been added. The maximum building height for office buildings and hotels/motels shall be fifty (50) feet. This is a reduction of (10) feet from that which is currently permitted by the Zoning Ordinance.

The County Attorney has reviewed the revised proffer statement and it is in the proper legal form.

STAFF CONCLUSIONS FOR THE 01/07/15 PLANNING COMMISSION MEETING:

This is an application to rezone a total of 2.42 acres of land from the B1 (Neighborhood Business) District to the B2 (General Business) District with proffers, to accommodate commercial uses.

The B2 (General Business) District land use proposed in this rezoning is generally consistent with the commercial designation of the Southern Frederick Area Plan and the 2030 Comprehensive Plan. However, the existing neighborhood character of the adjacent land uses should be a consideration when evaluating this proposed rezoning.

The transportation impacts associated with this request appear to have generally been addressed by the Applicant, subject to the unequivocal approval of the County Attorney regarding right-of-way dedication proffer, Proffer 2. The community facility impacts associated with this request should be addressed to a greater extent.

The adjacent properties should be a consideration with this rezoning application. With this rezoning, the applicant has proffered height restrictions on site lighting to mitigate potentials impacts to the adjacent residential properties. No additional site development standards have been proffered. The Planning Commission should determine if the neighborhood character of the area will be adversely impacted.

PLANNING COMMISSION SUMMARY FROM THE 01/07/15 PLANNING COMMISSION MEETING:

Two members of the public spoke during the public hearing; Mr. Chapman, and Mr. Carriker. Both expressed concerns regarding the application and the impact it would have on their residential properties.

Commission members asked several questions regarding the details of this application and expressed concerns about the potential impacts of the application and the appropriateness of the request from a land use perspective.

Commissioner Mohn noted the concern is there, in regards to lack of specificity on the intensity that could occur with this rezoning. He would like to see more in the application on building size and development. Mr. Mohn stated he would like to see something that projects a clearer view of what may be developed on this property.

Commissioner Thomas made a motion to table this rezoning application for 45 days. This motion was seconded by Commission Unger and unanimously passed.

(Note: Commissioner Oates abstained from voting; Commissioner Marston was absent from the meeting.)

PLANNING COMMISSION SUMMARY FROM THE 02/18/15 PLANNING COMMISSION MEETING:

Three members of the public spoke during the public comment portion of the Planning Commission meeting.

The Applicant provided two exhibits for the Planning Commission's review. The first is a cross section which shows the proposed buffer location, the existing single and two story residential homes, and a potential hotel/office building. The second exhibit is a photograph that shows the existing property for which the rezoning is being requested and the residential land uses at the rear of the property. The Planning Commission voiced concerns with the height of a building on this property due to the current elevation of the land compared to the residential neighborhood located directly behind it. Planning Commission Members also expressed concern with the height of a building on the property and does not feel the exhibits provided adequately address this issue.

The Planning Commission unanimously recommended denial of this rezoning request, an application to rezone a total of 2.42 acres of land from the B1 (Neighborhood Business) District to the B2 (General Business) District with proffers, to accommodate commercial uses.

Commission members stated their belief that the B2 (General Business) District uses were too intensive for this location and would have a detrimental impact to the adjacent residential neighborhood, in particular the existing residences immediately adjacent to the property. The Planning Commission expressed that the B2 District designation is more appropriate for larger commercial parcels such as in those areas planned for larger scale commercial development adjacent to Route 277, Fairfax Pike.

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

PROPOSED PROFFER STATEMENT

REZONING: RZ#
B1 to B2

PROPERTY: 2.42 acres
Tax Map Parcel 74-((A))-104 & 105

RECORD OWNER: CB Ventures, LLC.

APPLICANT: Montgomery Engineering Group, Inc.

PROJECT NAME: CB Ventures, LLC – Aylor Road

ORIGINAL DATE
OF PROFFERS: May 13, 2014

REVISION DATE(S): February 5, 2015

The undersigned hereby proffers that the use and development of the subject property ("Property"), as described above, shall be in strict conformance with the following conditions, which shall supersede all other proffers on the Property that may have been made prior hereto. In the event that the above-referenced B2 rezoning is not granted as applied for by the applicant ("Applicant"), these proffers shall be deemed withdrawn and shall be null and void. Further, these proffers are contingent upon final rezoning of the Property with "final rezoning" defined as that rezoning which is in effect on the day following the last day upon which the Frederick County Board of Supervisors' (the "Board") decision granting the rezoning may be contested in the appropriate court. If the Board's decision is contested, and the Applicant elects not to submit development plans until such contest is resolved, the term final rezoning shall include the day following entry of a final court order affirming the decision of the Board which has not been appealed, or, if appealed, the day following which the decision has been affirmed on appeal.

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

When used in these proffers, the "Generalized Development Plan", shall refer to the plan entitled "CB Ventures, LLC – Aylor Road" dated February 23, 2014 revised November 1, 2014 (the "GDP") and is included in this proffer.

Site Development.

1. Property Access.

Property access shall be via the two new entrances shown on GDP from Relocated Aylor Road, as approved by VDOT. Temporary access to the property may, in the interim, be via entrances on the existing portion of Aylor Road, as approved by VDOT, until such time the right of way for the future Aylor Road realignment improvement project is conveyed to the Commonwealth of Virginia. This temporary access may cross the area identified for right of way dedication. Improvements necessary to utilize the two new entrances shown on the GDP after the conveyance shall be the responsibility of the Applicant.

2. Right of way dedication.

The Right of Way shown on the GDP for the future Aylor Road Realignment improvement project shall be conveyed to the Commonwealth of Virginia or Frederick County within 90 days of a written request from either VDOT or Frederick County. All site development shall occur on the area outside of the area identified for future right of way dedication. The only exception to this requirement being the temporary access identified in Proffer 1. The provision for conveyance of the Right of Way shall have no further force or effect, however, should neither the VDOT 6 Year Plan nor the Frederick County Road Plan continue to show the realignment or improvement of Aylor Road.

3. Lighting.

All lighting shall be building mounted wall packs or on poles and shall be no higher than 20'. Lighting shall be downcast and shielded to prevent glare and intrusion of light onto adjoining properties.

4. Land Use

The Property shall be allowed to develop with B2 land uses with exception of:

SIC Code	Use
074	Veterinary Offices
554	Gasoline Service Stations

5. Allowed Building Height

The maximum building height allowed for office buildings and hotels/motels shall be 50 feet and the maximum building height allowed for all other B2 uses shall be 35 feet or as may be otherwise provided in the County Code for the B2 Zoning District.

Respectfully submitted,
CB Ventures, LLC

[Signature]
Edward P. Browning, IV

member
(Title)

CHRISTY MILLER
Notary Public
State of Colorado

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

The foregoing instrument was acknowledged before me this 6 day
of February, 2014, by Christy Miller.

[Signature]
NOTARY PUBLIC

My commission expires: 11-26-15
Commission number: 20074093509 Colorado, CO

[Signature]
Randy Craun

Member/Manager
(Title)

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

The foregoing instrument was acknowledged before me this 6th day
of February, 2014, by Debbie Jenkins
5

[Signature]
NOTARY PUBLIC

My commission expires: 9/30/18
Commission number: 7593285

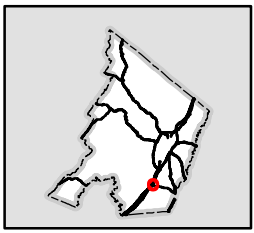
Debbie Jenkins
Notary Public
Commonwealth of Virginia
Notary Registration #7593285



REZ # 05 - 14
CB Ventures, LLC
 PINs:
 74 - A - 104, 74 - A - 105
 Rezoning from B1 to B2

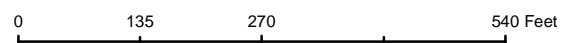


- Applications
- Sewer and Water Service Area
- Parcels
- Building Footprints
- B1 (Business, Neighborhood District)
- B2 (Business, General District)
- B3 (Business, Industrial Transition District)
- EM (Extractive Manufacturing District)
- HE (Higher Education District)
- M1 (Industrial, Light District)
- 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 # 05 - 14
CB Ventures, LLC
 PINs:
 74 - A - 104, 74 - A - 105
 Rezoning from B1 to B2

Note:
 Frederick County Dept of
 Planning & Development
 107 N Kent St
 Suite 202
 Winchester, VA 22601
 540 - 665 - 5651
 Map Created: November 25, 2014
 Staff: mruddy



PROPOSED PROFFER STATEMENT

REZONING: RZ#
B1 to B2

PROPERTY: 2.42 acres
Tax Map Parcel 74-((A))-104 & 105

RECORD OWNER: CB Ventures, LLC.

APPLICANT: Montgomery Engineering Group, Inc.

PROJECT NAME: CB Ventures, LLC – Aylor Road

ORIGINAL DATE
OF PROFFERS: May 13, 2014

REVISION DATE(S): November 19, 2014

The undersigned hereby proffers that the use and development of the subject property (“Property”), as described above, shall be in strict conformance with the following conditions, which shall supersede all other proffers on the Property that may have been made prior hereto. In the event that the above-referenced B2 rezoning is not granted as applied for by the applicant (“Applicant”), these proffers shall be deemed withdrawn and shall be null and void. Further, these proffers are contingent upon final rezoning of the Property with “final rezoning” defined as that rezoning which is in effect on the day following the last day upon which the Frederick County Board of Supervisors’ (the “Board”) decision granting the rezoning may be contested in the appropriate court. If the Board’s decision is contested, and the Applicant elects not to submit development plans until such contest is resolved, the term final rezoning shall include the day following entry of a final court order affirming the decision of the Board which has not been appealed, or, if appealed, the day following which the decision has been affirmed on appeal.

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

When used in these proffers, the "Generalized Development Plan", shall refer to the plan entitled "CB Ventures, LLC – Aylor Road" dated February 23, 2014 revised November 1, 2014 (the "GDP") and is included in this proffer.

Site Development.

1. Property Access.

Property access shall be via the two new entrances shown on GDP from Relocated Aylor Road, as approved by VDOT. Temporary access to the property may, in the interim, be via entrances on the existing portion of Aylor Road, as approved by VDOT, until such time the right of way for the future Aylor Road realignment improvement project is conveyed to the Commonwealth of Virginia. This temporary access may cross the area identified for right of way dedication. Improvements necessary to utilize the two new entrances shown on the GDP after the conveyance shall be the responsibility of the Applicant.

2. Right of way dedication.

The Right of Way for the future Aylor Road Realignment improvement project shown on GDP shall be conveyed for the development of said road to the Commonwealth of Virginia 90 days of a written request from either VDOT or Frederick County. All site development shall occur on the area outside of the area identified for future right of way dedication. The only exception to this requirement being the temporary access identified in Proffer 1. This property shall not be conveyed should road development not occur or if on a future VDOT 6 Year Plan, Aylor Road is no longer being considered for realignment.

3. Lighting.

All lighting shall be building mounted wall packs or on poles and shall be no higher than 20'. Lighting shall be downcast and shielded to prevent glare and intrusion of light onto adjoining properties.

Respectfully submitted,



Edward P. Browning, IV

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

The foregoing instrument was acknowledged before me this 24th day
of November, 2014, by Debbie Jenkins.


NOTARY PUBLIC

My commission expires: 9/30/18
Commission number: 7593285

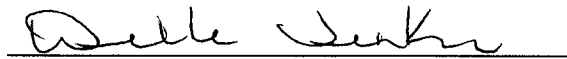
Debbie Jenkins
Notary Public
Commonwealth of Virginia
Notary Registration #7593285



Randy Craun

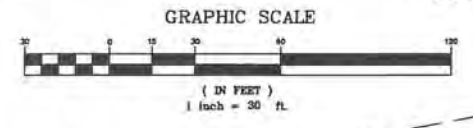
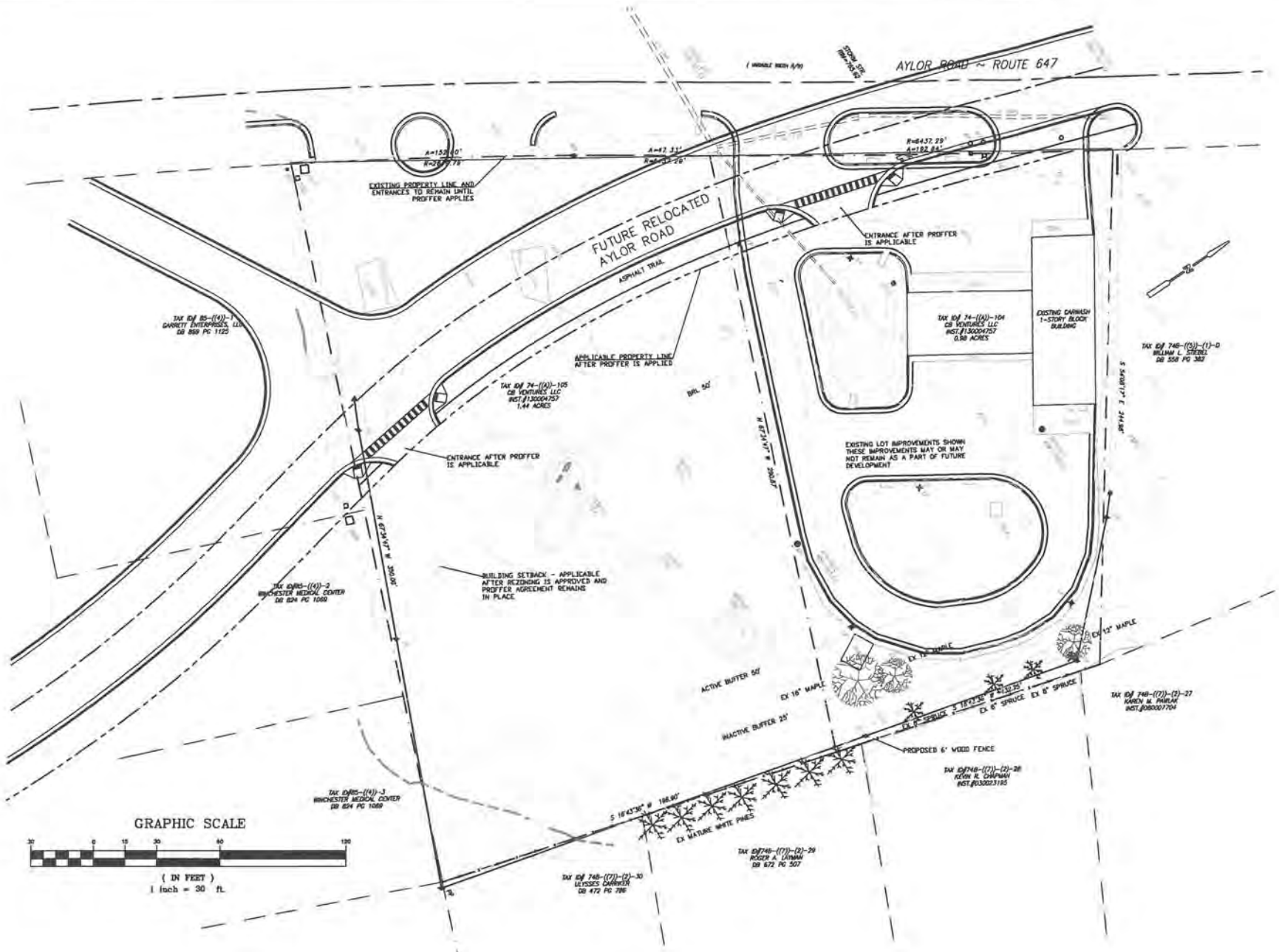
COMMONWEALTH OF VIRGINIA, AT LARGE
FREDERICK COUNTY, To-wit:

The foregoing instrument was acknowledged before me this 24th day
of November, 2014, by Debbie Jenkins.


