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**AGENDA  
REGULAR MEETING  
FREDERICK COUNTY BOARD OF SUPERVISORS  
WEDNESDAY, JUNE 10, 2015  
7:00 P.M.  
BOARD ROOM, COUNTY ADMINISTRATION BUILDING  
107 NORTH KENT STREET, WINCHESTER, VIRGINIA**

**6:00 P.M. – Closed Session:**

There will be a Closed Session Pursuant to Section 2.2-3711 A (3) of the Code of Virginia, 1950, as Amended, for Discussion and 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: D, F, and H)

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

**Board of Supervisors Comments**

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

1. Regular Meeting, May 13, 2015.
2. Regular Meeting, May 27, 2015.

**AGENDA  
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FREDERICK COUNTY BOARD OF SUPERVISORS  
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**County Officials:**

1. Committee Appointments. **(See Attached)**----- **B**
  
2. Millwood Station Volunteer Fire and Rescue Company 21:
  - a. Resolution Authorizing Execution of Memorandum of Understanding Between the County of Frederick, the Frederick County Economic Development Authority and the Millwood Station Volunteer Fire and Rescue Company 21.
  
  - b. Resolution of the Board of Supervisors of the County of Frederick Approving the Lease Financing of Millwood Station and Authorizing the Leasing of Certain Property in Connection Therewith, the Execution and Delivery of a Prime Lease and a Local Lease Acquisition Agreement and Financing Lease, and Other Related Actions.  
  
**(See Attached)**----- **C**
  
3. Shenandoah Valley Workforce Development Board/Chief Elected Officials Consortium Agreement. **(See Attached)** ----- **D**
  
4. Request from Commissioner of the Revenue for Refund.  
**(See Attached)** ----- **E**
  
5. Request to Schedule Work Session Between Board of Supervisors and Frederick County School Board for July 8, 2015. **(See Attached)** ----- **F**
  
6. Recommendation from County Administrator Re: Merit Pay Percentage for FY 2015-2016. **(See Attached)** ----- **G**

**Committee Reports:**

1. Human Resources Committee Report of May 8, 2015. **(Vote Postponed from May 27, 2015 Board Meeting.) (See Attached)**----- **H**
  
2. Finance Committee. **(See Attached)**----- **I**
  
3. Development Impact Model Oversight Committee. **(See Attached)**----- **J**

**Planning Commission Business:**

**Public Hearing:**

1. Rezoning #03-15 - MBC, LC., Submitted by GreyWolfe, Inc., to Rezone 2.96+/- Acres as Follows: 0.60+/- Acres from MH1 (Mobile Home Community) District to B2 (General Business) District with Proffers and 2.36+/- Acres from B3 (Industrial Transition) District to B2 (General Business) District with Proffers. The Properties are Located on the South Side of Route 7, Approximately ¾ Miles East of Winchester at Eckard Circle and are Identified by Property Identification Numbers 55-A-34 and 55-A-34A in the Redbud Magisterial District. **(See Attached)**----- K

**Other Planning Items:**

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 Magisterial District. **(Vote Postponed from Board Meetings of March 11, 2015 and May 13, 2015.) (See Attached)**----- L
2. Discussion of Farm Breweries and Distilleries in the RA (Rural Areas) Zoning District. **(See Attached)**----- M
3. Discussion of Site Plan Revisions and Additions to the Zoning Ordinance. **(See Attached)** ----- N

**Board Liaison Reports (If Any)**

**Citizen Comments**

**Board of Supervisors Comments**

**Adjourn**

A



**FREDERICK COUNTY BOARD OF  
SUPERVISORS' MINUTES**

**REGULAR MEETING**

**May 13, 2015**

A Regular Meeting of the Frederick County Board of Supervisors was held on Wednesday, May 13, 2015 at 6:15 P.M., in the Board of Supervisors' Meeting Room, 107 North Kent Street, Winchester, VA.

**PRESENT**

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

**CALL TO ORDER**

Chairman Shickle called the meeting to order.

**CLOSED SESSION**

Upon a motion by Vice-Chairman DeHaven, seconded by Supervisor Lofton, the Board convened in closed session pursuant to Section 2.2-3711 A (3) of the Code of Virginia, 1950, as amended, for 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.

The above motion was approved by the following recorded vote:

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

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

The above motion was approved by the following recorded vote:

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

Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Jason E. Ransom	Aye
Robert W. Wells	Aye

Upon a motion by Vice-Chairman DeHaven, seconded by Supervisor Fisher, the Board certified that to the best of each board member's knowledge that only acquisition of real property, pursuant to section 2.2-3711 A (3) of the Code of Virginia, 1950, as amended, specifically 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 were discussed.

The above motion was approved by the following recorded vote:

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

**CALL TO ORDER**

Chairman Shickle called the regular meeting to order.

**INVOCATION**

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

**PLEDGE OF ALLEGIANCE**

Vice-Chairman DeHaven led the Pledge of Allegiance.

**ADOPTION OF AGENDA - APPROVED**

Interim County Administrator Rod 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 by the following recorded vote:

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

### **CONSENT AGENDA - APPROVED**

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

- Parks and Recreation Commission Report – **Tab D**;
- Public Works Committee Report – **Tab E**; and
- Transportation Committee Report – Meeting of April 27, 2015 – **Tab F**.

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

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

### **CITIZEN COMMENTS**

**Dorothy Carriker**, Opequon District, advised that she was present to speak regarding the CB Ventures, LLC, rezoning and she was an adjoining property owner. She stated the proposed CB Ventures rezoning did not meet the current B-2 requirements. She briefly reviewed the description of the B-2 zoning district. She noted Aylor Road was not a major intersection and it

was located about ½ mile south of the nearest intersection. She went on to say approval of this rezoning would create a small oasis of B-2 in the area. She concluded by saying she was concerned about privacy, traffic, transients, and neighborhood safety.

**Ulysses Carriker**, Opequon District, spoke regarding the CB Ventures, LLC, rezoning. He expressed concern about access to the property and nuisance factors. He noted the proposed six foot tall fence and a few trees would not address those concerns. He went on to say he was concerned about rodents, odors, and water run-off from the hill. He concluded by asking the Board to deny this proposed rezoning for the safety and tranquility of the neighborhood.

**Alan Moeck**, Opequon District, addressed the Board regarding the proposed CB Ventures, LLC, rezoning. He noted there should be three other families at tonight's meeting, but they were unable to make. He stated there was no easy direct access route to the site. He was concerned about the effect on the two schools on Aylor Road. He noted the view from his house would be impacted by a building over 30 feet in height. He went on to say a hotel would bring a transient population and more crime. He concluded by saying he hoped the Board would deny the proposed B-2 rezoning petition.

**BOARD OF SUPERVISORS COMMENTS**

There were no Board of Supervisor's comments.

**MINUTES - APPROVED**

Upon a motion by Supervisor Fisher, seconded by Supervisor Wells, the Board approved the minutes from the April 15, 2015 special meeting by the following recorded vote:

Richard C. Shickle	Aye
Charles S. DeHaven, Jr.	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Jason E. Ransom	Aye

Robert W. Wells                      Aye

Upon a motion by Supervisor Hess, seconded by Supervisor Wells, the Board approved the minutes from the April 15, 2015 budget work session by the following recorded vote:

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

Upon a motion by Supervisor Lofton, seconded by Supervisor Hess, the Board approved the minutes from the April 22, 2015 regular meeting by the following recorded vote:

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

**COUNTY OFFICIALS**

**COMMITTEE APPOINTMENTS**

**APPOINTMENT OF DR. ROBERT MEADOWS AS RED BUD DISTRICT REPRESENTATIVE TO THE HISTORIC RESOURCES ADVISORY BOARD - APPROVED**

Upon a motion by Supervisor Ransom, seconded by Supervisor Wells, the Board appointed Dr. Robert Meadows as Red Bud District representative to the Historic Resources Advisory Board. This is a four year appointment. Term expires February 22, 2018.

The above motion was approved by the following recorded vote:

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

Gary A. Lofton                      Aye  
Jason E. Ransom                    Aye  
Robert W. Wells                    Aye

**APPOINTMENT OF GARY OATES, TOM SIMON, AND MARTHA DILG TO THE FREDERICK COUNTY SANITATION AUTHORITY - APPROVED**

Upon a motion by Supervisor Hess, seconded by Vice-Chairman DeHaven, the Board appointed the following:

Gary Oates for a term to expire April 15, 2019;

Tom Simon to fill the unexpired term of Walter Cunningham, said term to expires April 15, 2017; and

Martha Dilg to fill the unexpired term of Michael Cundiff, said term expires April 15, 2016.

The above motion was approved by the following recorded vote:

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

**REAPPOINTMENT OF DR. ROBERT R. MEADOWS AS RED BUD DISTRICT REPRESENTATIVE TO THE EXTENSION LEADERSHIP COUNCIL - APPROVED**

Upon a motion by Supervisor Ransom, seconded by Vice-Chairman DeHaven, the Board reappointed Dr. Robert R. Meadows as Red Bud District representative to the Extension Leadership Council. This is a four year appointment. Term expires June 22, 2019.

The above motion was approved by the following recorded vote:

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

Robert A. Hess	Aye
Gary A. Lofton	Aye
Jason E. Ransom	Aye
Robert W. Wells	Aye

**APPOINTMENT OF GAIL RUSH AS OPEQUON DISTRICT REPRESENTATIVE TO THE SOCIAL SERVICES BOARD - APPROVED**

Upon a motion by Supervisor Wells, seconded by Supervisor Fisher, the Board appointed Gail Rush as Opequon District representative to the Social Services Board. This is a four year appointment. Term expires June 30, 2019.

The above motion was approved by the following recorded vote:

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

**REAPPOINTMENT OF LYNN SCHMITT TO THE SHAWNEELAND SANITARY DISTRICT ADVISORY COMMITTEE - APPROVED**

Upon a motion by Supervisor Lofton, seconded by Supervisor Wells, the Board reappointed Lynn Schmitt to the Shawneeland Sanitary District Advisory Committee. This is a two year appointment. Term expires July 13, 2017.

The above motion was approved by the following recorded vote:

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

**REQUEST FROM COMMISSIONER OF THE REVENUE FOR REFUND - APPROVED**



Interim Administrator Williams advised this was a request from the Commissioner of the Revenue to authorize the Treasurer to refund Dominion Self Storage the amount of \$4,012.15 for business license taxes for 2012, 2013, 2014, and 2015. This refund was the result of the taxpayer including rental on storage units, which is not subject to business license taxes, in gross receipts.

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

The above motion was approved by the following recorded vote:

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

### **COMMITTEE REPORTS**

#### **PARKS AND RECREATION COMMISSION – APPROVED UNDER CONSENT AGENDA**

The Parks and Recreation Commission met on April 14, 2015. Members present were: Kevin Anderson, Randy Carter, Gary Longerbeam, Ronald Madagan, and Charles Sandy, Jr. Members absent were: Patrick Anderson and Marty Cybulski.

#### **Items Requiring Board of Supervisors Action:**

None

#### **Submitted for Board Information Only:**

1. Policy Revision – Park Suspension – Mr. Carter moved to change the policy to read “A decision regarding a Park Suspension or other outcomes should be determined within seven business days of the incident.”, second by Mr. Madagan, motion carried unanimously (5-0).
2. Policy Revision – Recreation Reserve Fund – Mr. Madagan moved to change the policy to read “Staff will request the Commission to recommend receiving the discounted registration fees from the Recreation Reserve Fund’s Recreation Assistance Fund at the July Parks and Recreation Commission meeting. This request will be forwarded to the

Finance Committee for recommendation to the Board of Supervisors for reimbursement. The Recreation Assistance Fund is known as the PLAY Fund, an acronym for People Lending Assistance to Youth.”, second by Mr. Anderson, motion carried unanimously (5-0).

## **PUBLIC WORKS COMMITTEE – APPROVED UNDER CONSENT AGENDA**

The Public Works Committee met on Tuesday, April 28, 2015 at 8:00 a.m. All members were present except Bob Wells. The following items were discussed:

### **\*\*\*Items Not Requiring Action\*\*\***

#### **1. Request to Purchase Vehicle for Inspections**

The committee reviewed a request from the Building Official, Mr. John Trenary, to purchase an additional vehicle in the current fiscal year budget. The justification for this purchase was the need to replace an aging, high mileage vehicle and the fact that actual revenues will exceed projected revenues by approximately \$300,000. This additional vehicle had been cut from the proposed Fiscal Year 2015/2016 budget. This original budget request had included two (2) vehicle purchases. One of these vehicle purchases has been approved in the current Fiscal Year 2014/2015 budget. The committee unanimously endorsed the additional vehicle purchase. The request will be forwarded to the finance committee for their review and action.

#### **2. Discussion of Fees for Use of County Public Meeting Spaces**

The committee briefly discussed the implementation of fees for the use of county public meeting spaces. After this brief discussion, Assistant County Administrator, Mr. Kris Tierney, indicated that he would research available data on usage of these spaces throughout the county buildings and present his findings at the next scheduled committee meeting.

#### **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
- b) Recycling Report
- c) Animal Shelter Dog Report
- d) Animal Shelter Cat Report

## **TRANSPORTATION COMMITTEE – MEETING OF APRIL 27, 2015 – APPROVED UNDER CONSENT AGENDA**

The Transportation Committee met on April 27, 2015 at 8:30 a.m.

Members Present

Chuck DeHaven (voting)  
James Racey (voting)  
Gene Fisher (voting)  
Barry Schnoor (voting)  
Jason Ransom (voting)  
Gary Oates (liaison PC)  
Lewis Boyer (liaison Stephens City)

Members Absent

Mark Davis (liaison Middletown)

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

NONE

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

**1. MPO Draft Unified Planning Work Program**

Staff presented a brief overview and update on the program. It was noted this is an annual adoption and the following tasks of the Win-Fred MPO were mentioned, noting the first four are standard annually: Program Management and Administration; Transportation Improvement Program (TIP); State/Federal Requested Work Tasks; Public Mobility; Local Technical Assistance; Pedestrian Planned Development; System Planning; Long Range Planning, Modeling, GIS and Data. A question was raised as to when the study is to start. Staff noted July is the anticipated start date. The Transportation Committee had no issues with the proposed program.

**2. Kernstown Area Plan**

Staff presented an update on the Kernstown Area Plan and mapping of the land uses and transportation in this area. Staff noted areas of concern and the cleanup efforts in place. The Committee posed the question are we comfortable making changes in the plan. Staff also noted that public input is important and therefore a public meeting is scheduled for May 26, 2015 at 7:00 p.m. to be held at the Valley Farm Credit office. A question was asked how this meeting will be advertised. Staff replied it will be advertised via newspaper, County web, and direct contact with those living in the affected areas. The Committee would like to see a more in depth map to identify areas such as: flood plain, railroad crossings, road names, etc... such mapping will be provided. This item will be discussed further at a future meeting.

**3. Other**

Staff provided an update on House Bill 2 from an April 14, 2015 meeting. Mr. Bishop gave a brief overview of the category placement and where Frederick County falls within these

categories. Staff noted the Technical Committee for MPO has made a recommendation to go from Category B to Category C. House Bill 1887 was also discussed briefly. The Committee asked if 1887 is an amendment or a further classification. Staff noted it appears to be an additional layer of legislation that is related to HB2 not part of it.

Staff reported that the revenue sharing projects continue to move forward. The Snowden Bridge project is going well.

**TRANSPORTATION COMMITTEE – MEETING OF MAY 4, 2015 – APPROVED**

The Transportation Committee met on May 4, 2015 at 8:30 a.m.

Members Present

Chuck DeHaven (voting)  
James Racey (voting)  
Jason Ransom (voting)  
Lewis Boyer (liaison Stephens City)

Members Absent

Mark Davis (liaison Middletown)  
Barry Schnoor (voting)  
Gene Fisher (voting)  
Gary Oates (liaison PC)

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

**1. HB2 Classification Discussion**

Staff reviewed the draft classifications and the most recent Secretary of Transportation presentation to the Commonwealth Transportation Board with the Committee. Staff noted that while VDOT currently has the County rated as a B, it is the opinion of our local VDOT partners and staff that within our MPO area we should be rated a C and within our rural areas we should be rated a D. This it is believed, would make the County more competitive and gives greater weight to items such as economic development and safety that were identified as our top priorities regionally early in the process. It was noted that many localities across the state are requesting adjustments and that VDOT and the CTB are listening. At the request of the committee, Staff has since followed up with the regional commission to determine what their conversations with our CTB member would indicate his feelings are on this. Ms. Shickle, Executive Director of the Northern Shenandoah Valley Regional Commission, indicated that our CTB member, Mr. Whitworth, is supportive of localities that request changes to their classification.

On motion by Mr. Ransom that was seconded by Mr. Racey, the committee recommended that the Board endorse a change in classification from B for the entire County to C for the MPO area and a D for the rural areas. Motion passed unanimously.

Upon a motion by Vice-Chairman DeHaven, seconded by Supervisor Fisher, the Board approved changing the classification from B to C within the MPO and D for the rural areas.

The above motion was approved by the following recorded vote:

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

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

**2. Interstate, Primary, and Secondary Road Improvement Plans**

The committee recommends approval with some minor modifications. This item will be appearing independently as a public hearing item on a future Board agenda.

**3. Other**

**PUBLIC HEARING**

**PROPOSED ORDINANCE – SALARIES OF THE BOARD OF SUPERVISORS – PURSUANT TO SECTION 15.2-1414.3 OF THE CODE OF VIRGINIA, 1950, AS AMENDED, THE BOARD OF SUPERVISORS WILL HOLD A PUBLIC HEARING TO FIX THE ANNUAL SALARIES OF THE BOARD OF SUPERVISORS AS FOLLOWS: CHAIRMAN, \$10,800; VICE CHAIRMAN, \$10,200; AND EACH OTHER MEMBER OF THE BOARD OF SUPERVISORS AT \$9,000. - APPROVED**

Interim Administrator Williams advised this was a public hearing to set the annual salaries of the Board of Supervisors.

Chairman Shickle convened the public hearing.

There were no public comments.

Chairman Shickle closed the public hearing.

Upon a motion by Vice-Chairman DeHaven, seconded by Supervisor Wells, the Board approved the ordinance setting the annual salaries of the Board of Supervisors.

**BE IT ORDAINED**, the annual salary for each member of the Frederick County Board of Supervisors, for the fiscal year beginning July 1, 2015, shall be as follows: Chairman, \$10,800; Vice Chairman, \$10,200; and each other member of the Board of Supervisors at \$9,000.

The above motion was approved by the following recorded vote:

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

**PLANNING COMMISSION BUSINESS**

**PUBLIC HEARING**

**REZONING #01-15 BLACKBURN COMMERCE CENTER SUBMITTED BY STOWE ENGINEERING, PLC., TO REZONE 128.56 +/- ACRES AS FOLLOWS: 92.066 +/- ACRES FROM RA (RURAL AREAS) DISTRICT TO M1 (LIGHT INDUSTRIAL) DISTRICT AND 36.754 +/- ACRES ARE TO REMAIN RA (RURAL AREAS) WITH PROFFERS. THE PROPERTY IS LOCATED ADJACENT TO DAWSON DRIVE, APPLE VALLEY ROAD AND ROUTE 37 AND IS IDENTIFIED BY PROPERTY IDENTIFICATION NUMBER 63-A-801 IN THE BACK CREEK MAGISTERIAL DISTRICT. - APPROVED**

Deputy Planning Director Michael Ruddy appeared before the Board regarding this item.

He advised this was a proposal to rezone 128.56 acres from RA (Rural Areas) District to M1 (Light Industrial) District with proffers and 36.754 acres are to remain RA (Rural Areas) District. The property is located in the Back Creek Magisterial District. The proposed industrial uses are consistent with the Comprehensive Plan. Deputy Director Ruddy briefly reviewed the proffer statement. He noted all M-1 uses were permitted. A generalized development plan was provided. Access to the site would be via Apple Valley Road and Dawson Drive. The applicant has also proffered up to \$625,000 for transportation improvements. The applicant has proffered a height limitation of 60 feet. Landscape screening and a green space buffer have been provided. The applicant has also proffered a fire and rescue contribution of \$10,000. He noted the Planning Commission recommended approval with a modification to the timing of the transportation proffers. Deputy Director Ruddy concluded by saying staff was seeking a Board

decision on this proposed rezoning request.

**Tim Stowe**, Stowe Engineering, appeared before the Board on behalf of the applicant. He noted this project was a model for the business friendly approach and the approach has worked. He noted the wetlands on the property would constrain how the site could be developed. He went on to say a lot of the development was pushed south. He went on to say the applicant was concerned with how the project would impact neighbors so they implemented buffers and screening and limited the building heights. Mr. Stowe advised the applicant felt a regional approach to transportation was the best way to address traffic. He stated the applicant had provided a bus pull off on the site and the Kernstown Battlefield Foundation would be permitted to hunt for relics on the property and display them at their facility. He concluded by saying staff had worked closely with the applicant and he requested approval of this application.

Chairman Shickle convened the public hearing.

**Alan Moeck**, Opequon District, spoke in support of the proposed use on the property; however, he did have concerns about the overall traffic improvements and how the increased traffic might impact the area.

There being no further comments, Chairman Shickle closed the public hearing.

Mr. Stowe advised that the applicant has attempted to follow the Comprehensive Plan and they made a contribution to offset impacts they might have.

Supervisor Lofton noted Route 11 was a truck route and there was already quite a bit of truck traffic there. He noted the proffers would mitigate some of the congestion this project would introduce.

Upon a motion by Supervisor Lofton, seconded by Supervisor Hess, the Board approved rezoning #01-15 Blackburn Commerce Center.

The above motion was approved by the following recorded vote:

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

**ORDINANCE AMENDMENT TO THE FREDERICK COUNTY CODE –  
CHAPTER 165 ZONING, ARTICLE V – PLANNED DEVELOPMENT  
DISTRICTS, PART 501 – R4 RESIDENTIAL PLANNED COMMUNITY  
DISTRICT, §165-501.03 PERMITTED USES. REVISION TO THE FREDERICK  
COUNTY ZONING ORDINANCE TO INCLUDE THE OM (OFFICE  
MANUFACTURING PARK) DISTRICT TO THE PERMITTED USES IN THE R4  
DISTRICT. - APPROVED**

Senior Planner Candice Perkins appeared before the Board regarding this item. She advised this was a minor revision to the Zoning Ordinance to include the OM (Office Manufacturing Park) District to the permitted uses in the R4 District. The Planning Commission held a public hearing on this proposed amendment and recommended approval.

Chairman Shickle convened the public hearing.

There were no public comments.

Chairman Shickle closed the public hearing.

Upon a motion by Supervisor Fisher, seconded by Vice-Chairman DeHaven, the Board approved the ordinance amending The Frederick County Code, Chapter 165 Zoning, Part 501 – R4 Residential Planned Community District Article V – Planned Development Districts §165-501.03 Permitted Uses.

**WHEREAS**, an ordinance to amend Chapter 165, Zoning to include the OM (Office-Manufacturing Park) Zoning District to the permitted uses list within the R4 (Residential Planned Community) Zoning District was considered; and

**WHEREAS**, The Planning Commission held a public hearing on this ordinance on April 15, 2015; and



**WHEREAS**, The Board of Supervisors held a public hearing on this ordinance on May 13, 2015; and

**WHEREAS**, the Frederick County Board of Supervisors finds that the adoption of this ordinance to be in the best interest of the public health, safety, welfare, and in good zoning practice; and

**NOW, THEREFORE, BE IT ORDAINED** by the Frederick County Board of Supervisors that **Chapter 165 Zoning, is amended to modify Part 501 – R4 Residential Planned Community District; Article V – Planned Development Districts; §165-501.03 Permitted Uses; to include the OM (Office-Manufacturing Park) Zoning District to the permitted uses list within R4 (Residential Planned Community) Zoning District.**

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

## **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	General Business District
B3	Industrial Transition District
<b><u>OM</u></b>	<b><u>OM Office-Manufacturing Park District</u></b>
M1	Light Industrial District

The above motion was approved by the following recorded vote:

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

**ORDINANCE AMENDMENT TO THE FREDERICK COUNTY CODE –  
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. REVISIONS TO THE  
FREDERICK COUNTY ZONING ORDINANCE TO INCLUDE THE USE OF  
PERMEABLE PAVING SYSTEMS FOR PARKING LOTS. - APPROVED**

Senior Planner Candice Perkins appeared before the Board regarding this item. She advised this was an ordinance revision to allow permeable paving systems in all zoning districts. She advised this change was due to changes in the storm water regulations. This proposed amendment would allow the Zoning Administrator and Director of Public Works to approve the use of permeable pavers.

Chairman Shickle convened the public hearing.

There were no public comments.

Chairman Shickle closed the public hearing.

Upon a motion by Vice-Chairman DeHaven, seconded by Supervisor Lofton, the Board approved the ordinance amending The Frederick County Code, 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**, an ordinance to amend Chapter 165, Zoning to allow the use of permeable pavers for the construction of parking areas within all zoning districts was considered; and

**WHEREAS**, The Planning Commission held a public hearing on this ordinance on April 15, 2015; and

**WHEREAS**, The Board of Supervisors held a public hearing on this ordinance on May 13, 2015;; and

**WHEREAS**, the Frederick County Board of Supervisors finds that the adoption of this ordinance to be in the best interest of the public health, safety, welfare, and in good zoning practice; and

**NOW, THEREFORE, BE IT ORDAINED** by the Frederick County Board of Supervisors that **Chapter 165 Zoning, is amended to modify 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 to allow the use of permeable pavers for the construction of parking areas within all zoning districts.**

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

#### **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 General Business 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. 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 Water 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.**

The above motion was approved by the following recorded vote:

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

**OTHER PLANNING ITEMS**

**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 MAGISTERIAL DISTRICT. (VOTE POSTPONED FROM BOARD MEETING OF MARCH 11, 2015.) – VOTE POSTPONED UNTIL JUNE 10, 2015 MEETING**

Deputy Planning Director Michael Ruddy appeared before the Board regarding this item. He advised this was a proposal to rezone 2.42 acres in the Opequon Magisterial District from B1 to B2. He reviewed the proposed generalized development plan associated with this project. He stated the Planning Commission recommended denial of this proposal because of impacts on the neighborhood character of the area. He noted the Board postponed action on this application for sixty days to allow the applicant to address concerns expressed. He advised the applicant had reduced the maximum height of any structure to 35 feet instead of 50 feet. He concluded by saying staff was seeking a decision from the Board regarding this request.

Supervisor Wells asked if he was correct that he did not see a significant “no” from VDOT.

Deputy Director Ruddy responded yes and noted that the generalized development plan includes portions of the road relocation project VDOT is working on.

**Ben Montgomery** appeared before the Board on behalf of the applicant. He noted the proposed maximum height of 35 feet was defined by the Zoning Ordinance and was the same height allowed in the B1 zoning district. He went on to say there would be impacts to the adjoining residential properties if the property were developed as either a B1 or B2 property. With regard to the stormwater management concerns expressed, Mr. Montgomery noted they would be addressed by proper stormwater management and best management practices. He went on to say there would be a pond at the lowest point on the property. He stated the impacts to adjoining properties from a B1 or B2 project would be no different now because of the reduced height.

Supervisor Hess asked Mr. Montgomery if he met with the neighbors after the Board postponed action in order to allow him time to do that.

Mr. Montgomery responded no, that did not happen.

Chairman Shickle asked for clarification to make sure there was no misunderstanding. He stated it was his understanding the Board postponed action on this application in order to give the applicant an opportunity to do something, that time has since passed, and the applicant did not do what they said they were going to do.

Mr. Montgomery agreed with that interpretation.

Supervisor Wells stated that he had just received some new pieces of information during the meeting with regard to building height and an illustration of a proposed hotel building. He asked if it would be appropriate to postpone the vote one more time.

Chairman Shickle responded that if new information had been received then it was okay to postpone, but if there was no new information then it would be a bad precedent to postpone.

Upon a motion by Supervisor Wells, seconded by Supervisor Hess, the Board postponed

Rezoning #05-14 until the June 10, 2015 meeting.

The above motion was approved by the following recorded vote:

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

**MASTER DEVELOPMENT PLAN #02-15 – BLACKBURN COMMERCE CENTER. – APPROVED WAIVER REQUEST**

Senior Planner Candice Perkins appeared before the Board regarding this item. She advised this was a master development plan for 139 acres of RA (Rural Areas) and M1 (Light Industrial) zoned properties. She briefly reviewed the master development plan. She noted the applicant was requesting a waiver to utilize private roads within the development, pursuant to §144-24C of the Frederick County Subdivision Ordinance.

Upon a motion by Supervisor Lofton, seconded by Vice-Chairman DeHaven, the Board approved the waiver request.

The above motion was approved by the following recorded vote:

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

**BOARD LIAISON REPORTS**

Supervisor Lofton advised that he attended a meeting at Lord Fairfax Community College regarding Synagro's biosolids application. He stated the presentation was excellent. He noted new rules and guidelines had been adopted regarding run-off and odor. He went on to say

there is a public comment period and citizens could find out more through the Department of Environmental Quality's website.

### **CITIZEN COMMENTS**

**Shawn Graber**, Back Creek District, spoke regarding the proposed \$91.9 million dollar price tag for the 4<sup>th</sup> high school. He asked if the Board had been in discussion regarding a possible public hearing on this proposed 4<sup>th</sup> high school. He went on to say that in lieu of building new, it might be a good idea to expand the three existing high schools. He concluded by urging the Board to have a public discussion about saving money for the county.

### **BOARD OF SUPERVISORS COMMENTS**

Supervisor Wells thanked Mr. Jim Stephens for his eight years of passionate service on the Social Services Board.

Supervisor Fisher informed the Board that Chairman Shickle was honored by Dr. Fitzsimmons and Shenandoah University with the Medal of Honor. He then spoke regarding the proposed 4<sup>th</sup> high school. He stated that talking numbers at these early stages are dangerous. He noted some of the numbers were established so the project could be placed on the CIP list. He went on to say that he thought we could do better than \$91 million and the schools were working with the architect to simplify the structure.

Supervisor Hess applauded the students for their hard work on the Service Learning projects. He noted a lot of great ideas come out of these projects and he would encourage the Board to spread the presentations over two nights next year in order to give the students more time to talk about their projects.

### **ADJOURN**

**UPON A MOTION BY VICE-CHAIRMAN DEHAVEN, SECONDED BY**



**SUPERVISOR FISHER, THERE BEING NO FURTHER BUSINESS TO COME  
BEFORE THIS BOARD, THIS MEETING IS HEREBY ADJOURNED. (8:45 P.M.)**

**FREDERICK COUNTY BOARD OF  
SUPERVISORS' MINUTES**

**REGULAR MEETING**

**May 27, 2015**

A Regular Meeting of the Frederick County Board of Supervisors was held on Wednesday, May 27, 2015 at 7:00 P.M., in the Board of Supervisors' Meeting Room, 107 North Kent Street, Winchester, VA.

**PRESENT**

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

**CALL TO ORDER**

Chairman Shickle called the meeting to order.

**INVOCATION**

Deputy County Administrator Jay Tibbs delivered the invocation.

**PLEDGE OF ALLEGIANCE**

Vice-Chairman DeHaven led the Pledge of Allegiance.

**ADOPTION OF AGENDA - APPROVED**

County Administrator Brenda G. Garton advised she had no changes to the agenda.

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

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

**CONSENT AGENDA - APPROVED**

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

- Proclamation Re: July, 2015 Proclaimed as Parks and Recreation Month – **Tab B**;
- Resolution Re: Authorized Signatories on Frederick County’s Checks – **Tab C**; and
- Parks and Recreation Commission Report – **Tab D**.

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

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

**CITIZEN COMMENTS**

There were no citizen comments.

**BOARD OF SUPERVISORS COMMENTS**

There were no Board of Supervisor’s comments.

**COUNTY OFFICIALS**

**COMMITTEE APPOINTMENTS**

**APPOINTMENT OF NATALIE GEROMETTA APPOINTED AS GAINESBORO DISTRICT REPRESENTATIVE TO THE PARKS AND RECREATION COMMISSION TO FILL THE UNEXPIRED TERM OF GREG BRONDOS, JR. - APPROVED**

Upon a motion by Supervisor Hess, seconded by Supervisor Lofton, the Board appointed Natalie Gerometta to fill the unexpired term of Greg Brondos, Jr. as Gainesboro District representative to the Parks and Recreation Commission. Term expires February 13, 2016.

The above motion was approved by the following recorded vote:

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

Robert A. Hess	Aye
Gary A. Lofton	Aye
Jason E. Ransom	Aye
Robert W. Wells	Aye

**REAPPOINTMENT OF STEPHEN PETTLER AND PHILIP A. LEMIEUX AS TOP OF VIRGINIA BUILDING ASSOCIATION REPRESENTATIVES TO THE DEVELOPMENT IMPACT MODEL OVERSIGHT COMMITTEE - APPROVED**

Upon a motion by Vice-Chairman DeHaven, seconded by Supervisor Fisher, the Board reappointed Stephen Pettler and Philip A. Lemieux as Top of Virginia Building Association representatives to the Development Impact Model Oversight Committee. This is a one year appointment. Term expires June 28, 2016.

The above motion was approved by the following recorded vote:

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

**PROCLAMATION RE: JULY 2015 PROCLAIMED AS PARKS AND RECREATION MONTH – APPROVED UNDER THE CONSENT AGENDA**

**WHEREAS** parks and recreation programs are an integral part of communities throughout this country, including Frederick County, Virginia and

**WHEREAS** our parks and recreation are vitally important to establishing and maintaining the quality of life in our communities, ensuring the health of all citizens, and contributing to the economic and environmental well-being of a community and region; and

**WHEREAS** parks and recreation programs build healthy, active communities that aid in the prevention of chronic disease, provide therapeutic recreation services for those who are mentally or physically disabled, and also improve the mental and emotional health of all citizens; and

**WHEREAS** parks and recreation programs increase a community’s economic prosperity through increased property values, expansion of the local tax base, increased tourism, the attraction and retention of businesses, and crime reduction; and

**WHEREAS** parks and recreation areas are fundamental to the environmental well-being of our community; and

**WHEREAS** parks and natural recreation areas improve water quality, protect groundwater, prevent flooding, improve the quality of the air we breathe, provide vegetative buffers to development, and produce habitat for wildlife; and

**WHEREAS** our parks and natural recreation areas ensure the ecological beauty of our community and provide a place for children and adults to connect with nature and recreate outdoors; and

**WHEREAS** the U.S. House of Representatives has designated July as Parks and Recreation Month; and

**WHEREAS** Frederick County recognizes the benefits derived from parks and recreation resources

**NOW THEREFORE, BE IT RESOLVED BY** The Frederick County Board of Supervisors that July is recognized as Park and Recreation Month in the County of Frederick.

**RESOLUTION RE: AUTHORIZED SIGNATORIES ON FREDERICK COUNTY'S CHECKS – APPROVED UNDER THE CONSENT AGENDA**

**WHEREAS**, Treasurer C. William Orndoff, Jr. and Interim County Administrator Roderick B. Williams have been the duly authorized joint signatories on the County's checks; and

**WHEREAS**, the Board of Supervisors has appointed Brenda G. Garton as County Administrator effective May 18, 2015;

**NOW, THEREFORE, BE IT RESOLVED THAT**, effective immediately, the duly authorized signatories on the County's checks are Treasurer C. William Orndoff, Jr. and County Administrator Brenda G. Garton.