NOTARY PUBLIC

My commission expires: 9/30/18
Commission number: 7593285

Debbie Jenkins
Notary Public
Commonwealth of Virginia
Notary Registration #7593285



VICINITY MAP Scale 1"=1000'

PROJECT INFORMATION

Owner
CB Ventures, LLC
 800 Salem Church Rd.
 Stephens City, VA 22655
 Phone - (540) 535-1897

Developer

MONTGOMERY
 Engineering Group, Inc.

182 Backboard Lane
 Winchester, VA 22601
 (540) 874-7382
 info@montgomeryeng.com

PROPOSED REZONING PLAN
 FOR
CB VENTURES, LLC - AYLOR ROAD
FREDERICK CO, VIRGINIA
OPEQUN MAGISTRATE

APPROVALS ZP # xx-14

 Frederick County Zoning Administrator Date

Seal and Signature

DATE: FEB. 23, 2014

SCALE: 1" = 30'

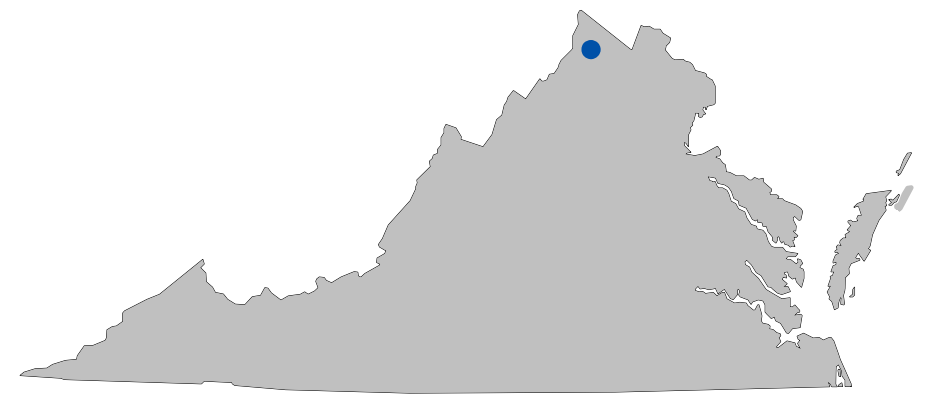
FILE NO. 14-05

SHEET 1 OF 1

THESE PLANS ARE IN CONFORMANCE WITH THE FREDERICK COUNTY STANDARDS AND ORDINANCES. ANY DEVIATION OR CHANGE IN THESE PLANS SHALL BE APPROVED BY THE ZONING ADMINISTRATOR PRIOR TO CONSTRUCTION.

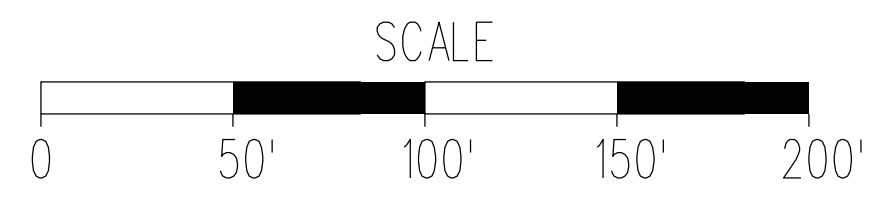
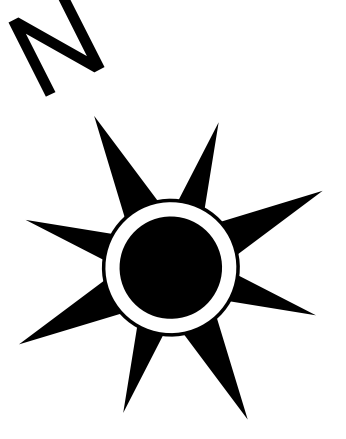
DATE	REVISION
8/20/14	FOR APPROVAL
11/2/14	REV FOR DEPT COMMENTS

Project Location



Frederick County

North Arrow & Scale



Legend

	Proposed Road		Existing Right of Way
	Proposed Shared Use Path		Proposed Right of Way Line
	Proposed Sidewalk		Proposed Permanent Easement
	Stormwater Management Basin		Proposed Permanent Utility Easement
	Signal		Proposed Temp. Construction Easement
	Building Potentially to be Removed (See Plans for additional demolition items)		
	Proposed Limits of Construction - Cut		Proposed Limits of Construction - Fill

Contact Information

Chris Colson, PE
Project Manager
Virginia Department of Transportation
811 Commerce Road
Staunton, VA 24401

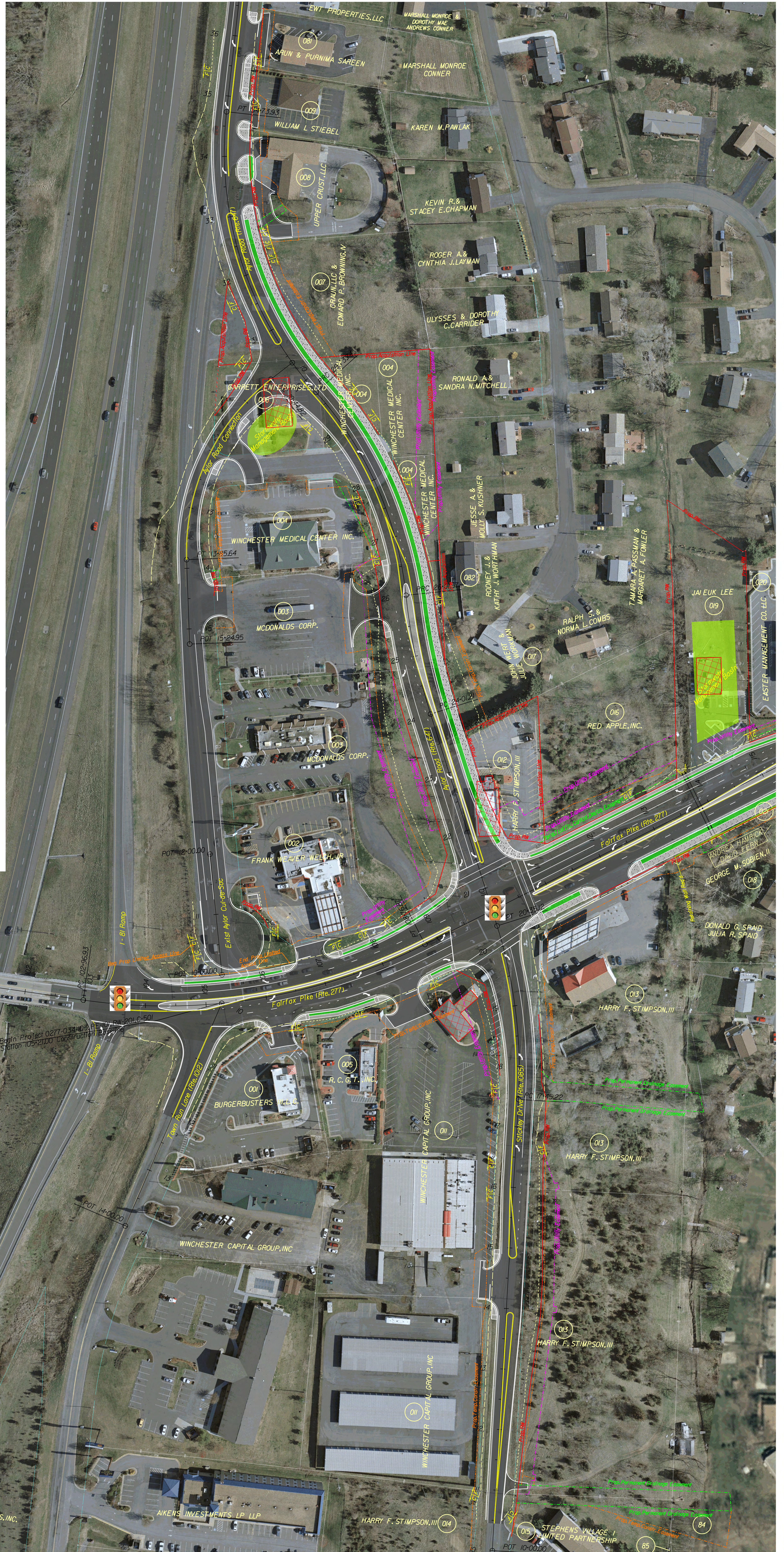
Comments may also be sent to:
Chris.Colson@VDOT.Virginia.gov

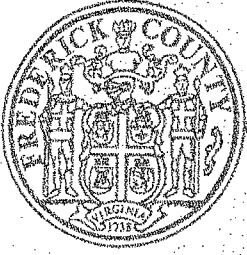
Fairfax Pike (Route 277)
Frederick County, Virginia

0277-034-103, PE-101, RW-201, C-501
UPC 18003
STP-034-8(032)

These plans are unfinished and unapproved and are not to be used for any type of construction or the acquisition of right of way. Additional easements for utility relocations may be required beyond the proposed right-of-way shown on these plans.

Imagery Courtesy of the Commonwealth of Virginia copyright 2009/2010.





COUNTY of FREDERICK

Roderick B. Williams
County Attorney

540/722-8383

Fax 540/667-0370

E-mail:

rwillia@co.frederick.va.us

December 4, 2014

VIA E-MAIL – ben@MEGinc.biz – AND REGULAR MAIL

Mr. Benjamin C. Montgomery
Montgomery Engineering Group, Inc.
132 Saddleback Lane
Winchester, Virginia 22602

Re: Rezoning Application – CB Ventures, LLC
Parcel Numbers 74-A-104 and 74-A-105, consisting of 2.42± acres (the
“Properties”)
Revised Proffer Statement dated May 13, 2014

Dear Mr. Montgomery:

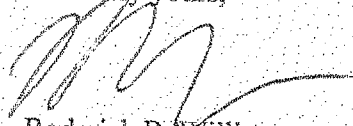
You have submitted to Frederick County for review the above-referenced proposed proffer statement (the “Proffer Statement”) for the proposed rezoning of the Properties, in the Opequon Magisterial District, from the B1 (Neighborhood Business) District to the B2 (General Business) District, subject to proffers. I have now reviewed the Proffer Statement and it is my opinion that the Proffer Statement would be in a form to meet the requirements of the Frederick County Zoning Ordinance and the Code of Virginia, and would be legally sufficient as a proffer statement, subject to the following comments:

1. Date of the Proffer Statement – The previous version of the Proffer Statement was dated May 21, 2014; the current version is dated May 13, 2014. It would appear that some date other than May 13, 2014 is correct.
2. Proffer 1 – Again, the proffer does not actually state an obligation, as the uses it purports to exclude are already prohibited in the County’s B2 District. For example, County Code § 165-603.02 permits SIC Code 72 uses, other than those in SIC Codes 7213, 7216, 7218, and those listed for 7299. The Code provides similarly for SIC Codes 73 and 76. You may simply delete Proffer 1, as the designation at the top of page 1 of the Proffer Statement, that the rezoning is from B1 to B2, is adequate to convey the effect of the rezoning.
3. Proffer 2:

Mr. Benjamin C. Montgomery
December 4, 2014
Page 3

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,

A handwritten signature in black ink, appearing to be 'Roderick B. Williams', written over a light blue grid background.

Roderick B. Williams
County Attorney

cc: Michael Ruddy, AICP, Deputy Director of Planning and Development (via e-mail)

Ben Montgomery

From: Funkhouser, Rhonda (VDOT) <Rhonda.Funkhouser@VDOT.Virginia.gov> on behalf of Ingram, Lloyd (VDOT) <Lloyd.Ingram@VDOT.virginia.gov>
Sent: Friday, August 08, 2014 9:23 AM
To: ben@meginc.biz
Cc: Ingram, Lloyd (VDOT); Smith, Matthew, P.E. (VDOT); John Bishop
Subject: CB Ventures, LLC - Aylor Road - VDOT Comments to Rezoning
Attachments: Scanned from EDNXerox.pdf

The documentation within the application to rezone this property appears to have a measurable impact on Route 647. This route is the VDOT roadway which has been considered as the access to the property referenced.

VDOT is satisfied that the transportation proffers offered in the CB Ventures, LLC Rezoning Application dated May 21, 2014 address transportation concerns associated with this request.

Before development, this office will require a complete set of construction plans detailing entrance designs, drainage features, and traffic flow data from the I.T.E. Trip Generation Manual, Seventh Edition for review. VDOT reserves the right to comment on all right-of-way needs, including right-of-way dedications, traffic signalization, and off-site roadway improvements and drainage. Any work performed on the State's right-of-way must be covered under a land use permit. This permit is issued by this office and requires an inspection fee and surety bond coverage.

Thank you for allowing us the opportunity to comment.

Lloyd A. Ingram | Land Development Engineer
Virginia Department of Transportation
Clarke, Frederick, Shenandoah & Warren Counties
14031 Old Valley Pike
Edinburg, VA 22824
voice: 540/984-5611
fax: 540/984-5607
e-mail: Lloyd.Ingram@vdot.virginia.gov



FREDERICK COUNTY SANITATION AUTHORITY

Post Office Box 1877
Winchester Virginia 22604-8377

PH. – (540)868-1061
Fax – (540)868-1429
www.fcsa-water.com

Uwe E. Weindel, P.E.
Engineer-Director

June 6, 2014

Mr. Ben C. Montgomery
Montgomery Engineering Group, Inc.
132 Saddleback Lane
Winchester, Virginia 22602

Ref.: Rezoning Plan Comments
1033 Aylor Road
Tax Map # 75-A-104 & 105

Dear Sir:

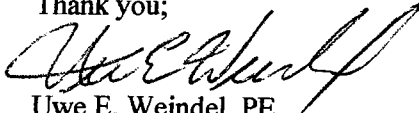
Per your request, a review of the proposed rezoning plan has been performed. The Frederick County Sanitation Authority offers comments limited to the anticipated impact/effect upon the Authority's public water and sanitary sewer system and the demands thereon.

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 within a reasonable distance from the site. 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.

Water and sanitary sewers are to be constructed in accordance with the FCSA standards specifications. Dedicated easements may be required and based on the layout vehicular access will need to be incorporated into the final design. All easements should be free from any encumbrance including permanent structures (fences, signs, etc.) and landscaping (trees, shrubs, etc.).

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, 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



MEMORANDUM

TO: Ben Montgomery
Montgomery Engineering Group, Inc.

FROM: Michael T. Ruddy, AICP
Deputy Director 

RE: Rezoning Comments: CB Ventures, LLC Commercial - Aylor Road.

DATE: August 22, 2014

The following comments are offered regarding the CB Ventures, LLC Commercial Rezoning Application. This is a request to rezone 2.42 acres from B1 (Neighborhood Business) to B2 (Business General) with Proffers. The review is generally based upon the Proffer Statement dated May 21, 2014, and the Impact Analysis Statement dated June 20, 2014.

Prior to formal submission to the County, please ensure that these comments and all review agency comments are adequately addressed. At a minimum, a letter describing how each of the agencies and their comments have been addressed should be included as part of the submission.

General

1. The submission fee for this application would total \$10,242.00, based upon acreage of 2.42 acres.

Land Use

- 1) The 2030 Comprehensive Plan Long Range Land Use Plan provides guidance on the future development of the property. The property is located within the UDA and SWSA. The 2030 Comprehensive Plan identifies the general area surrounding this property with a commercial land use designation. In general, the proposed commercial land use designation for this property is consistent with this land use designation of the Comprehensive Plan. However, the existing land use in this area is **neighborhood commercial** in character. Immediately to the east of this property is an existing residential neighborhood. The existing character of the land use is a consideration when evaluating this proposed rezoning.

The intent of this district (B1 Neighborhood Business District) is to provide small business areas to serve the daily household needs of surrounding residential neighborhoods. Uses allowed primarily consist of limited retailing and personal service uses. Business uses in this district should be small in size and should not produce substantial vehicle traffic in excess of what is usual in the residential neighborhoods.

- 2) The subject properties have frontage on and access to Route 647, Aylor Road. Aylor Road is identified as a major collector road in the County's Eastern Road Plan. The rezoning application should fully address this road project as designed by VDOT in the most recent improvement plans for this project. In particular, the right-of-way needs of the project. Any improvements associated with the development of the site within the future road right-of-way should be consistent with those identified in the plans and to the satisfaction of VDOT.

Impact Analysis and Proffer Statement

Please address the following items from the Impact Analysis and Proffer Statements prepared for this Application. The following comments have been provided in conjunction with John Bishop, County Transportation Planner.

- 1) The application does not address the potential impacts associated with the change from B1 (Neighborhood Commercial) District to B2 (General Commercial) District on the adjacent residential land uses.
- 2) The Impact Analysis states that this site will negatively impact Police Protection, Fire and Rescue Protection, Water and Sewer Usage, and Solid Waste Disposal. The capital needs associated with these impacts have not been quantified and have not been addressed by way of mitigation other than to say that there may be a potential increase in tax revenue and fees from this development. Please quantify and address the impacts.
- 3) The Traffic portion of the Impact Analysis states that the potential development square footages established for each zoning district in the Zoning Code are grossly overstated (B1-13,068, B2-21,361). Please clarify if the numbers used to make your conclusions are those established by the County, or your own estimate.
- 4) Transportation improvements to Aylor Road and Route 277, Fairfax Pike, are planned on the VDOT Six-Year Improvement Plan. Therefore, at this time it is not anticipated that this project constructs improvements to Aylor Road, rather, dedicates appropriate right-of-way, designs access to this site that is consistent with those improvements anticipated with the VDOT Six-Year Plan Project, and provides some contribution to transportation improvements resulting from the impacts of this new development; further, that the value of any contribution has a nexus to the development project and its impacts.

- 5) Proffer 1 is redundant as B2 land uses are obviously those that the property will be developed with under a B2 rezoning. Should you desire to prohibit certain B2 uses this would be the appropriate location to do so.
- 6) Proffer 2 is vague and provides no concrete commitment to address the transportation impacts and future road construction and right-of-way needs. Transportation improvements proffered should support the Aylor Road/277 project and should include appropriate triggers for completion and/or dedication.
- 7) The GDP shows improvements to the site that may be construed to be the scope of development and may, in the future, be in conflict with ordinance requirements. To provide the applicant with as much flexibility in the future development of the site, it is suggested that some of the site design details are removed, such as building footprints and buffer details, from the GDP. Features important to the rezoning, and those that exceed current ordinance requirements should be depicted on the GDP. Such features should also reflect consistency with items described in the proffer statement.

In conclusion, please ensure that the above comments, and those offered by the reviewing agencies are addressed.

MTR/dlw



MONTGOMERY

Engineering Group, Inc.

November 1, 2014

Re: Rezoning CB Ventures – Aylor Road

County of Frederick
Department of Planning and Development
107 N. Kent St.
Winchester, VA 22601-5000

Dear Mr. Ruddy:

Per your attached comment letter dated August 22, 2014, we have made the following revisions.

General

1. Fee amount is acknowledged.

Land Use

1. Land use consideration understood.
2. The submitted plan and revised Impact Analysis Statement in conjunction with the Proffer Statement addresses the most recent road realignment for Aylor Road. This plan has been approved by VDOT.

Impact Analysis and Proffer Statements

1. We believe because this is on Aylor Road which is a major collector road and not on any roads leading into the neighborhood that the impacts to the adjoining neighborhood to be minimal and would be mitigated by the current screening requirements. Statement added to Impact Analysis Statement.
2. At this time we have no way to quantify Police, Fire & Rescue, and Solid Waste Disposal. The statement remains true that the change in zoning when comparing a fully developed B1 site to a fully developed B2 site is very small. The difference in tax revenue is proportional. The water usage is being addressed in FCSA reviews and statement has been modified to reflect. No additional proffers are being offered nor are they needed.
3. My statement that the Zoning Code grossly overstated the numbers was incorrect on my part. I was not calculating based on "Acre of Use". The Impact Analysis Statement has been modified to indicate the small difference between allowable square footage of use.

4. The proffer dedicates the ROW for the property and limits development in that area. We believe that proffering the ROW without payment from VDOT mitigates future VDOT development costs. This has been accepted by VDOT.
5. We have listed additional B2 land uses to be proffered.
6. The trigger for the proffer is exercise by VDOT when the road is being developed. No proffers for additional contributions are being made. Proffer Statement has been reviewed by the county attorney and accepted by VDOT. As stated in Impact Analysis, the transportation impacts are less than 10%.
7. The GDP has been revised to remove building footprints and buffer elements.

Thank you for your help in this process. If you have any questions, give me a call.

Sincerely,

A handwritten signature in black ink, appearing to read "Ben C. Montgomery". The signature is fluid and cursive, with a large loop at the end.

Ben C. Montgomery, PE



MONTGOMERY

Engineering Group, Inc.

Impact Analysis Statement

CB Ventures, LLC – Aylor Road

Tax Map #75-((A))-104 & 105

Revision 1 – 11/1/14

Owner: CB Ventures, LLC.
130 Hawthorne Dr.
Winchester, VA 22601

Applicant: Montgomery Engr. Group, Inc.
132 Saddleback Lane
Winchester, VA 22602
(540) 974-7382 ben@MEGinc.biz

Property: Tax Map #75-((A))-104 & 105
1033 Aylor Road, Stephens City, VA 22655

Zoning: Present B1
Proposed B2

A. Suitability of the Site

The site is located on Aylor Road approximately 0.25 miles north of Fairfax Pike in Frederick County, VA. The present use of lot 104 is a car wash and lot 105 is vacant but once had a self-serve gas station operating in the 70's. All tanks were removed in 1986 and an Environmental Site Assessment was performed in 2005 on lot 105. There are no known site hazards. The total acreage is 2.42 acres.

Access to the site is currently from two entrances off Aylor Road for each lot or a total number of 4 entrances. The total current frontage is 392.57 feet.

The site and location make it suitable for a wide variety of uses. By rezoning to B2, a much larger pool of uses is allowed therefore making the property more marketable.

B. Surrounding Properties

The property to the north is zoned B1 and presently being used as a Dentist Office. The property to the south is zoned B1 and presently being used as duplex office housing an Orthodontist and a Stock Broker. The property to the east is zoned RP and is being used as single family residential. Aylor Road and I-81 border the property on the west. The nearest residence is approximately 75' from the property line. The property being on Aylor Road a major collector and not on any roads leading into the neighborhood greatly reduce the impact to the RP neighborhood. Per current zoning code the site will be fully screened per category B on the east side (side adjoining the RP District). The 25' inactive portion of the buffer shall be screened with landscaping and 6' fence per code. This buffer will mitigate any impact to the neighborhood.

C. Traffic – Traffic Impact Analysis

Rezoning proposal does not substantially affect transportation on the state-controlled highway.

Background

The site is located on Aylor Road approximately 0.25 miles north of Fairfax Pike in Frederick County, VA. The present use of lot 104 is a car wash and lot 105 is vacant. The total acreage is 2.42 acres.

Access to the site is currently from two entrances off Aylor Road for each lot or a total number of 4 entrances. The total current frontage is 392.57 feet.

The proposed rezoning less the proffered road right of way for the realignment of Aylor Road reduces the site area to 1.90 acres with two entrances proposed. This analysis assumes Aylor Road will be realigned per VDOT diagrams. The existing and proposed area is shown in the attached drawing. This drawing depicts the realignment of Aylor Road and the proffered right of way. The bicycle trail currently on Aylor Road is also shown and extended.

The site is located in a flat and reasonably straight area of Aylor Road. Site distances are greater than 500 feet. The current speed limit is 40 mph. Roads affected by this rezoning are Aylor Road and Fairfax Pike.

Analysis of Existing Conditions

Aylor Road currently runs in front of the two lots and connects with Tasker Road to the north. This intersection is 2 miles away. Aylor Road connects with Fairfax Pike 0.25 miles away to the south. Aylor Road serves several major residential areas. In the area of the lots house two fast food restaurants, a gas station and several medical office buildings.

Current traffic counts are approximately 5,700 AADT and approximate peak hour of 500 vehicles per hour. Fairfax Pike has an approximate AADT of 10,000 and approximate peak hour of 900 vehicles per hour. 99% of the vehicles on Aylor Road are 4 tired and 91% on Fairfax Pike are 4 tired.

The existing car wash per ITE is approximately 75 vehicles per hour during daily peak hour.

Proposed Trip Generations

Per Frederick County Zoning Code, usage density is to be calculated at set square footages per usable acre. B1 uses 13,068 square feet / acre and B2

uses 21,361 square feet / acre of retail space. Using these factors and the ITE Trip Generation manual the following has been calculated.

Current Zoning B1 of usable acreage

1.60 acres x 13,068 sq ft/ac = 20,909 sq ft of retail space

The average weekday rate is 44.32 vehicles per day per 1000 square foot or 925 vpd.

The maximum peak hour rate is 6.84 vehicles per hour per 1000 square foot or 145 vph.

Proposed Zoning B2 of usable acreage

1.05 acres x 21,361 sq ft/ac = 22,429 sq ft of retail space

Using the same rates as above – 995 vpd and max hour of 155 vph.

Using the actual usable area of the lots considering set backs, buffers and parking requirements, these square footages the B2 area is believed to be closer to 16,000 sq ft of retail or 700 vpd and peak hour of 110 vph.

Based on these calculations, a reasonable estimate of the traffic increase from B1 to B2 would be less than 10%.

Conclusion

Developing the property fully using B1 zoning and density would be handled by the current Aylor Road configuration. Rezoning to B2 and fully developing using the reconfigured Aylor Road would more than account for the 10% increase in traffic potential created. This increase is mitigated by the proffered right of way for this new roadway.

D. Sewage Conveyance and Treatment

The site is currently served by FCSA with an 8" sewer main. The lot 104 presently has a self service and automatic car wash. It is unknown at this time if the carwash shall remain. The sewer effluent difference for most land uses is minimal between B1 and B2 Zonings with the exception of a Hotel. Should that use be used the water consumption would average between 200,000 and 300,000 gallons per month. Sewer main runs at front of property and south. Present Car Wash connection is in the front.

Based on our preliminary studies there is adequate sewer services in place to handle all potential land uses. Any impacts due to increases in sewer effluent will be offset by the reciprocal increase in water / sewer fees generated.

E. Water Supply

The site is currently served by FCSA with an 8" water main that runs across the front of the property. The lot 104 presently has a self service and automatic car wash. It is unknown at this time if the carwash shall remain. The water use difference for most land uses is minimal between B1 and B2 Zonings with the exception of a Hotel. Should that use be used the water consumption would average between 200,000 and 300,000 gallons per month.

Based on our preliminary studies there is adequate water service in place to handle all potential land uses and fire protection. Any impacts due to increases in water usage will be offset by the reciprocal increase in water / sewer fees generated.

F. Drainage

The site presently drains to the south and North. Future development will require both retention facilities and BMS utilization in accordance with Frederick County Stormwater ordinance #143. No changes in drainage patterns should be required. Future Stormwater designs should minimize flows directed toward the existing residential development.

G. Solid Waste Disposal Facilities

The prospect for additional solid waste is likely. Enclosed dumpster locations shall be required and planned as a part of the site planning process. All hauling and disposal shall be the responsibility of the owner. Increases in tax revenue will more than account for this burden.

H. Historic Sites and Structures

The site has no historical significance.

I. Impact on Community Facilities

By developing this site, the counties tax base will increase with only minimal service requirements. The potential increase in tax revenue from this project is between \$15,000 and \$20,000 per year. Additional revenues shall be produced for water / sewer usage.

This site will negatively impact Police Protection, Fire and Rescue Protection, Water & Sewer usage, and Solid Waste Disposal. The site will be approved by the Fire Marshal and Building and Inspections department to lower fire risk. On site fire hydrant(s) shall be installed. Proper lighting shall be required for safety.

J. Other Impacts

. None.