Adopted this 27<sup>th</sup> day of May, 2015.

**COMMITTEE APPOINTMENTS**

**PARKS AND RECREATION COMMISSION – APPROVED UNDER THE CONSENT AGENDA**

The Parks and Recreation Commission met on Monday, May 12, 2015. Members present were: Randy Carter, Marty Cybulski, Gary Longerbeam, Ronald Madagan, Charles Sandy, Jr., and Jason Ransom. Members absent were: Kevin Anderson and Patrick Anderson.

Items Requiring Board of Supervisors Action:

1. July as Parks and Recreation Month – Mr. Carter moved to have the Board of Supervisors designate July as Parks and Recreation Month with the adoption of the attached proclamation, second by Mr. Madagan, motion carried unanimously (5-0).

Submitted for Board Information Only:

1. Buildings and Grounds Committee – Jaycee Pavilion Memorandum of Understanding – The Buildings and Grounds Committee recommended forwarding a Memorandum of Understanding with Winchester-Frederick County Jaycees to donate money to construct a 25' x 35' picnic pavilion at Rose Hill Park and name the shelter the “Tom Baldrige Winchester-Frederick County” pavilion. Construction of the picnic pavilion shall commence within six (6) months of the completion of the parking lot at Rose Hill Park, second by Mr. Cybulski, motion carried unanimously (5-0). The recommended acceptance of donation and naming of the pavilion will be on the August 12, 2015 Board of Supervisors’ agenda.
2. Appeals/Youth Sports Public Relations Committee – Code of Conduct – The Appeals/Youth Sports/Public Committee recommended approving the Code of Conduct for all Frederick County Parks and Recreation sport and athletic programs as submitted, second by Mr. Cybulski, motion carried unanimously (5-0).
3. Buildings and Grounds Committee – Rose Hill Park Memorandum of Understanding – The Buildings and Grounds Committee recommended an addendum to the Rose Hill Park Memorandum of Understanding to meet the restroom requirements associated with shelter development at Rose Hill Park, second by Mr. Madagan, motion carried unanimously (5-0). The recommended addenda will be on the July 15, 2015 Finance Committee agenda.

**HUMAN RESOURCES COMMITTEE – DEFERRED UNTIL THE JUNE 10, 2015 MEETING**

**PLANNING COMMISSION BUSINESS**

**PUBLIC HEARING**

**2015-2020 AGRICULTURAL AND FORESTAL DISTRICT UPDATE – THE PUBLIC HEARING IS TO CONSIDER THE RENEWAL OF THE ALBIN, APPLE PIE RIDGE, DOUBLE CHURCH, GREEN SPRINGS, NORTH OPEQUON, RED BUD, SOUTH FREDERICK, AND SOUTH TIMBER RIDGE DISTRICTS. THE RENEWAL OF THESE DISTRICTS WILL ESTABLISH A TOTAL OF 11,425 ACRES WITHIN THE AGRICULTURAL AND FORESTAL DISTRICT PROGRAM FOR THE ENSUING FIVE YEAR PERIOD. PROPERTIES THAT ARE INCORPORATED INTO AN AGRICULTURAL AND FORESTAL DISTRICT ARE GUARANTEED CERTAIN PROTECTION AS**

**SPECIFIED IN SECTION 15.2-4300 OF THE CODE OF VIRGINIA. -  
APPROVED**

Zoning Administrator Mark Cheran appeared before the Board regarding this item. He advised this was the 2015-2020 Agricultural and Forestal District Update. He then provided a brief overview of the Agricultural and Forestal District program and noted that, upon approval, the districts become part of the Comprehensive Plan. He went on to say the Agricultural District Advisory Committee met on April 20, 2015 and reviewed the eight districts. He noted the committee voted to remove parcels from the districts that were less than five (5) acres in size and not currently in land use. The reason for this removal was to prevent overlapping building setbacks, which could render an adjoining lot unbuildable. The Planning Commission reviewed the districts at their May 20, 2015 meeting and recommended approval.

Supervisor Hess asked if all of the adjoining property owners had been notified.

Zoning Administrator Cheran responded yes.

Supervisor Wells asked about the 46 parcels that were removed and the criteria for being removed.

Zoning Administrator Cheran responded they were removed because they were less than 5 acres in size and they were not currently in land use.

Supervisor Hess stated it was his understanding that being in land use was not dependent on a property being in the agricultural district.

Zoning Administrator Cheran stated that was correct.

Chairman Shickle convened the public hearing.

**Paul Anderson**, Back Creek District, stated he had a problem with this proposal. He stated the ag districts were established to protect agriculture and there were a number of small landowners who wanted to join the districts for protection and support of agriculture. He advised



he did not know when the building setback changed to 200 feet. He went on to say there was no tax benefit or requirement to be in the ag district. He stated it was wrong to force people out because they did not have five acres. He noted agriculture would change drastically in Frederick County and there would be more small parcel farmers in the future. He advised the property owners being removed were not notified about their removal. He concluded by saying this item needs to be looked at a little longer.

**Sandra Ritenour**, Opequon District, advised that she owned land on Double Church Road and that her 3.67 acres had been previously accepted into an ag district. She stated she was not interested in land use and that was not the best criteria to use. She went on to say it appeared the Board was giving up a sure thing for an “if” and that it would be better to address building issues on a case by case basis, as they come up. She advised that she would “say” none of the 46 people had been notified that they were being removed from the ag district. She thought that was wrong and removal should be done on a case by case basis. She went on to say the notice letter was “very generic” and said nothing about the proposed changes. She concluded by saying the process should be stopped and those property owners being removed should be notified.

There being no further public comments, Chairman Shickle closed the public hearing.

Vice-Chairman DeHaven abstained from the discussion and vote due to owning land in one of the districts.

Chairman Shickle stated he was concerned over the situation “we” find ourselves in and he asked staff to clarify what they were thinking.

Zoning Administrator Cheran advised there were three large parcels that were interested in coming into one of the ag districts, so the committee would be reviewing those in the near future. In the meantime, staff recommended ratifying the ag districts as presented and the 46

parcels that were removed could be considered at the same time the committee meets to review the larger parcels seeking inclusion.

Supervisor Lofton advised that he attended the ADAC meeting and these districts were discussed thoroughly. Through the committee's deliberations, they felt the smaller lots in the ag district could render adjoining buildable lots unbuildable due to the setback requirements. He agreed that the 46 lots should be looked at on a case by case basis; however, allowing them to remain in the district could result in a taking of an adjoining property without due process. He recommended the Board act tonight on the districts and then let the committee work through the 46 parcels that were removed to resolve those issues.

Supervisor Fisher stated the bigger issue for him was the fact the 46 parcels did not get notified. He advised that he would rather approve the ag districts as they currently exist and then review the 46 parcels. He cited the need to overcommunicate in instances like this.

Planning Director Eric Lawrence stated that everything that was advertised for tonight did not include the 46 parcels; therefore, they could not be included at this point. He went on to say that as of today there are no ag district setbacks because the districts have expired.

Supervisor Wells stated the county has had ag districts for a long time and wondered why there was a need to "stir the pot".

Assistant County Administrator Kris Tierney advised, given the hearing has been advertised, the Board had two options. Option one was to not renew the districts and send them back through the process. Option two was to approve the districts as advertised to protect the bulk of the districts with the understanding that the 46 parcels will be reexamined and brought back to the Board within six weeks. He concluded by saying adopting the districts was the lesser of the two evils at this point.

Supervisor Lofton stated, given Assistant Administrator Tierney’s assessment, he suggested the Board vote on the districts with the understanding that staff would continue the process of notifying the 46 property owners, review those parcels on a case by case basis to ensure due process, and return them to the Board for action.

Supervisor Wells stated he would like to see the 46 parcels have due process (e.g. notified, met with, etc.). He hoped the issues could be worked out. He concluded by saying he wished this had gone a different route.

Upon a motion by Supervisor Fisher, seconded by Supervisor Hess, the Board approved the updates to the 2015-2020 Agricultural and Forestal Districts and the advertising to include the 46 parcels removed to be put in back in at a later date.

The above motion was approved by the following recorded vote:

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

## **RENEWAL OF THE**

### **ALBIN AGRICULTURAL & FORESTAL DISTRICT**

**WHEREAS**, renewal of the 2015-2020 Albin Agricultural & Forestal District was considered. The properties are located west of Route 37 and north and south of Route 522 near the Albin Rural Community Center, and are identified by Property Identification Numbers 41-A-170, 42-A-62, 42-A-180, 42-A-190, 42-A-191, 42-A-192, 42-A-193, 52-A-48, 52-A-49, 53-A-1, 53-A-2, 53-A-3, and 53-A-69 in the Gainesboro Magisterial District. This application was reviewed by the Agricultural District Advisory Committee (ADAC), and the Planning Commission during their regularly scheduled meetings; and

**WHEREAS**, The Agricultural District Advisory Committee (ADAC) recommended approval of this renewal on April 20, 2015; and

**WHEREAS**, the Planning Commission held a public hearing and recommended approval

of the renewal of the Albin Agricultural & Forestal District on May 20, 2015; and

**WHEREAS**, the Board of Supervisors held a public hearing on this renewal of the 2015-2020 Albin Agricultural & Forestal District on May 27, 2015; and

**WHEREAS**, the Frederick County Board of Supervisors finds the renewal of the 2015-2020 Albin Agricultural & Forestal District contributes to the conservation and preservation of agricultural and forestal land in Frederick County;

**NOW, THEREFORE, BE IT ORDAINED** by the Frederick County Board of Supervisors as follows:

The Frederick County Board of Supervisors hereby adopts the 2015-2020 Albin Agricultural & Forestal District of 1,011.50± acres in the Gainesboro Magisterial District, with an expiration date of May 27, 2020. This Agricultural & Forestal District is as described on the attached map dated April 20, 2015 and the attached property owners table dated April 20, 2015.

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

Passed this 27th day of May, 2015 by the following recorded vote:

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

#### **RENEWAL OF THE**

#### **APPLE PIE RIDGE AGRICULTURAL & FORESTAL DISTRICT**

**WHEREAS**, renewal of the 2015-2020 Apple Pie Ridge Agricultural & Forestal District was considered. The District is generally located along Payne Road (Route 663) to the north, Welltown Road (Route 661) to the east, Apple Pie Ridge Road (Route 739) to the west and Glendobbin Road (Route 673) to the south, and are identified by Property Identification Numbers 31-A-180, 42-A-356, 42-A-357, 43-1-A1, 43-1-A2, 43-1-B1, 43-A-4, 43-A-10A, 43-A-11, 43-A-12, 43-A-13, 43-A-14, 43-A-69, 43-A-70, 43-11-4-1, 43-11-4-2, 43-11-4-3, 43-11-4-4, 43-11-4-5, 43-11-4-6, 43-12-3-7, 43-12-3-8, 43-12-3-9, 43-12-3-10, 43-12-3-11, 43-12-3-12, 43-12-3-13, 43-12-3-14, 43-12-3-15, 43-12-3-16, 43-12-3-17, and 43-12-3-18 are in the Gainesboro and Stonewall Magisterial Districts. This application was reviewed by the Agricultural District Advisory Committee (ADAC), and the Planning Commission during their regularly scheduled meetings; and

**WHEREAS**, The Agricultural District Advisory Committee (ADAC) recommended

approval of this renewal on April 20, 2015; and

**WHEREAS**, the Planning Commission held a public hearing and recommended approval of the renewal of the 2015-2020 Apple Pie Ridge Agricultural & Forestal District on May 20, 2015; and

**WHEREAS**, the Board of Supervisors held a public hearing on this renewal of the 2015-2020 Apple Pie ridge Agricultural & Forestal District on May 27, 2015; and

**WHEREAS**, the Frederick County Board of Supervisors finds the renewal of the 2015-2020 Apple Pie Ridge Agricultural & Forestal District contributes to the conservation and preservation of agricultural and forestal land in Frederick County;

**NOW, THEREFORE, BE IT ORDAINED** by the Frederick County Board of Supervisors as follows:

The Frederick County Board of Supervisors hereby adopts the 2015-2020 Apple Pie Ridge Agricultural & Forestal District of 887.59± acres in the Gainesboro and Stonewall Magisterial Districts, with an expiration date of May 27, 2020. This Agricultural & Forestal District is as described on the attached map dated April 20, 2015 and the attached property owners table dated April 20, 2015.

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

Passed this 27th day of May, 2015 by the following recorded vote:

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

**RENEWAL OF THE**

**DOUBLE CHURCH AGRICULTURAL & FORESTAL DISTRICT**

**WHEREAS**, renewal of the 2015-2020 Double Church Agricultural & Forestal District was considered. The District is generally located along Double Church Road (Route 641), Canterburg Road (Route 636), Grim Road (Route 640), and Wise Mill Lane (Route 737) and are identified by Property Identification Numbers 85-A-125, 85-A-130, 85-A-131, 85-A-131A, 85-A-139, 86-A-25, 86-A-25A, 86-A-27, 86-A-35, 86-A-35A, 86-A-38, 86-A-70, 86-A-71, 86-A-71B, 86-A-72B, 86-A-241 and 92-A-73 in the Opequon Magisterial District. This application was reviewed by the Agricultural District Advisory Committee (ADAC), and the Planning Commission during their regularly scheduled meetings; and

**WHEREAS**, The Agricultural District Advisory Committee (ADAC) recommended approval of this renewal on April 20, 2015; and

**WHEREAS**, the Planning Commission held a public hearing and recommended approval of the renewal of the 2015-2020 Double Church Agricultural & Forestal District on May 20, 2015; and

**WHEREAS**, the Board of Supervisors held a public hearing on this renewal of the 2015-2020 Double Church Agricultural & Forestal District on May 27, 2015; and

**WHEREAS**, the Frederick County Board of Supervisors finds the renewal of the 2015-2020 Double Church Agricultural & Forestal District contributes to the conservation and preservation of agricultural and forestal land in Frederick County;

**NOW, THEREFORE, BE IT ORDAINED** by the Frederick County Board of Supervisors as follows:

The Frederick County Board of Supervisors hereby adopts the 2015-2020 Double Church Agricultural & Forestal District of 923.16± acres in the Opequon Magisterial District, with an expiration date of May 27, 2020. This Agricultural & Forestal District is as described on the attached map dated April 20, 2015 and the attached property owners table dated April 20, 2015.

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

Passed this 27th day of May, 2015 by the following recorded vote:

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

### **RENEWAL OF THE**

### **GREEN SPRINGS AGRICULTURAL & FORESTAL DISTRICT**

**WHEREAS**, renewal of the 2015-2020 Green Springs Agricultural & Forestal District was considered. The District is generally located along Glaize Orchard Road (Route 682) to the south, and Green Springs Road (Route 671) to the east and are identified by Property Identification Numbers 21-A-25 and 21-A-36 in the Gainesboro Magisterial District. This application was reviewed by the Agricultural District Advisory Committee (ADAC), and the Planning Commission during their regularly scheduled meetings; and

**WHEREAS**, The Agricultural District Advisory Committee (ADAC) recommended

approval of this renewal on April 20, 2015; and

**WHEREAS**, the Planning Commission held a public hearing and recommended approval of the renewal of the 2015-2020 Green Springs Agricultural & Forestal District on May 20, 2015; and

**WHEREAS**, the Board of Supervisors held a public hearing on this renewal of the 2015-2020 Green Springs Agricultural & Forestal District on May 27, 2015; and

**WHEREAS**, the Frederick County Board of Supervisors finds the renewal of the 2015-2020 Green Springs Agricultural & Forestal District contributes to the conservation and preservation of agricultural and forestal land in Frederick County;

**NOW, THEREFORE, BE IT ORDAINED** by the Frederick County Board of Supervisors as follows:

The Frederick County Board of Supervisors hereby adopts the 2015-2020 Green Springs Agricultural & Forestal District of 385.63± acres in the Gainesboro Magisterial District, with an expiration date of May 27, 2020. This Agricultural & Forestal District is as described on the attached map dated April 20, 2015 and the attached property owners table dated April 20, 2015.

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

Passed this 27th day of May, 2015 by the following recorded vote:

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

**RENEWAL OF THE**

**NORTH OPEQUON AGRICULTURAL & FORESTAL DISTRICT**

**WHEREAS**, renewal of the 2015-2020 North Opequon Agricultural & Forestal District was considered. The District is generally located along Old Charlestown Road (Route 761), Opequon Creek to the east, and Slate Lane to the west and are identified by Property Identification Numbers 45-A-10V, 45-A-10W, 45-A-30, 45-A-31, 45-A-32, and 45-A-32A in the Stonewall Magisterial District. This application was reviewed by the Agricultural District Advisory Committee (ADAC), and the Planning Commission during their regularly scheduled meetings; and

**WHEREAS**, The Agricultural District Advisory Committee (ADAC) recommended

approval of this renewal on April 20, 2015; and

**WHEREAS**, the Planning Commission held a public hearing and recommended approval of the renewal of the 2015-2020 North Opequon Agricultural & Forestal District on May 20, 2015; and

**WHEREAS**, the Board of Supervisors held a public hearing on this renewal of the 2015-2020 North Opequon Agricultural & Forestal District on May 27, 2015; and

**WHEREAS**, the Frederick County Board of Supervisors finds the renewal of the 2015-2020 North Opequon Agricultural & Forestal District contributes to the conservation and preservation of agricultural and forestal land in Frederick County;

**NOW, THEREFORE, BE IT ORDAINED** by the Frederick County Board of Supervisors as follows:

The Frederick County Board of Supervisors hereby adopts the 2015-2020 North Opequon Agricultural & Forestal District of 407.48± acres in the Stonewall Magisterial District, with an expiration date of May 27, 2020. This Agricultural & Forestal District is as described on the attached map dated April 20, 2015 and the attached property owners table dated April 20, 2015.

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

Passed this 27th day of May, 2015 by the following recorded vote:

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

### **RENEWAL OF THE**

### **RED BUD AGRICULTURAL & FORESTAL DISTRICT**

**WHEREAS**, renewal of the 2015-2020 Red Bud Agricultural & Forestal District was considered. The District is generally located along Red Bud Road and are identified by Property Identification Numbers 43-A-154, 44-A-28, 44-A-28A, 44-A-28B, 44-A-28D, 44-A-28G, 44-A-28I, 54-A-87, 54-A-88, 54-A-89C, 54-A-90, 55-A-3, 55-A-4, 55-A-5, 55-A-5C, 55-A-6, 55-A-7, 55-A-7A, 55-A-7B, 55-A-7C, 55-A-7D, 55-A-7E, 55-A-8, 55-A-109B, 55-A-129A, 55-A-138, 55-A-139, 55-A-151, 55-A-151A, 55-A-152, 55-A-178, 55-A-179, 44-A-181A, 55-A-181B, and 55-A-182D in the Stonewall Magisterial District. This application was reviewed by the Agricultural District Advisory Committee (ADAC), and the Planning Commission during their regularly scheduled meetings; and



**WHEREAS**, The Agricultural District Advisory Committee (ADAC) recommended approval of this renewal on April 20, 2015; and

**WHEREAS**, the Planning Commission held a public hearing and recommended approval of the renewal of the 2015-2020 Red Bud Agricultural & Forestal District on May 20, 2015; and

**WHEREAS**, the Board of Supervisors held a public hearing on this renewal of the 2015-2020 Red Bud Agricultural & Forestal District on May 27, 2015; and

**WHEREAS**, the Frederick County Board of Supervisors finds the renewal of the 2015-2020 Red Bud Agricultural & Forestal District contributes to the conservation and preservation of agricultural and forestal land in Frederick County;

**NOW, THEREFORE, BE IT ORDAINED** by the Frederick County Board of Supervisors as follows:

The Frederick County Board of Supervisors hereby adopts the 2015-2020 Red Bud Agricultural & Forestal District of 985.59± acres in the Stonewall Magisterial District, with an expiration date of May 27, 2020. This Agricultural & Forestal District is as described on the attached map dated April 20, 2015 and the attached property owners table dated April 20, 2015.

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

Passed this 27th day of May, 2015 by the following recorded vote:

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

### **RENEWAL OF THE**

### **SOUTH FREDERICK AGRICULTURAL & FORESTAL DISTRICT**

**WHEREAS**, renewal of the 2015-2020 South Frederick Agricultural & Forestal District was considered. This District is generally located along Cedar Creek Grade (Route 622), Middle Road (Route 628), Marlboro Road (Route 631) and Hites Road (Route 625) and are identified by Property Identification Numbers 52-A-300, 60-A-73, 60-A-73B, 60-A-75, 61-A-21, 61-A-22, 61-A-23, 61-A-24, 61-A-25, 61-A-26, 61-A-27, 61-A-30, 61-A-31, 61-A-34, 61-A-37, 61-A-45, 61-A-96, 61-A-96D, 61-A-106, 61-A-107, 61-A-116, 61-A-117, 61-A-118, 61-A-119, 61-A-120, 61-A-126, 61-A-127, 61-A-127A, 61-A-128, 61-A-129, 61-A-130, 61-A-131, 62-A-21, 62-A-22, 62-A-34, 62-12-5-53, 62E-1-3-14, 62E-1-5-23, 62E-1-6-25, 62E-1-6-26, 62E-1-6-27, 72-A-29L,

72-A-3, 72-A-45, 72-A-53, 72-A-58, 72-A-59, 72-A-82, 73-A-4, 73-A-10, 73-A-10A, 73-A-13, 73-A-16, 73-A-17, 73-A-18, 73-A-20, 73-A-21, 73-A-24, 73-A-29, 73-A-30B, 73-A-30H, 73-A-30I, 73-A-30O, 73-A-31, 73-A-39, 73-A-63, 73-A-66, 73-A-67, 73-A-73, 73-A-88, 73-A-90B, 73-A-94, 73-A-100, 73-A-103, 73-A-104, 74-A-10A, 74-A-12, 74-A-15B, 74-A-18, 74-A-18A, 74-A-18B, 83-A-81A, 83-A-87, 83-A-100, 84-A-2, 84-A-6, 84-A-40, 84-A-40A, 84-A-41, 84-A-42A, 84-A-44, 84-A-50, 85-A-1 in the Back Creek Magisterial District. This application was reviewed by the Agricultural District Advisory Committee (ADAC), and the Planning Commission during their regularly scheduled meetings; and

**WHEREAS**, The Agricultural District Advisory Committee (ADAC) recommended approval of this renewal on April 20, 2015; and

**WHEREAS**, the Planning Commission held a public hearing and recommended approval of the renewal of the 2015-2020 South Frederick Agricultural & Forestal District on May 20, 2015; and

**WHEREAS**, the Board of Supervisors held a public hearing on this renewal of the 2015-2020 South Frederick Agricultural & Forestal District on May 27, 2015; and

**WHEREAS**, the Frederick County Board of Supervisors finds the renewal of the 2015-2020 South Frederick Agricultural & Forestal District contributes to the conservation and preservation of agricultural and forestal land in Frederick County;

**NOW, THEREFORE, BE IT ORDAINED** by the Frederick County Board of Supervisors as follows:

The Frederick County Board of Supervisors hereby adopts the 2015-2020 South Frederick Agricultural & Forestal District of 5,485.90± acres in the Back Creek Magisterial District, with an expiration date of May 27, 2020. This Agricultural & Forestal District is as described on the attached map dated April 20, 2015 and the attached property owners table dated April 20, 2015.

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

Passed this 27th day of May, 2015 by the following recorded vote:

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

**RENEWAL OF THE**

**SOUTH TIMBER RIDGE AGRICULTURAL & FORESTAL DISTRICT**

**WHEREAS**, renewal of the 2015-2020 South Timber Ridge Agricultural & Forestal District was considered. The District is generally located along Hollow Road (Route 707) to the north, Muse Road (Route 610) and Gold Orchard Road (Route 708) to the east and are identified by Property Identification Numbers 26-A-42, 26-A-43, 26-A-43A, 26-A-45, 26-A-46, 26-A-49, 26-A-61, 26-A-62, 26-A-63, 26-A-64, 26-A-65, 37-A-1, 37-A-1A, 37-A-72, 37-A-73, and 37-A-74 in the Gainesboro Magisterial District. This application was reviewed by the Agricultural District Advisory Committee (ADAC), and the Planning Commission during their regularly scheduled meetings; and

**WHEREAS**, The Agricultural District Advisory Committee (ADAC) recommended approval of this renewal on April 20, 2015; and

**WHEREAS**, the Planning Commission held a public hearing and recommended approval of the renewal of the 2015-2020 South Timber Ridge Agricultural & Forestal District on May 20, 2015; and

**WHEREAS**, the Board of Supervisors held a public hearing on this renewal of the 2015-2020 South Timber Ridge Agricultural & Forestal District on May 27, 2015; and

**WHEREAS**, the Frederick County Board of Supervisors finds the renewal of the 2015-2020 South Timber Ridge Agricultural & Forestal District contributes to the conservation and preservation of agricultural and forestal land in Frederick County;

**NOW, THEREFORE, BE IT ORDAINED** by the Frederick County Board of Supervisors as follows:

The Frederick County Board of Supervisors hereby adopts the 2015-2020 South Timber Ridge Agricultural & Forestal District of 979.08± acres in the Gainesboro Magisterial District, with an expiration date of May 27, 2020. This Agricultural & Forestal District is as described on the attached map dated April 20, 2015 and the attached property owners table dated April 20, 2015.

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

Passed this 27th day of May, 2015 by the following recorded vote:

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

**DRAFT UPDATE OF THE 2015-2016 FREDERICK COUNTY PRIMARY AND**

**INTERSTATE ROAD IMPROVEMENT PLANS – THE PRIMARY AND INTERSTATE ROAD IMPROVEMENT PLANS ESTABLISH THE PRIORITIES FOR IMPROVEMENTS TO THE PRIMARY AND INTERSTATE ROAD NETWORKS WITHIN FREDERICK COUNTY. COMMENTS FROM THE TRANSPORTATION COMMITTEE WILL BE FORWARDED TO THE PLANNING COMMISSION AND BOARD OF SUPERVISORS WILL BE FORWARDED TO THE COMMONWEALTH TRANSPORTATION BOARD FOR CONSIDERATION.**

**THE VIRGINIA DEPARTMENT OF TRANSPORTATION AND THE BOARD OF SUPERVISORS FOR THE COUNTY OF FREDERICK, VIRGINIA, IN ACCORDANCE WITH SECTION 33.2-331 OF THE CODE OF VIRGINIA, WILL CONDUCT A JOINT PUBLIC HEARING. THE PURPOSE OF THIS PUBLIC HEARING IS TO RECEIVE PUBLIC COMMENT ON THE PROPOSED SIX YEAR PLAN FOR SECONDARY ROADS FOR FISCAL YEARS 2016 THROUGH 2021 IN FREDERICK COUNTY AND ON THE SECONDARY SYSTEM CONSTRUCTION BUDGET FOR FISCAL YEAR 2016. COPIES OF THE PROPOSED PLAN AND BUDGET MAY BE REVIEWED AT THE EDINBURG OFFICE OF THE VIRGINIA DEPARTMENT OF TRANSPORTATION, LOCATED AT 14031 OLD VALLY PIKE, EDINBURG, VIRGINIA OR AT THE FREDERICK COUNTY OFFICES LOCATED AT 107 NORTH KENT STREET, WINCHESTER, VIRGINIA. ALL PROJECTS IN THE SECONDARY ROAD IMPROVEMENT PLAN THAT ARE ELIGIBLE FOR FEDERAL FUNDS WILL BE INCLUDED IN THE STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM (STIP), WHICH DOCUMENTS HOW VIRGINIA WILL OBLIGATE FEDERAL TRANSPORTATION FUNDS. PERSONS REQUIRING SPECIAL ASSISTANCE TO ATTEND AND PARTICIPATE IN THIS HEARING SHOULD CONTACT THE VIRGINIA DEPARTMENT OF TRANSPORTATION AT 1-800-367-7623. - APPROVED**

Deputy Director of Planning – Transportation John Bishop appeared before the Board regarding this item. He advised this was an update to the 2015-2016 Interstate, Primary, and Secondary Road Improvement Plans. He briefly reviewed each of the proposed plans. He noted the Transportation Committee and Planning Commission recommended approval and staff was seeking action from the Board following its public hearing.

Chairman Shickle convened the public hearing.

There were no public comments.

Chairman Shickle closed the public hearing.

Upon a motion by Vice-Chairman DeHaven, seconded by Supervisor Hess, the Board approved the 2015-2016 Interstate, Primary, and Secondary Road Improvement Plans.

**RESOLUTION  
2015-2016 INTERSTATE ROAD  
IMPROVEMENT PLAN**

**WHEREAS**, the Frederick County Transportation Committee recommended approval of this plan on May 4, 2015; and,

**WHEREAS**, the Frederick County Planning Commission held a public hearing and recommended approval of this plan at their meeting on May 20, 2015; and,

**WHEREAS**, the Frederick County Board of Supervisors had previously agreed to assist in the preparation of this plan in accordance with the Virginia Department of Transportation's policies and procedures and participated in a public hearing on the proposed Plan, after being duly advertised so that all citizens of the County had the opportunity to participate in said hearing and to make comments and recommendations concerning the proposed Plan and Priority List; and,

**WHEREAS**, a representative of the Virginia Department of Transportation appeared before the Board during the public hearing and recommended approval of the 2015 – 2016 Interstate Road Improvement Plan and the Construction Priority List; and,

**WHEREAS**, the Frederick County Board of Supervisors support the priorities of the interstate road improvement projects for programming by the Commonwealth Transportation Board and the Virginia Department of Transportation;

**NOW, THEREFORE, BE IT ORDAINED** by the Frederick County Board of Supervisors as follows:

The 2015-2016 Interstate Road Improvement Plan appears to be in the best interest of the citizens of Frederick County and the Interstate Road System in Frederick County; and therefore, the Frederick County Board of Supervisors hereby approves the 2015-2016 Interstate Road Improvement Plan and Construction Priority List for Frederick County, Virginia as presented at the public hearing held on May 27, 2015.

This resolution was approved by the following recorded vote:

Richard C. Shickle	Aye
Charles S. DeHaven, Jr.	Aye
Gene E. Fisher	Aye
Robert A. Hess	Aye
Gary A. Lofton	Aye
Jason E. Ransom	Aye

Robert W. Wells

Aye

**RESOLUTION  
2015-2016 PRIMARY ROAD  
IMPROVEMENT PLAN**

**WHEREAS**, the Frederick County Transportation Committee recommended approval of this plan on May 4, 2015; and,

**WHEREAS**, the Frederick County Planning Commission held a public hearing and recommended approval of this plan at their meeting on May 20, 2015; and,

**WHEREAS**, the Frederick County Board of Supervisors had previously agreed to assist in the preparation of this plan in accordance with the Virginia Department of Transportation's policies and procedures and participated in a public hearing on the proposed Plan, after being duly advertised so that all citizens of the County had the opportunity to participate in said hearing and to make comments and recommendations concerning the proposed Plan and Priority List; and,

**WHEREAS**, a representative of the Virginia Department of Transportation appeared before the Board during the public hearing and recommended approval of the 2015 – 2016 Primary Road Improvement Plan and the Construction Priority List; and,

**WHEREAS**, the Frederick County Board of Supervisors support the priorities of the primary road improvement projects for programming by the Commonwealth Transportation Board and the Virginia Department of Transportation;

**NOW, THEREFORE, BE IT ORDAINED** by the Frederick County Board of Supervisors as follows:

The 2015-2016 Primary Road Improvement Plan appears to be in the best interest of the citizens of Frederick County and the Primary Road System in Frederick County; and therefore, the Frederick County Board of Supervisors hereby approves the 2015-2016 Primary Road Improvement Plan and Construction Priority List for Frederick County, Virginia as presented at the public hearing held on May 27, 2015.

This resolution was approved by the following recorded vote:

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

**RESOLUTION  
2015-2016 SECONDARY ROAD  
IMPROVEMENT PLAN**

**WHEREAS**, Section 33.2-364 of the 1950 Code of Virginia, as amended, provides the opportunity for each county to work with the Virginia Department of Transportation in developing a Six-Year Road Plan; and,

**WHEREAS**, the Frederick County Transportation Committee recommended approval of this plan on May 4, 2015; and,

**WHEREAS**, the Frederick County Planning Commission held a public hearing and recommended approval of this plan at their meeting on May 20, 2015; and,

**WHEREAS**, the Frederick County Board of Supervisors had previously agreed to assist in the preparation of this plan in accordance with the Virginia Department of Transportation's policies and procedures and participated in a public hearing on the proposed Plan, after being duly advertised so that all citizens of the County had the opportunity to participate in said hearing and to make comments and recommendations concerning the proposed Plan and Priority List; and,

**WHEREAS**, a representative of the Virginia Department of Transportation appeared before the Board during the public hearing and recommended approval of the 2015 – 2016 Secondary Road Improvement Plan and the Construction Priority List; and,

**WHEREAS**, the Frederick County Board of Supervisors support the priorities of the secondary road improvement projects for programming by the Commonwealth Transportation Board and the Virginia Department of Transportation;

**NOW, THEREFORE, BE IT ORDAINED** by the Frederick County Board of Supervisors as follows:

The 2015-2016 Secondary Road Improvement Plan appears to be in the best interest of the citizens of Frederick County and the Secondary Road System in Frederick County; and therefore, the Frederick County Board of Supervisors hereby approves the 2015-2016 Secondary Road Improvement Plan and Construction Priority List for Frederick County, Virginia as presented at the public hearing held on May 27, 2015.

This resolution was approved by the following recorded vote:

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

Gary A. Lofton	Aye
Jason E. Ransom	Aye
Robert W. Wells	Aye

### **BOARD LIAISON REPORTS**

Supervisor Fisher addressed a recent article in *The Winchester Star* regarding the Frederick County Sanitation Authority. He advised that he had checked with staff, the by-laws, and Robert's Rules of Order and found that a candidate nominated for a particular office was permitted to vote; therefore, Mr. Mowery was elected as chairman of the Authority. He noted there had been a few bumps in the road at the meeting, given the new makeup of the Authority, but he was hopeful things would start working better.

### **CITIZEN COMMENTS**

There were no citizen comments.

### **BOARD OF SUPERVISORS COMMENTS**

Chairman Shickle welcomed Ms. Garton as Frederick County's new county administrator.

### **ADJOURN**

**UPON A MOTION BY VICE-CHAIRMAN DEHAVEN, SECONDED BY SUPERVISOR FISHER, THERE BEING NO FURTHER BUSINESS TO COME BEFORE THIS BOARD, THIS MEETING IS HEREBY ADJOURNED. (8:05 P.M.)**



B



**Brenda G. Garton**  
County Administrator

540/665-6382

Fax 540/667-0370

E-mail: bgarton@fcva.us

**MEMORANDUM**

**TO:** Board of Supervisors

**FROM:** Brenda G. Garton, County Administrator

**DATE:** June 4, 2015

**RE:** Committee Appointments

Listed below are the vacancies/appointments due through August, 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

*(As the Board may recall, Dr. Robert Meadows was appointed as the Red Bud District representative on the Historic Resources Advisory Board at the May 13, 2015 Board meeting. Since that time, staff discovered Dr. Meadows had moved and now resides in Stonewall District, not Red Bud. Dr. Meadows believed he was still in the same district.)*

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

**(See Attached Application of Dr. Robert Meadows.)**

**JUNE 2015**

Extension Leadership Council

Dr. Robert R. Meadows – Red Bud District Representative  
315 Asbury Road  
Winchester, VA 22602  
Home: (540)808-3304  
Term Expires: 06/22/15  
Four year term

*(As the Board may recall, Dr. Robert Meadows was reappointed as the Red Bud District representative on the Extension Leadership Council at the May 13, 2015 Board meeting. Since that time, staff discovered Dr. Meadows had moved and now resides in Stonewall District, not Red Bud. Dr. Meadows believed he was still in the same district.)*

Lord Fairfax Community College Board

Lynette L. Embree – County Representative  
687 Front Royal Pike  
Winchester, VA 22602  
Home: (540)722-0133  
Term Expires: 06/30/15  
Four year term

**(Mrs. Embree does not wish to be reappointed.)**

**JULY 2015**

No remaining appointments.