**REZONING APPLICATION FORM
FREDERICK COUNTY, VIRGINIA**

To be completed by Planning Staff:

Zoning Amendment Number	<u>05-14</u>	Fee Amount Paid	\$ <u>10,242.⁰⁰</u>
PC Hearing Date	<u>1/7/15</u>	Date Received	<u>11/24/14</u>
		BOS Hearing Date	<u>1/28/15</u>

The following information shall be provided by the applicant:

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

1. Applicant:

Name: Montgomery Engr Group, Inc Telephone: 540-974-7382
Address: 132 Saddleback Lane
Winchester, VA 22602

2. Property Owner (if different than above):

Name: CB Ventures, LLC Telephone: 540-535-1897
Address: 130 Hawthorne Dr.
Winchester, VA 22601

3. Contact person if other than above:

Name: _____ Telephone: _____

4. Property Information:

- a. Property Identification Number(s): 74-((A)) - 104 & 105
- b. Total acreage to be rezoned: 2.42
- 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: B1
- e. Proposed zoning designation(s) and acreage(s) in each designation: B2
- f. Magisterial District(s): Opequon

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

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

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

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

Edward P Browning, IV

Randy Craun

7. Adjoining Property:

<u>PARCEL ID NUMBER</u>	<u>USE</u>	<u>ZONING</u>
<u>74-B-7-2-27</u>	<u>Dentist Office</u>	<u>B1</u>
<u>85-4-1</u>	<u>Orthodontist/Broker</u>	<u>B1</u>
<u>85-4-2 & 3</u>	<u>Vacant</u>	<u>B1</u>
<u>74B-7-2-28</u>	<u>Residential</u>	<u>RP</u>
<u>74B-7-2-29</u>	<u>Residential</u>	<u>RP</u>
<u>74B-7-2-30</u>	<u>Residential</u>	<u>RP</u>

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):

1033 Aylor Road, 0.25 miles north of Fairfax Pike, Stephens City, VA 22655.

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

Number of Units Proposed

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

Square Footage of Proposed Uses


Office: unknown _____ 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: 11/7/14

Owner(s): _____ Date: _____

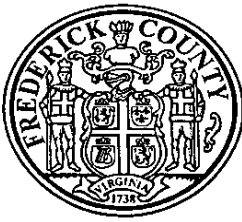
 _____ Date: 11/7/14

 _____ Date: 11/7/14

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 William L Stiebel	1110 Breckinridge Ln
Property #74B-51-D	Winchester, VA 22601
Name Garrett Ent. Ltd.	1841 W Plaza Dr.
Property #85-4-1	Winchester, VA 22601
Name Winchester Medical Center	1840 Amherst
Property #85-4-2 & 3	Winchester, VA 22601
Name Marshall Conner	100 Downing Dr
Property #74B-7-2-26	Stephens City, VA 22655
Name Karen M Pawlak	104 Downing Circle
Property #74B-7-2-27	Stephens City, VA 22655
Name Kevin and Stacey Chapman	106 Downing Circle
Property #74B-7-2-28	Stephens City, VA 22655
Name Roger & Cynthia Layman	1215 Marlboro Rd
Property #74B-7-2-29	Stephens City, VA 22655
Name Ulysses & Dorthy Carriker	110 Downing Circle
Property #74B-7-2-30	Stephens City, VA 22655
Name Ronald & Sandra Mitchell	112 Downing Circle
Property #74B-7-2-31	Stephens City, VA 22655



AMENDMENT

Action:

PLANNING COMMISSION: February 18, 2015 - Recommended Denial

BOARD OF SUPERVISORS: March 11, 2015 APPROVED DENIED

AN ORDINANCE AMENDING

THE ZONING DISTRICT MAP

REZONING #05-14 CB VENTURES LLC

WHEREAS, Rezoning #05-14 Of CB Ventures, LLC, submitted by Montgomery Engineering Group, Inc., to rezone 2.42 acres from B1 (Neighborhood Business) District to B2 (General Business) District with proffers dated May 13, 2014, last revised on February 5, 2015, was considered. The property is located at 1033 Aylor Road in Stephens City. The property is further identified with PIN(s) 74-A-104 and 74-A-105 in the Opequon Magisterial District.

WHEREAS, the Planning Commission held a public hearing on this rezoning on January 7, 2015 and a public meeting was held on February 18, 2015, and recommended denial of this request; and

WHEREAS, the Board of Supervisors held a public hearing on this rezoning on March 11, 2015; and

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

NOW, THEREFORE, BE IT ORDAINED by the Frederick County Board of Supervisors that Chapter 165 of the Frederick County Code, Zoning, is amended to revise the Zoning District Map to rezone 2.42 acres from B1(Neighborhood Business) District to B2 (General Business) District with proffers. The conditions voluntarily proffered in writing by the applicant and the property owner are attached.

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

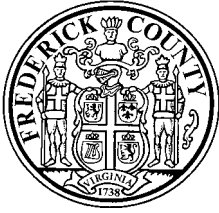
Passed this 11th day of March, 2015 by the following recorded vote:

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

A COPY ATTEST

Roderick B. Williams, Interm
Frederick County Administrator

H



REZONING APPLICATION #02-14

Heritage Commons

Staff Report for the Board of Supervisors

Prepared: March 4, 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.

CONCLUSIONS FOR 03/11/15 BOARD OF SUPERVISORS MEETING:

The Planning Commission recommended denial of this rezoning request. 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.

EXECUTIVE SUMMARY FOR THE 03/11/2015 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 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. Supervisor 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. At the applicant's request, on January 14, 2015, the Board of Supervisors postponed consideration of the rezoning until the March 11, 2015 Board meeting.

The applicant has submitted a proffer statement with a revision date of February 26, 2015; staff would note that this revised proffer statement does not adequately address the concerns with this rezoning application. 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) *The proffer statement with a revision date of February 26, 2015 has not been signed by the applicant; the Board of Supervisor cannot act on this revised proffer until it has been executed.*
- 2) *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.*
- 3) *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.*
- 4) *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.*

- 5) ***The lack of proffered phasing consistent with the MFIA results in 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, an additional 50,000 square feet by the 900th and an additional 50,000 square feet by the 1,200th unit. As written, the proffer would allow the construction of 1,200 multifamily residential units and 184 townhouses with the potential construction of 200,000 square feet of commercial area. The proffer would allow for 1,199 units with 150,000 square feet of commercial. Also, the applicant is taking credit for any government offices that could be constructed on the property. 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.***

- 6) ***The proffer dated February 26, 2015 has added a provision for the potential payment of school impacts. The Applicant is proffering that after the 600th apartment unit has been occupied, that they will consult with Frederick County Public Schools to determine the actual number of school children who are residing in the apartments and who attend Frederick County Public Schools. If more than 120 students are enrolled, the applicant has proffered to make EITHER a proffer payment in the amount of \$5,000 per unit for each apartment unit constructed thereafter (601 or greater) or to enter into such other agreement with Frederick County as may be advisable or warranted in order to address any adverse impacts to the Frederick County Public School budget as a result of the number of school children being generated by the development at the Property. There are a number of concerns present with this new proffer. First, the schools portion of the development impact model is \$10,535 for an apartment unit and the applicant is proposing \$5,000 (all other DIM figures have not been addressed). Second, the applicant is starting their calculations at the 601st unit and disregarding the first 600 units. Third, there is no detail for the “other agreement” proposed by the applicant and whether the County can choose to not agree to this. This proffer suggests a contribution that will only mitigate 25% of the capital facility impacts; the DIM projects capital facility impacts which total \$12,642,000.***

- 7) ***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.***

- 8) ***The proffer dated February 26, 2015 has added a new provision that states “Frederick County shall waive the requirements of the Master Development Plan provided that the Applicant/Owner files site plans for the portions of the Property to be developed”. The ordinance states that the Planning Director “may” waive the MDP; this proffer obligates staff to waive the MDP. Furthermore, this development is large and has a number of***

improvements that would not typically be shown on one site plan. An overall MDP would be necessary for this development.

Transportation Concerns:

1. **Development ahead of transportation.** *The current proffer needs to clarify the phasing of development as it ties to road construction in a manner that clearly demonstrates that proffered roadways will all be completed in a timely fashion. The new proffer says that trip generation will be limited to 11,588 trips per day should segments of the road system beyond Airport Road extension not be completed. However, a traffic study that demonstrates that the surrounding road system could handle these trips off of a single point of access does not exist. Further, with this language, the entire property could conceivably develop, depending upon the details of the development, without ever completing the remaining road system.*
2. **Proffer Credits for transportation improvements.** *The new language proposes a proffer credit of \$9,900,000.00 and refers to an analysis by the applicant's engineers that we have not received. Furthermore, the language proposes the proffer credit regardless of how much, if any, of the transportation system is constructed. In addition, the amount of credit claimed is significantly in excess of the total amount staff has indicated to the applicant that the match for revenue sharing would be. This is assuming, of course, that the applicant chooses to take advantage of revenue sharing dollars to implement their proffers.*
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. While the intent appears to be there to partner on Warrior Drive, the actual proffer language's lack of triggers or concrete commitments tied to development of the property makes this proffer unlikely to ever result in an actual roadway improvement. The new language regarding the property to the south only heightens that concern.*
4. **Revenue Sharing Agreement.** *The roadway construction proffers remain solely reliant upon a revenue sharing agreement that does not yet exist. Several versions of the agreement have now passed back and forth between the applicant and the County and there is still not an acceptable agreement. While recognizing that it is a shift in philosophy from our previous desire to have an agreement in place prior to accepting the rezoning, staff is now recommending that the proffers simply be 'cleaned up' to the point where they are not so reliant on revenue sharing. Then, assuming the applicant still wishing to use revenue sharing as a tool to finance their proffer obligations, staff and the applicant can continue working on the agreement. This would be similar to the existing proffers on the property in which the roadways were proffered outright but with a desire to use CDA as a financing instrument.*
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 Warrior Drive be constructed.

- 6. Language has been added under the recreational amenities section that allows previously proffered trails to be converted to sidewalks. This proffer should be clarified to make sure we are not taking a step back on the quality and variety of use available on these facilities. Roadways should have a trail along one side and a sidewalk along the other, while sidewalks around building would be governed by site plan regulations. Recreational pathways should all be 10' asphalt trails.*
- 7. 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.*

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 at applicant’s request until January 14, 2015
Board of Supervisors:	01/14/2015	Postponed at applicant’s request until March 11, 2015
Board of Supervisors:	03/11/2015	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, an additional 50,000 square feet by the 900th and an additional 50,000 square feet by the 1,200th unit. As written, the proffer would allow the construction of 1,200 multifamily residential units and 184 townhouses with the potential construction of 200,000 square feet of commercial area. The proffer would allow for 1,199 units with 150,000 square feet of commercial. Also, the applicant is taking credit for any government offices that could be constructed on the property.

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 70,000 sf 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 loosely commits to 200,000 square feet of commercial area, 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 200,000sf 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, February 26, 2015 (**unsigned**):

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.

The proffer dated February 26, 2015 has added a new provision that states “Frederick County shall waive the requirements of the Master Development Plan provided that the Applicant/Owner files site plans for the portions of the Property to be developed”. The Zoning Ordinance starts that the Planning Director “may” waive the MDP, this proffer obligates staff to waive the MDP. Furthermore, this development is large and has a number of improvements that would not typically be shown on one site plan nor would a one site plan coordinate roads and infrastructure for the entire 150 acre project. An overall MDP would be necessary for this 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.

As written, the proffer would allow the construction of 1,200 multifamily residential units and 184 townhouses with the potential construction of 200,000 square feet of commercial area. The proffer would allow for 1,199 units with 150,000 square feet of commercial. Also, the applicant is taking credit for any government offices that could be constructed on the property. 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 (165-402.091). 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 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.”

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 for the construction of a government services office or municipal office.

The proffer states that Frederick County must take title to the property within one year from the date of rezoning approval and construct a government building within three years of taking title to the property. If Frederick County does not accept the property within one year of rezoning approval the property the proffer is void.

If Frederick County and the EDA do not construct a public commercial building of at least 25,000 square feet within three 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 building on this property. Also, the time frame specified in the proffer to accept the property and construct a public building on the site (acceptance within one year and construction within three years of rezoning approval) appears insufficient. Also, the location is inconsistent with the previously submitted PPEA.

7. Residential Permit Issuance:

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 OR government services with the first 300 multifamily residential units.

The applicant would need to compete an additional 50,000 square feet of commercial area OR

government services office by the 600th multifamily residential unit (total of 100,000sf).

The applicant would need to compete an additional 50,000 square feet of commercial area OR government services office by the 900th multifamily residential unit (total of 150,000sf).

The applicant would need to compete an additional 50,000 square feet of commercial area OR government services office by the 1,200th multifamily residential unit (total of 200,000sf).

As written, the proffer would allow the construction of 1,200 multifamily residential units and 184 townhouses with the potential construction of 200,000 square feet of commercial area. The proffer would allow for 1,199 units with 150,000 square feet of commercial. Also, the applicant is taking credit for any government offices that could be constructed on the property. 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.

The Applicant is proffering that after the 600th apartment unit has been occupied, that they will consult with Frederick County Public Schools to determine the actual number of school children who are residing in the apartments and who attend Frederick County Public Schools. If more than 120 students are enrolled, the applicant has proffered to make EITHER a proffer payment in the amount of \$5,000 per unit for each apartment unit constructed thereafter (601 or greater) or to enter into such other agreement with Frederick County as may be advisable or warranted in order to address any adverse impacts to the Frederick County Public School budget as a result of the number of school children being generated by the development at the Property.

There are a number of concerns present with this new proffer. First, the schools portion of the development impact model is \$10,535 for an apartment unit and the applicant is proposing \$5,000 (all other DIM figures have not been addressed). Second, the applicant is starting their calculations at the 601st unit and disregarding the first 600 units. Third, there is no detail for the “other agreement” proposed by the applicant and whether the county can choose to not agree to this.

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. (In January, the applicant requested, and the Board honored, the item be tabled until March 11, 2015)

STAFF CONCLUSIONS FOR 03/11/15 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, December 10, 2014, **February 26, 2015**

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.~~ It is intended and understood that pursuant to Frederick County Code § 165-801.03 Frederick County shall waive the requirements of the Master Development Plan provided that the Applicant/Owner files site plans for the portions of the Property to be developed.

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 and shall not be subsidized by public funds. 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. ~~Additionally, market rate project is defined as one where there is no income limit for the tenants, of said project, and it is generally designed to have the highest rent that a given market can bear.~~ 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.

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 and multi-family, shared residential and commercial uses. The single-family attached and multi-family units may be developed within gated communities. 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 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 developed by Pennoni and Associates under the direction of Frederick County and VDOT per the aforementioned Project Administration Agreements 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 and will include turning lanes, the locations of such resulting from the cooperative efforts of Applicant/Owner, Frederick County, and VDOT during the design of said roads.

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. Applicant/Owner has provided drafts of said Revenue Sharing Agreement along with exhibits setting forth the scope of work and anticipated schedule and phasing for construction for the road and bridge projects. Applicant/Owner understands that additional work will need to be performed by Frederick County and VDOT in order to develop a more specific scope of work and schedule of construction. Applicant/Owner agrees and proffers to cooperate with Frederick County and its engineers in arriving at final terms for a Revenue Sharing Agreement in an expedited timeline. It is understood from Frederick County that there are three Project Administration Agreements which provide for the construction of Airport Road up to the approximate location of the beginning of the roundabout; the bridge across Interstate 81; and the roundabout portion with a connection running to the boundary line to the northeast and the

commencement of a road section of Warrior Drive, all more further depicted on the attached and incorporated Generalized Development Plan.

It is anticipated and therefore proffered that Applicant/Owner and Frederick County shall commence first with the construction of the Airport Road extension portion set forth above in order to allow for the initial development of commercial and market rate apartment uses along Airport Road extended. In addition to entering into a Revenue Sharing Agreement and necessary exhibits associated thereto, Applicant/Owner agrees to dedicate sufficient right-of-way to allow for the installation of each phase of construction, the projects and the scope of work as stated above or as modified through mutual agreement between the Parties. However, development and dedication of subsequent road sections beyond Airport Road extended will be dependent and contingent upon the execution of required documents from property owners not under the control of Applicant/Owner. Notwithstanding anything stated above to the contrary and even in the absence of execution of the above-referenced documentation required by adjoining property owners, Applicant/Owner, if it chooses, may dedicate and/or install portions or all road sections depicted on the Generalized Development Plan.

In the event there is a delay in the construction of other segments of the road beyond the extension of Airport Road, and only if the Airport Road extension is constructed, Applicant/Owner agrees that its vehicle trips will be limited to 11,588 trips (a number which is half of the total number of trips which are anticipated to be generated based on prior traffic studies). Applicant/Owner agrees that all development of the Property shall be calculated using the ITE Manual for each anticipated use and if according to the ITE Manual the development on the Property exceeds 11,588 trips then Applicant/Owner shall conduct actual traffic counts to determine if in fact the developed properties within the Heritage Commons site are generating an aggregate of 11,588 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 11,588 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 11,588 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 11,588 vehicle trips per day. After the Property has in fact generated in excess of an average of 11,588 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 road improvements to the on-site road network and their immediate adjoining intersections as deemed necessary as a result of any conclusions of the aforementioned traffic study.

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 roadways are designed pursuant to aforementioned Project Administration Agreements or 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 Applicant/Owner, 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 and also provided that the property to the south has dedicated its portion of Warrior Drive connecting to the property lines of its southern and northern boundaries. Applicant/Owner may at its discretion dedicate the right-of-way for future Warrior Drive as needed for the development of its Property.

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 road improvements to the on-site road network and their immediate adjoining intersections as deemed necessary as a result of any conclusions of the aforementioned traffic study.

Given that Applicant/Owner is proffering to install a transportation network as is depicted on the Generalized Development Plan and which is more specifically described herein, Applicant/Owner is entitled to a proffer credit for the value of the projects proffered transportation improvements which exceed those improvements which would be required to develop the Property and as identified in the Project's TIA. Applicant/Owner, through its engineers, has provided plats describing in greater detail the difference between the two transportation networks and has further quantified the amount of the proffer credit as is allowed by Frederick County in the attached and incorporated "Exhibit D." Applicant/Owner submits that the amount of the proffer credit is \$15,800,000.00 which is the difference between \$18,000,000.00 which is the total maximum cost of the three Project Administration Agreements and the installation costs for the road network set forth in Exhibit D of \$2,200,000.00. The final estimated costs for the installation of all the road improvements set forth in the Generalized Development Plan have not yet been quantified, but assuming a total cost of half of the Project Administration Agreements, the proffer credit would be \$9,900,000.00 and said amount shall be used by Frederick County as a credit against impacts (if any) that may be caused by the development of the Property.

4. STORMWATER QUANTITY & 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 and water quality facilities, landscaping and walking trails.

5. RECREATIONAL AMENITIES:

Applicant/Owner also proffers to install walking trails and/or 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, after a demand has been made by Frederick County Board of Supervisors consistent with the terms stated herein, an 8.03 acre +/- tract of land located in the western portion of Land Bay 4. Said Land Bay shall be conveyed as directed by the Frederick County Board of Supervisors provided that the said tract of land is to be used for ~~to the Frederick County Economic Development Authority to be used at its discretion for~~ the construction of a government services office and/or municipal 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 Frederick County Board of Supervisors agrees, either before or contemporaneous with the deed conveying the property, to accept the property with covenant that Frederick County Board of Supervisors is accepting the property consistent with the terms of this Proffer Statement, and the development of the Property shall be subject to all duly recorded and enforceable obligations, including, but not limited to, CDA obligations, 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, Applicant/Owner and ~~the~~ Frederick County Board of Supervisors ~~and Frederick County Economic Development Authority~~ agree that if Frederick County Board of Supervisors does not take title to said tract within ~~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 three (3) one~~ (1) years ~~of~~ from the date of the approval of ~~the~~ this rezoning, then terms of this proffer will be deemed void, and Applicant/Owner will be free to do whatever it chooses with the Property consistent with the terms of the proffers and all other applicable zoning and other ordinances.

In addition to the above, Frederick County Board of Supervisors is free to notify Applicant/Owner at any time prior to the one (1) year term referenced above of its intention to not take the property and upon making said notice the terms and conditions of this proffer to convey the tract shall automatically terminate.

Furthermore, Frederick County Board of Supervisors agrees that in the event that it elects to take title to this property that it shall construct a government services office and/or municipal building containing not less than 25,000 square feet of occupiable space within three (3) years of the anniversary of the approval of the rezoning. In the event Frederick County Board of Supervisors does not construct the aforementioned building within three (3) years of the anniversary of the approval of the rezoning, then the title to the tract of land shall automatically revert to Applicant/Owner. ~~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. RESIDENTIAL PERMIT ISSUANCE

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 or government services office. 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 or government services office (a minimum total of 100,000 square feet). Applicant/Owner further proffers that on or before the date it receives a Certificate of Occupancy for the 900th 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 or government services office (a minimum total of 150,000 square feet). Lastly, Applicant/Owner proffers that on or before the date it receives a Certificate of Occupancy for the 1200th 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 or government services office (a minimum total of 200,000 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.

C. Applicant/Owner proffers that because it is installing market rate apartments as opposed to other forms of apartments that exist and are operating in Frederick County that the impact to the schools will be minimal, as is more specifically set forth in the market analysis referenced above, and will render the market rate apartments tax positive. This declaration has been demonstrated and is supported in similar market rate apartment developments throughout the country. Applicant/Owner does proffer that in order to ensure the tax positive nature of the market rate apartments that after the construction and occupancy of the 600th apartment unit, Applicant/Owner will consult with Frederick County Public Schools to determine the actual number of school children who are residing in the market rate apartments and who attend Frederick County Public Schools. Said number shall be requested by Applicant/Owner within ~~thirty~~ninety (90) days of the occupancy of the 600th apartment unit. In the event, the total number of school children enrolled in Frederick County Public Schools who are living in the market rate apartments at the Heritage Commons site exceeds 120 then Applicant/Owner agrees to make either a proffer payment in the amount of \$5,000 per unit for each apartment unit constructed thereafter (i.e. 601 or greater) or to enter into such other agreement with Frederick County as may be advisable or warranted in order to address any adverse impacts to the Frederick County Public School budget as a result of the number of school children being generated by the development at the Property.

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 ____ day of _____, 2014 by Matthew Milstead, Manager of HERITAGE COMMONS, LLC.

NOTARY PUBLIC

My commission expires: _____

Registration number: _____

R 150 SPE, LLC

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 ____ day of _____, 2014 by Earl W. Cole, III, Manager of R 150 SPE, LLC.

NOTARY PUBLIC

My commission expires: _____

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
020828.RP

PROJECT MANAGER: [Redacted]
 DESIGNED BY: [Redacted]
 DESIGN BY: [Redacted]
 SUPERVISOR: [Redacted]

0788-034
RIS, P101
Plotted By: [Redacted]

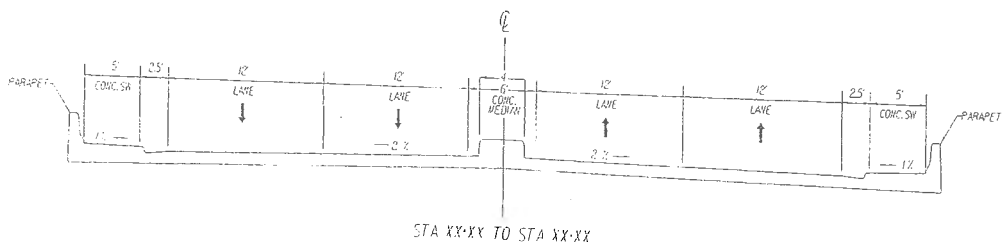
TYPICAL SECTIONS

REVISED	STATE	ROUTE	PROJECT	SHEET NO.
	VA.	XXX	0788-034 RIS, P101	2A(4)

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

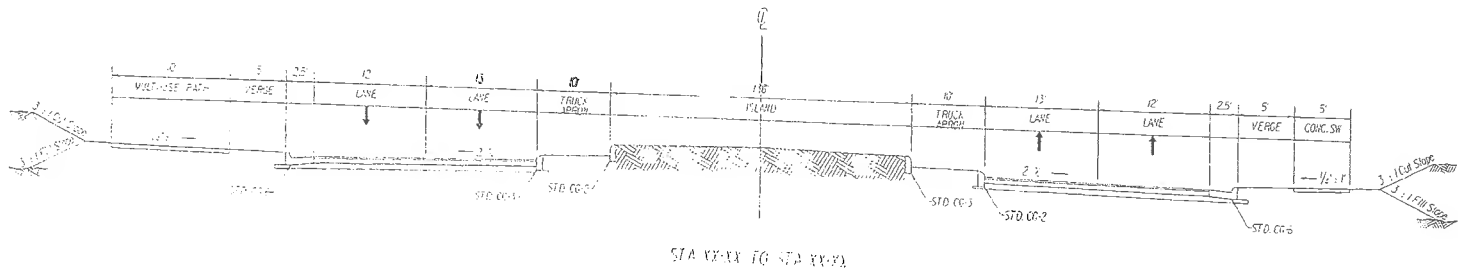
VOGT (Division or Co. Name) (Location), Virginia (TECHNICAL DISCIPLINE)	VOGT (Division or Co. Name) (Location), Virginia (TECHNICAL DISCIPLINE)
---	---

TEVIS STREET BRIDGE



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

TEVIS STREET ROUNDABOUT



SCALE N.T.S.	PROJECT 0788-034	SHEET NO. 2A(4)
-----------------	---------------------	--------------------

0-0-000
 0-0-000

PROJECT MANAGER OR PROJECT ENGINEER (000-000-0000)
 SURVEYED BY DATE (0000-00-00) (0000-00-00)
 DESIGNED BY (0000-00-00) (0000-00-00)
 SURVEYED BY DATE (0000-00-00) (0000-00-00)

0788-034
 RIS, P101
 Plate B, Columns

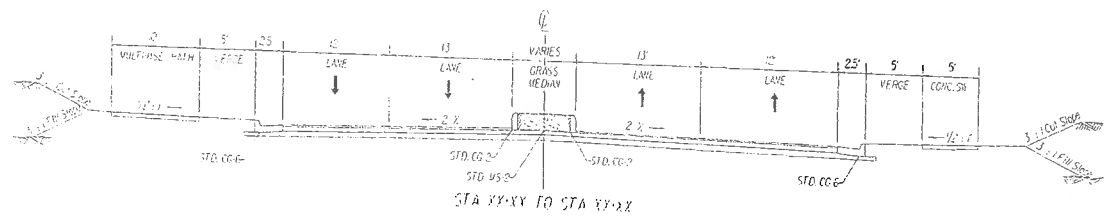
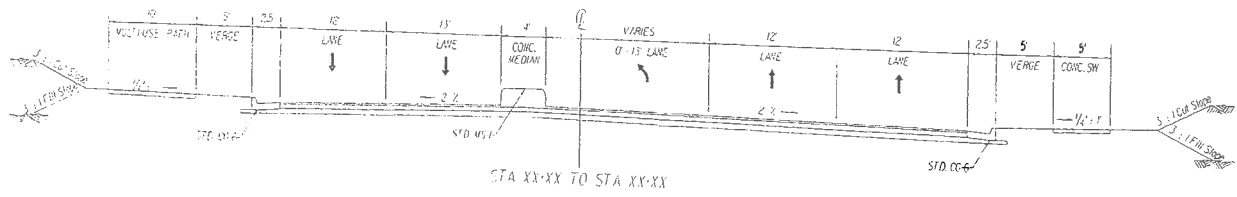
TYPICAL SECTIONS

TEVIS STREET

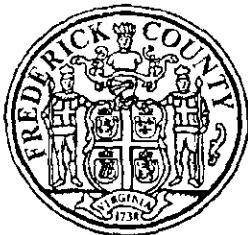
REVISED	STATE		SHEET NO.
	ROUTE	PROJECT	
	VA.	XXX	2A/31
		0788-034 RIS, P101	

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)
---	---



SCALE N.T.S.	PROJECT 0788-034	SHEET NO. 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

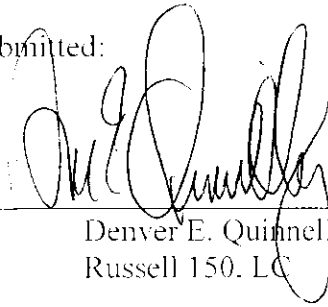
The applicant hereby proffers that all commercial and residential site plans submitted to Frederick County will be designed to implement Low Impact Development (LID) and/or Best Management Practices (BMP) to promote stormwater quality measures. A statement will be provided on each commercial and residential 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