**AUGUST 2015**

Board of Building Appeals

Whitney “Whit” L. Wagner – County Representative  
251 Tyler Drive  
Clearbrook, VA 22624  
Home: (540)662-9711

Term Expires: 08/12/15  
Five year term

**(Mr. Wagner advised staff he is willing to continue serving.) (FYI - There are seven members on the Board of Building Appeals. One member serves as an alternate. Members serve a five year term. *Members should, to the extent possible, represent different occupational or professional fields of the building industry. At least one member should be an experienced builder and one other member should be a licensed professional engineer or architect.*)**

Conservation Easement Authority

Elaine Cain – County Representative  
444 Fair Lane  
Winchester, VA 22603  
Home: (540)722-4882  
Term Expires: 08/24/15  
Three year term

Robert Solenberger – County Representative  
c/o Fruit Hill Orchard  
P. O. Box 2368  
Winchester, VA 22604  
Home: (540)662-2938  
Term Expires: 08/24/15  
Three year term

Charles Triplett – Planning Commission Representative  
150 Lone Willow Lane  
Gore, VA 22637  
Home: (540)877-1380  
Term Expires: 08/24/15  
Three year term

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

**Memorandum – Board of Supervisors**  
**June 4, 2015**  
**Page 4**

Attachment

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**INFORMATIONAL DATA SHEET  
FOR  
FREDERICK COUNTY BOARD OF SUPERVISORS  
COMMITTEE APPOINTMENTS**

**Charles S. DeHaven, Jr., Stonewall District Supervisor**, would like to nominate you to serve on the **Historic Resources Advisory Board**. As a brief personal introduction to the other Board members, please fill out the information requested below for their review prior to filling the appointment. **(Please Print Clearly. Thank You.)**

**Name:** Dr. Robert "Bob" Meadows      **Home Phone:** 540-808-3304

**Address:** 207 Mackenzie Lane      **Office Phone:** N/A

Stephenson, VA 22656      **Cell/Mobile:** N/A

\_\_\_\_\_ **Fax:** N/A

**Employer:** Retired-Virginia Tech      **Email:** clovergram@verizon.net

**Occupation:** State 4-H Leader-Virgina

**Civic/Community Activities:** 4-H Volunteer; active in church and Gideon Camp activities; advisor to Virginia 4-H All Stars; others

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

Yes:  No: \_\_\_\_\_

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

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

**Applicant's Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Nominating Supervisor's Comments:** \_\_\_\_\_

**Please submit form to:**

Frederick County Administrator's Office  
107 North Kent Street

Winchester, VA 22601

or email to: [tprice@fcva.us](mailto:tprice@fcva.us) or [jtibbs@fcva.us](mailto:jtibbs@fcva.us)

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## **BOARD OF SUPERVISORS**

### **RESOLUTION**

#### **Authorizing Execution of a Memorandum of Understanding between the County of Frederick, the Frederick County Economic Development Authority and the Millwood Station Volunteer Fire and Rescue Company 21**

**WHEREAS**, the Economic Development Authority of the County of Frederick, Virginia (the “EDA”) is the owner of real property and improvements located on the south side of Costello Drive in Shawnee Magisterial District, containing approximately four (4) acres more or less and identified as Frederick County property identification number 64-10-5 (the “Property”), and

**WHEREAS**, the EDA, the County of Frederick, and Millwood Station Volunteer Fire and Rescue Company 21 have reached an understanding regarding the continued ownership, use, operations, maintenance and conveyance of the Property, and

**WHEREAS**, the terms and conditions of the understanding are specified within the attached Memorandum of Understanding Regarding the Ownership, Use, Operations, Maintenance and Conveyance of Millwood Fire and Rescue Station,

**NOW, THEREFORE, BE IT RESOLVED** that the Frederick County Board of Supervisors hereby authorize the County Administrator to execute said Memorandum of Understanding.

**ADOPTED** this \_\_\_ day of June, 2015.



**VOTE:**

Richard C. Shickle \_\_\_\_\_

Ross Spicer \_\_\_\_\_

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

Chris Collins \_\_\_\_\_

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

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

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

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Brenda G. Garton  
Frederick County Administrator

Resolution No.: 087-15

**MEMORANDUM OF UNDERSTANDING  
REGARDING OWNERSHIP,  
USE, OPERATIONS, MAINTENANCE AND CONVEYANCE  
OF MILLWOOD FIRE & RESCUE STATION**

**BETWEEN THE COUNTY OF FREDERICK, VIRGINIA  
AND MILLWOOD STATION VOLUNTEER FIRE AND RESCUE  
COMPANY 21, INCORPORATED**

DATED **May** \_\_\_\_, 2015

This Memorandum of Understanding ("MOU") has been developed as an agreement between the County of Frederick, Virginia (the "County"), Millwood Station Volunteer Fire and Rescue Company 21, Incorporated (the "Millwood"), and the Economic Development Authority of the County of Frederick, Virginia (the "EDA") concerning the ownership, use, operations, and maintenance of the existing Millwood Fire Station (the "Fire Station") and the existing Events Center/Banquet Hall (the "Events Center"), located upon that certain parcel of land containing 4.1624 acres, more or less, fronting on the south side of Costello Drive in Shawnee Magisterial District, Frederick County, Virginia, Tax Map No. 64-10-5 (the "Property").

**RECITALS**

A. Millwood has previously executed that certain Deed dated February 23, 2007, of record in the Clerk's Office of the Circuit Court of Frederick County, Virginia as Instrument No. 070003086 (the "Deed") whereby the Property was conveyed to the EDA. Upon conveyance of the Property to the EDA, the EDA issued its \$3,000,000.00 Industrial Development Authority of Frederick County, Virginia, Taxable Lease Revenue Bond (Millwood Station Project), Series 2007 (the "Bond") payable to the United States of America acting through the Department of Agriculture ("USDA"). Repayment of the Bond is secured, in part, by that certain Deed of Trust dated February 23, 2007 executed by the EDA, of record in the aforesaid Clerk's Office as Instrument No. 070003087 (the "Deed of Trust") and that certain Assignment of Rents and Leases dated February 23, 2007 executed by the EDA, of record in the aforesaid Clerk's Office as Instrument No. 070003088 (the "Assignment"). Millwood and the EDA have also previously executed that certain Lease, Operating and Management Agreement dated February 23, 2007, attached to and made a part of the Assignment (the "Lease").

B. The Property is improved by that certain fire and rescue station, containing 17,025 square feet, more or less, currently used by the County and Millwood to provide fire and rescue services (the "Fire Station") and that certain Events Center/Banquet Hall, containing 14,808 square feet, more or less, currently used for social events (the "Events Center").



C. The County, Millwood and the other volunteer fire and rescue companies named therein have previously entered into a Fire and Rescue Joint Agreement, dated as of September 26, 2007 (the "Fire & Rescue Operations Agreement").

D. The County presently intends to enter into a financing with the Virginia Resources Authority ("VRA") for various governmental purposes (the "Financing"). The VRA intends to issue its bonds and provide a portion of the proceeds to the County in order to refinance the existing indebtedness due upon the Bond. The following constitutes the amount of the indebtedness due upon the Bond as of March 11, 2015:

Principal:	\$2,707,644.86
Interest:	\$ <u>4,896.02</u>
Total as of 3/11/15:	\$2,712,540.88
Per diem subsequent to 3/11/15:	\$306.0010

E. The EDA agrees to subdivide the Property so as to create that certain parcel of land containing 2.428 acres, more or less, upon which is located the Fire Station (the "Fire Station Parcel") and that certain parcel of land containing 1.733 acres, more or less, upon which is located the Events Center (the "Events Center Parcel"). A copy of the proposed subdivision of the property is attached hereto marked Exhibit "A", with the final acreage and boundaries of the Fire Station Parcel and the Events Center Parcel to be determined in accordance with applicable ordinances and regulations of the County.

F. At the request of Millwood and the County, in connection with the Financing, the EDA agrees to convey fee simple title to the Fire Station Parcel and the Events Center Parcel to the County. Millwood agrees to forever waive any right to acquire title to the Fire Station Parcel and/or the Events Center Parcel from the EDA, as more fully set forth in the Deed, Assignment and Lease once the existing indebtedness due upon the Bond is paid and satisfied in full with a portion of the proceeds of the Financing, as more fully set forth hereinafter. Such waiver by Millwood shall not in any way prohibit Millwood from acquiring title to the Events Center Parcel (which includes the Events Center) once all of the Millwood Reimbursement Payments (as hereinafter defined) are made, as more fully set forth in Section 3, below.

NOW, THEREFORE, for and in consideration of the mutual covenants hereinafter contained and other valuable consideration, the parties hereto agree as follows:

#### Section 1. OWNERSHIP, OCCUPANCY, AND USE

- a. The EDA shall convey fee simple title to the Fire Station Parcel and the Events Center Parcel to the County at such time as the Bond is paid and satisfied in full from the proceeds of the Financing. The EDA agrees to convey good and marketable title to the Fire Station Parcel and the Events Center Parcel by special warranty deed.



- b. Millwood shall be authorized to occupy and use the Fire Station Parcel (which includes the Fire Station) as currently being used for the following purposes: the conduct of its fire and rescue operations, that is, the storage, housing, and maintenance of fire and rescue equipment and the use of the Fire Station by fire and rescue personnel, including volunteers, in connection therewith; a base for responding to service calls; for training purposes; and for otherwise directly providing first response services. Except as otherwise provided herein, the County shall permit occupancy of the Fire Station by Millwood at no cost to Millwood and shall continue to permit Millwood to occupy the Station at no cost to Millwood as long as Millwood shall continue to comply with the Fire & Rescue Operations Agreement and this MOU.
- c. Millwood shall be authorized to occupy and use the Events Center Parcel (which includes the Events Center) for purposes of a rental facility for various conferences, banquets and other social events, so long as Millwood shall continue to comply with the Fire & Rescue Operations Agreement and this MOU.

Section 2. PAYMENT OF PORTION OF DEBT SERVICE

- a. ~~Millwood agrees to pay unto the County a sum equal to 33 1/3% of that portion of the Financing necessary to pay the Bond in full, which sums, together with interest thereon at the rate equal to the interest rate applicable to the Financing, shall be repaid to the County in annual installments over a twenty (20) year period (the "Millwood Reimbursement Payments"). The Millwood Reimbursement Payments shall be calculated so as to fully reimburse and pay the County 33 1/3% of the Financing necessary to pay the Bond in full, together with interest thereon as described herein. The Millwood Reimbursement Payments shall commence on the anniversary date of the closing upon the Financing by the County, and shall continue on the same anniversary date thereafter for a period of twenty (20) years, or until the Bond is paid and satisfied in full, whichever shall first occur.~~ Millwood and the County acknowledge and agree that the appraised value of the Events Center Parcel constitutes 45.40% of the total appraised value of the Property.
- b. Millwood agrees to pay unto the County the total sum of \$1,952,516.00 (consisting of \$1,289,937.00 principal and \$662,588.00 interest), payable in annual payments for a period of twenty-seven (27) years in order to reimburse the County for that portion of the Financing necessary to pay the Bond in full (the "Millwood Reimbursement Payments"). The Millwood Reimbursement Payments shall be paid in accordance with the Schedule of Payments attached hereto marked Exhibit "B" attached hereto and incorporated herein by reference as if set out in full. The Millwood Reimbursement Payments shall commence on the anniversary date of the closing and funding of the Financing by the County, and shall continue on the same anniversary date thereafter for a period of twenty-



seven (7) years in accordance with the Schedule of Payments attached hereto as Exhibit "B".

- c. The amount of the Millwood Reimbursement Payments are based upon an anticipated rate of interest of 3.36% per annum; however, the applicable rate of interest may change due to market conditions in existence on the date of closing upon the Financing which is tentatively schedule on or about August 19, 2015. Millwood acknowledges and agrees that any change in the rate of interest applicable to the Financing will result in a change in the amount of the Millwood Reimbursement Payments. The final amount of the Millwood Reimbursement Payments will be determined once closing upon the Financing occurs.

### Section 3. CONVEYANCE OF EVENTS CENTER

- a. Upon completion of all of the Millwood Reimbursement Payments by Millwood, and provided that Millwood has not defaulted in the timely payment of the Millwood Reimbursement Payments unto the County, the County agrees to convey good and marketable fee simple title to the Events Center Parcel to Millwood by special warranty deed. In the event that Millwood defaults in the timely payment of any Millwood Reimbursement Payment unto the County, then and in such event, the County shall have no obligation whatsoever to convey fee simple title to the Events Center Parcel to Millwood, and shall have no responsibility or liability whatsoever to reimburse Millwood for the Millwood Reimbursement Payments received by the County or any portion thereof. The deed conveying title to the Events Center Parcel to Millwood shall include a reserved parking easement for the benefit of the Fire Station Parcel over the parking lot located on the north side of the Events Center for overflow or special event parking.
- b. Provided that the County is the lessee under the terms of that certain Lease with the Winchester Regional Airport Authority (the "Airport"), as lessor, for the lease of that certain parking lot located upon a portion of the lands owned by the Airport adjacent to the Events Center Parcel ("Airport Parking Lease"), the County agrees to assign and convey all of its rights as lessee under the terms of the Airport Parking Lease to Millwood at the time of conveyance of the Events Center Parcel unto Millwood.
- ~~e. Millwood may prepay or accelerate the Millwood Reimbursement Payments without payment of any penalty.~~

### Section 4. MAINTENANCE AND UTILITIES

- a. The County shall be responsible for routine day to day maintenance, upkeep and repair of the Fire Station Parcel (including, but not in any way limited, to the Fire Station) including such activities as cleaning, minor repairs, mowing and landscaping at the County's sole cost and expense.



- b. Millwood shall be responsible for routine day to day maintenance, upkeep and repair of the Events Center Parcel (including, but not in any way limited to, the Events Center) including such activities as cleaning, minor repairs, mowing and landscaping at Millwood's sole cost and expense.
- c. The County shall be responsible for all major repairs, painting, as needed replacement of capital items, such as building fixtures, building mechanical equipment and building structural items, for the Fire Station Parcel (including, but not in any way limited, to the Fire Station) at the County's sole cost and expense.
- d. Millwood shall be responsible for all major repairs, painting, as needed replacement of capital items, such as building fixtures, building mechanical equipment and building structural items, for the Events Center Parcel (including, but not in any way limited to, the Events Center), at Millwood's sole cost and expense.
- e. The County shall be responsible for the payment of the costs of standard utility services for the Fire Station (including, but not in any way limited to, electric, gas, water, sewer and other utilities) at the County's sole cost and expense.
- f. Millwood shall be responsible for the payment of the costs of standard utility services for the Events Center (including, but not in any way limited to, electric, gas, water, sewer and other utilities) at the Millwood's sole cost and expense.
- ~~g. The County shall be responsible for the payment of the costs of communications for the Fire Station. The County may, at its option, depending upon practicability, arrange for provision of such communications in conjunction with the provision of such communications to other County facilities.~~

Section 5. STAFFING AND EQUIPMENT

- a. Staffing of the Fire Station by the County and Millwood for fire and rescue operations shall be governed by the Fire & Rescue Operations Agreement.
- b. The acquisition and ownership of fire and rescue equipment for the Station, other than building fixtures, shall be governed by separate existing and any to be determined agreements between the County and Millwood.
- c. Staffing of the Events Center by Millwood for banquet and other social events shall be the sole responsibility of Millwood.

Section 6. DEEDS



- a. As referenced in Section 1(a), above, in the event that the Bond is paid and satisfied in full with a portion of the proceeds of the Financing, the EDA shall convey fee simple title to the Fire Station Parcel and the Events Center Parcel, including all of the EDA's right, title and interest in the Fire Station Parcel and the Events Center Parcel, the Project (as such term is defined in the Lease) and the Lease, to the County by special warranty deed.
- b. In connection with part of the Financing, Millwood agrees to execute that certain Quitclaim Deed and Deed of Release, a copy of which is attached hereto marked Exhibit "C", whereby Millwood forever assigns, conveys, quitclaims and releases unto the EDA, and its successors and assigns all of its right title and interest in and to the Property.

#### Section 7. DEBT SERVICE RESERVE ACCOUNT

Upon completion of the Financing and payment in full of the Bond, and provided that Millwood has fully complied with the terms and conditions of this MOU, Millwood shall receive the remaining funds on deposit in the Debt Service Reserve Account, currently \$58,461.33 which funds shall be used by Millwood for the maintenance/repair obligations set forth in Section 3(d), above.

#### Section 8. RIGHT OF FIRST REFUSAL

In the event that Millwood does not default in the payment of the Millwood Reimbursement Payments to the County, as called for in Section 2, above, and in the event that the County conveys the Events Center Parcel to Millwood in accordance with the terms of Section 3, above, the Deed conveying the Events Center Parcel to Millwood shall include that certain Right of First Refusal (the "County Right of First Refusal") upon the terms and conditions set forth below:

- a. The County Right of First Refusal granted to the County herein shall apply to any bona fide written offer received by Millwood from a third party purchaser to purchase the Events Center Parcel.
- b. In the event that Millwood receives a bona fide written offer from a third party to purchase the Events Center Parcel, which bona fide written offer is deemed acceptable by Millwood (the "Offer"), Millwood shall give written notice of the Offer (which shall include the terms and conditions of the Offer) to the County. The County shall have fifteen (15) calendar days after receipt of the written notice from Millwood of the Offer to notify Millwood in writing that the County will purchase the Events Center Parcel upon the same financial terms and conditions as contained in the Offer. If the County fails to give written notice to Millwood within fifteen (15) calendar days after receiving written notice from Millwood of the terms of the Offer, then the County shall be deemed to have declined to have exercised the Right of First Refusal granted to the County herein.



If the County exercises the Right of First Refusal granted herein, Millwood and the County agree to enter into a Purchase and Sale Agreement within fifteen (15) calendar days after Millwood receives written notice of exercise of the Right of First Refusal by the County upon the same terms and conditions as were contained in the Offer. Any such Purchase and Sale Agreement shall also include customary terms and conditions then in effect governing the sale and conveyance of commercial/business real property in the Commonwealth of Virginia.

- c. Notice to the County shall be deemed given when (i) received by confirmed e-mail transmission; (ii) hand-delivered by personal delivery; (iii) one (1) business day after pickup by UPS, Federal Express or similar overnight delivery service; or (iv) when received by registered or certified mail (return receipt requested, first-class postage prepaid) to the following address: 107 North Kent Street, Winchester, Virginia 22601, Attn: County Administrator.

**Section 9. MISCELLANEOUS**

- a. Ratification and Confirmation. All provisions of the Agreement, as amended by this MOU, are hereby ratified and confirmed by the parties and shall remain in full force and effect.
- b. Counterparts. This MOU may be executed in any number of counterparts, each of which shall be an original, all of which together shall constitute but one and the same instrument.
- c. Entire Agreement. This MOU constitutes the entire agreement of the parties regarding the subject matter hereof.
- d. Governing Law. This MOU shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia.
- e. Time. Time is of the essence as to all matters in the Agreement and this MOU.

IN WITNESS WHEREOF, the parties have caused this MOU to be duly executed as of the \_\_\_\_ day of \_\_\_\_\_, 2015, by their duly authorized representatives.

COUNTY OF FREDERICK, VIRGINIA

By: \_\_\_\_\_  
Its: County Administrator



MILLWOOD STATION VOLUNTEER FIRE  
AND RESCUE COMPANY 21,  
INCORPORATED

By: \_\_\_\_\_  
Its: President

ECONOMIC DEVELOPMENT AUTHORITY OF  
THE COUNTY OF FREDERICK, VIRGINIA

By: \_\_\_\_\_  
Its: \_\_\_\_\_

C:\Users\Public\Documents\PhylFiles\Agreements\Millwood MOU.doc





Millwood  
Fire Station  
1.733Acres

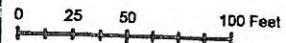
Community  
Center  
2.428Acres

Parking  
1.228Acres

COSTELLO

**EXHIBIT**

VA 01



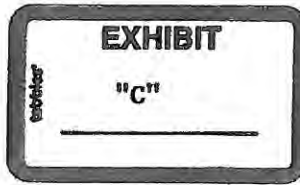


**Millwood Station Financing thru Virginia Resources Authority  
Rates as of May 13, 2015**

		45.40%
Loan Payoff	\$2,748,672	\$1,247,897
Cost of Issuance	80,992	36,770
Underwriter's Discount	<u>11,607</u>	<u>5,269</u>
	\$2,841,271	\$1,289,937

**EXHIBIT "B"**  
**SCHEDULE OF MILLWOOD REIMBURSEMENT PAYMENTS**

<u>ANNUAL PAYMENT DATE</u>	<u>ANNUAL PAYMENT AMOUNT</u>	<u>PRINCIPAL</u>	<u>INTEREST</u>	<u>TOTAL DEBT SERVICE</u>
6/30/2016	\$27,209.00	-0-	\$27,209.00	\$27,209.00
6/30/2017	74,999.00	\$32,198.00	42,801.00	74,999.00
6/30/2018	74,999.00	33,299.00	41,701.00	74,999.00
6/30/2019	74,999.00	34,437.00	40,563.00	74,999.00
6/30/2020	74,999.00	35,614.00	39,386.00	74,999.00
6/30/2021	74,999.00	36,831.00	38,169.00	74,999.00
6/30/2022	74,999.00	38,089.00	36,910.00	74,999.00
6/30/2023	74,999.00	39,391.00	35,608.00	74,999.00
6/30/2024	74,999.00	40,737.00	34,262.00	74,999.00
6/30/2025	74,999.00	42,129.00	32,870.00	74,999.00
6/30/2026	74,999.00	43,569.00	31,430.00	74,999.00
6/30/2027	74,999.00	45,058.00	29,941.00	74,999.00
6/30/2028	74,999.00	46,598.00	28,402.00	74,999.00
6/30/2029	74,999.00	48,190.00	26,809.00	74,999.00
6/30/2030	74,999.00	49,837.00	25,162.00	74,999.00
6/30/2031	74,999.00	51,540.00	23,459.00	74,999.00
6/30/2032	74,999.00	53,302.00	21,698.00	74,999.00
6/30/2033	74,999.00	55,123.00	19,876.00	74,999.00
6/30/2034	74,999.00	57,007.00	17,993.00	74,999.00
6/30/2035	74,999.00	58,955.00	16,044.00	74,999.00
6/30/2036	74,999.00	60,970.00	14,030.00	74,999.00
6/30/2037	74,999.00	63,053.00	11,946.00	74,999.00
6/30/2038	74,999.00	65,208.00	9,791.00	74,999.00
6/30/2039	74,999.00	67,437.00	7,563.00	74,999.00
6/30/2040	74,999.00	69,741.00	5,258.00	74,999.00
6/30/2041	74,999.00	72,124.00	2,875.00	74,999.00
6/30/2042	50,332.00	<u>49,500.00</u>	<u>832.00</u>	<u>50,332.00</u>
	Total:	\$1,289,937.00	\$662,588.00	\$1,952,525.00



3/13/15

THIS QUITCLAIM DEED AND DEED OF RELEASE, made and dated this \_\_\_\_\_ of \_\_\_\_\_, 2015, by and between MILLWOOD STATION VOLUNTEER FIRE AND RESCUE COMPANY 21, INCORPORATED, a Virginia nonstock, not-for-profit corporation duly organized to provide volunteer fire and rescue services, hereinafter sometimes referred to as "Grantor" or "Millwood Station", ECONOMIC DEVELOPMENT AUTHORITY OF THE COUNTY OF FREDERICK, VIRGINIA (formerly known as the Industrial Development Authority of Frederick County, Virginia), a political subdivision of the Commonwealth of Virginia, hereinafter sometimes referred to as "Grantee" or "Authority", and THE COUNTY OF FREDERICK, VIRGINIA hereinafter the "County" (for indexing purposes only).

RECITALS:

A. The Grantor has previously executed that certain Deed dated February 23, 2007, of record in the Clerk's Office of the Circuit Court of Frederick County, Virginia as Instrument No. 070003086 (the "Deed"), whereby that certain parcel, containing 4.1624 acres, more or less, designated as Lot 5 on that certain plat titled "Final Subdivision Plat for Prince Frederick Office Park Phase 2" dated October 25, 1999, drawn by David F. Spriggs, L.S. (the "Millwood Station Property"), was conveyed to the Industrial Development Authority of Frederick County, Virginia, now known as the Economic Development Authority of the County of Frederick, Virginia, a political subdivision of the Commonwealth of Virginia.

B. Upon conveyance of the Millwood Station Property to the Authority, the

Authority issued its \$3,000,000.00 Industrial Development Authority of Frederick County, Virginia, Taxable Lease Revenue Bond (Millwood Station Project), Series 2007 (the "Bond"), payable to United States of America, acting through Rural Housing Service, an Agency of the United States Department of Agriculture ("RHS"). Repayment of the Bond is secured, in part, by that certain Deed of Trust dated February 23, 2007 executed by the Authority, of record in the aforesaid Clerk's Office as Instrument No. 070003087 (the "Deed of Trust"), and that certain Assignment of Rents and Leases dated February 23, 2007 executed by the Authority, of record in the aforesaid Clerk's Office as Instrument No. 070003088 (the "Assignment").

C. The Grantor and the Authority have previously executed that certain Lease, Operating and Management Agreement dated February 23, 2007, attached to and made a part of the Assignment (the "Lease").

D. As set forth in the aforesaid Deed and the aforesaid Lease, in the event that the Grantor redeems or pays the Bond in whole (in full), the Authority shall convey fee simple title to the Millwood Station Property, including all of the Authority's right, title and interest in the Millwood Station Property, the Project (as such term is defined in the Lease) and the Lease.

E. The Authority intends to convey title to the Millwood Station Property to The County of Frederick, Virginia. The County intends to borrow funds necessary to pay off or redeem the Bond in whole (in full) with the proceeds of such financing.

F. In consideration of the payment of the Bond in whole (in full) by the



County, Millwood Station has agreed to quitclaim and release any right that have it has to again acquire title to the Millwood Station Property as called for under the terms of the aforesaid Deed and Lease, as more fully set forth hereinafter.

**NOW THEREFORE WITNESSETH:** That for and in consideration of the sum of Ten Dollars (\$10.00), and other consideration deemed adequate at law, the receipt and sufficiency of which is hereby acknowledged, Millwood Station, as Grantor, hereby forever assigns, conveys, quitclaims and releases unto the Authority, as Grantee, and its successors and assigns, all of its right, title and interest, of whatsoever nature and howsoever held, in and to the Millwood Station Property, being more particularly described as follows:

All that certain lot or parcel of land, together with all rights, rights of way, improvements and appurtenances thereunto belonging, lying and being situate in Shawnee Magisterial District, Frederick County, Virginia, containing 4.1624 acres, more or less, designated as Lot 5 on that certain plat titled "Final Subdivision Plat for Prince Frederick Office Park Phase 2" dated October 25, 1999, drawn by David F. Spriggs, L.S., which plat is attached to and made a material part of that certain Deed of Subdivision and Dedication and Easement dated December 9, 1999, of record in the Clerk's Office of the Circuit Court of Frederick County, Virginia as Instrument No. 990014616 (Deed Book 955, at Page 152). Reference is hereby made to the aforesaid instruments and the references contained therein for a more particular description of the property conveyed hereby.

Tax Map No. 64-10-5

**NOW THEREFORE FURTHER WITNESSETH:** That for and in consideration of the sum of Ten Dollars (\$10.00), and other consideration deemed adequate at law, the receipt and sufficiency of which is hereby acknowledged, Millwood Station, as Grantor, hereby forever irrevocably releases any right to have fee simple title to the Millwood Station Property, including all of the Authority's right, title and interest in the Millwood Station Property, the Project (as such term is defined in the Lease) and the Lease, re-conveyed to

Millwood Station as called for under the terms of the hereinabove referenced Deed and Lease.

WITNESS the following signature and seal:

MILLWOOD STATION VOLUNTEER FIRE AND RESCUE COMPANY 21, INCORPORATED

By: \_\_\_\_\_ (SEAL)  
Robert B. Hall, President

STATE OF VIRGINIA, AT LARGE,  
CITY/COUNTY OF \_\_\_\_\_, to-wit:

The foregoing instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2015 by Robert B. Hall as President of Millwood Station Volunteer Fire and Rescue Company 21, Incorporated.

My commission expires \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

MLB/pmn  
c:\Deeds\Millwood Quitclaim Deed  
3/13/15

Michael L. Bryan  
VSB #15737  
16 S. Braddock St  
Winchester, VA



**MEMORANDUM**

**Kris C. Tierney**  
Assistant County Administrator

540/665-5666

Fax 540/667-0370

E-mail:

ktierney@co.frederick.va.us

**TO:** Board of Supervisors

**FROM:** Kris C. Tierney, Assistant County Administrator

**RE:** Financing for Millwood Station through the Virginia Resources Authority Pooled Financing Program

**DATE:** June 2, 2015

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An application has been submitted to the Virginia Resources Authority (VRA) for participation in their spring bond sale, in order to pay off the current EDA debt obligation on the Millwood Fire and Rescue Station. The VRA sale is tentatively scheduled to price on July 28, 2015 and close on August 19, 2015. The final step for the County in the application process is for the Board to formally authorize proceeding with the financing.

Please find attached A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF FREDERICK, VIRGINIA APPROVING THE LEASE FINANCING OF MILLWOOD STATION AND AUTHORIZING THE LEASING OF CERTAIN PROPERTY IN CONNECTION THEREWITH, THE EXECUTION AND DELIVERY OF A PRIME LEASE AND A LOCAL LEASE ACQUISITION AGREEMENT AND FINANCING LEASE, AND OTHER RELATED ACTIONS.

Staff is seeking Board approval of the resolution.

Please let me know if we can answer any questions.



## CERTIFICATE OF CLERK

The undersigned Clerk of the Board of Supervisors of the County of Frederick, Virginia, hereby certifies that:

1. A regular meeting (the "Meeting") of the Board of Supervisors of the County of Frederick, Virginia (the "Board"), was held on June 10, 2015, at which the following members were present and absent:

PRESENT:

ABSENT:

2. A Resolution entitled "A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF FREDERICK, VIRGINIA APPROVING THE LEASE FINANCING OF MILLWOOD STATION AND AUTHORIZING THE LEASING OF CERTAIN PROPERTY IN CONNECTION THEREWITH, THE EXECUTION AND DELIVERY OF A PRIME LEASE AND A LOCAL LEASE ACQUISITION AGREEMENT AND FINANCING LEASE, AND OTHER RELATED ACTIONS" was duly adopted at the Meeting by the recorded affirmative vote of a majority of all of the members elected to the Board, the ayes and nays being recorded in the minutes of the Meeting as shown below:

MEMBER

VOTE

3. Attached hereto is a true and correct copy of the foregoing resolution as recorded in full in the minutes of the Meeting.

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Clerk of the Board of Supervisors  
of the County of Frederick, Virginia

**A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF FREDERICK, VIRGINIA APPROVING THE LEASE FINANCING OF MILLWOOD STATION AND AUTHORIZING THE LEASING OF CERTAIN PROPERTY IN CONNECTION THEREWITH, THE EXECUTION AND DELIVERY OF A PRIME LEASE AND A LOCAL LEASE ACQUISITION AGREEMENT AND FINANCING LEASE, AND OTHER RELATED ACTIONS**

**WHEREAS**, on February 23, 2007, the Economic Development Authority of the County of Frederick, Virginia (formerly known as the Industrial Development Authority of the County of Frederick, Virginia) (the "EDA") issued its \$3,000,000 Taxable Lease Revenue Bond (Millwood Station Project) Series 2007 (the "2007 EDA Bond") in order to provide funds for the construction and equipping of the Millwood Volunteer Fire Station (the "2007 Project");

**WHEREAS**, the Board of Supervisors (the "Board") of the County of Frederick, Virginia (the "County") intends to refinance the costs of the 2007 Project by refunding all or a portion of the 2007 EDA Bond (the "Millwood Project");

**WHEREAS**, the Board has determined that it is in the best interest of the County to enter into a lease arrangement in order to obtain funds to finance the Millwood Project;

**WHEREAS**, the Board is authorized, pursuant to Section 15.2-1800 of the Code of Virginia of 1950, as amended, to lease any improved or unimproved real estate held by the County;

**WHEREAS**, Virginia Resources Authority ("VRA") intends to issue its Infrastructure and State Moral Obligation Revenue Bonds (Virginia Pooled Financing Program), Series 2015A or such other series of bonds as VRA and the County may determined (the "VRA Bonds") and, subject to VRA credit approval, to provide a portion of the proceeds to the County to finance the Millwood Project pursuant to the terms of a Local Lease Acquisition Agreement and Financing Lease (the "Financing Lease"), between the County and VRA;

**WHEREAS**, the County will enter into a Prime Lease (the "Prime Lease") with VRA whereby the County will lease all or a portion of the 2007 Project and the real estate on which such leased portion is located (the "Real Estate") to VRA;

**WHEREAS**, the County will enter into the Financing Lease with VRA pursuant to which VRA will lease back to the County the portions of the 2007 Project and the Real Estate leased by the County pursuant to the Prime Lease (collectively, the "Leased Premises"), and the County will make rental payments corresponding in amount and timing to the debt service on the portion of the VRA Bonds issued to finance the Millwood Project (the "Rental Payments");

**WHEREAS**, the County intends to pay the Rental Payments out of appropriations from the County's General Fund;

**WHEREAS**, the Financing Lease shall indicate that the County requests an amount sufficient to refund the portion of the 2007 EDA Bond selected for refunding plus an amount sufficient to pay local costs of issuance (or such other amount as requested by the County and

approved by VRA prior to the pricing of the VRA Bonds) is the amount of proceeds requested (the "Proceeds Requested") from VRA;

**WHEREAS**, VRA has advised the County that VRA's objective is to pay the County an amount which, in VRA's judgment, reflects the market value of the Rental Payments under the Financing Lease (the "VRA Purchase Price Objective"), taking into consideration the Proceeds Requested and such factors as the purchase price to be received by VRA for the VRA Bonds, the issuance costs of the VRA Bonds (consisting of the underwriters' discount and other costs incurred by VRA (collectively, the "VRA Costs")) and other market conditions relating to the sale of the VRA Bonds;

**WHEREAS**, such factors may result in the County receiving an amount other than the par amount of the aggregate principal components of the Rental Payments under the Financing Lease and consequently (i) the aggregate principal components of the Rental Payments under the Financing Lease may be greater than the Proceeds Requested in order to receive an amount of proceeds that is substantially equal to the Proceeds Requested, or (ii) if the maximum authorized aggregate amount of the principal components of the Rental Payments under the Financing Lease does not equal or exceed the sum of the Proceeds Requested plus the amount of the VRA Costs and any original issue discount, the amount to be paid to the County, given the VRA Purchase Price Objective and market conditions, will be less than the Proceeds Requested; and

**WHEREAS**, the Prime Lease and the Financing Lease are referred to herein as the "Documents." Copies of the Documents are on file with the County Administrator.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF FREDERICK, VIRGINIA:

1. **Approval of Lease-Leaseback Arrangement.** The lease-leaseback arrangement with VRA to accomplish the financing of the Millwood Project is hereby approved. The leasing of Leased Premises by the County, as lessor, to VRA, as lessee, pursuant to the terms of the Prime Lease is hereby approved. The leasing of the Leased Premises by VRA, as lessor, to the County, as lessee, pursuant to the terms of the Financing Lease is hereby approved. If the County elects to finance other projects with VRA at the same time as the Millwood Project, the County is hereby authorized to combine the financing of such projects into one lease-leaseback financing.