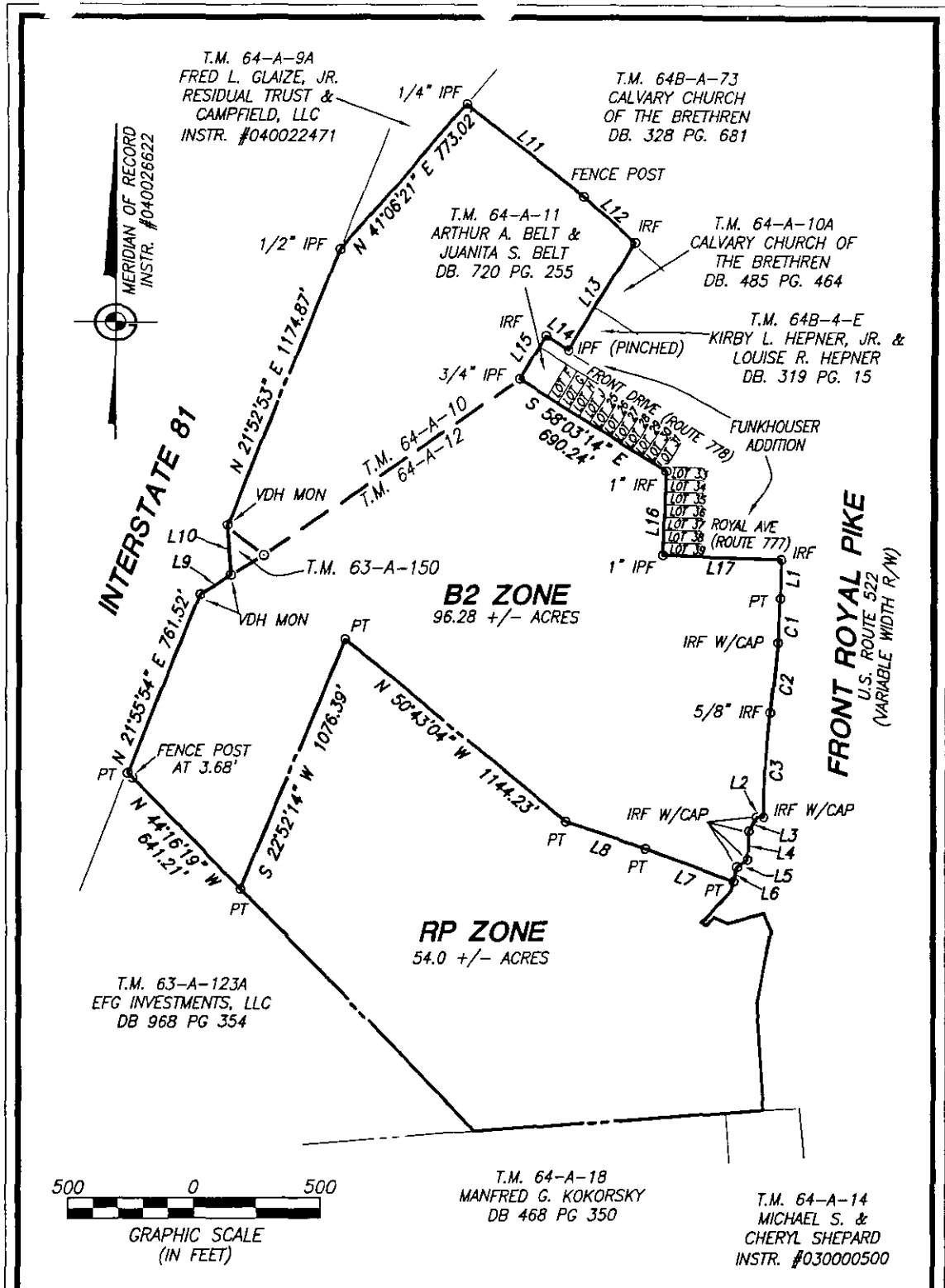


EXHIBIT SHOWING
ZONING DISTRICT LINE BETWEEN RP ZONE AND B2 ZONE
 ON THE LAND OF
RUSSELL 150, LC
 SHAWNEE MAGISTERIAL DISTRICT, FREDERICK COUNTY, VIRGINIA

SCALE: 1"=300' 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

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



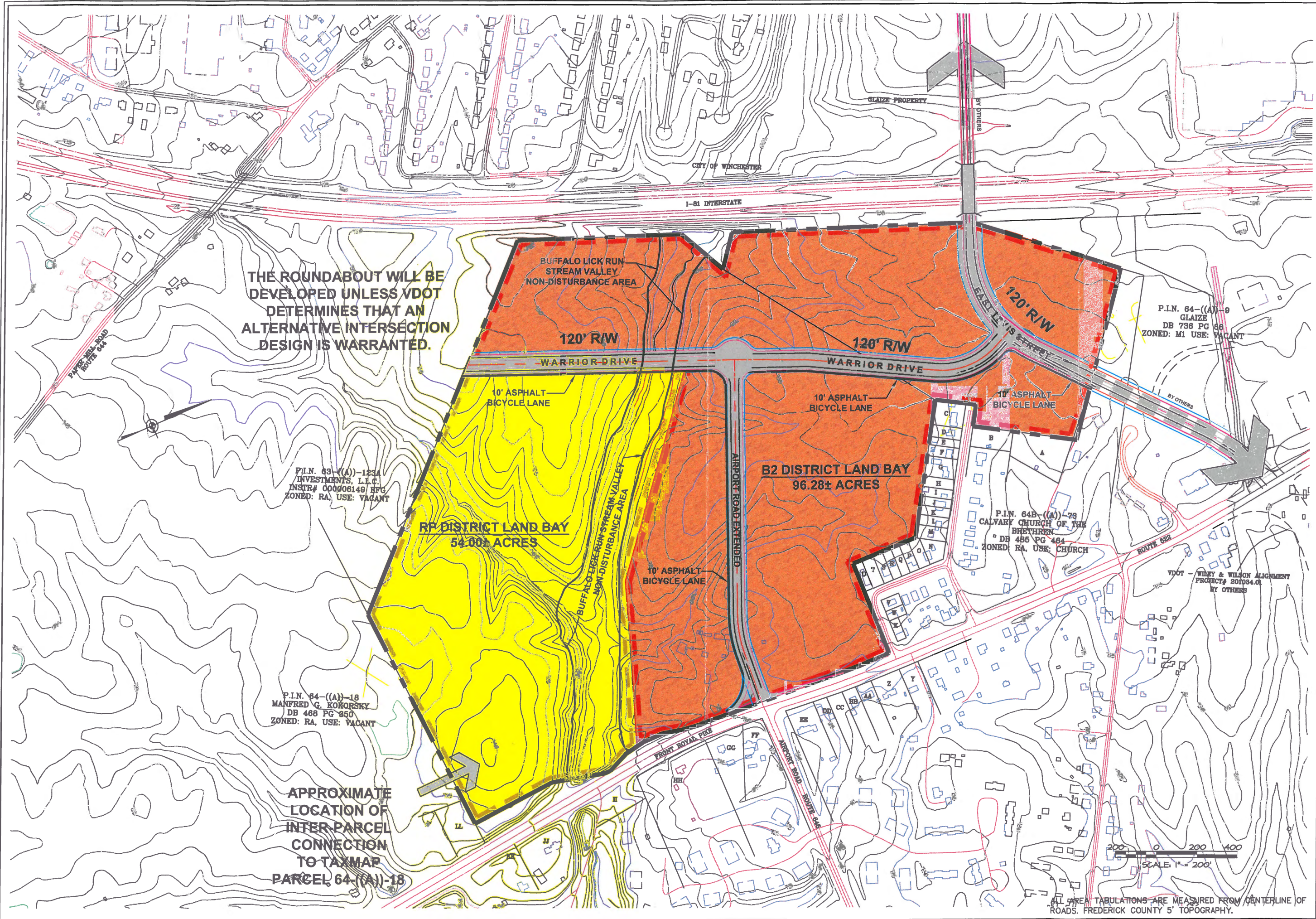
Engineers
 Surveyors

GREENWAY ENGINEERING

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

Founded in 1971

3701 SHEET 2 OF 2



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/ BFG
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

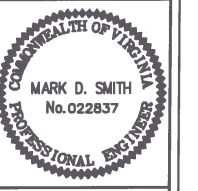


ALL AREA TABULATIONS ARE MEASURED FROM CENTERLINE OF ROADS. FREDERICK COUNTY 5' TOPOGRAPHY.

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/>
<hr/>	<hr/>	<hr/>
<hr/>	<hr/>	<hr/>
<hr/>	<hr/>	<hr/>
<hr/>	<hr/>	<hr/>

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

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.*

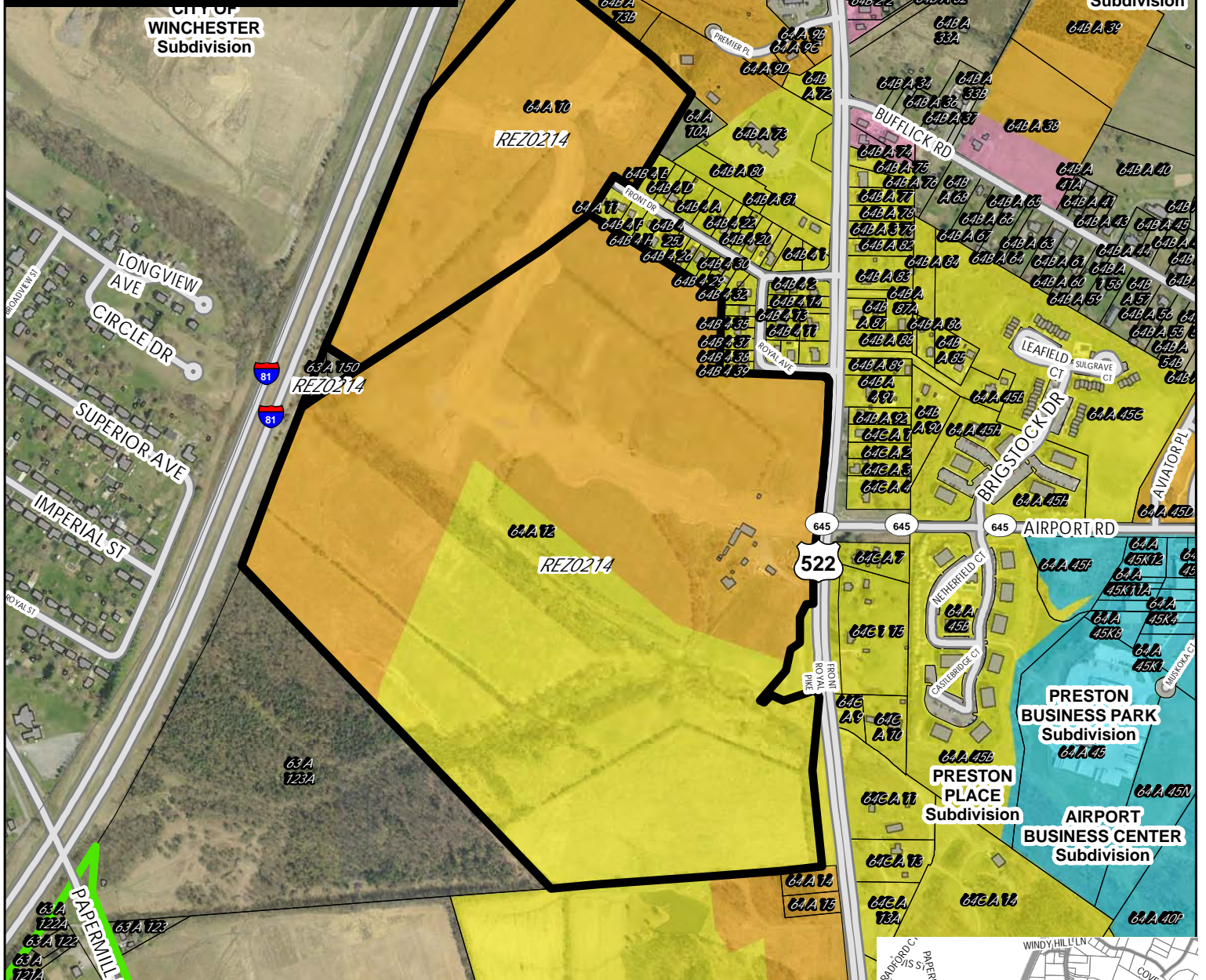
Name and Property Identification Number	Address
Name EFG Investments, LLC	340 W. Parkins Mill Road Winchester, VA 22602
Property # 63-A-123A	
Name Madison II, LLC	558 Bennys Beach Road Front Royal, VA 22630
Property # 64-A-18	
Name Michael and Cheryl Shepard	179 George Drive Winchester, VA 22602
Property # 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

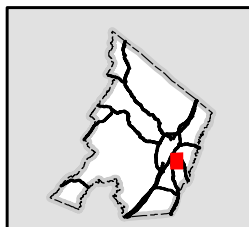
Name and Property Identification Number	Address
Name Robert and Patricia Shank	185 Front Drive
Property # 64B-4-H	Winchester, VA 22602
Name Tara M. Crosen	189 Front Drive
Property # 64B-4-F	Winchester, VA 22602
Name Arthur and Juanita Belt	201 Front Drive
Property # 64-A-11	Winchester, VA 22602
Name 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)



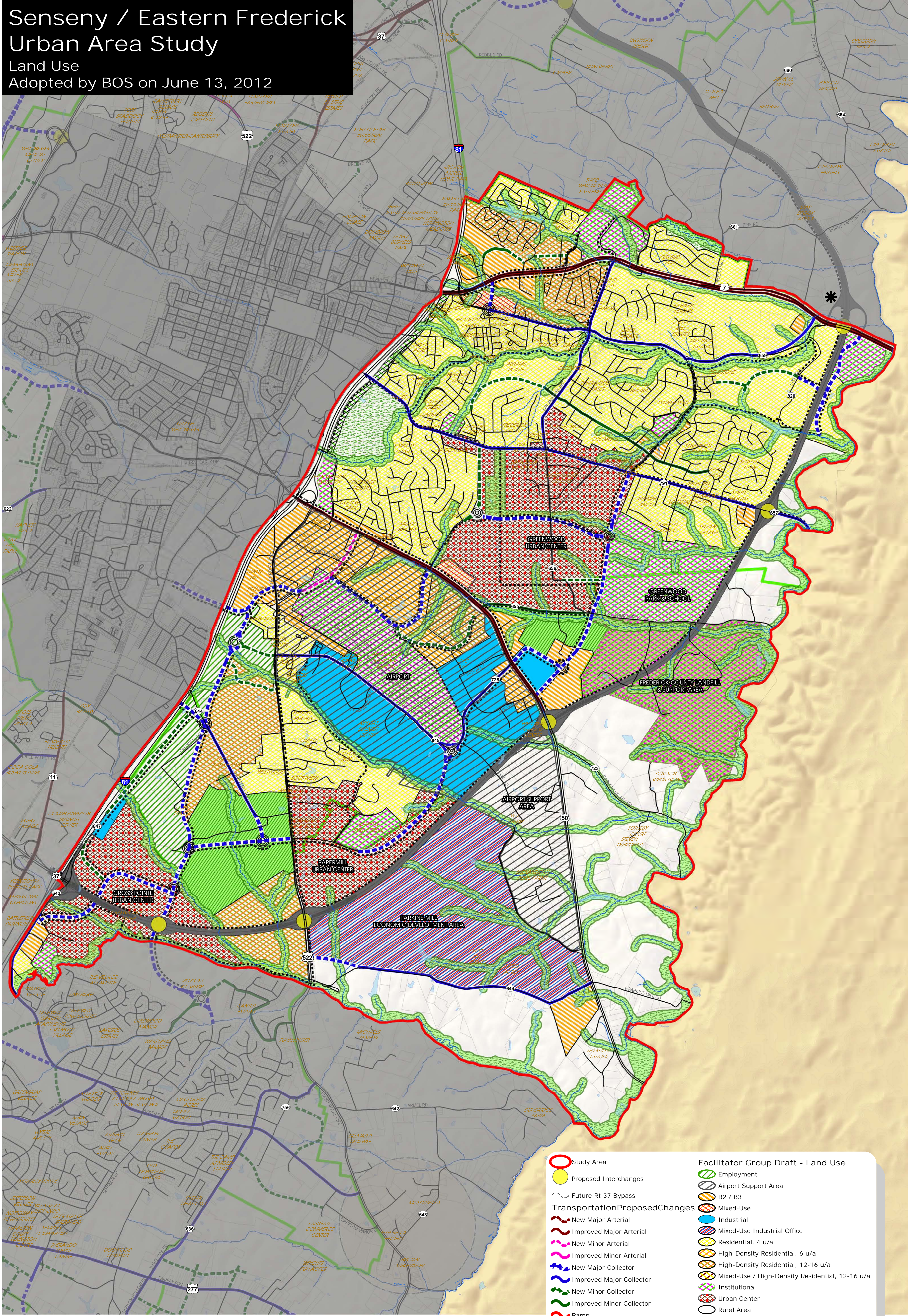
REZ # 02 - 14
Heritage Commons, LLC
PINs:
63 - A - 150, 64 - A - 10,
64 - A - 12