2. **Approval of the Terms of the Rental Payments.** The Rental Payments set forth in the Financing Lease shall be composed of principal and interest components reflecting an original aggregate principal amount not to exceed \$3,000,000 and a true interest cost not to exceed 6.0% per annum (exclusive of "Supplemental Interest" as provided in the Financing Lease and taking into account any original issue discount or premium); and the final maturity shall be not later than 25 years from the date of the first Rental Payment under the Financing Lease. It is determined to be in the best interest of the County to enter into the Financing Lease with VRA, subject to the terms and conditions set forth in this Resolution. Given the VRA Purchase Price Objective and market conditions, it may become necessary to enter into the Financing Lease with aggregate principal components of the Rental Payments greater than the Proceeds Requested. If the limitation on the maximum aggregate principal components of

Rental Payments on the Financing Lease set forth in this paragraph 2 restricts VRA's ability to generate the Proceeds Requested, taking into account the VRA Costs, the VRA Purchase Price Objective and market conditions, the County Administrator is authorized to accept a purchase price at an amount less than the Proceeds Requested. The County Administrator is authorized to accept the interest component of Rental Payments based on the interest rate or rates established by VRA. The actions of the County Administrator in accepting the final terms of the Financing Lease, including its purchase price and the Rental Payments shall be conclusive, and no further action shall be necessary on the part of the Board.

3. **Other Payments under Financing Lease.** Subject to paragraphs 7 and 8 below, the County agrees to pay all amounts required by the Financing Lease in addition to Rental Payments, including the "Supplemental Interest," as provided in the Financing Lease.

4. **Execution and Recordation of Documents.** The Chairman and the County Administrator, either of whom may act, are authorized and directed to execute the Documents and deliver them to the other parties thereto. The Clerk of the Board of Supervisors and any Deputy Clerk, any of whom may act, are authorized to affix the seal of the County to the Documents, if required, and to attest such seal. The Chairman and the County Administrator, either of whom may act, are further authorized to cause the Prime Lease and the Financing Lease, to be recorded in the Clerk's Office of the Circuit Court of Frederick County.

5. **Form of Documents.** The Documents shall be in substantially the forms on file with the County Administrator, which Documents are hereby approved with such completions, omissions, insertions and changes as may be approved by the Chairman and the County Administrator, either of whom may act. The execution and delivery of the Documents by the Chairman and the County Administrator, or either of them, will constitute conclusive evidence of the approval of any such completions, omissions, insertions, and changes, including acceptance of the final terms of the Financing Lease.

6. **Essentiality of the Project and Real Estate.** The 2007 Project and the Real Estate are hereby declared to be essential to the efficient operation of the County, and the County anticipates that each will continue to be essential to the operation of the County during the term of the Financing Lease.

7. **Annual Budget.** While recognizing that it is not empowered to make any binding commitment to make Rental Payments and any other payments required under the Financing Lease beyond the current fiscal year, the Board hereby states its intent to make annual appropriations for future fiscal years in amounts sufficient to make all such payments and hereby recommends that future Boards do likewise during the term of the Financing Lease. The Board directs the County Administrator, or such other officer who may be charged with the responsibility for preparing the County's annual budget, to include in the budget request for each fiscal year during the term of the Financing Lease an amount sufficient to pay the Rental Payments and all other payments coming due under the Financing Lease during such fiscal year. If at any time during any fiscal year of the County throughout the term of the Financing Lease, the amount appropriated in the County's annual budget in any such fiscal year is insufficient to pay when due the Rental Payments and any other payments required under the Financing Lease, the Board directs the County Administrator, or such other officer who may be charged with the



responsibility for preparing the County's annual budget, to submit to the Board at the next scheduled meeting, or as promptly as practicable but in any event within 45 days, a request for a supplemental appropriation sufficient to cover the deficit.

8. **Rental Payments Subject to Appropriation.** The County's obligation to make the Rental Payments and all other payments pursuant to the Financing Lease is hereby specifically stated to be subject to annual appropriation therefor by the Board, and nothing in this Resolution or the Documents shall constitute a pledge of the full faith and credit or taxing power of the County or compel the Board to make any such appropriation.

9. **Disclosure Documents.** The County authorizes and consents to the inclusion of information with respect to the County in VRA's Preliminary Official Statement and VRA's Official Statement in final form, both to be prepared in connection with the sale of the VRA Bonds. If appropriate, such disclosure documents shall be distributed in such manner and at such times as VRA shall determine. The County Administrator is authorized and directed to take whatever actions are necessary or appropriate to aid VRA in ensuring compliance with Securities and Exchange Commission Rule 15c2-12.

10. **Tax Documents.** The County Administrator and the County's Director of Finance, either of whom may act, are hereby authorized to execute a Nonarbitrage Certificate and Tax Compliance Agreement or any related document (the "Tax Documents") setting forth the expected use and investment of the proceeds of the VRA Bonds to be received pursuant to the Documents and containing such covenants as may be necessary in order for the County and VRA to comply with the provisions of the Internal Revenue Code of 1986, as amended (the "Tax Code"), with respect to the VRA Bonds and the Documents including the provisions of Section 148 of the Tax Code and applicable regulations relating to "arbitrage bonds." The County covenants that the proceeds of the VRA Bonds to be received pursuant to the Documents will be invested and expended as set forth in the Tax Documents, to be delivered simultaneously with the issuance and delivery of the Financing Lease and that the County shall comply with the other covenants and representations contained therein.

11. **Other Actions.** All other actions of the officers of the County in conformity with the purpose and intent of this Resolution are hereby approved and confirmed. The officers of the County are hereby authorized and directed to execute and deliver all certificates and instruments and to take all such further action as may be considered necessary or desirable in connection with the actions contemplated by this Resolution or the execution and delivery of the Documents, including with limitation the execution and delivery of an escrow agreement or similar arrangement related to the refunding of all or a portion of the 2007 EDA Bond.

12. **SNAP Investment Authorization.** The County has heretofore received and reviewed the Information Statement (the "Information Statement") describing the State Non-Arbitrage Program of the Commonwealth of Virginia ("SNAP") and the Contract Creating the State Non-Arbitrage Program Pool I (the "Contract"), and the County has determined to authorize the County Administrator and the Treasurer, or either of them, to utilize SNAP in connection with the investment of any portion of the proceeds of the lease-leaseback transaction if the County Administrator and the Treasurer determine that the utilization of SNAP is in the best interest of the County. The Board acknowledges that the Treasury Board of the

Commonwealth of Virginia is not, and shall not be, in any way liable to the County in connection with SNAP, except as otherwise provided in the contract creating the investment program pool.

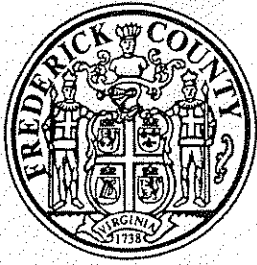
13. **Repeal of Conflicting Resolutions.** All resolutions are repealed to the extent they are inconsistent with this Resolution.

14. **Effective Date.** This resolution shall take effect immediately.



D





**Brenda G. Garton**  
County Administrator

540/665-6382

Fax 540/667-0370

E-mail: bgarton@fcva.us

**MEMORANDUM**

<b>TO:</b>	Board of Supervisors
<b>FROM:</b>	Brenda G. Garton, County Administrator <i>B. Garton</i>
<b>SUBJECT:</b>	Shenandoah Valley Workforce Development Board/Chief Elected Officials Consortium Agreement
<b>DATE:</b>	June 3, 2015

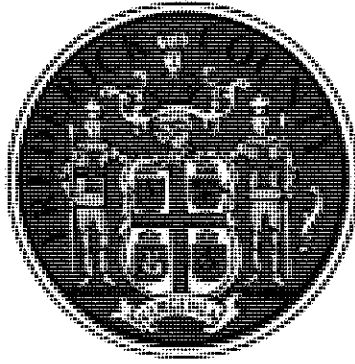
Attached please find a copy of the Shenandoah Valley Chief Local Elected Officials Consortium Agreement. This proposed agreement formalizes the creation of the Shenandoah Valley Workforce Development Area, the Shenandoah Valley Chief Elected Officials Consortium, and the Shenandoah Valley Workforce Development Board, in accordance with Public Law 113-128, the Workforce Innovations and Opportunity Act of 2014, Section 106.

Staff is seeking Board approval of this ordinance approving the Shenandoah Valley Chief Elected Officials Consortium Agreement, which is attached.

Should you have any questions, please do not hesitate to contact me.

BGG/jet





**ORDINANCE**

**June 10, 2015**

The Board of Supervisors of Frederick County, Virginia hereby ordains that, pursuant to Section 15.2-1300 of the Code of Virginia (1950, as amended), that the Shenandoah Valley Chief Local Elected Officials Consortium Agreement, creation of the Shenandoah Valley Workforce Development Area, the Shenandoah Valley Chief Elected Officials Consortium, and the Shenandoah Valley Workforce Development Board, in accordance with Public Law 113-128, the Workforce Innovations and Opportunity Act of 2014, Section 106, is approved.

Enacted this 10<sup>th</sup> day of June, 2015.

Richard C. Shickle \_\_\_\_\_

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

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

Jason E. Ransom \_\_\_\_\_

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

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

Robert A. Hess \_\_\_\_\_

A COPY ATTEST

\_\_\_\_\_  
Brenda G. Garton  
Frederick County Administrator

**Shenandoah Valley  
Chief Elected Officials  
Consortium Agreement**

**Shenandoah Valley  
Workforce Development Area**

**May, 2015**

# Consortium Agreement

## Shenandoah Valley Workforce Development Area

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*The purpose of this Agreement is to formalize the creation of the **Shenandoah Valley Workforce Development Area**, the **Shenandoah Valley Chief Elected Officials Consortium**, and the **Shenandoah Valley Workforce Development Board** in accordance Public Law 113-128, the **Workforce Innovation and Opportunity Act of 2014**, Section 106. It is Made and Entered into by and between **Augusta County, Bath County, the City of Buena Vista, Clarke County, Frederick County, the City of Harrisonburg, Highland County, the City of Lexington, Page County, Rockbridge County, Rockingham County, Shenandoah County, the City of Staunton, Warren County, the City of Waynesboro, and the City of Winchester.***

**WHEREAS**, the respective Boards of Supervisors of the Counties of Augusta, Bath, Clarke, Frederick, Highland, Page, Rockbridge, Rockingham, Shenandoah and Warren, and the City Councils of the Cities of Buena Vista, Harrisonburg, Lexington, Staunton, Waynesboro and Winchester have adopted resolutions authorizing the execution of this Consortium Agreement;

**NOW THEREFORE THIS AGREEMENT FURTHER WITNESSTH:** That for and in consideration of the promises and of the mutual benefits to be derived hereunder, that each and all of the jurisdictions enumerated immediately above, do hereby reciprocally agree as follows:

### **SECTION 1: CREATION OF THE CONSORTIUM**

**THERE IS HEREBY CREATED**, BY THE UNDERSIGNED Chief Elected Official of the Counties and Cities, the **Shenandoah Valley Chief Elected Officials Consortium** (Consortium), which shall exist under and be subject to the terms and conditions of this **Consortium Agreement** (Agreement), and which constitutes the agreement by the listed participating political subdivisions of the Commonwealth of Virginia. The purpose of the **Consortium** shall be to plan, establish, and operate a Local Workforce Development Area (LWDA) and Workforce Development Services Delivery System according to the provisions of the Workforce Innovation and Opportunity Act of 2014, and the Federal Regulations issued by the U.S. Department of Labor for the implementation of the Act together with any and all other subsequent and relevant federal and Commonwealth of Virginia statutes, policies and interpretations.

### **SECTION 2: AREA TO BE SERVED**

The Local Workforce Development Area to be served shall be known as the **Shenandoah Valley Workforce Development Area**, and shall include the jurisdictions of Augusta County, Bath County, the City of Buena Vista, Clarke County, Frederick County, the City of Harrisonburg, Highland County, the City of Lexington, Page County, Rockbridge County, Rockingham County, Shenandoah County, the City of Staunton, Warren County, the City of Waynesboro and the City of Winchester.

## **SECTION 3: STRUCTURE, DUTIES AND RESPONSIBILITIES OF CONSORTIUM**

### **3.01: MEMBERSHIP**

The voting members of the Consortium shall be the Chief Elected Official of each jurisdiction that is a party to this agreement, or that official's duly appointed designee. The Chair of the Shenandoah Valley Workforce Development Board (SVWDB), formerly the Shenandoah Valley Workforce Investment Board, or the Chair's duly appointed designee, shall serve as a voting member of the Consortium.

### **3.02: TERMS OF OFFICE**

The term of office for a Consortium member or designee shall coincide with the member's term as chief elected official for the member jurisdiction.

### **3.03: OFFICERS**

The Consortium shall elect from its membership a Chair, a Vice-Chair and such other officers as may be provided in the Consortium by-laws to serve for a term as may be prescribed in the By-Laws.

### **3.04: VOTING RIGHTS**

Each member jurisdiction shall have one (1) vote on all matters considered by the Consortium.

### **3.05: MEETINGS**

The Consortium shall hold meetings as prescribed in the By-Laws. A quorum is required for the Consortium to conduct business. A simple majority of the membership of the Consortium constitutes a quorum. Actions of the Consortium shall be approved by a simple majority of the members present at the meeting.

### **3.06: DUTIES AND RESPONSIBILITIES**

A. The Consortium shall collectively perform the following functions established for the Chief Elected Official, as specified in Public Law 113-128:

- (1) Shall, at its annual organization meeting, designate a member jurisdiction to serve as local grant recipient for the WIOA funds, and further may designate another entity to serve as fiscal agent for the Consortium;
- (2) Receive member nominations and make appointments of members to the SVWDB in accordance with State criteria. Each member jurisdiction of the Consortium shall recommend nominees and coordinate with other member jurisdictions to ensure appropriate geographic representation. Diversity considerations should be given when appointing members to the SVWDB to ensure racial, ethnic, and cultural diversity, as well as the diversity of individuals with disabilities from labor markets within the LWDA;

- (3) Set policy for the local workforce development system in partnership with the SVWDB;
- (4) Collaborate with the SVWDB to provide oversight of local Youth, Adult and Dislocated Worker programs and regional workforce development initiatives;
- (5) Approve the budget developed by the SVWDB;
- (6) Perform other duties as may be prescribed from time to time for Chief Elected Officials (CEO) under the Act or as prescribed by the Commonwealth of Virginia; and,
- (7) Establish such by-laws and such other rules as it deems necessary to govern its operations.

B. In partnership with the SVWDB, the Consortium shall develop, approve and submit all workforce development plans for the Shenandoah Valley Workforce Development Area.

#### **SECTION 4: THE SHENANDOAH VALLEY WORKFORCE DEVELOPMENT BOARD**

The Consortium hereby establishes the **Shenandoah Valley Workforce Development Board**. The Shenandoah Valley Workforce Investment Board (SVWIB) shall take the necessary steps to change its name to the Shenandoah Valley Workforce Development Board (SVWDB), incorporated under the laws of the Commonwealth of Virginia as a private, non-profit corporation.

##### **4.01: APPOINTMENT OF MEMBERS TO THE SVWDB**

A. The Consortium shall appoint at least one representative from each of the following public sector categories to the SVWDB:

- (1) Economic and Community Development Entities;
- (2) Department of Aging and Rehabilitative Services
- (3) Eligible providers administering adult education and literacy activities under title II, including a representative from a secondary public school's Career and Technical Education program;
- (4) Community Colleges
- (5) Virginia Employment Commission
- (6) Labor Organizations
- (7) Training Director or labor representative from a joint labor-management apprenticeship program

B. Not less than 20 percent of the members shall be from categories A(6) and A(7) above, or from community based organizations that have a demonstrated experience and expertise in addressing the employment needs of individuals with barriers to employment, including organizations that serve veterans or provide or support competitive integrated employment for individuals with disabilities or in addressing the employment, training, or education needs of eligible youth, including organizations that serve out-of-school youth.

C. The Consortium shall appoint a sufficient number of private industry members to the SVWDB to ensure that the total membership shall be comprised of at least a 51% majority of private industry members, who are owners, chief executives or operating officer with policy

making or hiring authority. These businesses, including small businesses, provide employment opportunities that include high-quality, work relevant training and development in high demand industry sectors or occupation in the local area. The Consortium shall appoint members in compliance with Section 107 (b) (2) (A) of the Workforce Innovation and Opportunity Act. In order to maintain a majority of private industry members, it may be necessary for some jurisdiction members to have more than one private industry member. In determining the allocation of additional private industry members the Consortium shall consider the relative populations of the member jurisdictions and Sub-Regions.

D. Subject to the limitations imposed by the mandatory representation outlined above, the Consortium may appoint representatives of other agencies or community based organizations providing regional planning, housing assistance, public assistance, educational services, employment training services, and other services and other individuals as the chief elected officials may determine to be appropriate.

#### **4.02: DUTIES AND RESPONSIBILITIES**

The SVWDB shall perform such duties and responsibilities as required under the Workforce Innovation and Opportunity Act and other laws and regulations promulgated by the Commonwealth of Virginia. The SVWDB shall carry-out its functions in a collaborative manner with the Consortium. The duties and responsibilities of the SVWDB include, but are not limited to:

- A. Establish such by-laws and such other rules as it deems necessary to fulfill its responsibilities under the Workforce Innovation and Opportunity Act.
- B. Select eligible providers of services for adults and dislocated workers.
- C. Select eligible providers of youth services with consideration of recommendations from the Youth Council.
- D. Select training providers.
- E. Assist the Governor in developing a statewide employment statistics system.
- F. Link private sector employers with local and statewide workforce activities in collaboration with local offices of economic development and secondary education, and institutions of higher education.
- G. Hire staff as necessary, and as funding permits, to support the program of the SVWDB.
- H. Direct the disbursement of all funds dispersed under the ACT for the Shenandoah Valley Workforce Development Area and the subsequent dispersion of such funds to designated service providers and/or subcontractors in accordance with the approved Workforce Development Plan.
- I. Prepare and recommend the following for consideration and approval of the Consortium:

- (1) A local strategic workforce plan.
- (2) Selection of the One Stop Operator or a One-Stop Consortium
- (3) An annual local operating budget
- (4) Local performance measures for approval by the Governor
- (5) Candidates for a Youth Council to serve as a subgroup of the SVWDB
- (6) A youth work plan

J. Work collectively with the Consortium to monitor and evaluate all programs initiated under this agreement.

#### **4.03: TERMS**

Beginning with program year July 1, 2015, the term of appointment for SVWDB members shall be four (4) years, with terms ending on June 30 of the year the term ends. Members may be eligible to serve two full consecutive terms,

#### **4.04: VOTING RIGHTS**

Each SVWDB member shall have one (1) vote on all matters before the SVWDB. Members shall be present to vote and voting by proxy shall not be permitted.

#### **4.05: OFFICERS**

The officers of the SVWDB shall include Chair, Vice Chair, and Secretary/Treasurer. Each officer shall serve for one (1) year; and, may be eligible for re-election. Only private industry members shall be eligible for election to the office of Chair and Vice Chair.

#### **4.06: MEETINGS**

The SVWDB shall hold regular or called meetings at such times, dates, and places as may be established in the by-laws of the SVWDB.

### **SECTION 5: LIABILITY**

#### **5.01: LIABILITY**

In accordance with the Workforce Innovation and Opportunity Act, the Consortium shall be liable for any misuse of funds received under this agreement. Designation of a member jurisdiction or other entity as local grant recipient or fiscal agent does not relieve the member jurisdictions of the Consortium from liability for any misuse of WIOA grant funds. Each consortium member jurisdiction shall be liable only for its share of any loss equal to its respective share of WIOA funding.

#### **5.02: INSURANCE REQUIREMENT**

The Board shall procure and maintain *Directors and Officers Liability Insurance* sufficient to safeguard the Consortium, member jurisdictions, SVWDB officers and members, and SVWDB

employees from errors, omissions, and misuse of funds received and held by the Consortium, its grant recipient, fiscal agent, and the SVWDB.

## **SECTION 6: TERMINATION**

This Agreement shall be terminated upon the repeal of the Workforce Innovation and Opportunity Act or successor legislation pertaining to Workforce Development or upon mutual consent of at least two-thirds (2/3) of the members of the Consortium.

## **SECTION 7: ADDITION TO/WITHDRAWAL FROM CONSORTIUM MEMBERSHIP**

### **7.01: NEW MEMBERS**

A political subdivision or municipal corporation of the Commonwealth of Virginia may petition the Consortium for membership provided that such local jurisdiction is part of the LWDA, as designated by the Governor in accordance with the provisions of the Workforce Innovation and Opportunity Act.

### **7.02: WITHDRAWAL**

Any party to this Agreement shall have the right to withdraw from the Consortium after providing at least ninety (90) days written notification to the Consortium.

## **SECTION 8: AMENDMENT**

This Agreement may be amended with the approval by resolution of the governing body of two-thirds (2/3) of the members of the Consortium.

## **SECTION 9: SEVERABILITY**

If any of the provisions of this Agreement shall be found void or unenforceable for whatever reason by any court of law or equity, it is expressly intended that such provision(s) be severable and the remainder of the Agreement shall remain in force and effect.

## **SECTION 10: EFFECTIVE DATE**

This amended Agreement shall become effective July 1, 2015.

\*\*\*



This agreement is approved by resolution by the following member jurisdictions of the Commonwealth of Virginia:

Augusta County Board of Supervisors

By \_\_\_\_\_

Title \_\_\_\_\_

City of Buena Vista, Virginia

By \_\_\_\_\_

Title \_\_\_\_\_

Highland County Board of Supervisors

By \_\_\_\_\_

Title \_\_\_\_\_

Page County Board of Supervisors

By \_\_\_\_\_

Title \_\_\_\_\_

Rockingham County Board of Supervisors

By \_\_\_\_\_

Title \_\_\_\_\_

City of Waynesboro, Virginia

By \_\_\_\_\_

Title \_\_\_\_\_

Clarke County Board of Supervisors

By \_\_\_\_\_

Title \_\_\_\_\_

Bath County Board of Supervisors

By \_\_\_\_\_

Title \_\_\_\_\_

City of Harrisonburg, Virginia

By \_\_\_\_\_

Title \_\_\_\_\_

City of Lexington, Virginia

By \_\_\_\_\_

Title \_\_\_\_\_

Rockbridge County Board of Supervisors

By \_\_\_\_\_

Title \_\_\_\_\_

City of Staunton, Virginia

By \_\_\_\_\_

Title \_\_\_\_\_

Frederick County Board of Supervisors

By \_\_\_\_\_

Title \_\_\_\_\_

Shenandoah County Board of Supervisors

Warren County Board of Supervisors

By \_\_\_\_\_

By \_\_\_\_\_

Title \_\_\_\_\_

Title \_\_\_\_\_

City of Winchester, Virginia

By \_\_\_\_\_

Title \_\_\_\_\_

The Shenandoah Valley Workforce Development Board at its meeting on \_\_\_\_\_, 2015 considered the duties and responsibilities outlined in this agreement and consents to perform such duties and responsibilities in accordance with this agreement.

Shenandoah Valley Workforce Development Board

By \_\_\_\_\_

Title \_\_\_\_\_

E



COUNTY OF FREDERICK

**Roderick B. Williams**  
County Attorney

540/722-8383  
Fax 540/667-0370  
E-mail [rwillia@fcva.us](mailto:rwillia@fcva.us)

**MEMORANDUM**

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

CC: Brenda G. Garton, County Administrator

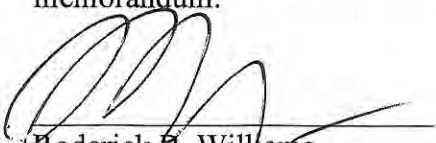
FROM: Roderick B. Williams, County Attorney

DATE: June 1, 2015

RE: Refund – RDM Hospitality LLC dba Comfort Inn

I am in receipt of the Commissioner's request, dated May 22, 2015, to authorize the Treasurer to refund RDM Hospitality LLC in the amount of \$15,342.14, for business personal property (furnishing & equipment) taxes in 2012, 2013, and 2014. This refund resulted from the taxpayer initially giving one figure in 2010 for all personal property of their motel. Upon audit an adjustment was found to be due reducing the taxpayer's original figure.

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](mailto:emurphy@co.frederick.va.us)



May 22, 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 RDM Hospitality LLC DBA: Comfort Inn

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

Please approve a refund of \$15,342.14 for business personal property (furnishings & equipment) taxes for 2012, 2013, and 2014 for RDM Hospitality LLC. Taxpayer was a non-filer who initially gave one figure in 2010 for all personal property of their motel in our area. After many attempts to get proper detailed filings, upon audit an adjustment was found to be due reducing the taxpayer's original figure to the actual. The audit also included gross receipts for lodging taxes which resulted in a balance due from the taxpayer which is not reflected in this refund request.

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 refund.

Exoneration is \$15,342.14.

Date: 5/19/15

Cash Register: COUNTY OF FREDERICK

Time: 16:50:48

Customer Name: RDM HOSPITALITY LLC

Total Transactions: 771  
Customer Transactions: 3

Options: 2=Edit 4=Delete 5=View

Opt	Dept	Trans	Ticket No.	Tax Amount	Penalty/Int	Amount Paid
-	PP2012	1	00430830001	\$7,578.92-	\$ .00	\$7,578.92-
-	PP2013	2	00435400002	\$5,823.18-	\$ .00	\$5,823.18-
-	PP2014	3	00448820001	\$1,940.04-	\$ .00	\$1,940.04-

Total Paid : \$15,342.14

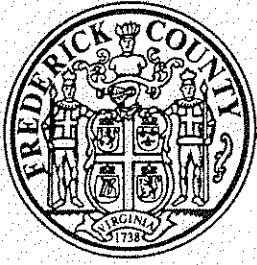
F3=Exit F14=Show Map# F15=Show Balance F18=Sort-Entered F21=CmdLine

*Needs Board Approval*



F






**Brenda G. Garton**  
County Administrator

540/665-6382

Fax 540/667-0370

E-mail: bgarton@fcva.us

**MEMORANDUM**

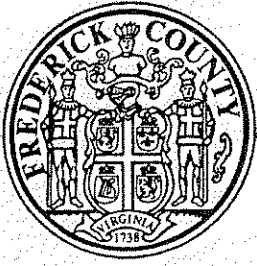
<b>TO:</b>	Board of Supervisors
<b>FROM:</b>	Brenda G. Garton, County Administrator 
<b>SUBJECT:</b>	Request for Joint Meeting with Frederick County Public Schools
<b>DATE:</b>	June 4, 2015

Staff has received a request from Frederick County Public Schools to schedule a joint meeting of the Board of Supervisors and the Frederick County School Board to discuss their capital needs and possible supplemental appropriations to address certain of those needs. If the Board so desires, staff would recommend the meeting be held on Wednesday, July 8, 2015 in the Board of Supervisors' meeting room beginning at 5:30 p.m.

Staff is seeking concurrence from the Board to hold this joint meeting.

BGG/jet

G



Brenda G. Garton  
County Administrator

540/665-6382

Fax 540/667-0370

E-mail: bgarton@fcva.us

**MEMORANDUM**

<b>TO:</b>	Board of Supervisors
<b>FROM:</b>	Brenda G. Garton, County Administrator BGG/jet
<b>SUBJECT:</b>	Merit Increases for County Employees
<b>DATE:</b>	June 5, 2015

I have been asked to review the history of raises for county employees over the past year and to make a recommendation for what percentage of merit increase to include in the FY 15-16 budget. I have reviewed the background and have discussed funding and salary issues with Director of Human Resources Paula Nofsinger, Director of Finance Cheryl Shiffler, and Assistant County Administrator Kris Tierney. **I am recommending the incorporation of an average 4% for merit increases for county employees.**

By way of background, county employees last received a merit increase effective August 1, 2014. Funds were included in the adopted budget for FY14-15 which allowed for an average of 3.2% merit increase for all county employees.

Using the services of a consultant, the county spent a considerable amount of time conducting a salary survey, which was completed during FY 14-15. As a result of recommendations from the consultant and staff, pay adjustments were made to market which impacted about half of the county staff. The purpose of such a salary survey is to ensure that your staff is compensated at levels that are consistent with the market, which helps insure fair compensation and enhances retention. School staff were not included as part of that market study.

The reasons for my recommendation of a 4% average merit increase for county employees include:

- Average pay increases for school employees is anticipated to be 5.5% for FY 15-16.
- During the Joint Finance Committee and Board of Supervisors meeting, held on

April 15, 2015, staff proposed a pay increase in the range of 4-5%, based on funds available. At that time, it was also noted that savings realized in anticipated health insurance premiums and in salary and benefits resulting from retirements both contributed to the availability of funds for merit increases.

- We have sufficient funds set aside in a contingency for this purpose to fund up to a 5% pay increase. Thus, there are certainly sufficient funds for a 4% average merit increase.
- Given that the school system employees were not included in the pay study, using a lower merit average for county employees compared to the 5.5% budgeted average for school employees gives them a chance to “catch up”.
- Approximately half of the county staff did not receive any pay adjustment due to the market survey.

I expect to have some other recommendations later regarding salary and the new salary scale adopted as a result of the market study, and would anticipate initial discussion of those recommendations with the Human Resources Committee.

As I am sure the Board members realize, the strength and capability of the county to implement programs desired by the Board and to serve the citizens of the community rests squarely on the shoulders of your staff. It is in the county's best interests to make ongoing efforts to insure that staff is well-qualified and fairly compensated. Your performance evaluations and related merit increases are part of the overall effort toward those goals.

Again, I would recommend that the Board approve an average 4% merit increase for county staff. Please keep in mind that the amount allocated to each department is then awarded to employees as pay increases which average 4%, as each individual employee's raise is related to performance as measured by an annual performance evaluation.

Making a decision to approve this recommendation at the Board's June 10 meeting will allow the merit raises to be effective July 1.

If you have any questions, please feel free to give me a call.



Н





County of Frederick

Paula A. Nofsinger  
Director of Human Resources

(540) 665-5668  
Fax: (540) 665-5669  
pnofsing@co.frederick.va.us

TO: Board of Supervisors  
FROM: Paula Nofsinger, Director of Human Resources  
DATE: June 5, 2015  
SUBJECT: Human Resources Committee Report Update

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

- 1. Update of HR Committee Report from May 27, 2015 Board of Supervisor's Meeting.**  
Supervisor Hess requested to the Board that the HR Committee Report from May be tabled until the June Board meeting in order to further discuss actions that were being recommended by the HR Committee.

The items on the report for action are still under discussion and, as a result, it is anticipated that the report will be presented at the July Board of Supervisors' meeting.

Respectfully Submitted,

**Human Resources Committee**

Robert Hess, Chairman  
Jason Ransom  
Dorrie Greene  
Beth Lewin  
Barbara Vance

By: 

Paula A. Nofsinger  
Director of Human Resources



I



Finance Department  
**Cheryl B. Shiffler**  
Director

540/665-5610  
Fax: 540/667-0370  
E-mail: cshiffle@fcva.us

**TO:** Board of Supervisors  
**FROM:** Finance Committee  
**DATE:** June 3, 2015  
**SUBJECT:** Finance Committee Report and Recommendations

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A Finance Committee meeting was held in the First Floor Conference Room at 107 North Kent Street on Wednesday, June 3, 2015 at 8:00 a.m. All members were present. (b) Items 3, 4, 5 and 6 were approved under consent agenda.

1. The Finance Director requests a funding discussion regarding the Northern Shenandoah Valley Substance Abuse Coalition requests for funding which will advance a number of initiatives addressing substance abuse, most prominently, the creation of a Drug Court. See attached application, p. 4 – 26. A consensus was met by the committee on moving forward with the FY 2016 funding request. No action required.
2. The Department of Social Services requests a net General Fund supplemental appropriation in the amount of \$325,600, of which, \$335,600 is an increase in State/Federal dollars and \$10,000 is a reduction of local funds. See attached information, p. 27 – 29. The committee recommends approval.
3. (b) The Parks and Recreation Director requests a General Fund supplemental appropriation in the amount of \$8,560 in order reimburse CLEAN, Inc. for the Third Annual Glow Run 5K registrations collected on their behalf. No local funds required. See attached memo, p. 30.

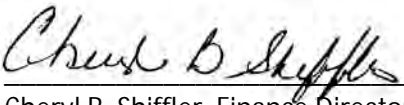
4. (b) The Sheriff requests a General Fund supplemental appropriation in the amount of \$600. This amount represents a donation to the K-9 program. No local funds required. See attached memo, p. 31.
5. (b) The Sheriff requests a General Fund supplemental appropriation in the amount of \$32. This amount represents a reimbursement for a prisoner extradition. No local funds required. See attached information, p. 32.
6. (b) The Sheriff requests a General Fund supplemental appropriation in the amount of \$3,183. This amount represents reimbursements from the Secret Service. No local funds required. See attached information, p. 33.
7. The Public Works Director requests an FY 2016 General Fund supplemental appropriation in the amount of \$27,000 in order to purchase a vehicle. See attached memo, p. 34. The committee recommends approval.
8. The Winchester Regional Airport requests an Airport Operating Fund supplemental appropriation in the amount of \$50,000 to cover anticipated cash deficit. A General Fund supplemental appropriation in the amount of \$37,550 is also required for the County portion (local funds). See attached information, p. 35 – 41. The committee recommends approval.
9. The County Attorney requests a Lake Holiday Sanitary District Fund supplemental appropriation in the amount of \$860,000 for the outstanding sanitary district taxes on 557 undeveloped lots to be acquired by Lake Holiday Country Club, Inc. See attached memo, p. 42 – 43. The committee recommends approval subject to the following:
  - a. Bond counsel accepting the arrangement,
  - b. Use of the appropriation is limited to the transaction involving the transfer of lots from Lake Holiday Land, Inc. to Lake Holiday Country Club, Inc.,
  - c. Payment of real estate taxes in full, and
  - d. Completion of all transactions by December 31, 2015.

**INFORMATION ONLY**

1. The Government Finance Officers Association (GFOA) has awarded the County the Award for Outstanding Achievement for Excellence in Financial Reporting for the June 30, 2014 Comprehensive Annual Financial Report (CAFR). This is the 29th consecutive year that Frederick County has received this achievement. See attached, p. 44 – 46.
2. At the request of the committee, the EDA Executive Director will provide an overview of final reporting mechanism by the Economic Development Authority (EDA) on Local Economic Development Incentive Grants (LEDIG) at the next Finance Committee meeting.

Respectfully submitted,

FINANCE COMMITTEE  
Charles DeHaven, Chairman  
Richard Shickle  
Judy McCann-Slaughter  
Angela Rudolph  
Gary Lofton  
Bill Ewing

By   
Cheryl B. Shiffler, Finance Director

Northern Shenandoah Valley  
Substance Abuse Coalition  
Funding Request  
For  
Frederick County

**PROPOSAL PREPARATION & PROPOSAL SUBMISSIONS**

**All applications must be completed and received, either via e-mail or by hard copy delivery, by December 8, 2014 at 5:00 p.m.**

Applications may be submitted electronically to [jplace@fcva.us](mailto:jplace@fcva.us) if the organization is able to submit the application, including required attachments, **preferably as a single electronic file** . Electronic submissions (a completed application that is signed and scanned into a single document) must be in the same format as hard copy submissions and submitted by **December 8, 2014 at 5:00 p.m.** Hard-copy submittals may be delivered by the same **December 8, 2014 at 5:00 p.m.** deadline to the address below:

Attn: Jennifer L. Place, Risk Manager/Budget Analyst  
County of Frederick, Virginia  
Finance Department  
107 North Kent Street  
Winchester, VA 22601

**A. Agency Information**

Agency Name	Northern Shenandoah Valley Substance Abuse C	Agency Email	Kevin.Sanzenbacher@winchest
Agency Address			
Agency Phone	+1 (540) 545-4701	Agency Fax	
Website	www.roadtorecovery.info	Federal Tax ID #	
Contact Person	Kevin Sanzenbacher	Job Title	Chairperson
Contact Email	Kevin.Sanzenbacher@winchesterva.gov	Contact Phone	+1 (540) 545-4701
Funding Request Amount	\$60000.00		
Signature of Authorized Individual	Rucker, Chris	<small>Digitally signed by Rucker, Chris DN: dc=nom, dc=valleyhealthlink, dc=ns, ou=Winchester, ou=VHS Non-Winchester, ou=VRE, ou=Support, cn=Rucker, Chris Date: 2015.04.27 09:41:22 -0400</small>	

\*By signing this document you agree that you are in compliance with all local, state, and federal laws.

**B. General Information. Responses may not exceed a total of two pages for all questions in this section.**

1. Mission
2. Year Founded
3. Years operating in Frederick County providing described services
4. Major agency milestones
5. Unduplicated clients/individuals served between July 1, 2013 and June 30, 2014



**FREDERICK COUNTY  
OUTSIDE AGENCY FUNDING REQUEST**

**B. General Information:**

- 1. Mission:** The mission of the Northern Shenandoah Valley Substance Abuse Coalition (NSVSAC) is to eliminate deaths resulting from heroin and opioid abuse, prevent addiction in the community through comprehensive education efforts, treat those suffering from addiction as a disease, and support the responsible enforcement of the laws of the Commonwealth to ensure public safety.
  
- 2. Year Founded:** 2014
  
- 3. Years operating in Frederick County providing described services:** 1 year.
  
- 4. Major Agency Milestones:** The NSVSAC originally formed in early 2014 as the Heroin Task Force in response to the unprecedented rise in opioid and heroin related overdoses deaths in the Northern Shenandoah Valley. In 2012, one person died from an opioid/heroin overdose in the Northern Shenandoah Valley catchment area served by the Northwest Virginia Regional Drug Task Force. In 2013, that number had risen to twenty-one (21) persons who died as a result of an opioid/heroin overdose. By the end of 2014, 33 persons had died as a result of an opioid/heroin overdose. A dedicated group of individuals representing law enforcement, Valley Health, the judicial system, local community service board, private substance abuse and mental health providers, non-profit organizations, and concerned citizens began meeting regularly to discuss ways to effectively address this public health crisis. Out of these efforts, a number of community events were held:
  - April 2014 – Summit at Shenandoah University attended by approximately 200 people representing the U.S. Attorney’s Office, Drug Enforcement Agency, Valley Health, local law enforcement, and concerned community members
  - September 2014 – An educational forum for local medical providers sponsored by Valley Health. Approximately 200 medical professionals attended the conference and

heard presentations from local law enforcement and the DEA about the opioid and heroin crisis in our community

- November 2014 – A community summit was convened at Valley Health for local decision-makers and stakeholders. This summit was held with the great assistance of Casey Family Programs and was attended by approximately 100 community leaders. The participants were presented with key data highlighting the community-wide effects of opioid and heroin addiction in our community
- March 2015 – A community forum was held at Shenandoah University. This forum was attended by approximately 125 people from the community who heard a compelling presentation from a recovering addict, were presented with the data from the November 2014 summit, and were given a presentation by a member of the Northwest Virginia Regional Drug Task Force. There was also an hour-long Q&A session that provided excellent community feedback
- April 2015 – An educational forum was held at John Handley High School entitled “Your Kids Know More Than You Do.” This forum was led Dr. Will Rushton, an emergency room physician and poison control expert. Approximately 150 people attended this forum.
- Implementation of the RX123 program through a grant awarded to CLEAN, Inc. that educates individuals receiving prescriptions on the proper use, storage and disposal of prescription medications
- Installation of Drug Take Back Boxes at the Winchester Police Department and Frederick County Sheriff’s Department through grants awarded by CVS pharmacy

5. **Unduplicated clients/individuals served between July 1, 2013 and June 30, 2014:** This information is not available.
6. **Number of households served between July 1, 2013 and June 30, 2014:** This information is not available.
7. **Number of unduplicated clients/individuals that are Frederick County residents:** This information is not available.

**C. Agency Services:**

- 1. Please provide a brief description of the services provided in Frederick County, including:**
  - a) Program activity and description**
  - b) How many years you have provided the service and client service numbers for the last three (3) years**
  - c) The achievement of target goals**

The NSVSAC has been engaged in a community-wide effort to educate and engage citizens, decision-makers and stakeholders about the opioid and heroin epidemic that is ravaging our community. The NSVSAC has been very active since April 2014 organizing and convening the community summits and forums described in the preceding section. These events have been extremely well attended and the quality of the presentations has been excellent.

**2. Please describe the method of measuring target goals.**

At the November 2014 summit, the following “Desired Future State” was adopted:

“By January 1, 2017 the Winchester, Frederick, and Clarke community will have a comprehensive coordinated approach to the prevention, treatment and adverse societal impact of addiction, as evidenced by:

- A decrease in mortality from overdoses
- A decrease in the incidence of substance exposed infants
- A decrease in the incidence of children needing social services intervention due to parental/caregiver addiction
- A decrease in the incidence of crimes attributable to addiction”

By continuing to track data in the key areas of opioid/heroin related overdose deaths, the number of substance exposed infants treated at the Winchester Medical Center, the number and cost of social services caused by parental or caregiver addiction, and the incidence of crimes attributed to addiction, the NSVSAC will be able to determine whether we are having the desired impact in these target areas.

In order to achieve the “Desired Future State,” the NSVSAC has adopted the following recommendations as “Best Practices:”

- Prevention and Education Programs

- Medical Provider Education Programs
- Drug Take-Back Programs
- Treatment/Detox Programs
- Options for the uninsured and underinsured patients
- Prescription Monitoring Programs
- Drug Treatment Courts
- Transitional care after incarceration
- Peer Recovery Network

**3. Please explain your collaborations with other agencies within Frederick County (including County Departments) who may be providing similar or related programs.**

The NSVSAC is truly a community-based organization with participation from a large number of local agencies, community mental health and substance abuse providers, Valley Health, educational institutions, non-profit organizations, and concerned citizens. The Frederick County Sheriff's Department, Commonwealth Attorney's Office, Department of Social Services and School Board have all participated in and contributed to the success of the events previously described. Moving forward, these agencies will be critical participants in the efforts to implement effective prevention and education programs, improve the delivery of substance abuse treatment services in our community, and create a regional drug treatment court that will serve the criminal justice system in the City of Winchester and Counties of Frederick and Clarke. Agencies from the City of Winchester and Clarke County have also been actively involved in the efforts of the NSVSAC, as well as regional agencies such as the Northwestern Community Services Board and Northwest Regional Drug Task Force. Valley Health has been a critical and integral partner in the efforts of the NSVSAC. The extensive collaboration of local and regional partners has made it possible for the NSVSAC to achieve the success it has to date, and will be critical for all efforts moving forward.

**4. Please explain the positive impacts your services will have on Frederick County.**

By implementing the Best Practices recommendations identified to date, the positive impacts in Frederick County will include:

- A reduction in the number of deaths of Frederick County citizens resulting from opioid and heroin overdoses
- A reduction in the harm caused to Frederick County citizens by non-fatal opioid and heroin overdoses

- A reduction in the number of substance exposed infants from Frederick County requiring treatment in the Neo-Natal Intensive Care Unit
- A reduction in the number of Frederick County children placed in foster care due to the addiction of their parents or caregivers
- A reduction in the costs of treatment necessary to enable substance addicted parents and caregivers to regain custody of their children
- A reduction in the incidents of criminal activity in Frederick County attributed to substance abuse
- A reduction in the cost to incarcerate individuals who commit criminal offenses in Frederick County due to substance abuse and addiction

**5. What changes have been made within your agency from the previous year (including the increase in clients) and what are your goals for this year? Please indicate if there have been none.**

Over the past year, the NSVSAC has moved from calling itself the Heroin Task Force, to the Addiction Action Committee, to the Northern Shenandoah Valley Substance Abuse Coalition. The reason for these changes is the realization that the current public health epidemic in our community is broader than just heroin addiction. The addiction epidemic involves the abuse of prescription medications, opioids, heroin, and many other substances. With the recent decision to call ourselves the Northern Shenandoah Valley Substance Abuse Coalition, the group intends to incorporate as a Virginia non-profit corporation and seek 501(c)(3) status from the IRS. The NSVSAC has adopted a charter document that sets out the basic structure and governance of the organization.

The NSVSAC has adopted specific goals for 2015. These goals are:

- Establish a Drug Treatment Court for Winchester, Frederick and Clarke by Jul 1, 2016
- Secure High Intensity Drug Trafficking (HIDTA) designation by the end of 2015
- Establish a medical detox unit in the region and have detox linked to community support/treatment network
- Improved utilization of the recovery community
- Expand school-based prevention programs and curriculum by the start of the 2015-16 school year

- Conduct regular monthly town hall meetings on the various components of addiction, prevention and treatment

**6. Please describe specifically how you will use Frederick County funds identifying at least three measureable goals.**

The NSVSAC intends to use the funds received from Frederick County, in combination with other funds received from the City of Winchester, Valley Health and Clarke County, to hire an Executive Director to coordinate and further the efforts of the organization. Valley Health would serve as fiscal agent for this position. The Executive Director will be an employee of Valley Health answerable to the executive committee of the NSVSAC. One of the primary initial duties of the executive director will be to plan and implement a drug treatment court that would serve the City of Winchester and counties of Frederick and Clarke. The executive director will also be responsible for implementing other best practices identified by the NSVSAC, seeking grant opportunities from various sources, and coordinating with local, regional and state agencies. A detailed description of the duties and responsibilities of this position is attached.

**7. Describe how your agency uses volunteer services.**

All work performed to date by NSVSAC has been provided by volunteers or donated as in-kind work on behalf of participating organizations. NSVSAC anticipates much of the work going forward will continue to be provided by volunteers, but will be augmented and coordinated by staff funded through this grant process.

**8. When was your last financial audit? If your organization hasn't been audited, explain why. Please provide copy of latest audit.**

NSVSAC is in the process of registering and applying for recognition as a non-profit agency; accordingly it does not have audited financial statements. In the interim, donations are being received and accounted for in the City of Winchester Police Foundation and grant applications are being submitted with Valley Health as the fiscal agent.

**9. For currently funded agencies only: What would the impact be if Frederick County eliminates its funding to your agency?**

N/A, not a currently funded agency.



**10. For currently funded agencies only: Explain how your agency uses Frederick County funding as leverage to obtain funding from other sources and what other efforts you use to obtain funding.**

N/A, not a currently funded agency.

**11. For new applicants/ applicants not currently funded only: What will the impact of receiving funding be on your agency/project?**

The NSVSAC intends to use the funds received from Frederick County, in combination with other funds received from the City of Winchester, Valley Health and Clarke County, to hire an Executive Director to coordinate and further the efforts of the organization. Valley Health would serve as fiscal agent for this position. The Executive Director will be an employee of Valley Health answerable to the executive committee of the NSVSAC. One of the primary initial duties of the executive director will be to plan and implement a drug treatment court that would serve the City of Winchester and counties of Frederick and Clarke. The executive director will also be responsible for implementing other best practices identified by the NSVSAC, seeking grant opportunities from various sources, and coordinating with local, regional and state agencies. A detailed description of the duties and responsibilities of this position is attached.

**12. For new applicants/ applicants not currently funded only: What other funding resources is your agency utilizing to fund your agency/project? Include requests that have been submitted, considered, and awarded**

In addition to funding from Frederick County, NSVSAC has received commitments for matching funding from City of Winchester and Valley Health, as well as an as yet undetermined level of funding from Clarke County. In addition to this funding request, the NSVSAC has received donations from the public, from the Casey Family Foundation, and Valley Health System.

#### **D. Financial Information**

The agency uses a fiscal year based on a calendar year (January to December)

Please see the following pages for additional financial information.

## Proposed Budget

## Northern Shenandoah Valley Substance Abuse Coalition

### Funding Sources FY 16

Frederick County	\$60,000
Winchester	\$60,000
Valley Health	\$60,000
Clarke County	\$7,500
Cash Contributions	\$5,000
	<u>\$192,500</u>

*Frederick County % of Total 31%*

### Budget

Salary	\$92,290
Benefits	\$23,995
Subtotal	<u>\$116,285</u>

### Operations

Occupancy	\$0
Telecommunications	\$1,500
Postage	\$1,000
Printing/Copying	\$3,000
Equipment	\$5,000
Travel	\$1,000
Professional Development	\$3,000
Office Supplies	\$1,500
Professional Services	\$35,000
Dues & Subscriptions	\$1,000
Other	\$24,215
	<u>\$192,500</u>

Scope of Services/  
Organizational Charter

# NORTHERN SHENANDOAH VALLEY SUBSTANCE ABUSE COALITION CHARTER

- I. **PURPOSE:** The Northern Shenandoah Valley Substance Abuse Coalition (“NSVSAC”) was formed by community organizations and concerned citizens in the City of Winchester and Counties of Clarke and Frederick in response to the growing epidemic of heroin and opioid abuse in the Northern Shenandoah Valley. The number of deaths resulting from heroin and opioid abuse has risen to an unprecedented and unacceptable number from 2011 to 2014, prompting a committed call for action from a diverse group of community stakeholders. The NSVSAC is created for the purpose of eliminating deaths resulting from heroin and opioid abuse, preventing addiction in our community through comprehensive education efforts, treating those suffering from addiction, and supporting the responsible enforcement of the laws of the Commonwealth to ensure public safety.
  
- II. **DESIRED FUTURE STATE:** The NSVSAC has adopted as its vision and desired future state the following:  
“By January 1, 2017, the Winchester and Frederick County community will have a comprehensive coordinated approach to the prevention, treatment and adverse societal impact of addiction, as evidenced by:
  - \* A decrease in mortality from overdoses;
  - \* A decrease in the incidence of substance exposed infants;
  - \* A decrease in the incidence of children needing social services intervention due to parental/caregiver addiction;
  - \* A decrease in the incidence of crimes attributable to addiction.”
  
- III. **PARTICIPANTS:** Participants with the NSVSAC shall be approved by the Executive Committee after consideration of the application of any concerned citizen or community organization. Any approved participant with the NSVSAC agrees to use his or her knowledge, experience and commitment to further the purpose of the NSVSAC. All participants shall work together in a respectful and collaborative manner to achieve the goals of the organization. The NSVSAC will develop specific

recommendations for action steps to meet the purposes of the organization and to achieve the desired future state.

- IV. **CHAIRPERSON:** The approved participants of the NSVSAC shall elect one person to serve as Chairperson of the Committee. The Chairperson shall be responsible for preparing agendas for meetings, leading meetings of the Committee, and selecting members of any sub-committees. The Chairperson shall serve for a two year term.
  
- V. **EXECUTIVE COMMITTEE:** The Executive Committee shall consist of no more than eight (8) persons appointed by the Chairperson. The specific responsibilities of the Executive Committee shall include:
  - a. Plan community meetings to educate and engage the public about the dangers, risks and consequences of addiction;
  - b. Collaborate with local government officials, business leaders, and community organizations to develop plans for implementation of the recommendations of the NSVSAC;
  - c. Direct and oversee any staff employed to implement the recommendations of the NSVSAC;
  - d. Oversee any receipts and expenditures on behalf of the NSVSAC;
  - e. Establish goals and measures for the NSVSAC and review those goals and measures to determine the progress of the efforts.
  
- VI. **STANDING COMMITTEES:** Other standing committees shall be formed to further the goals of the NSVSAC. These standing committees shall meet as necessary to complete assigned tasks and responsibilities. Currently, the established standing committees are Funding, Community Outreach and Education, and Best Practices.
  
- VII. **MEETINGS:** The NSVSAC will meet monthly, or as otherwise called by the chair, to update the members on the progress made to date, to review and revise any recommendations, and make new recommendations to meet the goals of the committee. The Executive Committee shall meet at least monthly and additionally as necessary to further the goals of the committee. Other sub-committees shall meet as necessary to further the goals of the committee.



- VIII. **REPORTS AND COMMUNICATION:** The NSVSAC will develop a plan for communication among the membership, and a plan for communication with the community. At monthly meetings, the committee will receive and review the following reports:
- a. Executive Committee
  - b. Funding
  - c. Community Outreach and Education
  - d. Best Practices
  - e. Any other standing committee formed to further the goals of the organization
- IX. **ANNUAL COMMITTEE GOALS:** The NSVSAC will establish annual goals specifying its principal work focus areas for the coming year.

## Executive Committee Members

**Northern Shenandoah Valley  
Substance Abuse Coalition  
Executive Committee**

**Chairperson**

Kevin Sanzenbacher

**Members**

Steve Cluss

Timothy Coyne

Elizabeth Kellas

Nick Restrepo

Chris Rucker

Job Description  
Executive Director

# JOB DESCRIPTION

Position No. 10-

**JOB TITLE:** EXECUTIVE DIRECTOR- Northern Shenandoah Valley Substance Abuse Coalition

**DEPARTMENT:**

**REPORTS TO:** VHS VICE PRESIDENT – AMBULATORY AND WELLNESS (Matrix to NSVSAC Chairperson)

This job description is based on an evaluation of the position at the time this description was written. This job description will change from time to time as tasks, organization and technology change. Accordingly, the employer reserves the unlimited right to revise all or any part of this job description and the essential functions of the job and to add or eliminate essential functions of any position. Designation of any job duty as an “essential function” is not intended as an assurance or guarantee that an employee has any right to perform the particular job duty, except as required by the employer.

## QUALIFICATIONS:

- 5 years of progressive leadership responsibility in a criminal justice, judicial, health, or human services organization.
- Governmental or non-profit leadership experience preferred.
- Bachelor’s degree in related field required.
- Master’s Degree highly preferred.
- Prior experience in grant writing, grant administration, community / public relations, and financial management preferred.
- Prior experience with Drug Courts preferred.

## TEMPERAMENT:

Flexible individual who is optimistic, cooperative and willing to learn. This person must have a professional positive attitude and be willing to deal with ambiguity and work productively under stress and time restraints with multiple stakeholders.

## PHYSICAL DEMANDS:

**Administrative Support Staff – Staff positions that provide administrative type of job functions that have no direct patient care duties (sedentary).**

Requires functional range of body mobility that requires moving about freely in the work place accessing and/or operating office equipment.

May require manual and finger dexterity and eye-hand coordination sufficient to assist customers and/or to handle and use machinery/tools with moving parts.

Requires sufficient hearing and eye-sight to record, prepare, discern and communicate appropriate reports.

Requires sufficient verbal communication skills to interact directly and indirectly. Able to respond and communicate to spoken words and other auditory sounds in the workplace.

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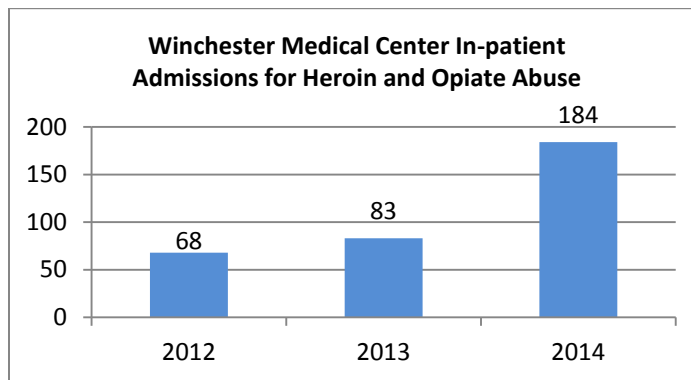
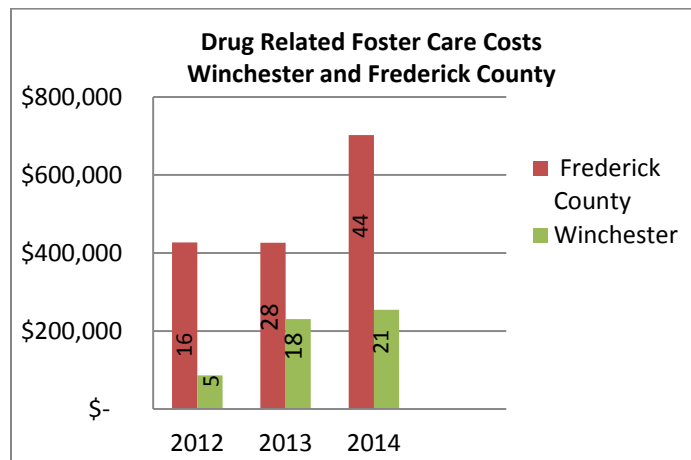
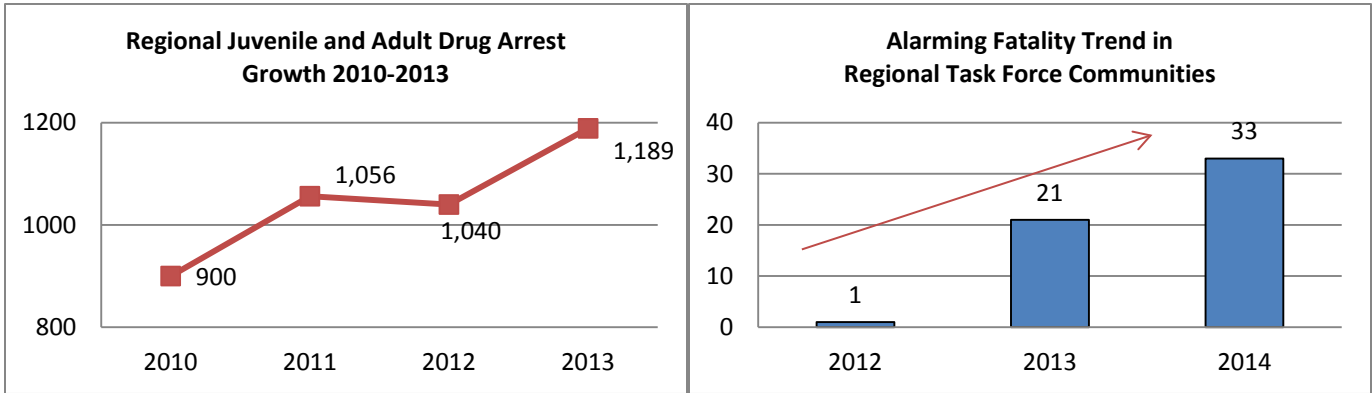
Effective Date:  
Revision Date:  
Review Date:  
Human Resources:

<p><b>Responsibility Area and Performance Standards</b> (Evaluated with team member input)</p>	<p>Performance Rating*</p>
<p>* Performance Rating Key: 1 = Does Not Meet Standards, 2 = Meets Standards, 3 = Generally Exceeds Standards, 4 = Outstanding</p>	<p>1   2   3   4</p>

<p><b>RESPONSIBILITIES:</b></p> <ul style="list-style-type: none"> <li>• Advocates for and implements plan for drug courts.</li> <li>• Serves as Drug Court Administrator once operational.</li> <li>• Interfaces with key community stakeholders in addressing community substance abuse issues.</li> <li>• Seeks and develops grant submittals</li> <li>• Develop contracts and agreements with partner organizations to build capacity, create required drug-court wraparound services, and accomplish shared goals.</li> <li>• Directs efforts to implement new community-wide programs or expansion of existing substance abuse related programs including drug court, education and prevention programs, treatment, and aftercare.</li> <li>• Serves as the healthcare / human services interface for substance abuse issues to judicial and law enforcement stakeholders.</li> <li>• Interfaces with community stakeholders and media for substance abuse related issues.</li> <li>• Develop a communication plan to update stakeholders on the progress of the initiative. Promote and educate community on initiative through awareness campaigns, public relations, community forums, town hall meetings, schools, etc.</li> <li>• Oversee and advise the planning, implementation, and tracking of the <i>Community Action Substance Abuse Initiative- Winchester, Clarke, and Frederick Counties</i>.</li> <li>• Plan and direct fund-raising campaigns.</li> <li>• Supervise project staff and volunteers affiliated with the initiative.</li> <li>• Ensure deliverables are within budget and delivered timely.</li> <li>• Develop contracts and agreements with partner organizations to build capacity and accomplish shared goals.</li> <li>• Identify internal and external stakeholders and cultivate positive relationships at the community, county, and state levels.</li> <li>• Determine the objectives and measures upon which projects will be evaluated.</li> <li>• Define the scope of work and detailed work plan with management, including short/long-term goals, measures, deliverables, time, and sequence of activities.</li> </ul>				
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# Addiction Fact Sheet





**Substance Exposed Infants in Neonatal ICU 2012-2014:**

34 infants  
 Average Length of Stay = 27.9 days  
 Average Cost of Stay = \$46,608 per infant  
*vs. non-substance exposed infants:*  
 Average Length of Stay = 2 days  
 Average Cost of Stay = \$5000 per infant

**Cost of ORTP Program at NWRADC (Jan 2012 – Oct 2014):**

888 inmates with a 50% graduation rate x 90 days x \$81/day = \$3,236,760

In 2012, one person died from an opioid/heroin overdose in the Northern Shenandoah Valley catchment area served by the Northwest Virginia Regional Drug Task Force. In 2013, that number had risen to twenty-one (21) persons who died as a result of an opioid/heroin overdose. By the end of 2014, 33 persons had died as a result of an opioid/heroin overdose.

Concerned by this unprecedented and tragic rise in the loss of life, a committed and diverse group of community stakeholders began meeting and formed the Addiction Action Committee. This committee was created for the purpose of eliminating deaths resulting from heroin and opioid abuse, preventing addiction in the community through comprehensive education efforts, treating those suffering from addiction as a disease, and supporting the responsible enforcement of the laws of the Commonwealth to ensure public safety.

In November 2014, the Addiction Action Committee sponsored a community summit that was attended by nearly 100 stakeholders, decision-makers and concerned citizens. At that summit, the following “Desired Future State” was adopted:

“By January 1, 2017 the Winchester, Frederick, and Clarke community will have a comprehensive coordinated approach to the prevention, treatment and adverse societal impact of addiction, as evidenced by:

- A decrease in mortality from overdoses
- A decrease in the incidence of substance exposed infants
- A decrease in the incidence of children needing social services intervention due to parental/caregiver addiction
- A decrease in the incidence of crimes attributable to addiction”

In order to achieve that “Desired Future State,” the Addiction Action Committee has adopted the following recommendations as “Best Practices:”

- Prevention and Education Programs
- Medical Provider Education Programs
- Drug Take-Back Programs
- Treatment/Detox Programs
- Options for the uninsured and underinsured patients
- Prescription Monitoring Programs
- Drug Treatment Courts
- Transitional care after incarceration
- Peer Recovery Network

# Memo

**To:** Finance Committee/Cheryl Shiffler

**From:** Delsie D. Jobe

**CC:**

**Date:** May 27, 2015

**Re:** Appropriation adjustments

---

The attached spreadsheet contains twenty-two (22) budget lines that need to be adjusted in order to bring our County budget in line with our State budget.

Of that twenty-two, one (1) program needs to be reduced by a total of \$50,000, of which **\$10,000** is a **reduction** in Local dollars. This program had a decrease in caseload in FY 2015. Five (5) other program budget lines need to be increased by a total of \$375,600. Three of these budget lines are State mandated programs and we spent our initial allocation and the State gave us additional funding. The net of these adjustments results in an **increase** of **\$325,600** of Federal/State dollars.

The remaining sixteen (16) adjustments were to our Administrative budget lines and those adjustments were only to absorb negative amounts in certain operating line items, salary raises and alignments, new staff, and building renovations. The net of these adjustments are \$0.00 as we were able to absorb these negatives due to Health insurance savings, VRS, vehicle repairs, and motor vehicles.

**No** additional local dollars is needed.

Thank you for your consideration.

  
Delsie D. Jobe

Administrative Services Manager

## 2014-2015 BUDGET INFORMATION - REVISED BUDGET

DEPARTMENT: Frederick Co. DSS - Administration

EXPENDITURE LINE ITEM	DESCRIPTION	Approved Budget	NEW Adjusted Budget	Difference
1001	Salaries & Wages	2,722,053	2,752,053	(30,000)
1005	Extra help/overtime	29,700	32,700	(3,000)
1006	Compensation of Board members	4,800	4,800	-
2001	FICA	210,482	210,482	-
2002	VRS	295,480	289,580	5,900
2005	Health	602,127	540,127	62,000
2006	Group Life Insurance	30,871	31,871	(1,000)
2008	Short/Long Term Disability	1,101	3,601	(2,500)
2009	Unemployment Insurance	10,000	10,000	-
2011	Workers Comp	10,186	10,186	-
3002	Contract Services - Legal	86,000	90,000	(4,000)
3005	Maintenance Service Contracts	15,500	17,500	(2,000)
3007	Advertisement	1,500	2,400	(900)
3010	Contract Services - Not Legal	70,900	85,900	(15,000)
4002	Gasoline/Repairs - Vehicles	33,200	21,700	11,500
5201	Postage	27,000	30,200	(3,200)
5202	Telecommunications	15,000	34,000	(19,000)
5300	Insurance	8,000	8,000	-
5401	Office Supplies	70,200	70,200	-
5505	Training	3,000	3,000	-
5506	Travel	5,000	5,000	-
5600	Contribution Shelter for Abused Women	6,000	6,000	-
5801	Dues & Association Memberships	1,200	2,000	(800)
8005	Motor Vehicles	25,000	17,800	7,200
8007	Integrated Tech Equipment	-	5,200	(5,200)
9001	Lease/Rent of Equipment	11,000	11,000	-
9002	Lease/Rent of Building	275,000	275,000	-
	<b>TOTALS</b>	<b>4,570,300</b>	<b>4,570,300</b>	<b>-</b>

## 2014-2015 BUDGET INFORMATION - FINAL REVISED BUDGET

DEPARTMENT: Frederick Co. DSS - Public Assistance

DEPARTMENT CODE: '053170

EXPENDITURE LINE ITEM	DESCRIPTION	Approved Budget	New Adjusted Budget	Difference	Local match
5804	Auxiliary Grant	141,000	91,000	50,000	10,000
5808	Tanf Manual checks	600	600	0	
5811	AFDC - Foster Care	270,000	335,000	(65,000)	-
5812	Adoption Subsidy	480,000	625,000	(145,000)	-
5813	General Relief	10,000	10,000	0	
5817	Special Needs Adoption	270,000	430,000	(160,000)	-
5819	Refugee Resettlement	-	-	0	
5829	Family Preservation	6,753	9,353	(2,600)	-
5833	Adult Services	76,996	76,996	0	
5848	TANF-UP Manual Checks	400	400	0	
5861	ILF Education/Training	4,600	4,600	0	
5862	Independent Living - BASIC	5,732	5,732	0	
5864	Foster Parent Respite Care	3,500	3,500	0	
5866	Promoting Safe and Stable	33,537	33,537	0	
5872	VIEW Purchase Service	110,000	110,000	0	
5873	Foster Parent Training - Local	30,000	30,000	0	
5890	Quality Initiative Child Care	11,000	11,000	0	
5895-000	Adult Protective Services	8,967	11,967	(3,000)	-
<b>Total</b>		<b>1,463,085</b>	<b>1,788,685</b>	<b>(325,600)</b>	<b>10,000</b>



COUNTY of FREDERICK

Parks and Recreation Department  
540-665-5678  
FAX: 540-665-9687  
www.fcprd.net  
e-mail: fcprd@fcva.us

FREDERICK COUNTY

MAY 19 2015

FINANCE DEPARTMENT

# MEMO

**TO:** Finance Committee  
**FROM:** Jason Robertson  
Director, Parks and Recreation  
**SUBJ:** GLOW Run 5k  
**DATE:** May 19, 2015

CLEAN, Inc. recently held its Third Annual Glow Run 5k. This race is a fund raiser for CLEAN, Inc. This year Frederick County Parks and Recreation (FCPRD) provided pre-race day registration for this event. FCPRD is requesting \$8,560 be transferred from revenue code 1613-08 to expenditure code 7104-3010-00 for an \$ 8,560 check payable to CLEAN, Inc.

# FREDERICK COUNTY SHERIFF'S OFFICE



ROBERT T. WILLIAMSON  
Sheriff

MAJOR C.L. VANMETER  
Chief Deputy

1080 COVERSTONE DRIVE  
WINCHESTER, VIRGINIA 22602

540/662-6168  
FAX 540/504-6400

FREDERICK COUNTY  
MAY 08 2015  
FINANCE DEPARTMENT  
**COPY**

TO : Angela Whitacre, Treasurer's Office  
FROM : Sheriff R. T. Williamson *RTW*  
SUBJECT : Donation to K-9 Program  
DATE : May 7, 2015

Attached please find a check in the amount of \$600.00 from the Shawquon Ruritan Club. This amount represents a donation to our K-9 program for the purchase of equipment for the dogs.

Please post this amount to 10CR 3-010-018990-0006. A copy of this memo will be sent to the Finance Department requesting appropriation into our budget.

Thank you.

RTW/asw

Attachment

*C.S. 5/13/15*

Cc: Finance – please appropriate into 3102-5402-000-001

SHAWQUON RURITAN CLUB 43-1591643, 01/69  
PH. 540-868-9456  
5048 BARLEY DRIVE  
STEPHENS CITY, VA 22655

68-426/514

4-20-15 Date

Pay to the Order of Frederick County Sheriff \$ 600<sup>00</sup>  
Six hundred ~~XX~~ Dollars

BB&T BRANCH BANKING AND TRUST COMPANY  
1-800-BANK BBT BBT.com

For K9 Program

*[Signature]*

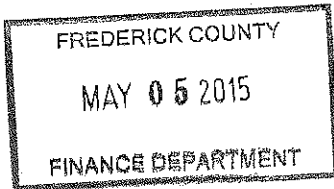


# Frederick County Sheriff's Office

ROBERT T. WILLIAMSON  
Sheriff



MAJOR C.L. VANMETER  
Chief Deputy



1080 Coverstone Drive  
Winchester, Virginia 22602

(540) 662-6168  
Fax (540) 504-6400

**COPY**

TO : Angela Whitacre, Treasurer's Office  
FROM : Sheriff R. T. Williamson *RTW*  
SUBJECT : Reimbursement – Extradition  
DATE : May 4, 2015

---

Attached please find a check in the amount of \$32.00 from Commonwealth of Virginia – Circuit Courts. This amount represents reimbursement for an extradition our agency conducted. Please post this amount to 10FL 3010-019110-0058.