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

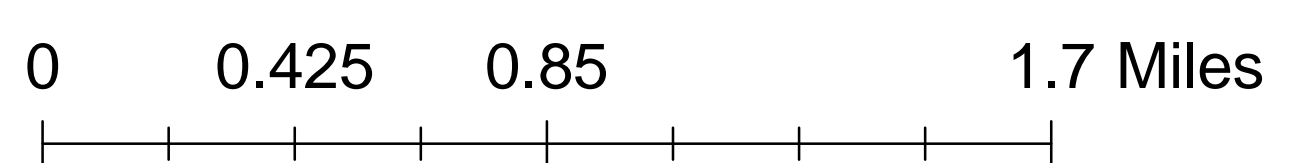
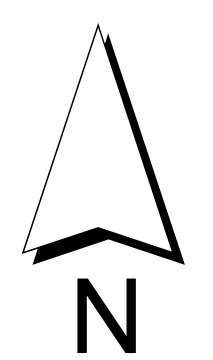


Senseny / Eastern Frederick Urban Area Study

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.
--	---



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

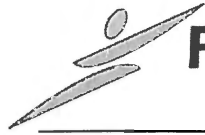
As a result of this comparison of potential trip generation associated with the property and to ensure that the development will not exceed the total daily trips proposed in the Russell Farm TIA, in our opinion the nonresidential development described within the proffers should be more specific and maximum 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



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>

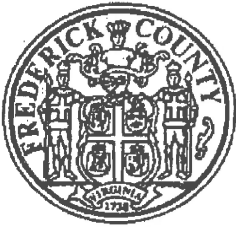
Capital Costs				
	Elementary School Cost (2014-19 CIP + one 3% inflation factor)	Middle School Cost (2015-20 CIP)	High School Cost (2015-20 CIP)	Total Capital Costs
School Cost	\$24,179,250	\$49,500,000	\$70,000,000	
Program Capacity	850	940	1,250	
Per Student Cost	\$28,446	\$52,660	\$56,000	
Students 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.



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.

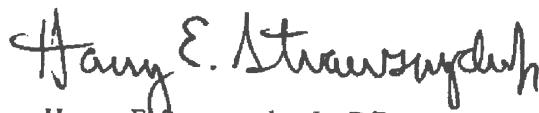
The discussion related to the construction of Warrior Drive is ambiguous and again assumes that revenue sharing will be available. This paragraph should be revised to indicate that the applicant will be responsible for providing the right-of-way, design and construction of Warrior Drive within the project 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 → N/A
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.

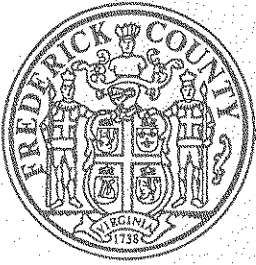
I can be reached at 722-8214 if you should have any questions regarding the above comments.

Sincerely,

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

HES/rls

cc: Planning and Development
file



COUNTY of FREDERICK

Roderick B. Williams
County Attorney

540/722-8383

Fax 540/667-0370

E-mail:

rwillia@co.frederick.va.us

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.

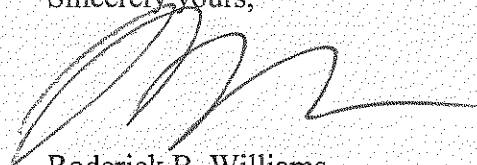
² Use of the Property as security is not viable, in light of the substantial future CDA Assessment obligations against the Property, which obligations would have priority over any mortgage or deed of trust against the Property.

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.

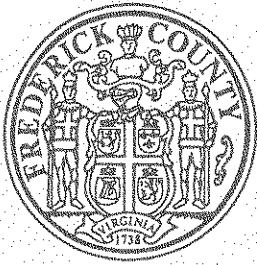
I have not reviewed the substance of the proffers as to whether the proffers are suitable and appropriate for this specific development.

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

Roderick B. Williams
County Attorney

540/722-8383

Fax 540/667-0370

E-mail:

rwillia@co.frederick.va.us

September 30, 2014

VIA E-MAIL – tlawson@lspc.com – AND REGULAR MAIL

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 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

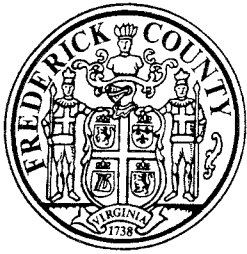
8. **Transportation Comments.** Please note that transportation comments on the rezoning application from John Bishop, Deputy Director of Transportation, are being provided to you in a separate letter.
9. **Agency Comments.** Please provide updated agency comments from the following (based on the updated 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 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.

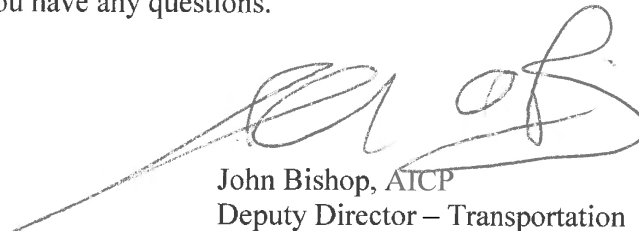
Modification Document

- 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

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
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:

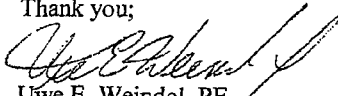
Per your request, a review of the proposed rezoning has been performed. The Frederick County Sanitation Authority offers comments limited to the anticipated impact/effect upon the Authority's public water and sanitary sewer system and the demands thereon.

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



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 ■

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", written in a cursive style.

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.

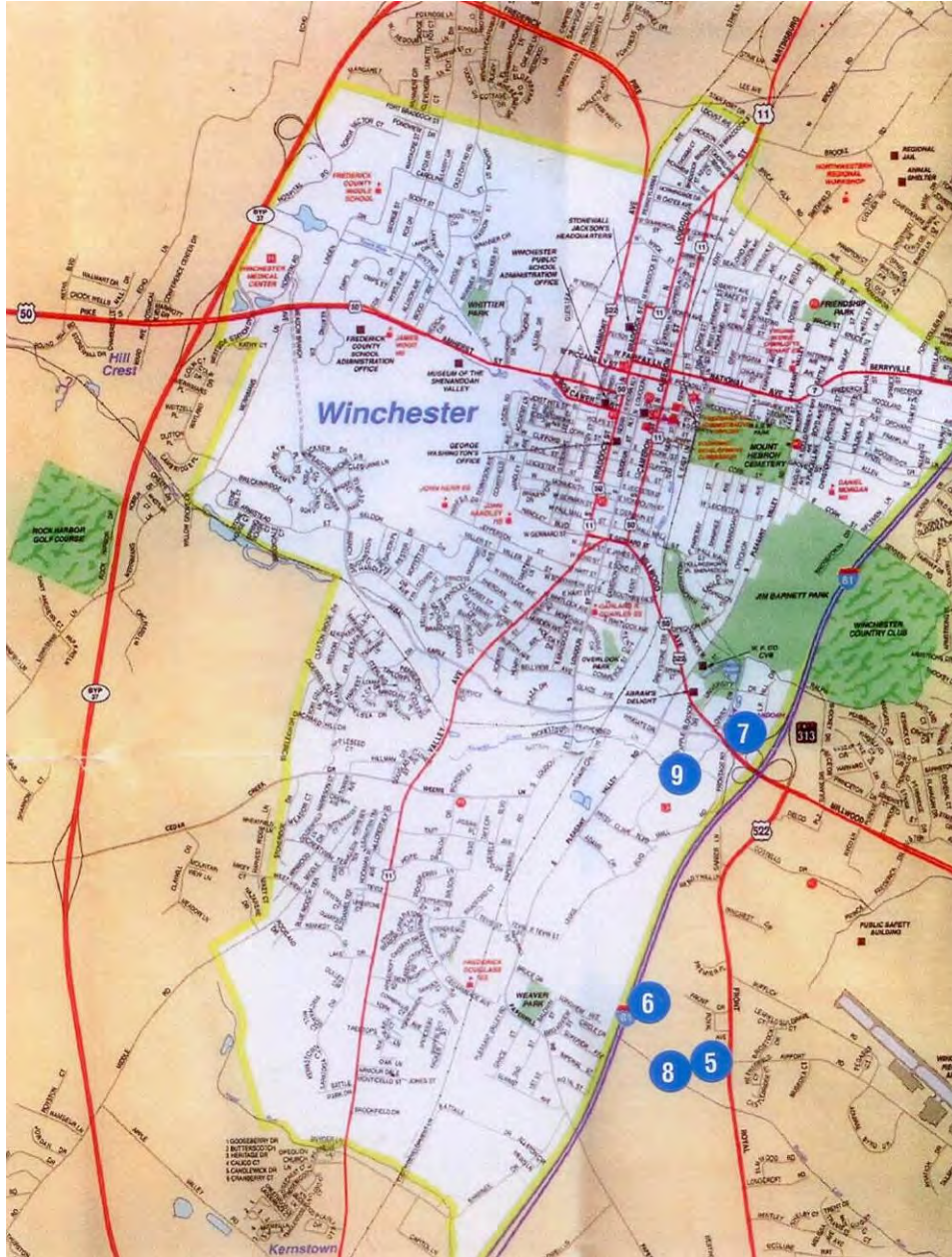
The following chart summarizes the overall development plan for Heritage Commons. It shows a master plan for 1,200 housing units on 75.3 acres of residential zoned land and 700,000 square feet of commercial development, including a proposed new Frederick County office building. The planned development 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

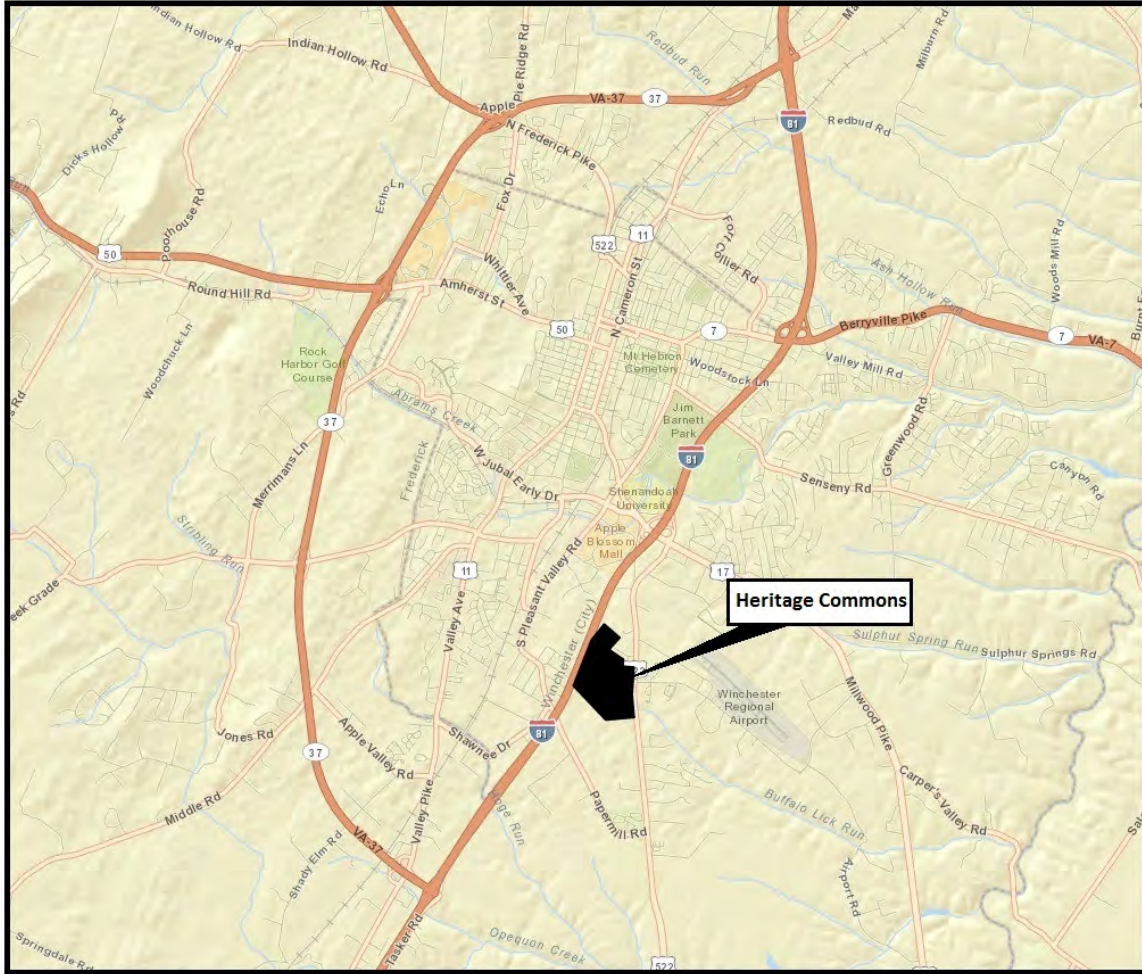
apartments, called Madison Village (see Number 10). The 46.26-acre Madison Village site was rezoned recently to allow for 160 townhomes and 480 apartment units, plus 107,000± square feet of retail space. It is reported that some development on this property will be started by early- to mid-2015.



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 (Sq Ft)</u>	<u>Years 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,</u> <u>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

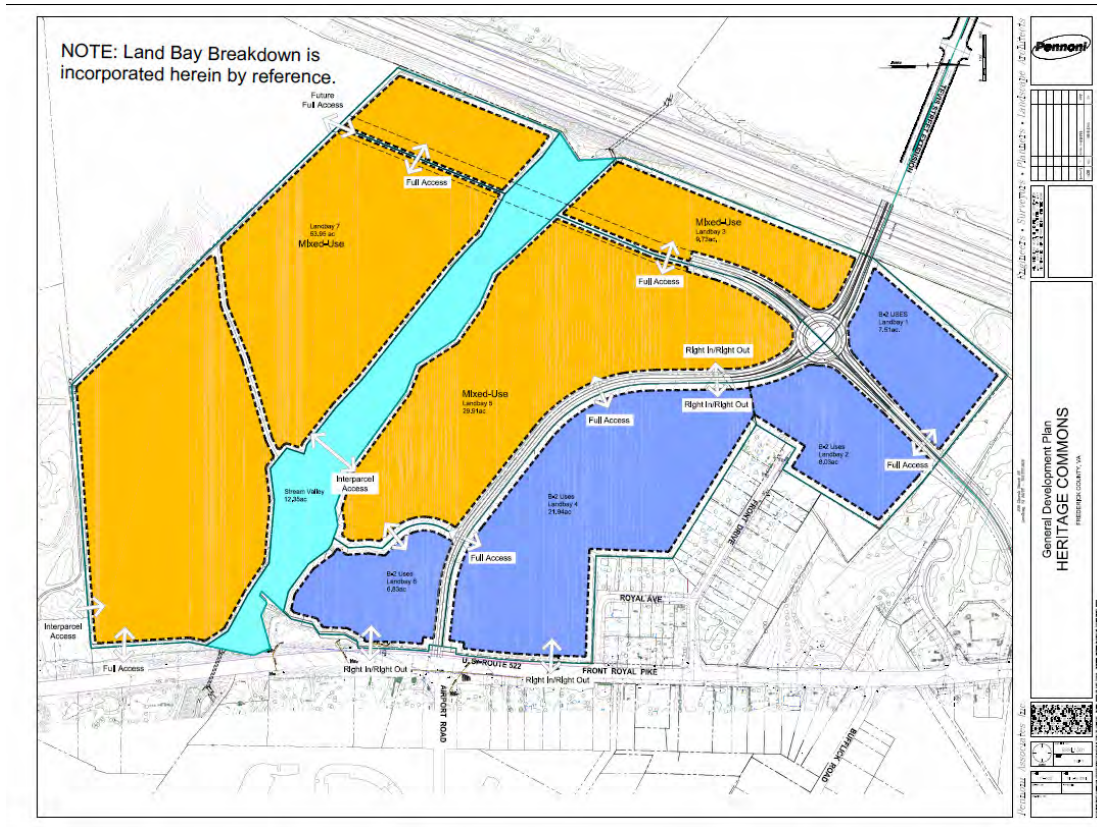
The proposed Generalized Development Plan (GDP) for Heritage Commons is presented below. It shows four commercial land bays with a total of 44± acres. These are located on the north side of the property. Two have frontage along Front Royal Pike and two have frontage on the new bridge that is planned 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 Glaise 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: Active Townhome Communities,
Winchester-Frederick County, August, 2014**

	<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</u>	
<u>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.

<u>Table 7. 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

0

Source: S. Patz & Associates, Inc.

I



MEMORANDUM

TO: Frederick County Board of Supervisors

FROM: Candice E. Perkins, AICP, Senior Planner *CEP*

SUBJECT: Addition of the OM District to the R4 District Permitted Uses

DATE: March 2, 2015

Staff has been directed to include the OM (OM Office-Manufacturing Park) Zoning District to the permitted uses list of the R4 (Residential Planned Community) Zoning District. Currently the R4 allows RP, B1, B2, B3 and M1 Zoning Districts as permitted uses. All uses proposed within an R4 community must be specified at the rezoning stage and approved on a Master Development Plan.

Staff has included a minor ordinance amendment that includes the OM District in the permitted use list within the R4 District.

The DRRC discussed this item at their January 2015 meeting; the committee agreed with the addition and sent the item forward for review by the Planning Commission. The Planning Commission discussed this item at their February 18, 2015 meeting; and agreed with the changes and sent the item forward for review by the Board of Supervisors.

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

Attachments:

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

CEP/pd

Chapter 165

ARTICLE V - PLANNED DEVELOPMENT DISTRICTS

Part 501 – R4 Residential Planned Community District

§ 165-501.01 Intent.

The intention of the Residential Planned Community District is to provide for a mixture of housing types and uses within a carefully planned setting. All land to be contained within the Residential Planned Community District shall be included within an approved master development plan. The layout, phasing, density and intensity of development is determined through the final approval of the master development plan by the County. Special care is taken in the approval of the master development plan to ensure that the uses on the land are arranged to provide for compatibility of uses, to provide environmental protection and to avoid adverse impacts on surrounding properties and facilities. 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.

§ 165-501.02 Rezoning procedure.

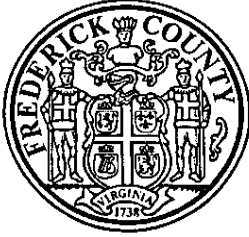
In order to have land rezoned to the R4 District, a master development plan, meeting all requirements of Article VIII of this chapter, shall be submitted with the rezoning application. The rezoning shall be reviewed and approved following the rezoning procedures described by this chapter, including procedures for impact analysis and conditional zoning. In adopting the rezoning, the master development plan submitted will be accepted as a condition proffered for the rezoning. The master development plan review procedures described by Article VIII must also be completed concurrently with or following the consideration of the rezoning.

- A. Impact analysis. Impact analysis, as required by this chapter, shall be used to evaluate all potential impacts, including impacts on surrounding lands, the environment and on public facilities and services.
- B. Land dedication. Land shall be dedicated in planned community developments for roads and facilities necessary to serve the development as described by the Comprehensive Plan, the Capital Improvements Program and adopted road improvement programs.
- C. Addition of land. The Board of Supervisors may approve the addition of land to an approved planned community through the procedures set forth in this chapter for the original approval of a planned community development.

§ 165-501.03 Permitted uses.

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
<u>OM</u>	<u>OM Office-Manufacturing Park District</u>
M1	Light Industrial District



Action:

BOARD OF SUPERVISORS: March 11, 2015 APPROVED DENIED

RESOLUTION

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

**PART 501 – R4 RESIDENTIAL PLANNED COMMUNITY DISTRICT
ARTICLE V – PLANNED DEVELOPMENT DISTRICTS
§165-501.03 PERMITTED USES**

WHEREAS, the Frederick County Planning Department has been directed to include the OM (Office-Manufacturing Park) Zoning District to the permitted uses list of the R4 (Residential Planned Community) Zoning District; and

WHEREAS, The Development Review and Regulations Committee (DRRC) reviewed the change at their January 27, 2015 meeting and recommended to include the OM (Office-Manufacturing Park) Zoning District to the permitted uses list of the R4 (Residential Planned Community) Zoning District and forwarded that recommendation to the Planning Commission and Board of Supervisors; and

WHEREAS, the Planning Commission discussed the proposed changes at their regularly scheduled meeting on February 18, 2015 and agreed with the proposed change; and

WHEREAS, the Board of Supervisors discussed the proposed change at their regularly scheduled meeting on March 11, 2015; and

WHEREAS, the Frederick County Board of Supervisors finds that in the public necessity, convenience, general welfare, and good zoning practice, directs the Frederick County Planning Commission hold a public hearing regarding an amendment to Chapter 165

NOW, THEREFORE, BE IT REQUESTED by the Frederick County Board of Supervisors that the Frederick County Planning Commission shall hold a public hearing to include the OM (Office-Manufacturing Park) Zoning District to the permitted uses list of the R4 (Residential Planned Community) Zoning District.

Passed this 11th day of March, 2015 by the following recorded vote:

This resolution was approved by the following recorded vote:

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

A COPY ATTEST

Roderick B. Williams, Interim
Frederick County Administrator

J



MEMORANDUM

TO: Frederick County Board of Supervisors
FROM: Candice E. Perkins, AICP, Senior Planner *CEP*
SUBJECT: Permeable Pavers for Parking Lots
DATE: March 2, 2015

Staff has received a request to revise the Frederick County Zoning Ordinance to allow the use of permeable pavers for the construction of parking areas within all zoning districts. This request is due to the new stormwater regulations and the need for additional options for dealing with stormwater onsite. Currently the ordinance only allows for their use within overflow parking areas.

Staff has prepared a revision that would move the option for permeable paving systems out of the section for overflow parking areas and into the area for allowed surface materials.

The DRRC discussed this item at their January 2015 meeting; the committee agreed with the revision and sent the item forward for review by the Planning Commission. The Planning Commission discussed this item at their February 18, 2015 meeting; and agreed with the changes and sent the item forward for review by the Board of Supervisors.

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

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

CEP/pd

Chapter 165- Zoning

Article II

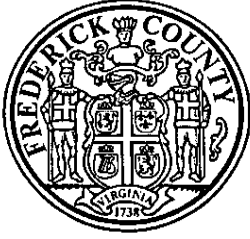
SUPPLEMENTARY USE REGULATIONS, PARKING, BUFFERS, AND REGULATIONS FOR SPECIFIC USES

Part 202 – Off-Street Parking, Loading and Access

§ 165-202.01 Off-street parking; parking lots.

Off-street parking shall be provided on every lot or parcel on which any use is established according to the requirements of this section. This section is intended to ensure that parking is provided on the lots to be developed and to ensure that excess parking in public street rights-of-way does not interfere with traffic.

- D. Parking lots. Parking spaces shared by more than one dwelling or use, required for any use in the business or industrial zoning district or required for any institutional, commercial or industrial use in any zoning district shall meet the following requirements:
- (1) Surface materials. In the RP Residential Performance District, the R4 Residential Planned Community District, the R5 Residential Recreational Community District, the MH1 Mobile Home Community District, the B1 Neighborhood Business District, the B2 Business General District, the B3 Industrial Transition District, the OM Office-Manufacturing Park District, the M1 Light Industrial District, the M2 Industrial General District MS Medical Support District, RA (Rural Areas) District and the HE (Higher Education) District, parking lots shall be paved with concrete, bituminous concrete, or similar materials.
 - (2) Such surface materials shall provide a durable, dust and gravel-free, hard surface.
 - a. The Zoning Administrator may allow for the use of other hard-surface materials for parcels located outside of the Sewer and Water Service Area if the site plan provides for effective stormwater management and efficient maintenance. In such cases, parking lots shall be paved with a minimum of double prime-and-seal treatment or an equivalent surface.
 - b. In the RA (Rural Areas) District parking lots with (10) or fewer spaces shall be permitted to utilize gravel surfaces.
 - c. Reinforced grass systems, ~~permeable paving systems~~, or other suitable materials may be used for overflow parking areas, low volume access ways in all Zoning Districts and for agricultural uses in the RA (Rural Areas) District. Parking areas utilizing these materials shall have defined travel aisles and designated parking bays. These materials shall only be utilized with approval of the Frederick County Zoning Administrator and the Director of Public Works.
 - d. **The Zoning Administrator may approve alternative surface materials for parking lots for parcels located inside of the Sewer and Service Area when necessary to implement low impact development design and where approved by the Director of Public Works; such materials may include but are not limited to permeable paving systems.**



Action:

BOARD OF SUPERVISORS: March 11, 2015 APPROVED DENIED

RESOLUTION

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

**PART 202 – OFF-STREET PARKING, LOADING AND ACCESS
ARTICLE II – SUPPLEMENTARY USE REGULATIONS, PARKING,
BUFFERS, AND REGULATIONS FOR SPECIFIC USES
§165-202.01 OFF-STREET PARKING; PARKING LOTS**

WHEREAS, the Frederick County Planning Department has received a request to revise the Frederick County Zoning Ordinance to allow the use of permeable pavers for the construction of parking areas within all zoning districts; and

WHEREAS, The Development Review and Regulations Committee (DRRC) reviewed the change at their January 27, 2015 meeting and agreed with the revision and sent the item forward for review by the Planning Commission and Board of Supervisors; and

WHEREAS, the Planning Commission discussed the revised change at their regularly scheduled meeting on February 18, 2015 and agreed with the revised change; and

WHEREAS, the Board of Supervisors discussed the revised change at their regularly scheduled meeting on March 11, 2015; and

WHEREAS, the Frederick County Board of Supervisors finds that in the public necessity, convenience, general welfare, and good zoning practice, directs the Frederick County Planning Commission hold a public hearing regarding an amendment to Chapter 165

NOW, THEREFORE, BE IT REQUESTED by the Frederick County Board of Supervisors that the Frederick County Planning Commission shall hold a public hearing to allow the use of permeable pavers for the construction of parking areas within all zoning districts.

Passed this 11th day of March, 2015 by the following recorded vote:

This resolution was approved by the following recorded vote:

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

A COPY ATTEST

Roderick B. Williams, Interim
Frederick County Administrator

К



Memorandum

To: Frederick County Board of Supervisors

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

Date: March 4, 2015

RE: National Lutheran Boulevard

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

National Lutheran Boulevard, State Route Number 1100	0.17 miles
National Lutheran Boulevard, State Route Number 1100	0.24 miles
National Lutheran Boulevard, State Route Number 1100	0.28 miles

Staff is available to answer any questions.

MRC/dlw



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

The Board of Supervisors of Frederick County, in regular meeting on the 11th day of March, 2015, adopted the following:

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

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

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

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

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

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

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

Roderick B. Williams, Interim
Frederick County Administrator

In the County of Frederick

By resolution of the governing body adopted March 11, 2015

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

A Copy Testee

Signed (County Official): _____

Report of Changes in the Secondary System of State Highways

Project/Subdivision National Lutheran Boulevard

Type Change to the Secondary System of State Highways: Addition

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

Reason for Change: New subdivision street

Pursuant to Code of Virginia Statute: §33.2-705

Street Name and/or Route Number

† National Lutheran Boulevard, State Route Number 1100

Old Route Number: 0

| From: Intersection with Corporate Place

To: End of Four-Lane Section, a distance of: 0.17 miles.

Recordation Reference: Frederick Co. Courthouse

Right of Way width (feet) = 0

Street Name and/or Route Number

† National Lutheran Boulevard, State Route Number 1100

Old Route Number: 0

| From: Route 50, Northwestern Pike

To: Intersection with Corporate Place, a distance of: 0.24 miles.

Recordation Reference: Frederick Co. Courthouse

Right of Way width (feet) = 0

Street Name and/or Route Number

† National Lutheran Boulevard, State Route Number 1100

Old Route Number: 0

| From: End of Four-Lane Section

To: Intersection with Clocktower Ridge Road, a distance of: 0.28 miles.

Recordation Reference: Frederick Co. Courthouse

Right of Way width (feet) = 0