A copy of this memo will be sent to Finance requesting appropriation.

Thank you.

RTW/asw

Attachment

Cc: Finance: appropriation; 3102-5506-000-001



# Frederick County Sheriff's Office

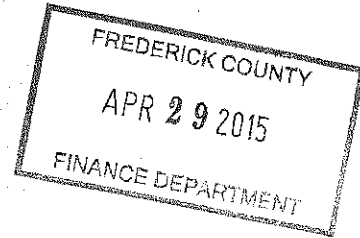


ROBERT T. WILLIAMSON  
Sheriff

MAJOR C.L. VANMETER  
Chief Deputy

1080 Coverstone Drive  
Winchester, Virginia 22602

(540) 662-6168  
Fax (540) 504-6400



TO : Finance  
FROM : Sheriff R. T. Williamson *RTW*  
SUBJECT : Reimbursements – Secret Service  
DATE : April 27, 2015

---

We are requesting the reimbursements received from the Secret Service and posted to the following revenue lines be appropriated into our operating budget:

3-010-033010-00025 <sup>\$659</sup> \$625.00 appropriated into 3102-5409-000-000 C.S. 2-12-2015  
3-010-019110-0058 \$1924.00 and \$600.00 appropriated into 3102-5401-000-000 C.S. 4-1-2015  
C.S. 3-24-2015

Thank you.

*per aigie:*  
Criminal Investigations → Computer software + equipment

RTW/asw



MEMORANDUM

TO: Cheryl B. Shiffler, Director of Finance

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

SUBJECT: Purchase of New Vehicle for Inspections

DATE: May 8, 2015

---

In their regularly scheduled meeting on April 28, 2015 the public works committee unanimously endorsed a request from the building official to purchase an additional vehicle in the current fiscal year budget. This request is an addition to the approval of the interim county administrator to purchase one (1) vehicle in the current fiscal year budget. The additional purchase fulfills the department's original request to obtain two (2) vehicles in next fiscal year's budget. The latter request was cut from the Fiscal Year 2015/2016 budget.

The committee concurred that the approximately \$300,000 increase in revenue above the budget projection is more than adequate justification for the purchase of the additional vehicle. Consequently, staff is requesting a supplemental appropriation of \$27,000 which is approximately equal to the amount that has already been approved for the purchase of the other vehicle.

HES/rls


cc: file



## WINCHESTER REGIONAL AIRPORT

491 AIRPORT ROAD  
WINCHESTER, VIRGINIA 22602  
(540) 662-5786

### Memo

**To:** Cheryl Shiffler, Finance Director, Frederick County  
**CC:** Brenda G. Garton, Administrator, Frederick County  
Gene Fisher, Frederick County Board of Supervisors  
Mary Blowe, Finance Director, City of Winchester  
**From:** Renny Manuel, Director, Winchester Regional Airport   
**Date:** May 28, 2015  
**Re:** Supplemental Revenue Request – Operating Fund Contribution

---

On behalf of the Winchester Regional Airport Authority I respectfully request a revenue supplemental appropriation from the County of Frederick and the City of Winchester for the Airport Operating Fund in the amount of \$50,000 to cover anticipated expenses through current year ending June 30, 2015 to cover anticipated cash deficit in the general fund.

Based on budget estimates revenues generated from the sale of aviation fuel would equal approximately 73% of the total revenue budget. Revenue from the sale of fuel is based on estimated number of gallons to be sold as far out as 18 months. For fiscal year FY 2015 the budget number was estimated at 201,000 gallons unfortunately fuel sales have continued to decline and we anticipate a revenue shortfall creating a cash deficit at year end. Based on estimated year end revenues and expenditures, we have reduced the anticipated number of gallons for the months of May and June. The revenue chart included with this document shows that the sale of fuel would only be generating approximately 62% of the total budget revenues.

Estimated expenses and revenues through June 30, 2015 are depicted on the attached sheets. Purchase and sale of fuel is based on one load of Jet-A fuel approximately 7,500 gallons and no additional AVGAS utilizing current inventory. We have dropped the minimum levels of fuel inventory to maintain on hand in an effort to reduce costs. I have included a chart showing the history of fuel gallons sold over the past several years.

The airport generates a higher profit margin on Jet-A fuel than AVGAS and with the loss of based turbine aircraft from this and prior years and a continued decline in corporate and business aviation traffic, we are selling less than what was projected in the FY 2015 budget. We have attempted to hold down operating costs and balance the upkeep and minimum maintenance required to operate the facility. The continued support and financial assistance provided by the County of Frederick and the City of Winchester is critical and invaluable in helping to maintain and operate the Winchester Regional Airport.

Thank you for your continued support and assistance. If you require additional information or have any questions, please do not hesitate to contact me.

**Winchester Regional  
Airport  
Fuel Gallons Sold**

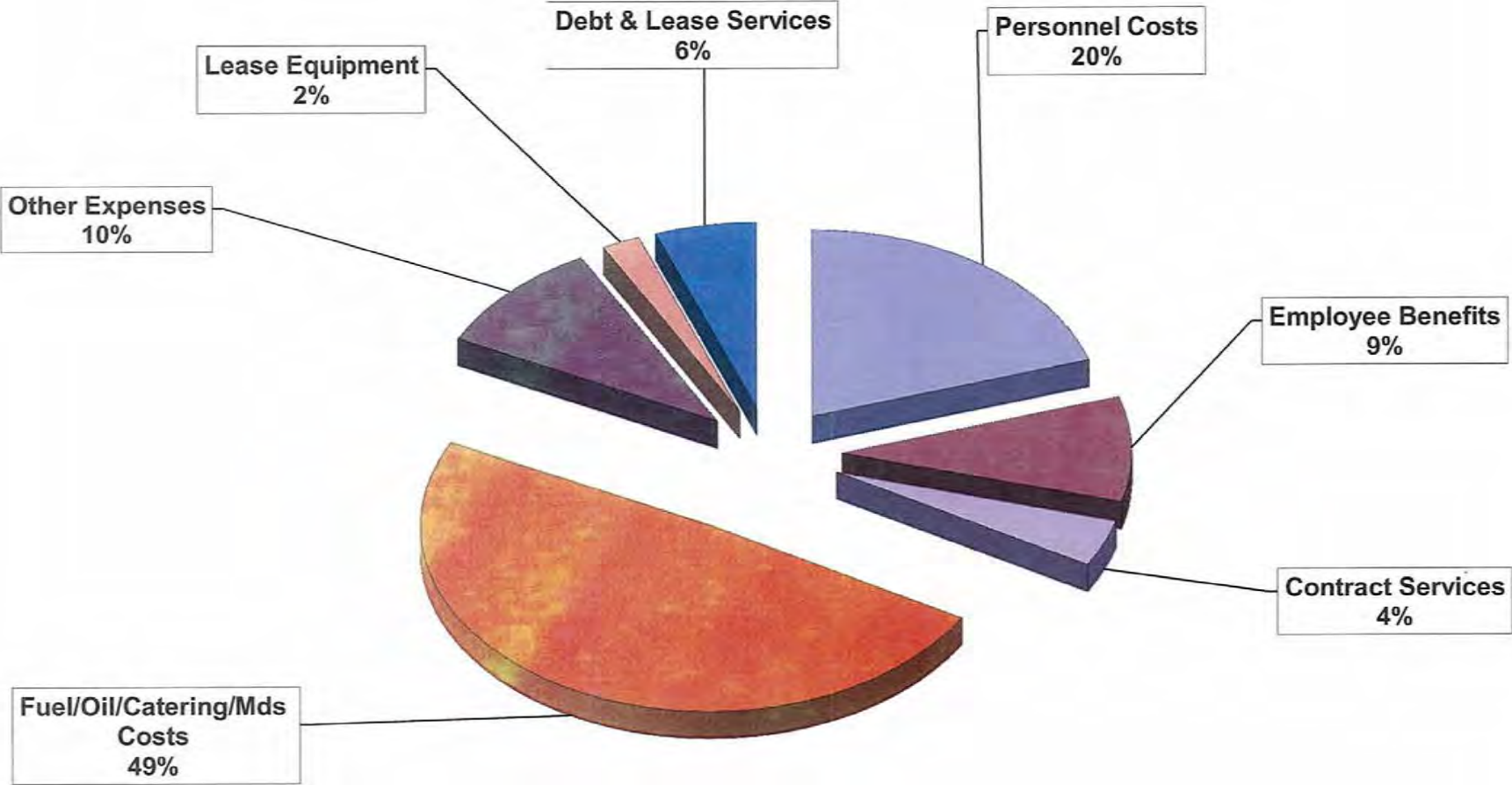
GALLONS OF TOTAL PRODUCT SOLD															Increase/ (Decrease) Over Prior Year	
Fiscal Year	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	Over/ (Short)
July	23,509	28,082	29,067	29,004	32,148	39,991	44,406	52,458	42,724	29,277	31,814	36,654	18,673	19,778	15,431	(4,347)
August	26,762	27,600	31,600	30,703	32,205	49,471	44,298	53,349	36,611	26,159	24,324	34,261	19,755	17,900	15,552	(2,348)
September	26,767	27,763	31,584	31,070	32,730	47,833	40,415	41,111	36,983	29,081	27,575	6,733	19,177	20,136	20,680	545
October	34,004	35,891	35,137	44,219	42,898	49,156	48,472	54,712	40,344	36,999	32,623	5,658	17,645	20,085	21,535	1,450
November	21,332	36,267	28,229	36,589	32,256	37,899	40,906	44,937	28,282	26,294	26,193	4,599	25,527	13,361	12,474	(888)
December	11,139	21,518	22,104	25,514	34,088	32,217	34,816	30,299	24,216	23,396	19,468	9,701	17,367	11,706	9,372	(2,334)
January	18,199	24,778	19,881	26,933	34,354	33,370	36,369	25,001	20,456	21,370	23,108	16,610	21,208	10,443	7,351	(3,093)
February	17,036	29,183	16,372	36,979	39,873	41,432	30,564	28,430	18,250	15,900	23,091	19,477	11,316	8,987	7,587	(1,400)
March	25,421	25,862	24,803	52,501	48,839	55,044	30,069	25,002	28,433	23,362	29,594	17,122	13,238	12,287	6,922	(5,365)
April	23,431	24,297	30,834	46,511	56,674	53,708	32,760	34,396	29,187	31,277	23,299	16,214	14,214	13,910	13,692	(218)
May	27,861	31,703	26,609	40,725	43,364	51,963	45,042	39,383	26,908	31,700	29,507	28,509	21,282	13,669		
June	27,196	31,353	25,836	47,148	53,309	50,846	40,219	38,584	35,972	34,248	30,783	21,605	19,214	18,127		
<b>Total</b>	<b>282,657</b>	<b>344,297</b>	<b>322,055</b>	<b>447,894</b>	<b>482,738</b>	<b>542,931</b>	<b>468,336</b>	<b>467,661</b>	<b>368,366</b>	<b>329,063</b>	<b>321,378</b>	<b>217,142</b>	<b>218,618</b>	<b>180,388</b>	<b>130,595</b>	<b>(17,998)</b>

9

BREAKDOWN BY FUEL TYPE - GALLONS ONLY																				
Fiscal Year	FY 2008		FY 2009		FY 2010		FY 2011		FY 2012		FY 2013		FY 2014		FY 2015		Increase/(Decrease)		AVGAS	
	Jet-A	Avgas	Jet-A	Avgas	Jet-A	Avgas	Jet-A	Avgas	Jet-A	Avgas	Jet-A	Avgas	Jet-A	Avgas	Jet-A	Avgas	Jet-A	Avgas	TRUCK	SARA
July	40,729	11,729	33,940	8,784	20,896	8,381	23,974	7,840	29,620	7,034	13,227	5,446	14,211	5,567	10,055	5,376	(4,156)	(191)	2,344	3,032
August	42,553	10,796	28,650	7,961	17,810	8,349	15,974	8,350	28,547	5,714	13,919	5,836	13,172	4,728	9,768	5,784	(3,404)	1,056	3,153	2,631
September	27,033	14,078	29,983	7,000	23,054	6,027	20,674	6,901	5,013	1,720	13,529	5,648	12,525	7,611	14,310	6,370	1,785	(1,241)	3,489	2,881
October	43,307	11,405	30,879	9,465	29,528	7,471	23,795	8,828	3,162	2,496	11,602	6,043	13,605	6,480	16,647	4,888	3,042	(1,592)	2,525	2,363
November	37,402	7,535	23,637	4,645	20,924	5,370	18,459	7,734	2,374	2,225	18,795	6,732	9,002	4,359	8,970	3,504	(32)	(856)	1,917	1,586
December	26,948	3,351	20,456	3,760	19,562	3,834	14,455	5,013	7,605	2,096	14,273	3,094	8,751	2,955	6,174	3,198	(2,577)	243	1,787	1,410
January	19,851	5,150	16,692	3,764	17,365	4,005	19,156	3,952	13,661	2,949	17,876	3,332	8,348	2,095	5,436	1,915	(2,912)	(181)	997	918
February	24,057	4,373	14,205	4,045	13,397	2,503	18,794	4,297	16,482	2,995	9,341	1,975	6,063	2,924	5,543	2,044	(520)	(880)	1,332	713
March	18,723	6,279	21,670	6,763	17,077	8,285	22,797	6,797	13,285	3,837	9,293	3,945	9,523	2,764	4,555	2,367	(4,968)	(397)	1,351	1,016
April	27,810	6,586	23,724	5,463	24,812	6,665	18,591	4,708	12,039	4,175	9,821	4,393	8,757	5,153	8,498	5,194	(259)	41	2,807	2,388
May	31,346	8,037	20,546	6,362	24,932	6,768	24,154	5,353	22,495	6,014	16,227	5,055	8,749	4,920						2,537
June	31,002	7,582	28,144	7,828	26,398	7,850	23,656	7,127	15,558	6,047	13,245	5,969	11,976	6,151						
<b>Total</b>	<b>370,761</b>	<b>96,900</b>	<b>292,526</b>	<b>75,840</b>	<b>255,555</b>	<b>73,507</b>	<b>244,479</b>	<b>76,899</b>	<b>169,841</b>	<b>47,301</b>	<b>161,148</b>	<b>57,470</b>	<b>124,682</b>	<b>55,706</b>	<b>89,956</b>	<b>40,639</b>	<b>(14,001)</b>	<b>(3,997)</b>	<b>21,702</b>	<b>21,474</b>



# FY 2015 BUDGET REQUEST - OPERATING EXPENDITURES



## FUND #-017 AIRPORT AUTHORITY FUND

		FY 15 Dept	Estimated	(Short)/
		APPROVED	End of Year	Unexpended
			Expenses	Bal
081090	AIRPORT AUTHORITY			
	PERSONAL SERVICES			
081090-1001-000-001	EXECUTIVE DIRECTOR/MANAGER	85,776	93,350	(7,574)
081090-1001-000-036	ADMINISTRATIVE ASSISTANT	0	0	0
081090-1001-000-037	CUSTOMER SERV.REP.I	32,409	33,327	(918)
081090-1001-000-038	FACILITY MAINT.TECH.	32,406	35,488	(3,081)
081090-1001-000-039	FACILITY MAINTENANCE TECH.	28,705	31,230	(2,525)
081090-1001-000-040	FLIGHT LINE TECH	33,737	36,243	(2,506)
081090-1001-000-041	FLIGHT LINE TECH.	29,524	31,679	(2,155)
081090-1001-000-042	AIRPORT LABORER			0
081090-1001-000-071	OPERATIONS SUPV.	51,705	57,519	(5,814)
081090-1001-000-072	CUSTOMER SERV. REP I	24,011	25,253	(1,241)
081090-1001-000-073	FLIGHT LINE TECH	40,948	44,436	(3,488)
081090-1001-000-074	ACCOUNT CLERK II	29,439	31,820	(2,380)
081090-1001-000-075	FLIGHT LINE TECH.	32,412	33,376	(965)
081090-1003-000-000	PART-TIME SALARIES AND WAGES	0	0	0
081090-1005-000-000	OVERTIME	29,497	29,497	0
081090-1009-000-000	MERIT RESERVE	0	0	0
	PERSONAL SERVICES	450,571	483,217	(32,646)
081090-2001-000-000	F.I.C.A.	34,468	36,966	(2,498)
081090-2002-000-000	V.R.S.	47,960	51,522	(3,562)
081090-2005-000-000	HOSPITAL/MEDICAL PLANS	100,323	100,323	0
081090-2006-000-000	GROUP INSURANCE	5,011	5,399	(388)
081090-2011-000-000	WORKER'S COMPENSATION	16,311	17,548	(1,237)
081090-2015-000-000	UNEMPLOYMENT BENEFITS			
	EMPLOYEE BENEFITS	204,073	211,759	(7,686)
081090-3002-000-000	PROFESSIONAL SERVICES	23,560	23,558	2
081090-3004-000-001	REPAIR & MAINTENANCE EQUIP.	10,065	2,694	7,371
081090-3004-000-002	STATE F&E REPAIRS	0	0	0
081090-3004-000-003	REPAIR & MAINTENANCE BLDG.&G	12,900	12,522	378
081090-3005-000-000	MAINTENANCE SERVICE CONTRACT	7,500	6,431	1,069
081090-3005-000-001	<b>STATE FUNDED MAINTENANCE CONTRACTS</b>	6,500	3,140	3,360
081090-3007-000-000	ADVERTISING	500	0	500
081090-3010-000-000	OTHER CONTRACTUAL SERVICES	29,012	29,012	0
	PURCHASED SERVICES	90,037	77,357	12,680
081090-4003-000-001	CENTRAL STORES-COPIES	0		0
	INTERNAL SERVICES	0	0	0
081090-5101-000-000	ELECTRICAL SERVICES	68,000	67,259	741
081090-5102-000-000	HEATING SERVICES	9,600	9,018	582
081090-5103-000-000	WATER & SEWAGE SERVICES	3,100	3,042	58
081090-5204-000-001	POSTAGE	500	150	350
081090-5204-000-002	TELEPHONE	7,250	7,248	2
081090-5302-000-000	FIRE INSURANCE	12,035	12,035	0
081090-5305-000-000	MOTOR VEHICLE INSURANCE	6,084	6,084	0
081090-5307-000-000	PUBLIC OFFICIALS LIABILITY I	600	516	84
081090-5308-000-000	GENERAL LIABILITY INSURANCE	18,966	18,542	424
081090-5401-000-000	OFFICE SUPPLIES	5,000	2,183	2,817
081090-5405-000-000	JANITORIAL SUPPLIES	2,000	1,246	754
081090-5407-000-000	REPAIR AND MAINTENANCE SUPPL	10,960	6,028	4,932



## FUND #-017 AIRPORT AUTHORITY FUND

		FY 15 Dept APPROVED	Estimated End of Year Expenses	(Short)/ Unexpended Bal
081090-5407-000-001	STATE - PARTS AND SUPPLIES	7,000	1,943	5,057
081090-5408-000-000	VEHICLE AND POWERED EQUIP SU	15,050	6,260	8,790
081090-5408-000-001	VEHICLE GAS-AIRPORT USE	20,000	20,000	0
081090-5410-000-000	UNIFORMS	2,500	0	2,500
081090-5413-000-000	OTHER OPERATING SUPPLIES	4,440	1,855	2,585
081090-5413-000-001	LINE SERVICE EQUIPMENT	2,000	643	1,357
081090-5413-000-002	SECURITY MATERIALS & SUPPLIE	6,000	949	5,051
081090-5414-000-000	MERCHANDISE FOR RESALE	1,094,654	489,371	605,283
081090-5415-000-000	OTHER EXPENSE-CREDIT CARD FE			0
081090-5506-000-000	TRAVEL	2,200	2,193	7
081090-5714-000-000	INSURANCE DEDUCT.			0
081090-5715-000-000	PROMOTIONAL FUND	3,078	848	2,230
081090-5801-000-000	DUES & MEMBERSHIP	1,500	924	576
081090-5804-000-000	TAXES-FED.EXCISE & STATE	500	42	458
081090-5806-000-000	SNOW REMOVAL CONTINGENCY	11,000	6,862	4,138
081090-5810-000-000	PAYMENT OF UNEMPLOYMENT CLAI			0
	OTHER CHARGES	1,314,017	665,240	648,777
081090-8001-000-000	MACHINERY AND EQUIPMENT			0
081090-8002-000-000	FURNITURE AND FIXTURES			0
081090-8002-000-001	LEASE BUILDING/CITY			0
081090-8002-000-002	PRINCIPAL/INTEREST-HANGER			0
081090-8002-000-003	LEASE - GOODMAN HANGER			0
081090-8003-000-000	COMMUNICATIONS EQUIPMENT			0
081090-8007-000-000	INTEGRATED TECHNOLOGY EQUIPM			0
	CAPITAL OUTLAY	0	0	0
081090-9001-000-000	LEASE/RENT OF EQUIPMENT	47,600	20,278	27,322
081090-9002-000-000	LEASE/RENT OF BUILDING			0
081090-9002-000-002	PRINCIPAL/INTEREST-HANGER			0
081090-9002-000-003	PRINCIPAL/INTEREST VRA LOAN			0
081090-9003-000-000	LEASE/LAND NBD			0
081090-9101-000-000	PAYMENT OF LOANS	126,400	126,400	(0)
	OTHER USES OF FUNDS-	174,000	146,677	27,322
	SUB TOTAL	2,232,697	1,584,250	648,448
	TOTAL	2,232,697	1,584,250	648,448
092010-5880-000-000	TRANSFER TO AIRPORT CAPITAL			0
	OTHER CHARGES	0		0
093010-5807-000-001	MERIT RESERVE			0
093010-5807-000-002	MERIT RESERVE FRINGES			0
	OTHER CHARGES	0	0	0
	SUB TOTAL	0	0	0
	TOTAL	0		0
TOTAL FOR FUND		2,232,697	1,584,250	648,448

**FY 2015 BUDGET REQUEST - OPERATING REVENUES**

**WINCHESTER REGIONAL AIRPORT**

**DEPARTMENT CODE 017**

**\*\*Amended request based on adjusted population data**

REVENUE LINE ITEM	FUNDING SOURCES	SOURCE OF FUNDS				TOTAL
		SVC-GENERATED/ OTHER REVENUE	STATE	FEDERAL	PROVIDED FROM LOCAL SOURCES	
	SALE JET-A FUEL	566,731				566,731
	SALE AVGAS FUEL	333,247				333,247
	FET - JET FUEL REFUND	4,100				4,100
	CREDIT CARD HANDLING FEE	(20,059)				(20,059)
	SALE OIL	500				500
	SALE MERCHANDISE	500				500
	SALE CATERING	0				0
	SALE DEICING CHEMICALS	0				0
	RENT - MONTHLY TIEDOWN	24,565				24,565
	RENT - METAL T-HANGARS	248,040				248,040
	RENT - CLEARSPAN HANGAR	72,000				72,000
	RENT - FBO BLDG 1st FLOOR OFFICES	24,960				24,960
	RENT - FBO BUILDING SECOND FLOOR	18,500				18,500
	RENT - FBO BLDG - HANGAR SPACE	37,812				37,812
	LAND LEASES	49,048				49,048
	FUEL FLOW FEE	14,000				14,000
	OVERNIGHT PARKING FEE	4,600				4,600
	FLIGHT LINE LABOR	1,000				1,000
	CONFERENCE ROOM FEES	0				0
	CARGO/PART 135 TRANSIENT FEE	10,940				10,940
	FORKLIFT FEES	800				800
	GPU/LAV CART SERVICES	2,450				2,450
	MISC REVENUE	3,900				3,900
	UTILITIES REIMBURSEMENT	8,000				8,000
	AFTER HOURS FEE	0				0
	A/R LATE CHARGES	325				325
	STATE SALES TAX	42				42
	STATE REIMBURSABLE REPAIRS		4,406			4,406
	STATE REIMBURSABLE PROMOTIONAL		425			425
	STATE REIMBURSABLE SECURITY		0			0
						0
	<b>FREDERICK COUNTY - PAID</b>				<b>53,161</b>	<b>53,161</b>
	<b>WINCHESTER - PAID</b>				<b>17,649</b>	<b>17,649</b>
	<b>TOTAL</b>	<b>1,406,003</b>	<b>4,831</b>		<b>70,810</b>	<b>1,481,643</b>

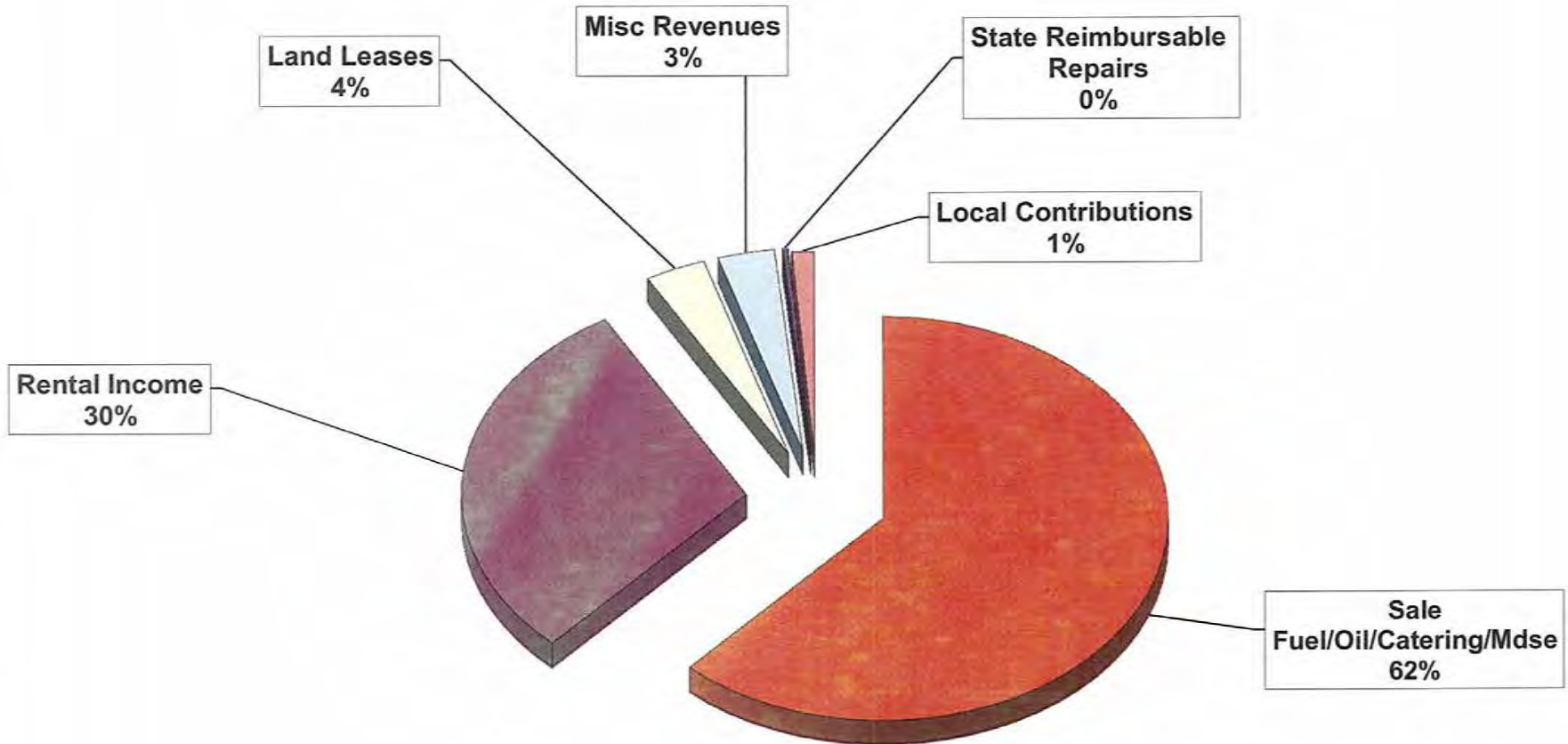
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<b>**Based on Weldon Cooper Center population estimate for 2013 published on 01/27/2014</b>		<b>FY 15 BUDGET</b>	
		<b>Supplemental</b>	
26,961	CITY OF WINCHESTER	24.9%	<b>10,878</b>
81,207	COUNTY OF FREDERICK	75.1%	<b>32,809</b>
<u>108,168</u>			

6/30/2014 Beg Cash	<u><b>58,919</b></u>
ESTIMATED YR END	<u><b>-1,584,250</b></u>
<b>(SHORT)/OVER</b>	<u><b>(43,688)</b></u>



# FY 2015 BUDGET REQUEST - OPERATING REVENUES





COUNTY OF FREDERICK

**Roderick B. Williams**  
County Attorney

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

## MEMORANDUM

TO: Finance Committee

FROM: Roderick B. Williams  
County Attorney

DATE: May 28, 2015

RE: Lake Holiday Sanitary District – Requested Appropriation Relative to Prospective Purchase of Open Space Lots by Lake Holiday Country Club, Inc.

Request is made for an appropriation of \$860,000.00 from Lake Holiday Sanitary District funds, for the purpose of facilitating the acquisition by Lake Holiday Country Club, Inc. (LHCC) (as the automatic membership association/property owners' association for the Lake Holiday subdivision) of 557 undeveloped lots in the subdivision, as true open space. Specifically, the appropriation would be available to permit LHCC, upon acquisition of the lots, to pay the outstanding sanitary district taxes on the lots. Given the particulars of the contemplated transaction, as the appropriation would ultimately be repaid to the sanitary district, the appropriation would have a net zero effect on the sanitary district's cash balance.

By way of background, following the 2009 creation of the sanitary district, the Board of Supervisors imposed per lot sanitary district taxes beginning in 2011. The sanitary district taxes are presently \$678 per lot for buildable lots (lots for which water and sewer service is available) and \$264 per lot for membership lots (lots for which water and sewer service is not available).

In 2012, LHCC brought a lawsuit against the County, alleging that the County is not permitted to collect sanitary district taxes against lots owned by LHCC. LHCC's argument is based on a statutory provision that the tax assessed value of lots owned by a POA (such as LHCC) is passed through to the other lots in the development, so that the POA does not pay taxes on the lots it owns. LHCC's argument is flawed, however, in that the sanitary district taxes are not based on the value of the lots taxed, but are a flat rate per lot, and, therefore, there is no value to pass through the other lots in the development.

In the meantime since establishment of the sanitary district taxes, LHCC has expressed an interest in acquiring, as open space, the lots currently owned by Lake Holiday Land, Inc. Lake Holiday Land, Inc., a subsidiary of Miller & Smith, originally acquired the lots for development purposes. The lots are, however, presently all vacant – Miller & Smith had development plans on hold prior to the creation of the sanitary district and, with the creation of the sanitary district, abandoned those plans and declined to pay the sanitary district taxes. The outstanding sanitary district taxes on the lots, which taxes amount to \$781,805.20,\* are an impediment to the contemplated transaction, as LHCC, as the purchaser of the lots, would then become responsible for payment of the outstanding sanitary district taxes, unless an alternative arrangement could be made. The proposed appropriation represents a viable alternative arrangement that would alleviate the problem.

In short, if the appropriation is approved, LHCC would use the appropriated funds from the sanitary district to pay directly back to the sanitary district the amount of outstanding sanitary district taxes owed on the acquired lots. Therefore, as stated above, the appropriation would ultimately have a net zero effect on the sanitary district's cash balance. It should further be noted that, if the outstanding sanitary district taxes are paid in this manner, the action is also not likely to have a detrimental effect in any other respect on the finances of the sanitary district, as the current owner of the lots at issue, Lake Holiday Land, Inc., is believed to be a single-purpose entity with no other assets and therefore would be judgment-proof. Likewise, a tax sale of the lots is not necessarily likely to produce significant proceeds, on account of the costs of that process and the fact that the lots do not have water and sewer service or infrastructure available at the present time.

Finally, it is noted here that, prior to final consummation of the contemplated transaction, we will confirm with bond counsel for the sanitary district that the transaction does not encounter any restrictions relative to the outstanding sanitary district bonds.

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\* The proposed appropriation includes a ten percent contingency, to account for further penalty and interest accrual and in the event of any particular differentials in the exact amounts involved. Again, though, the amount actually paid out would be the same as that paid back to the sanitary district, so as to result in a net zero effect.



Government Finance Officers Association  
203 N. LaSalle Street - Suite 2700  
Chicago, IL 60601

Phone (312) 977-9700 Fax (312) 977-4806

May 20, 2015

Cheryl B. Shiffler  
Finance Director  
County of Frederick  
107 North Kent Street  
Winchester VA 22601

Dear Ms. Shiffler:

We are pleased to notify you that your comprehensive annual financial report (CAFR) for the fiscal year ended June 30, 2014, qualifies for a Certificate of Achievement for Excellence in Financial Reporting. The Certificate of Achievement is the highest form of recognition in governmental accounting and financial reporting, and its attainment represents a significant accomplishment by a government and its management.

Each entity submitting a report to the Certificate of Achievement review process is provided with a "Summary of Grading" form and a confidential list of comments and suggestions for possible improvements in its financial reporting techniques. Your list has been enclosed. You are strongly encouraged to implement the recommended improvements into the next report and submit it to the program. If it is unclear what must be done to implement a comment or if there appears to be a discrepancy between the comment and the information in the CAFR, please contact the Technical Services Center (312) 977-9700 and ask to speak with a Certificate of Achievement Program in-house reviewer.

Certificate of Achievement program policy requires that written responses to the comments and suggestions for improvement accompany the next fiscal year's submission. Your written responses should provide detail about how you choose to address each item that is contained within this report. These responses will be provided to those Special Review Committee members participating in the review.

When a Certificate of Achievement is awarded to a government, an Award of Financial Reporting Achievement (AFRA) is also presented to the individual(s) or department designated by the government as primarily responsible for its having earned the Certificate. Enclosed is an AFRA for:

**Finance Department, County of Frederick**

Continuing participants will find a certificate and brass medallion enclosed with these results. First-time recipients will find a certificate enclosed with these results followed by a plaque in about 10 weeks. We hope that you will arrange for a formal presentation of the Certificate and Award of Financial Reporting Achievement, and that appropriate publicity will be given to this notable achievement. A sample news release has been enclosed. We suggest that you provide copies of it to local newspapers, radio stations and television stations. In addition, details of recent recipients of the Certificate of Achievement and other information about Certificate Program results are available in the "Awards Program" area of our website, [www.gfoa.org](http://www.gfoa.org).

A current holder of a Certificate of Achievement may include a reproduction of the award in its immediately subsequent CAFR. A camera ready copy of your Certificate is enclosed for that purpose. If you reproduce your Certificate in your next report, please refer to the enclosed instructions. A Certificate of Achievement is valid for a period of one year. To continue to participate in the Certificate of Achievement Program it will be necessary for you to submit your next CAFR to our review process.

In order to expedite your submission we have enclosed a Certificate of Achievement Program application form to facilitate a timely submission of your next report. This form should be completed and sent (postmarked) with three copies of your report, three copies of your application, three copies of your written responses to the program's comments and suggestions for improvement from the prior year, and any other pertinent material with the appropriate fee by December 31, 2015.

Your continued interest in and support of the Certificate of Achievement Program is most appreciated. If we may be of any further assistance, please contact Delores Smith ([dsmith@gfoa.org](mailto:dsmith@gfoa.org) or (312) 578-5454).

Sincerely,  
Government Finance Officers Association

A handwritten signature in cursive script that reads "Stephen J. Gauthier".

Stephen J. Gauthier, Director  
Technical Services Center

SJG/ds





Government Finance Officers Association  
203 N. LaSalle Street - Suite 2700  
Chicago, IL 60601

Phone (312) 977-9700 Fax (312) 977-4806

05/20/2015

NEWS RELEASE

For Information contact:  
Stephen Gauthier (312) 977-9700

(Chicago)--The Certificate of Achievement for Excellence in Financial Reporting has been awarded to **County of Frederick** by the Government Finance Officers Association of the United States and Canada (GFOA) for its comprehensive annual financial report (CAFR). The Certificate of Achievement is the highest form of recognition in the area of governmental accounting and financial reporting, and its attainment represents a significant accomplishment by a government and its management.

An Award of Financial Reporting Achievement has been awarded to the individual(s), department or agency designated by the government as primarily responsible for preparing the award-winning CAFR. This has been presented to:

**Finance Department, County of Frederick**

The CAFR has been judged by an impartial panel to meet the high standards of the program including demonstrating a constructive "spirit of full disclosure" to clearly communicate its financial story and motivate potential users and user groups to read the CAFR.

The GFOA is a nonprofit professional association serving approximately 17,500 government finance professionals with offices in Chicago, IL, and Washington, D.C.

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## MEMORANDUM

**TO:** Board of Supervisors

**FROM:** Eric R. Lawrence, AICP, Planning Director *ERL*

**SUBJECT:** **Development Impact Model – Oversight Committee  
Report from Meeting on May 21, 2015**

**DATE:** June 1, 2015

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The Development Impact Model – Oversight Committee (DIM-OC) met on Thursday, May 21, 2015 at 10:00 AM.

Members Present

Robert Hess  
Dr. John Lamanna  
Phil Lemieux  
Gary Lofton  
H. Paige Manual  
Stephen Pettler  
Kris Tierney

Member Absent

Roger Thomas

Eric Lawrence, Wayne Lee, Ellen Murphy, and Al Orndorff were present.

**\*\*\*Item Requiring Action\*\*\***

The DIM-OC reviewed the critical inputs for the Annual Update of the Development Impact Model (DIM). The inputs are essential in order to maintain an updated DIM. It is important to note that the DIM is a planning tool which projects anticipated operational and capital facility costs associated with land use planning, although the DIM is also commonly referenced as the model utilized to project the capital facility costs associated with development and rezoning proposals.

Upon approval of the DIM-OC's recommendation, staff will use the updated model in the consideration of land use planning analysis and for future rezoning petitions. The critical input spreadsheet (*Attachment #1*) and resulting projected capital facilities costs (*Attachment #2 and #3*) are attached for your information.

Upon utilizing the critical input updated figures, the DIM projects the following impacts on the County's capital facilities:

		<b>NEW</b>	
		<b><u>FY16</u></b>	<b>FY15</b>
Single Family Dwelling Unit	=	<b>\$ 19,681</b>	\$ 19,583
Town Home Dwelling Unit	=	<b>\$ 13,681</b>	\$ 13,437
Apartment Dwelling Unit	=	<b>\$ 13,880</b>	\$ 12,697

***By unanimous vote, the DIM-OC recommends the use of the updated critical inputs, and for their incorporation into the Development Impact Model.***

**\*\*\* Informational Purposes Only \*\*\***

The DIM-OC briefly reviewed how the annual updated project costs were developed, and identified a few items that were deemed noteworthy of mentioning:

- It was noted that the cost values utilized for the school facilities were all inclusive – turn-key costs- which included land, architectural and engineering (A&E) services, construction, and furniture and fixtures. The non-school project costs were inclusive of A&E (as applicable) and construction.
- The updated figures include a \$37,500,000 projected cost for a new Joint Administrative Building (combined General Government and Schools) complex. When introducing this new joint project and value to the DIM, the School Board's proposed office project (\$14,510,000) was removed from the DIM.
- The Judicial Center Building cost of \$24,065,500 is associated with estimates to renovate and/or construct an Annex to the courthouse.

Please contact staff should you have questions.

ERL/pd

**Attachments: Critical Input Spreadsheet (Attachment #1)  
2-Year Comparison of Projected Impacts (Attachment #2)  
Projected Capital Facilities Cost (Attachment #3)**

**Annual Review / Update Critical Inputs**

<b>Inputs</b>	<b>Updated Model Values for FY16</b>	<b>Current Model Values for FY15</b>	<b>Source of FY16 info</b>
POPULATION	82,059	81,207	Weldon Cooper Center, 1/27/2015
Number of Dwelling Units			
SINGLE FAMILY-DETACHED	26,590	26,265	Fred Co. CAMA File+ new CO
SINGLE FAMILY-ATTACHED	2,956	2,845	Fred Co. CAMA File+ new CO
MULTIFAMILY	924	924	Fred Co. CAMA File+ new CO
MOBILE HOME/OTHER	2,088	2,070	Fred Co. CAMA File+ new CO
AGRICULTURE/OTHER JOBS	433	466	VEC, 2014 3rd quarter, average employment
INDUSTRIAL JOBS	10,090	9,727	VEC, 2014 3rd quarter, average employment
RETAIL/SERVICE JOBS	10,477	9,932	VEC, 2014 3rd quarter, average employment
OFFICE/INSTITUTIONAL JOBS	7,324	7,062	VEC, 2014 3rd quarter, average employment
PARK ACRES	437	405	Frederick County Parks & Recreation
RES SHERIFF CALLS	43,766	44,197	Frederick County Sheriff's Office
NONRES SHERIFF CALLS	32,390	37,502	Frederick County Sheriff's Office
RES FIRE CALLS	8,159	7,117	Frederick County Fire & Rescue
NONRES FIRE CALLS	1,080	1,008	Frederick County Fire & Rescue
OTHER FIRE CALLS	767	1,347	Frederick County Fire & Rescue
Residential Average Weekday Vehicle Trips Ends per Unit			
Single Family-Detached	9.52	9.57	(ITE) Trip Generation Manual (2012)
Single Family-Attached	5.81	5.86	(ITE) Trip Generation Manual (2012)
Multifamily	6.65	6.59	(ITE) Trip Generation Manual (2012)
Mobile Home/Other	4.99	4.99	(ITE) Trip Generation Manual (2012)

**Annual Review / Update Critical Inputs**

<b>Inputs</b>	<b>Updated Model Values for FY16</b>	<b>Current Model Values for FY15</b>	<b>Source of FY16 info</b>
<b>Non-Residential Average Weekday Vehicle Trips Ends per Unit</b>			
Office	15.59	15.59	(ITE) Trip Generation Manual (2003)
Retail	68.17	68.17	(ITE) Trip Generation Manual (2003)
Ind./Flex	12.76	12.76	(ITE) Trip Generation Manual (2003)
<b>Person per Dwelling Unit</b>			
Single Family-Detached	2.77	2.77	US Census
Single Family - Attached	2.30	2.30	US Census
Multifamily	2.12	2.12	US Census
Mobile Home/Other	2.43	2.43	US Census
<b>School Children per Dwelling Unit</b>			
<b>Single Family-Detached</b>			
Elementary	0.181	0.193	Frederick County Public Schools
Middle	0.087	0.095	Frederick County Public Schools
High	0.100	0.109	Frederick County Public Schools
	<b>0.369</b>	<b>0.397</b>	
<b>Single Family-Attached</b>			
Elementary	0.116	0.125	Frederick County Public Schools
Middle	0.066	0.070	Frederick County Public Schools
High	0.064	0.070	Frederick County Public Schools
	<b>0.245</b>	<b>0.265</b>	
<b>Multifamily</b>			
Elementary	0.136	0.134	Frederick County Public Schools
Middle	0.055	0.055	Frederick County Public Schools
High	0.068	0.067	Frederick County Public Schools
	<b>0.259</b>	<b>0.256</b>	

**Annual Review / Update Critical Inputs**

<b>Inputs</b>	<b>Updated Model Values for FY16</b>	<b>Current Model Values for FY15</b>	<b>Source of FY16 info</b>
School Children per Dwelling Unit (cont)			
Mobile Home/Other			
Elementary	0.194	0.138	Frederick County Public Schools
Middle	0.097	0.097	Frederick County Public Schools
High	0.109	0.068	Frederick County Public Schools
	<b>0.400</b>	<b>0.303</b>	
Schools			
ELEMENTARY ENROLLMENT	5,946	5,965	Virginia Department of Education, 9/30/13
MIDDLE ENROLLMENT	3,044	3,111	Virginia Department of Education, 9/30/13
HIGH ENROLLMENT	4,079	3,972	Virginia Department of Education, 9/30/13
Prototype Elementary School			
Capacity (student program capacity)	850	850	Frederick County Public Schools
Current Cost	\$24,700,000	\$23,475,000	Capital Facility Improvement Plan
Prototype Middle School			
Capacity (student program capacity)	900	900	Frederick County Public Schools
Current Cost	\$49,500,000	\$49,500,000	Capital Facility Improvement Plan
Prototype High School			
Capacity (student program capacity)	1725	1,250	Frederick County Public Schools
Current Cost	\$91,900,000	\$70,000,000	Capital Facility Improvement Plan
Transportation Facility			
Growth Related Percentage		50%	Frederick County Public Schools
Current Cost	\$0	\$0	Capital Facility Improvement Plan



**Annual Review / Update Critical Inputs**

<b>Inputs</b>	<b>Updated Model Values for FY16</b>	<b>Current Model Values for FY15</b>	<b>Source of FY16 info</b>
<b>Admin Office Expansion</b>			
Growth Related Percentage	50%	50%	Frederick County Public Schools
Current Cost	\$0	\$14,510,000	Capital Facility Improvement Plan Project replaced in DIM by Joint Admin Bldg
<b>Fire Station</b>			
Station Call Capacity	1,500	1,500	Frederick County Fire & Rescue
Current Cost	\$4,305,000	\$4,305,000	Capital Facility Improvement Plan
<b>Parks &amp; Recreation (Base Line Inventory)</b>			
Regional Park Land	391 Acres	391 Acres	Frederick County Parks & Recreation
Community Park Land	46 Acres	14 Acres	Frederick County Parks & Recreation
Trails	3.00 Miles	3.00 Miles	Frederick County Parks & Recreation
Shelters	18 Facilities	18 Facilities	Frederick County Parks & Recreation
Baseball Fields	8 Fields	8 Fields	Frederick County Parks & Recreation
Softball Fields	5 Fields	5 Fields	Frederick County Parks & Recreation
Playground/Picnic Area	20 Fields	20 Fields	Frederick County Parks & Recreation
Picnic areas at regional parks	20 Facilities	20 Facilities	Frederick County Parks & Recreation
Tennis Court	6 Courts	6 Courts	Frederick County Parks & Recreation
Basketball Courts	5 Facilities	5 Facilities	Frederick County Parks & Recreation
Swimming Pool	2 Facilities	2 Facilities	Frederick County Parks & Recreation
Soccer Fields	6 Fields	6 Fields	Frederick County Parks & Recreation
Volleyball Courts	3 Courts	3 Courts	Frederick County Parks & Recreation
Horseshoe Courts	0 Courts	0 Courts	Frederick County Parks & Recreation

**Annual Review / Update Critical Inputs**

<b>Inputs</b>	<b>Updated Model Values for FY16</b>	<b>Current Model Values for FY15</b>	<b>Source of FY16 info</b>
<b>Parks &amp; Recreation (Current Cost)</b>			
Regional Park Land	\$6,000 Per Acre	\$6,000 Per Acre	Capital Facility Improvement Plan
Community Park Land	\$72,000 Per Acre	\$72,000 Per Acre	Capital Facility Improvement Plan
Trails	\$211,220 Per Mile	\$211,220 Per Mile	Capital Facility Improvement Plan
Shelters	\$42,322 Per Shelter	\$42,322 Per Shelter	Capital Facility Improvement Plan
Baseball Fields	\$275,000 Per Field	\$275,000 Per Field	Capital Facility Improvement Plan
Softball Fields	\$250,000 Per Field	\$250,000 Per Field	Capital Facility Improvement Plan
Playground/Picnic Area	\$150,000 Per Facility	\$150,000 Per Facility	Capital Facility Improvement Plan
Picnic areas at regional parks	\$818,000 Per Facility	\$700,000 Per Facility	Capital Facility Improvement Plan
Tennis Court	\$56,250 Per Court	\$56,250 Per Court	Capital Facility Improvement Plan
Basketball Courts	\$112,500 Per Court	\$112,500 Per Court	Capital Facility Improvement Plan
Swimming Pool w/ Field House	\$15,163,000 Per Facility	\$15,163,000 Per Facility	Capital Facility Improvement Plan
Growth Related Percentage	30%	30%	Frederick County Parks & Recreation
Soccer Fields	\$1,141,000 Per Field	\$1,121,998 Per Field	Capital Facility Improvement Plan
Multi-Generational Community Center	\$8,952,000 Per Facility	\$8,802,605 Per Facility	Capital Facility Improvement Plan
Growth Related Percentage	80%	80%	Frederick County Parks & Recreation
<b>New Regional Library</b>			
Growth Related Percentage	28.5%	28.5%	Handley Regional Library
Additional Units Served (persons)	16,000	16,000	Handley Regional Library
Current Cost	\$5,400,000 Per Facility	\$5,400,000 Per Facility	Capital Facility Improvement Plan
<b>New Rural Branch Library</b>			

**Annual Review / Update Critical Inputs**

<b>Inputs</b>	<b>Updated Model Values for FY16</b>	<b>Current Model Values for FY15</b>	<b>Source of FY16 info</b>
Growth Related Percentage	29.0%	29.0%	Handley Regional Library
Additional Units Served (persons)	8,000	8,000	Handley Regional Library
Current Cost	\$1,749,034 Per Facility	\$2,279,575 Per Facility	Capital Facility Improvement Plan
<b>Joint Administrative Building</b>			
Growth Related Percentage	30%		County Administration
Current Cost	\$37,500,000		County Engineer estimate 150,000sqft @ \$250/sqft site acquisition and site work not included Estimated value includes \$14,510,000 previous part of School Office
<b>Judical Center Building - Reno/new build</b>			
Growth Related Percentage	30%		County Administration
Current Cost	\$24,065,500		Capital Facility Improvement Plan

Projected Impacts Per Dwelling Unit Comparison

		<b>FY16</b> <b>(July 2015-June 2016)</b>	FY15
Single Family Dwelling Unit	=	<b>\$19,681</b>	\$ 19,583
Town Home Dwelling Unit	=	<b>\$13,681</b>	\$ 13,437
Apartment Dwelling Unit	=	<b>\$13,880</b>	\$ 12,697

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

<b>Capital facility</b>	<b>Single Family</b>		<b>Town home</b>		<b>Apartment</b>	
	<b>FY16</b>	FY15	<b>FY16</b>	FY15	<b>FY16</b>	FY15
Fire And Rescue	<b>\$547</b>	\$554	<b>\$406</b>	\$412	<b>\$412</b>	\$418
General Government	<b>\$1373</b>	\$43	<b>\$1,050</b>	\$33	<b>\$1,050</b>	\$33
Public Safety	<b>\$0</b>	\$0	<b>\$0</b>	\$0	<b>\$0</b>	\$0
Library	<b>\$442</b>	\$496	<b>\$338</b>	\$379	<b>\$338</b>	\$379
Parks and Recreation	<b>\$1,819</b>	\$1,742	<b>\$1,391</b>	\$1,332	<b>\$1,391</b>	\$1,332
School Construction	<b>\$15,499</b>	\$16,747	<b>\$10,495</b>	\$11,281	<b>\$10,689</b>	\$10,535
Total	<b>\$19,681</b>	\$19,583	<b>\$13,681</b>	\$13,437	<b>\$13,880</b>	\$12,697

## Development Impact Model

On October 12, 2005, the Frederick County Board of Supervisors directed staff to use the Development Impact Model (DIM) to project the capital fiscal impacts that would be associated with any rezoning petitions containing residential development, replacing the existing Capital Facilities Fiscal Impact Model. The DIM was created by an economic consultant who evaluated and analyzed development within the County in an effort to assist the County in planning for future capital facility requirements. Critical inputs to the DIM are to be reviewed and updated annually to assure that the fiscal projections accurately reflect County capital expenditures. **PENDING The Board of Supervisors authorized use of the annual model update on June 10, 2015.**

The DIM projects that, on average, residential development has a negative fiscal impact on the County's capital expenditures. As such, all rezoning petitions with a residential component submitted after July 1, 2015 will be expected to demonstrate how the proposal will mitigate the following projected capital facility impacts:

Single Family Dwelling Unit	= \$ 19,681
Town Home Dwelling Unit	= \$ 13,681
Apartment Dwelling Unit	= \$ 13,880

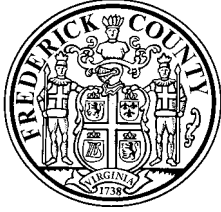
The following is a breakdown of the projected impacts per dwelling unit for each capital facility.

Capital facility	Single Family	Town home	Apartment
Fire And Rescue	547	\$406	\$412
General Government	\$1373	\$1,050	\$1,050
Public Safety	\$0	\$0	\$0
Library	\$442	\$338	\$338
Parks and Recreation	\$1,819	\$1,391	\$1,391
School Construction	\$15,499	\$10,495	\$10,689
Total	\$19,681	\$13,681	\$13,880

The projected capital expenditures depicted above do not include a credit for future real estate taxes. A "read-only" copy of the Development Impact Model is available on the public workstation within the Planning and Development's office. A user manual is also available.

06/1/2015

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## REZONING APPLICATION #03-15

MBC, LC

Staff Report for the Board of Supervisors

Prepared: June 1, 2015

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

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	<u>Reviewed</u>	<u>Action</u>
Planning Commission:	05/06/15	Recommended Approval
Board of Supervisors:	06/10/15	Pending

**PROPOSAL:** To rezone 2.96+/- acres as follows: 0.60+/- acres from MH1 (Mobile Home Community) District to B2 (General Business) District and 2.36 acres from B3 (Industrial Transition) District to B2 (General Business) District with proffers.

**LOCATION:** The properties are located on the southern side of Route 7, and  $\frac{3}{4}$  miles east of Winchester at Eckard Circle.

### **PLANNING COMMISSION RECOMMENDATION AND EXECUTIVE SUMMARY FOR THE 06/10/15 BOARD OF SUPERVISORS MEETING:**

The Planning Commission recommended approval of this rezoning request, an application to rezone a total of 2.96 acres of land from MH1 (Mobile Home Community) District and B3 (Industrial Transition) District to B2 (General Business) District with proffers, to accommodate commercial uses. Planning Commission members inquired about the importance of a site plan in regards to the number of vehicle trips per day and requested clarification of the proffer for the hiking/bike trail. The Applicant noted there is a challenge with a site this small. This was followed by a Commissioner who noted it may be helpful to incorporate a GDP with the application.

The Applicant has provided a revised proffer statement dated June 1, 2015 that has made further adjustments based on additional comments provided by VDOT. Please see the letter provided by Mr. Oates, dated June 1, 2015, that describes the changes (letter attached). While these changes are mostly organizational, it should be noted that one comment, Comment #13 from VDOT regarding vehicle queuing at the Regency Lakes left turn lane from Route 7 eastbound, is outstanding. This comment has been addressed by the Applicant by recognizing their potential future contribution to the overall pedestrian improvements in the area, rather than the turn lane improvements on Route 7 at the intersection of Regency Lakes Drive.

In summary, this is an application to rezone a total of 2.96 acres of land from B3 (Industrial Transition) District with restrictive proffers and the MH1 (Mobile Home Community) District to B2 (General Business) District with proffers to accommodate commercial uses. The property is located within Urban Development Area (UDA) and the Sewer and Water Service Area (SWSA). In general, the proposed commercial land use designation for this property is consistent with the current land use supported by the Comprehensive Plan which continues to promote the existing commercial land uses along the Route 7 corridor. This general area continues to contain and promote both commercial and residential land uses.



With this rezoning, the applicant has proffered that this project will contribute to off-site pedestrian improvements based upon an increase in the intensity of the use of this site. With a maximum cap on the total Vehicle Trips per Day for this site of 2,799 VPD, the transportation impacts associated with this request are limited to an extent. The Board should evaluate if the approach to addressing the transportation component of the application is acceptable, and the amount of the potential proffer appropriate. Aside from this, the application appears to have mitigated many of the impacts associated with the rezoning request. The Planning Commission affirmed this with their recommendation of approval.

**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.**

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*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>
<b>Planning Commission:</b>	05/06 /15	Recommended Approval
<b>Board of Supervisors:</b>	06/10/15	Pending

**PROPOSAL:** To rezone 2.96+/- acres as follows: 0.60+/- acres from MH1 (Mobile Home Community) District to B2 (General Business) District and 2.36 acres from B3 (Industrial Transition) District to B2 (General Business) District with proffers.

**LOCATION:** The properties are located on the southern side of Route 7, and  $\frac{3}{4}$  miles east of Winchester at Eckard Circle.

**MAGISTERIAL DISTRICT:** Redbud

**PROPERTY ID NUMBERS:** 55-A-34 and 55-A-34A

**PROPERTY ZONING:** B3 (Industrial Transition) with Proffers that allow only one use; Mobile Home Sales.

**PRESENT USE:** Vacant.

**ADJOINING PROPERTY ZONING & PRESENT USE:**

North: B2 (General Business)	Use: Commercial
RP (Residential Performance)	Residential/Assisted Living
South: MH1 (Mobile Home)	Use: Mobile Home Community
East: B2 (General Business)	Use: Commercial
West: M2 (Heavy Industrial)	Use: Industrial

**REVIEW EVALUATIONS:**

**Virginia Dept. of Transportation:** *Please see attached email dated March 23, 2015 from Matthew E. Smith, P.E.*

**Fire and Rescue:** Plan approved.

**Public Works Department:** The proposed rezoning of 2.96 acres owned by MBC, LC is approved by The Public Works Department without further comments.

**Frederick County Sanitation Authority:** *Please see attached letter dated March 2, 2015, from Uwe e. Weindel, PE.*

**Frederick-Winchester Service Authority:** The applicant needs to be clearer on sewer and water. 20" water easement has nothing to do with sewer conveyance. Does water main exist in easement? No technical comments.

**Frederick County Park & Recreation:** Parks and Recreation encourages the proffered support for a Route 7 pedestrian crossing. However; identifying this as "in the vicinity of Millwood Drive" will put the crossing at a signalized intersection and is advised.

**Frederick County Public Schools:** No comments.

**Frederick County Attorney:** *Please see attached letter dated March 27, 2015, from Roderick B. Williams, County Attorney.*

**Planning & Zoning:**

1) **Site History**

In 1995, the property for which this rezoning being requested was subject to rezoning application RZ#03-95. This application was for a B3 (Industrial Transition) commercial zoning with proffers. The proffer statement was very specific in that it stated that the rezoned property shall only be used for manufactured home model display and sales with associated office. The property was previously zoned B2 (General Business).

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.

The Area Plans, Appendix I of the 2030 Comprehensive Plan, are the primary implementation tool and will be instrumental to the future planning efforts of the County.

In order for any proposed rezoning to be approved, the applicants will be expected to contribute a reasonable portion of the costs of new or expanded infrastructure needed to serve the proposed development. Such contributions can be in the form of cash, dedicated land, or constructed improvements or in any other manner consistent with the Code of Virginia. *[2030 Comprehensive Plan, Implementing the Plan, V]*

Rezoning requests should be evaluated to determine their potential impacts on public facilities. Costs to the County should be estimated in terms of what impact the development, which could result from the proposed rezoning, would have on public facilities and infrastructure. *[2030 Comprehensive Plan, Implementing the Plan, V]*

Rezoning requests should not be approved unless the net impacts on public facilities are positive, or unless the negative impacts can be adequately addressed through proffers or some other means. A request for rezoning may be turned down even though all fiscal impacts appear to be addressed. If there are other impacts which are not addressed by the rezoning application, or if the request does not conform to this plan, a similar method should be developed for determining the impacts of proposed developments on transportation systems and other public facilities. *[2030 Comprehensive Plan, Implementing the Plan, V]*

#### Land Use.

The 2030 Comprehensive Plan and the Senseny/Eastern Frederick Urban 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 high density residential land use designation. Historically, this property has been identified with a commercial land use designation and the area fronting along Route 7 has developed commercially. In general, the proposed commercial land use designation for this property is consistent with the current land use supported by the Comprehensive Plan which continues to promote the existing commercial land uses along the Route 7 corridor. This general area continues to contain and promote both commercial and residential land uses.

#### Site Access and Transportation.

The Eastern Road Plan and the Senseny/Eastern Frederick Urban Area Plan call for Route 7 to be an improved major arterial road. Access to this site will be via a direct connection to Route 7, Berryville Pike, and indirectly, from Eckard Circle.

The site is located in close proximity to the intersection of Route 7, Blossom Drive, and Millbrook Drive, a direct route to the Millbrook High and Red Bud Run Elementary school cluster, and the southern entrance to the Third Battle of Winchester Battlefield site. As a result of this, concern has previously been expressed about egress from this site for traffic looking to travel west on Route 7. In addition, the location of this intersection provides an opportunity to address pedestrian accommodations at this location that would benefit pedestrians and bicyclists using this area.

The application proposes to stage the use of the entrances to this site based upon vehicle trip counts; closing the easternmost entrance (closest to the existing signal) with any development on the site and utilizing an entrance onto Eckard Circle until 500 Vehicle Trips per Day (VPD) is achieved. The westernmost entrance will be improved and ultimately be the entrance serving the site.

As part of the development of this site, additional right-of-way will be dedicated along Route 7 and a 10' hike/bike trail will be constructed. In addition, the owner proffers to contribute additional money available for pedestrian improvements along the Route 7 corridor; \$10,000 when the use of the property generates more than 500 Vehicle Trips per Day (VPD), and \$50,000 when uses on the property generate more than 1,500 VPD. It is noted that the guaranteed improvements are the same as those that would be required with the development of the site and the proffered contributions for additional pedestrian improvements would only occur if the use of the property increases in the future.

Environment.

Issues concerning water quality, quantity, use, and protection of water resources are directly related to land development activities. Water supplies are needed to support development, while surface and groundwater are potentially affected by development activities [2030 Comprehensive Plan, Section VII, Natural Resources].

History.

According to the Rural Landmarks Survey, there are no significant historic structures located on the properties nor are there any possible historic districts in the vicinity.

**3) Site Suitability/Environment**

The site is not located within or near any 100 year floodplains. In addition, there are no woodlands or other environmental features on the site.

**4) Potential Impacts**

It should be noted that this application provides no limitation on the potential commercial land use that may be developed on the site. All land uses permitted in the B2 District would be allowed. However, it is unlikely that they would be able to develop at their maximum intensity due to the Vehicle Trip per Day (VPD) cap that the Applicant has proffered (2,977 VPD).

The Application has addressed the potential impacts of this rezoning request by linking improvements to the vehicle trip count, therefore, the majority of the impacts addressed deal with transportation. This is a highway commercial location and a more intensive development proposal would be appropriate. As such, it is important to ensure the impacts associated with such a development are addressed.

Transportation improvements to Route 7, Berryville Pike, are anticipated in the future. Therefore, it is important that the right-of-way needs for the future improvements to Route 7 are accommodated, and the application provides some contribution to transportation improvements resulting from the impacts of this new development. The additional dedication of right-of-way along Berryville Pike to provide a minimum right-of-way of 60' from the road centerline of eastbound Route 7 appears to be sufficient.

The proposed monetary contribution may be an acceptable alternative to the actual construction of physical improvements. *It should be determined if the amount and timing of the contribution is sufficient given the potential use of the property.*

Frederick County Transportation Comments:

Due to the recent receipt of VDOT's comments on the package and their concerns with the TIA, staff would note that any comments that follow could be amended upon seeing updates/corrections to the TIA.

Staff is supportive of the entrance limitations and pedestrians enhancements proffered by the applicant. However, as VDOT did, staff would note that there is a possible need for a right turn lane into the proposed entrance on Route 7 and would suggest that warrants be run to determine this. Due to the phased nature of the transportation proffers and the associated trips, perhaps the turn lane can be accommodated the same way. Finally, regarding R-O-W, it appears that 10' is sufficient, but staff would recommend following VDOT's recommendation of a conceptual layout to evaluate this.

**5) Proffer Statement**

A) Allowed Uses:

All of the uses permitted in the B2 (General Business) District would be allowed. No additional use restrictions have been proffered by the Applicant.

This application addresses the intensity of the development by relating this to the number of Vehicle Trips per Day (VPD). 500 VPD and 1,500 VPD are the two triggers used to initiate entrance modifications and monetary contributions for off-site pedestrian improvements. A total cap on the development intensity on the site of 2,977 VPD is used by the Applicant. This is consistent with the TIA prepared for this application.

B) Access Management and Transportation:

The application proffers to stage the use of the entrances to this site based upon vehicle trip counts as follows:

- Closing the easternmost entrance (closest to the existing signal) with any development on the site.
- Utilizing an entrance onto Eckard Circle until 500 Vehicle Trips Per Day (VPD) is achieved.

The westernmost entrance will be improved and ultimately be the entrance serving the site.

The application proffers to contribute additional money available for pedestrian improvements along the Route 7 corridor based on vehicle trip counts as follows:

- \$10,000 when the use of the property generates more than 500 Vehicle Trips per Day (VPD)
- \$50,000 when uses on the property generate more than 1,500 VPD.

***It has been noted that this is the only potential contribution to off-site transportation improvements associated to this request.***

C) Site Development:

No additional site development standards have been proffered.

D) Mitigating the Impact of Development:

The Applicant has proffered a cash contribution in the amount of \$0.10 per building square foot to be directed to Frederick County Fire and Rescue. The purpose of this dedication would be to assist in the capital facility needs of fire and rescue associated with the development of this property.

The Applicant has proffered a restriction on outdoor construction activities on the site to minimize the potential impact of the development of the site on the residents of the neighboring mobile home park.

**STAFF CONCLUSIONS FOR THE 05/06/15 PLANNING COMMISSION MEETING:**

This is an application to rezone a total of 2.96 acres of land from B3 (Industrial Transition) District with restrictive proffers and the MH1 (Mobile Home Community) District to B2 (General Business) District with proffers to accommodate commercial uses. The property is located within the Urban Development Area (UDA) and the Sewer and Water Service Area (SWSA). In general, the proposed commercial land use designation for this property is consistent with the current land use supported by the Comprehensive Plan which continues to promote the existing commercial land uses along the Route 7 corridor. This general area continues to contain and promote both commercial and residential land uses.

With this rezoning, the applicant has proffered that this project will contribute to off-site pedestrian improvements based upon an increase in the intensity of the use of this site. With a maximum cap on the total Vehicle Trips per Day for this site of 2,799 VPD, the transportation impacts associated with this request are limited to an extent. The Planning Commission should evaluate if the approach to addressing the transportation component of the application is acceptable, and the amount of the potential proffer appropriate. Aside from this, the application appears to have mitigated many of the impacts associated with the rezoning request.



**PLANNING COMMISSION SUMMARY AND ACTION FROM THE 05/06/15 MEETING:**

Staff presented an overview of the proposed application to rezone 2.96+/- acres as follows: 0.60+/- from MH1 (Mobile Home Community) District to B2 (General Business) District and 2.36 acres from B3 (Industrial Transition) District to B2 (General Business) District with proffers. Staff noted with this rezoning, a maximum cap on the total Vehicle Trips per Day for this site of 2,799 VPD, the transportation impacts associated with this request are limited to an extent. Staff explained that this application provides no limitation on the potential commercial land use that may be developed on the site and all B2 District land uses would be allowed. The application proposes to stage the use of the entrances to this site based upon vehicle trip counts; closing the easternmost entrance (closest to the existing signal) with any development on the site and utilizing an entrance onto Eckard Circle; the westernmost entrance will be improved and ultimately be the entrance serving the property.

A Commission Member inquired the importance of a site plan in regards to the number of vehicle trips per day. Staff explained once the site plan is approved by staff and then VDOT the number of trips is based on the square footage of the building/s. A Commission Member requested clarification of the proffer for hiking/bike trail. Staff noted the proffer applies to any development on the site. Another Commission Member asked Staff if they were comfortable with all the information they have to move forward with this project, Staff responded yes.

Representation for the Applicant noted there is a challenge with a site this small. A Commission Member noted it would be helpful to incorporate a GDP with the application.

The Public Hearing portion of the meeting was opened and there were no comments. The Public Hearing portion of the meeting was closed.

A motion was made, seconded and unanimously passed to recommend approval of REZ #03-15 MBC, LC.

Abstain: Oates

Absent: Triplett, Molden

**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.**

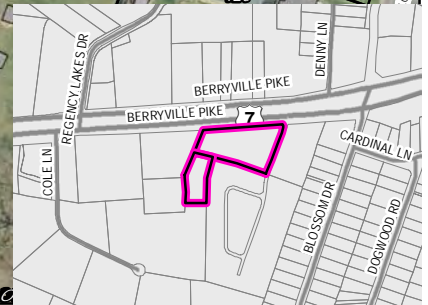
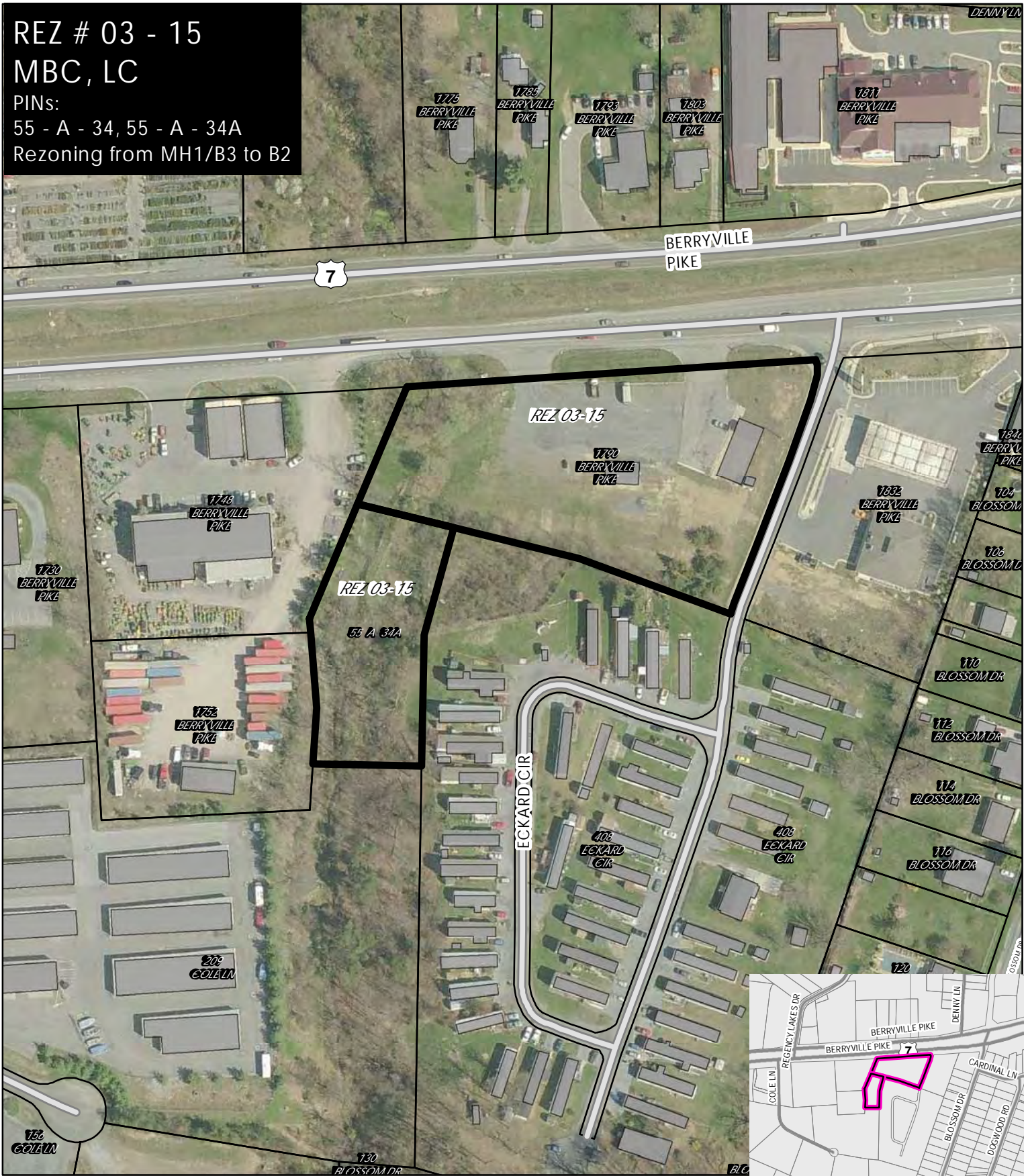
REZ # 03 - 15




MBC, LC

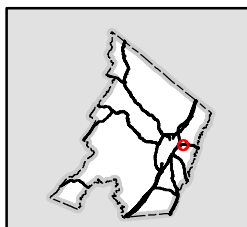
PINs:

55 - A - 34, 55 - A - 34A

Rezoning from MH1/B3 to B2



-  Applications
-  Parcels
-  Building Footprints



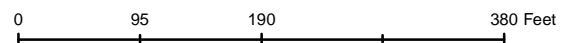
REZ # 03 - 15  
MBC, LC

PINs:

55 - A - 34, 55 - A - 34A

Rezoning from MH1/B3 to B2

Note:  
 Frederick County Dept of  
 Planning & Development  
 107 N Kent St  
 Suite 202  
 Winchester, VA 22601  
 540 - 665 - 5651  
 Map Created: April 8, 2015  
 Staff: mruddy





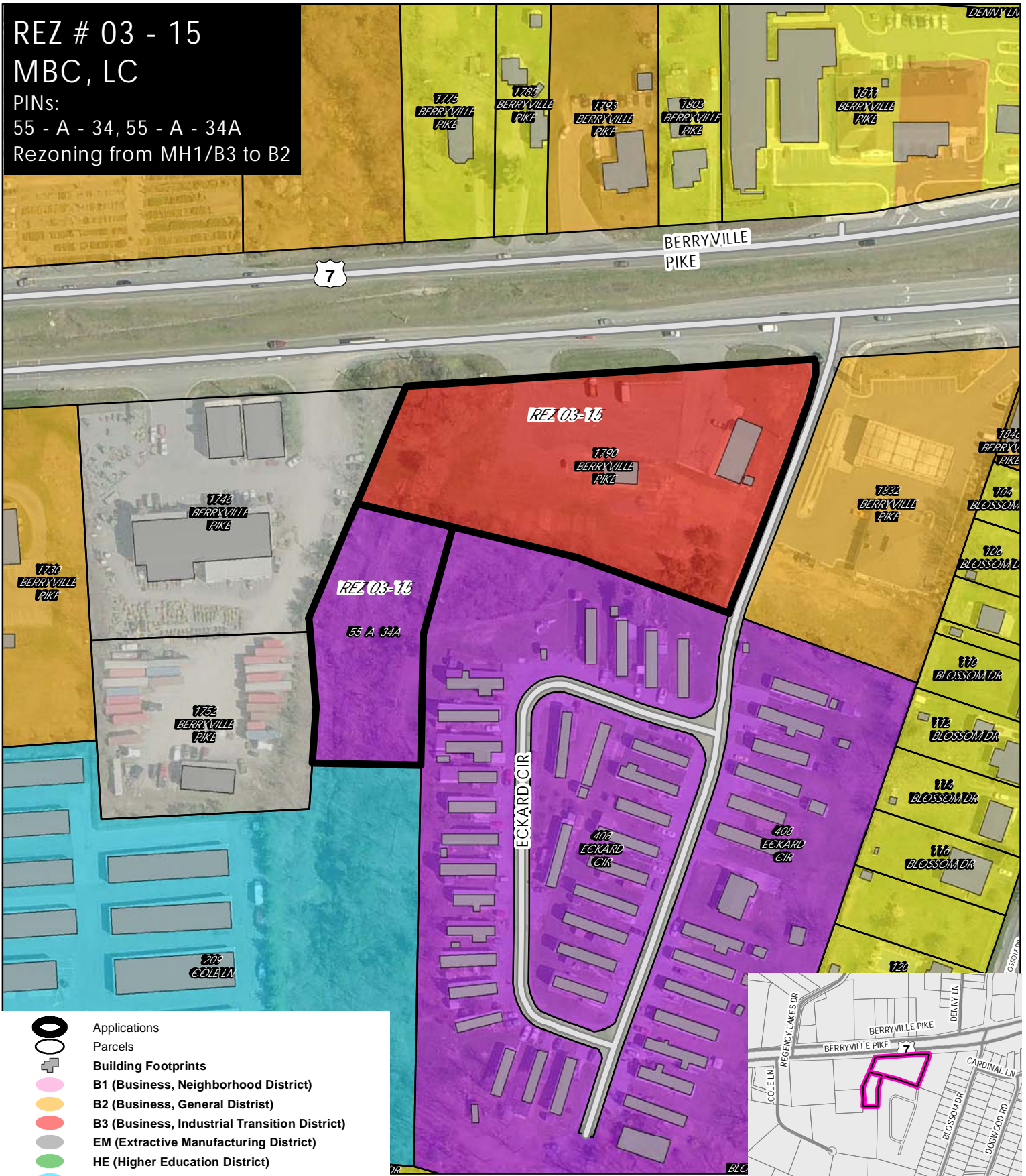
# REZ # 03 - 15

## MBC, LC

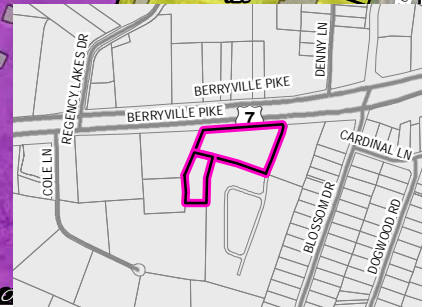
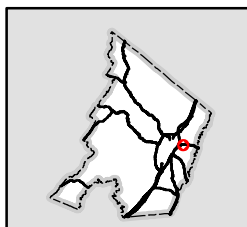
PINs:

55 - A - 34, 55 - A - 34A

Rezoning from MH1/B3 to B2



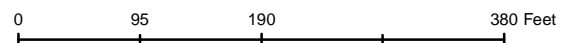
-  Applications
-  Parcels
-  Building Footprints
-  B1 (Business, Neighborhood District)
-  B2 (Business, General District)
-  B3 (Business, Industrial Transition District)
-  EM (Extractive Manufacturing District)
-  HE (Higher Education District)
-  M1 (Industrial, Light District)
-  M2 (Industrial, 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 # 03 - 15 MBC, LC

PINs:  
55 - A - 34, 55 - A - 34A  
Rezoning from MH1/B3 to B2

Note:  
Frederick County Dept of  
Planning & Development  
107 N Kent St  
Suite 202  
Winchester, VA 22601  
540 - 665 - 5651  
Map Created: April 8, 2015  
Staff: mruddy



**Rezoning:** RZ # 03-15  
**Property:** Area: 2.96 acres  
Tax Parcels 55-(A)-34 & 55-(A)-34A  
**Record Owner:** MBC, LC  
**Project Name:** MBC Rezoning  
**Original Date of Proffers:** February 26, 2015  
**Revision Date:** April 3, 2015  
May 11, 2015  
June 1, 2015  
**Magisterial District:** Redbud

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 owner hereby offer the following proffers that in the event the Board of Supervisors of Frederick County, Virginia, shall approve Rezoning Application #\_\_-15 for rezoning of 2.96-acres from the B-3 & MH-1 Districts to General Business (B-2) District, development of the subject 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 owner and such are approved by the 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 this owner and their legal successors, heirs, or assigns.

The Properties are more particularly described as the lands conveyed to MBC, LC from Mildred F. Cole as recorded in the Frederick County Circuit Court Clerk's Office as instrument #00013492 dated December 1, 2000.

**Proffers:**

**1. Transportation**

a. Access

- i. The eastern existing entrance on Berryville Pike (Route 7) near Eckard Circle shall be closed prior to the first occupancy permit.
- ii. An entrance onto Eckard Circle shall be utilized until development on the Properties creates more than 500 VPD.
- iii. The western entrance on the Properties from Berryville Pike (Route 7) shall be improved to current VDOT standards prior to the first occupancy permit.
- iv. A right turn lane warrant analysis shall be submitted with any site plan for any site entrance located along the frontage of Route 7.

b. Dedication and Pedestrian Access

- i. The owner hereby proffers to dedicate additional land along Berryville Pike to provide a minimum of 60' of right of way from the centerline of eastbound Route 7. This is will be done prior to the first occupancy permit.
- ii. The owner hereby proffers to construct a 10' paved hiker/bike trail along the Property's frontage with Berryville Pike per the 2030 Comprehensive Plan. This is will be done prior to the first occupancy permit.
- iii. The owner proffers to contribute \$10,000 to Frederick County for pedestrian improvements along Route 7 when uses generate more than 500 vehicle trips per day (VPD) computed at site plan submission.
- iv. When uses on the Properties generate more than 1,500 VPD as computed at site plan submission; the owner will contribute an additional \$50,000 to Frederick County for pedestrian improvements along Route 7.



c. Development Cap

- i. In conformance with the Traffic Impact Analysis prepared by Stowe Engineering, PLC in 2015, the development of the property shall generate a maximum of 2,977 vehicles per day per the 9th edition of ITE Trip Generation. If a property use is proposed with a higher daily trip generation at site plan submission, a revised Traffic Impact Analysis shall be included with the submission of the site plan.

2. Fire & Rescue – Monetary Contributions

- a. The owner hereby proffers a cash contribution to Frederick County for Fire and Rescue purposes, of \$0.10 per building square foot to be disbursed to the Frederick County Fire and Rescue Department, to be paid prior to each final site plan approval. The term “building square foot” shall be the combined floor area for each story.

3. Considerations for neighboring Mobile Home Park:

- a. The owner proffers that outdoor construction activities, on the Properties, shall not begin prior 7:30 AM and will conclude no later than 7:30 PM.

The conditions proffered above shall be binding upon heirs, executors, administrators, assigns, and successors in the interest of the owner 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 and Ordinance.

Respectfully Submitted:

MBC, LC by Carl A. Estorhay  
 for Bank of Clarke County Trustee  
 of Mildred Cole Trust  
 MBC, LC Marilyn's Return Date 6/3/15

Commonwealth of Virginia,

City/County of Winchester To Wit:

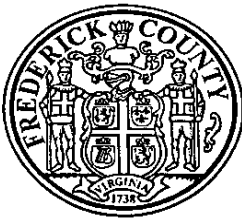
The foregoing instrument was acknowledged before me this 3rd day of June, 2015

By Carl A. Estorhay

Austen A. Scheuler  
Notary Public

138621  
Registration Number

My Commission Expires 3-31-19



## AMENDMENT

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**Action:**

PLANNING COMMISSION: May 6, 2015 - Recommended Approval

BOARD OF SUPERVISORS: June 10, 2015       APPROVED       DENIED

---

### AN ORDINANCE AMENDING

### THE ZONING DISTRICT MAP

### REZONING #03-15 OF MBC, LC

**WHEREAS, Rezoning #03-15, MBC, LC**, submitted by GreyWolfe, Inc., to rezone 2.96 acres from B3 (Industrial Transition) District with restrictive proffers and the MH1 (Mobile Home Community) District with proffers to the B2 (General Business) District to accommodate commercial uses, dated February 26, 2015, last revised on June 1, 2015, was considered. The property is located on the southern side of Route 7, and  $\frac{3}{4}$  miles east of Winchester at Eckard Circle. The property is further identified with PIN(s) 55-A-34 and 55-A-34A in the Red Bud Magisterial District; and.

**WHEREAS**, the Planning Commission held a public hearing on this rezoning on May 6, 2015 and recommended approval; and

**WHEREAS**, the Board of Supervisors held a public hearing on this rezoning on June 10, 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 2.96 acres of land from B3 (Industrial Transition) District with restrictive proffers and the MH1 (Mobile Home Community) District with proffers to the B2 (General Business) District to accommodate commercial uses. 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 10th day of June, 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.	_____
Jason E. Ransom	_____		

**A COPY ATTEST**

---

Brenda G. Garton  
Frederick County Administrator



**GREYWOLFE, INC.**  
1073 REDBUD ROAD • WINCHESTER, VA 22603  
(540) 667-2001 • (540) 545-4001 FAX  
GREYWOLFEINC@AOL.COM



Virginia Department of Transportation  
14031 Old Valley Pike  
Edinburg, VA 22824

June 1, 2015

Mr. Smith:

This letter is in response to the comments dated May 15, 2015.

The first nine comments dealt directly with the Traffic Impact Analysis data, tables, and format. Mr. Tim Stowe of Stowe Engineering is addressing those comments directly.

The final four comments pertain to the Proffers that were provided and are addressed below.

**Comment #10:** We recommend that proffer #3 be moved to a subset of transportation proffer #1 and the wording updated as follows: "In conformance with the Traffic Impact Analysis prepared by Stowe Engineering, PLC in 2015, the development of the property shall generate a maximum of 2,977 vehicles per day per the 9th edition of ITE Trip Generation. If a property use is proposed with a higher daily trip generation at site plan submission, a revised Traffic Impact Analysis shall be included with the submission of the site plan". The vehicle trips per day language currently included under proffer #1 should be removed.

**Response:** I have revised the proffers as you have requested with the language you provided in quotes verbatim.

**Comment #11:** We recommend that proffer #1.a.iii be updated to state that a right turn lane warrant analysis shall be submitted with the site plan for any site entrance to be located along the property frontage of Route 7. Said entrance shall be improved and/or constructed to current VDOT standards prior to the issuance of the first occupancy permit.

**Response:** I have revised the proffer as you have requested.

**Comment #12:** We recommend that proffer 1.b.ii be updated to state that the 10' multi-use trail along the property's frontage of Route 7 shall be constructed prior to the issuance of the first occupancy permit.

**Response:** I have revised the proffer as you have requested.

**Comment #13:** We recommend that proffers #1.b.iii and iv be consolidated and updated to address the queueing issue at the eastbound Route 7 left turn lane onto Regency Lakes Drive. Additionally, please avoid utilizing Vehicles per Day as a proffer trigger, as this measure is difficult to track as development of the site moves forward in the future.

**Response:** The proffers have been revised to reflect the needed pedestrian improvements in the area as requested by the County. We are offering cash proffers to be used as matching funds. We are not offering any improvements to the Regency Lakes intersection as the changes you requested to the Traffic Impact Analysis now demonstrates that this rezoning has little impact to it.

Please call if you have any questions.

Thank you,

Gary R. Oates, LS-B, PE  
GreyWolfe, Inc

<b>Rezoning:</b>		<b>RZ # 03-15</b>
<b>Property:</b>		<b>Area: 2.96 acres</b> <b>Tax Parcels 55-(A)-34 &amp; 55-(A)-34A</b>
<b>Record Owner:</b>		<b>MBC, LC</b>
<b>Project Name:</b>		<b>MBC Rezoning</b>
<b>Original Date of Proffers:</b>		<b>February 26, 2015</b>
<b>Revision Date:</b>		<b>April 3, 2015</b> <b>May 11, 2015</b>
<b>Magisterial District:</b>		<b>Redbud</b>

**OLD DEDICATED  
PROFFERS, MR**

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 owner hereby offer the following proffers that in the event the Board of Supervisors of Frederick County, Virginia, shall approve Rezoning Application #     -15 for rezoning of 2.96-acres from the B-3 & MH-1 Districts to General Business (B-2) District, development of the subject 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 owner and such are approved by the 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 this owner and their legal successors, heirs, or assigns.

The Properties are more particularly described as the lands conveyed to MBC, LC from Mildred F. Cole as recorded in the Frederick County Circuit Court Clerk's Office as instrument #00013492 dated December 1, 2000.

**Proffers:**

1. **Transportation** – Vehicle Trips per Day to be determined at Site Plan submission utilizing ITE Trip Generation 7<sup>th</sup> Edition.
  - a. Access
    - i. The eastern existing entrance on Berryville Pike (Route 7) near Eckard Circle shall be closed prior to the first occupancy permit.
    - ii. An entrance onto Eckard Circle shall be utilized until development on the Properties creates more than 500 VPD.
    - iii. The western entrance on the Properties from Berryville Pike (Route 7) shall be improved to current VDOT standards prior to the first occupancy permit.
  - b. Dedication and Pedestrian Access
    - i. The owner hereby proffers to dedicate additional land along Berryville Pike to provide a minimum of 60' of right of way from the centerline of eastbound Route 7. This is will be done prior to the first occupancy permit.
    - ii. The owner hereby proffers to construct a 10' paved hiker/bike trail along the Property's frontage with Berryville Pike per the 2030 Comprehensive Plan. This is will be done prior to the first occupancy permit.
    - iii. The owner proffers to contribute \$10,000 to Frederick County for pedestrian improvements along Route 7 when uses generate more than 500 vehicle trips per day (VPD).
    - iv. When uses on the Properties generate more than 1,500 VPD; the owner will contribute an additional \$50,000 to Frederick County for pedestrian improvements along Route 7.

2. **Fire & Rescue** – Monetary Contributions

- a. The owner hereby proffers a cash contribution to Frederick County for Fire and Rescue purposes, of \$0.10 per building square foot to be disbursed to the Frederick County Fire and Rescue Department, to be paid prior to each final site plan approval. The term “building square foot” shall be the combined floor area for each story.
3. The owner hereby proffers not exceed 2,977 VPD’s as presented in the Traffic Impact Analysis by Stowe Engineering, PLC.
4. Considerations for neighboring Mobile Home Park:
- a. The owner proffers that outdoor construction activities, on the Properties, shall not begin prior 7:30 AM and will conclude no later than 7:30 PM.

The conditions proffered above shall be binding upon heirs, executors, administrators, assigns, and successors in the interest of the owner 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 and Ordinance.

Respectfully Submitted:

By: MBC, LC by Carl A. Esterhazy for 5/12/15  
MBC, LC Bank of Clarke County, Trustee Date  
of Mildred Love Trust, Managing  
Partner

Commonwealth of Virginia,

City/County of Winchester To Wit:

The foregoing instrument was acknowledged before me this 12<sup>th</sup> day of May, 2015

By Carl A. Esterhazy

Johnny L. Cunningham  
Notary Public

184328  
Registration Number

My Commission Expires 4-30-2018

# STOWE ENGINEERING, PLC

April 6, 2015

Matthew B. Smith, P.E. | Area Land Use Engineer  
Virginia Department of Transportation  
Clarke, Frederick, Shenandoah & Warren Counties  
14031 Old Valley Pike  
Edinburg, VA 22824

RE: MBC, LLC - VDOT Comments to Rezoning/TIA

Dear Mr. Smith:

In response to VDOT comments provided in your email dated 3/23/15 I offer the following:

1. All Synchro models and analysis reports included with the submission of the TIA contain incorrect, permissive only left turn phasing at both signalized intersections within the study area. The existing year Synchro analysis must utilize existing signal phasing and timing. Please contact Grant Sanders in Traffic Engineering in the Staunton District Office to request existing signal data ([grant.sanders@vdot.virginia.gov](mailto:grant.sanders@vdot.virginia.gov)). For all future year Synchro models, the two signalized intersections within the study area should be coordinated and optimized for analysis. Once the Synchro models have been updated to provide the correct signal phasing, the report will need to be revised to reflect the updated analysis and output results. Also note that the current Level of Service and delays presented in Tables 1 – 4 of the TIA do not reflect the invalid Synchro models or output reports included in Appendix B.

*Response: I emailed and spoke with Mr. Sanders concerning timing plans in the Route 7 corridor and received this response;*

*These intersections are InSync Adaptive Signal Control Technology (ASCT) intersections, so I can't provide you with traditional timings like you're used to seeing ...*

*Existing timings were field measured to establish the existing signal timing. These timings were entered into the existing conditions model and are reflected in the associated reports*

*All other requested model adjustments have been made.*

2. Please provide a right turn lane warrant analysis for the site entrance in the report. With the build out right turn volumes and approaching volumes on Route 7, a full right turn lane and taper will be required. Update the report to provide the right turn lane as a recommendation and include a cost estimate. VDOT recommends that the right turn lane improvement at the site entrance should also be included in the associated proffers with the same 1,500 site generated VPD trigger as existing proffer 1.c.i.

*Response: The right turn lane warrant will be provided with the site plan.*



3. A concept plan has not been included in the report. At a minimum, please provide a scaled concept plan that shows the site boundary, existing conditions, proposed entrances (including lane configuration and throat depth), existing right-of-way width and proposed right-of-way dedication (with dimensions).

*Response: Due to the small nature of the site, which has less than ¼ acres of developable area, a traditional GDP has not been prepared. The attached drawing shows the requested items.*

4. There is concern that the 10' of right-of-way dedication along the property frontage of Route 7 currently included in the proffers will not accommodate the planned, future widening. Providing the concept plan as requested above in comment #3 will assist in this determination.

*Response: The attached drawing shows the existing Route 7 right of way adjacent to the site. The dimensions show the distance from the centerline of the eastbound lanes to the existing right of way line. Where less than 60 ft. of right of way exist, additional right of way has been proffered to provide 60 ft. It is expected an additional 12 ft. travel lane and 10 ft. should can be accommodated within this 60 ft. right of way.*

5. Update the Current Zoning section on page 3 of the report to remove "light manufacturing" from the requested zoning.

*Response: as requested.*

6. Provide the posted speed limit of 45 mph for Route 7 along the property frontage in the Existing Roadways section on page 4 of the report. Update all Synchro models to increase the designated speed from 30 mph to 45 mph on Route 7.

*Response: as requested.*

7. Update the Peak Hour Factor to 0.92 for all movements in the future year Synchro models.

*Response: as requested.*

8. Per the description of Figure 6 on page 6 of the report and the actual title description, Figure 6 is supposed to illustrate current lane geometry, but is inaccurate. Please update Figure 6 to represent the correct lane geometry or provide an additional figure to show existing lane configurations.

Matthew Smith

April 6, 2015

Page 3

*Response: The information has been revised where needed.*

9. Please revise the Trip Distribution and Pass By Adjustment diagrams (Figures 10 and 10A) to clarify trip assignments for each movement. The current positioning of the trip figures is somewhat unclear in terms of the assigned movement.

*Response: The figures have been revised to clarify the information presented.*

10. Please provide an additional Figure in the report that identifies the location and provides a description of the recommended improvements.

*Response: please see the attached drawing.*

If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Timothy S. Stowe". The signature is written in a cursive style with a large, stylized initial "T".

Timothy S. Stowe, PE, LS  
President

Attachments

**From:** Funkhouser, Rhonda (VDOT) [mailto:Rhonda.Funkhouser@VDOT.Virginia.gov] **On Behalf Of** Smith, Matthew, P.E. (VDOT)  
**Sent:** Monday, March 23, 2015 9:02 AM  
**To:** Tim Stowe  
**Cc:** John Bishop; Short, Terry (VDOT); Campbell, Adam (VDOT); Ingram, Lloyd (VDOT); Smith, Matthew, P.E. (VDOT)  
**Subject:** MBC, LLC - VDOT Comments to Rezoning/TIA

Please find VDOT's review comments on the MLB LLC Rezoning/Traffic Impact Analysis as received by this office February 25, 2015:

1. All Synchro models and analysis reports included with the submission of the TIA contain incorrect, permissive only left turn phasing at both signalized intersections within the study area. The existing year Synchro analysis must utilize existing signal phasing and timing. Please contact Grant Sanders in Traffic Engineering in the Staunton District Office to request existing signal data ([grant.sanders@vdot.virginia.gov](mailto:grant.sanders@vdot.virginia.gov)). For all future year Synchro models, the two signalized intersections within the study area should be coordinated and optimized for analysis. Once the Synchro models have been updated to provide the correct signal phasing, the report will need to be revised to reflect the updated analysis and output results. Also note that the current Level of Service and delays presented in Tables 1 – 4 of the TIA do not reflect the invalid Synchro models or output reports included in Appendix B.
2. Please provide a right turn lane warrant analysis for the site entrance in the report. With the build out right turn volumes and approaching volumes on Route 7, a full right turn lane and taper will be required. Update the report to provide the right turn lane as a recommendation and include a cost estimate. VDOT recommends that the right turn lane improvement at the site entrance should also be included in the associated proffers with the same 1,500 site generated VPD trigger as existing proffer 1.c.i.
3. A concept plan has not been included in the report. At a minimum, please provide a scaled concept plan that shows the site boundary, existing conditions, proposed entrances (including lane configuration and throat depth), existing right-of-way width and proposed right-of-way dedication (with dimensions).
4. There is concern that the 10' of right-of-way dedication along the property frontage of Route 7 currently included in the proffers will not accommodate the planned, future widening. Providing the concept plan as requested above in comment #3 will assist in this determination.
5. Update the Current Zoning section on page 3 of the report to remove "light manufacturing" from the requested zoning.
6. Provide the posted speed limit of 45 mph for Route 7 along the property frontage in the Existing Roadways section on page 4 of the report. Update all Synchro models to increase the designated speed from 30 mph to 45 mph on Route 7.

7. Update the Peak Hour Factor to 0.92 for all movements in the future year Synchro models.
8. Per the description of Figure 6 on page 6 of the report and the actual title description, Figure 6 is supposed to illustrate current lane geometry, but is inaccurate. Please update Figure 6 to represent the correct lane geometry or provide an additional figure to show existing lane configurations.
9. Please revise the Trip Distribution and Pass By Adjustment diagrams (Figures 10 and 10A) to clarify trip assignments for each movement. The current positioning of the trip figures is somewhat unclear in terms of the assigned movement.
10. Please provide an additional Figure in the report that identifies the location and provides a description of the recommended improvements.

If you have any questions, please do not hesitate to contact us.

Matthew B. Smith, P.E. | Area Land Use Engineer  
Virginia Department of Transportation  
Clarke, Frederick, Shenandoah & Warren Counties  
14031 Old Valley Pike  
Edinburg, VA 22824  
voice: 540/984-5615  
fax: 540/984-5607  
e-mail: [Matthew.Smith@vdot.virginia.gov](mailto:Matthew.Smith@vdot.virginia.gov)



# FREDERICK COUNTY SANITATION AUTHORITY

Post Office Box 1877  
Winchester Virginia 22604-5377

PH. - (540)868-1961  
FAX - (540)868-1439  
[www.fcsr-water.com](http://www.fcsr-water.com)

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

March 2, 2015

Mr. Gary R. Oates,  
GreyWolfe, Inc.  
1073 Redbud Road  
Winchester, Virginia 22603

Ref.: Rezoning Application Comments  
MBC, LC  
Tax Map # 55-A-34 & 55-A-34A

Dear Sir:

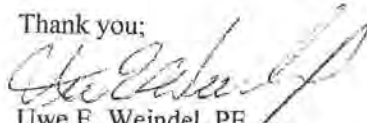
Per your request, a review of the proposed rezoning application has been performed. The Frederick County Sanitation Authority offers comments limited to the anticipated impact/effect upon the Authority's public water and sanitary sewer system and the demands thereon.

The parcels are in the water and sanitary sewer area served by the Authority. Based on the location both water 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 of both the potable water system and the ability to provide fire protection..

Water and sanitary sewers are to be constructed in accordance with the FCSA standards specifications. Dedicated easements may be requires 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 plan, 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



**GREYWOLFE, INC.**  
1073 REDBUD ROAD • WINCHESTER, VA 22603  
(540) 667-2001 • (540) 545-4001 FAX  
GREYWOLFEINC@AOL.COM



Roderick B. Williams, County Attorney  
107 North Kent Street  
Winchester, VA 22601

March 31, 2015

Subject: MBC, LC Rezoning

Mr. Williams,

This letter is response to your comments dated March 27, 2015. I have revised the proffers based your comments and have attached them to this letter.

1. I will submit the latest application to the County for Public Hearing.
2. A list of all owners will be on the application and I have attached those to this letter as well. They have all agreed to allow the Bank of Clarke County, as trustee, sign all documents pertaining to this rezoning on their behalf.
3. The term "The Properties" has replaced "The MBC parcels" throughout the proffers as requested.
4. Proffer 1 has been modified to place "triggers" for their occurrence.
5. Proffer 4 has been modified to clarify outdoor construction activities on the properties.

Thank you,

Gary R. Oates, LS-B, PE  
GreyWolfe, Inc





COUNTY of FREDERICK

Roderick B. Williams  
County Attorney

540/722-8383

Fax 540/667-0370

E-mail:

rwillia@co.frederick.va.us

March 27, 2015

VIA E-MAIL – Greywolfeinc@aol.com – AND REGULAR MAIL

Mr. Gary Oates  
GreyWolfe, Inc.  
1073 Redbud Road  
Winchester, Virginia 22603

Re: Rezoning Application – MBC  
Tax Parcel Numbers 55-A-34 and 55-A-34A, consisting of 2.96± acres  
(the “Properties”)  
Proposed Proffer Statement

Dear Gary:

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 Redbud Magisterial District, from the B3 (Industrial Transition) and MH1 (Mobile Home Community) Zoning Districts to the B2 (General Business) Zoning 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:

- Application – Please note that the application form has been revised, in particular to include specific identification on the application form itself of the parcel(s) proposed for rezoning. For future applications, please use the revised form.
- Application – County Code § 165-101.09, as authorized by Virginia Code § 15.2-2289, requires complete disclosure of parties in interest. This would include disclosure of the persons with ownership interests in MBC, LC. This requirement serves to ensure that any potential conflicts of interest can be properly ascertained.
- Application – The application will, of course, need to be signed before the County can accept it for processing.



- General – The Proffer Statement should specifically set out “the Properties” as a defined term, referring to parcels 55-A-34 and 55-A-34A, and use that term throughout, instead of “the MBC parcels”.
- Proffer 1(a) – Items 1, 2, and 3 appear to be inconsistent with each other. Is there currently an entrance onto Eckard Circle (see item 2) and, if so, will that entrance be closed upon any development of the Properties (see item 1) or only when uses on the Properties generate more than 500 VPD? Likewise, item 1 discusses closing the east entrance upon any development of the Properties, but item 3 discusses that access would be limited to only the west entrance when uses generate more than 500 VPD.
- Proffer 1(b) – Items 1 and 2 do not identify the events that will trigger the obligations.
- Proffer 4 – The proffer should clarify that it refers to outdoor construction activities “on the Properties”.

I have not reviewed the substance of the proffers as to whether the proffers are suitable and appropriate for this specific development, as my understanding is that that review will be done by staff and the Planning Commission.

Sincerely,



Roderick B. Williams  
County Attorney

cc: Michael Ruddy, Department of Planning and Development (via e-mail)



**GREYWOLFE, INC.**  
1073 REDBUD ROAD • WINCHESTER, VA 22603  
(540) 667-2001 • (540) 545-4001 FAX  
GREYWOLFEINC@AOL.COM



Frederick County Planning & Development  
107 North Kent Street  
Winchester, VA 22603

March 31, 2015

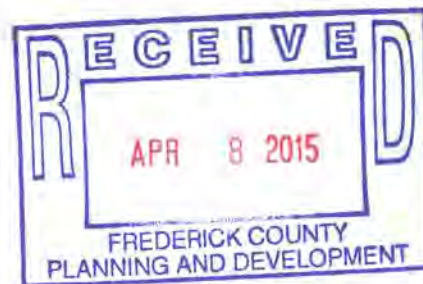
Mr. Ruddy,

Thank you for the response to the MBC Rezoning application. I will attempt to address your below.

1. In regards to "no limitations" on the uses. While the application requires an analysis of 50,000 sf retail, the area within the setbacks and buffers is 38,913 sf. That would only leave enough room for 85 parking spaces on the remainder of the site within setbacks and buffers. During the roundtable meetings with VDOT, they felt an analysis of a drive-thru fast-food restaurant was more likely and delivers an extremely high amount of traffic. That is why we have capped the traffic 2,977 VPD's in the proffers.
2. Proffer 1 has been modified based on your comments and that of the County Attorney.
3. I have not, nor will proffer to preserve the existing vegetation along the mobile home park. While that would definitely save money on development costs, future development may want to plant a more attractive buffer since the existing vegetation is mostly briars, brush, and locust trees.
4. The proffer containing the 2,977 VPD cap is meant to protect the County from any unexpected high traffic generator that is not accounted at this time. Our transportation proffers are designed to address anything up to a fast-food restaurant with drive-thru lanes. The 1,500 VPD trigger is in line with 10,000 sf of retail (a strip mall) developed on the site in the future.
5. The proffer language for the \$10,000 contribution has been changed to remove "in the vicinity of Denny Lane." That way the money may be applied wherever the County and VDOT determine is the best location for a crossing.

Thank you,

Gary R. Oates, LS-B, PE  
GreyWolfe, Inc





COUNTY of FREDERICK


Department of Planning and Development

540/665-5651

FAX: 540/665-6395

## MEMORANDUM

**TO:** Gary Oates  
GreyWolfe, Inc.

**FROM:** Michael T. Ruddy, AICP  
Deputy Director 

**RE:** Rezoning Comments: MBC, LC Commercial Rezoning  
1790 Berryville Pike; PIN's 55-A-34 and 55-A-34A

**DATE:** March 25, 2015

The following comments are offered regarding the MBC, LC Commercial Rezoning Application. This is a request to rezone 2.96 acres from B3 (Industrial Transition) District with Proffers and MH1 (Mobile Home Community) District to B2 (General Business) District with Proffers. The review is generally based upon the proffer statement dated February 26, 2015, and the Impact Analysis Statement of the same date.

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 \$10,296.00, based upon acreage of 2.96 acres.

### Land Use

- 1) The 2030 Comprehensive Plan and the Senseny/Eastern 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 high density residential land use designation. Historically, this property has been identified with a commercial land use designation and the area fronting along Route 7 has developed commercially. In general, the proposed commercial land use designation for this property is consistent with the current land use supported by the Comprehensive Plan which continues to promote the existing commercial land uses along the Route 7

corridor. This general area continues to contain and promote both commercial and residential land uses.

#### Impact Analysis and Proffer Statement

Please address the following items from the Impact Analysis and Proffer Statement prepared for this Application.

- 1) It should be noted that this application provides no limitation on the potential commercial land use that may be developed on the site. All land uses permitted in the B2 District at their maximum intensity would be allowed. Based on the acreage, the maximum possible business intensity based on trip generation and fiscal impact on capital facilities (Frederick County Rezoning Application) would be approximately 50,000 square feet of retail use.
- 2) The Application has addressed the potential impacts of this rezoning request by linking improvements to the vehicle trip count, therefore, the majority of the impacts addressed deal with transportation. This is a highway commercial location and a more intensive development proposal would be appropriate. As such, it is important to ensure the impacts associated with such a development are addressed.
- 3) Transportation improvements to Route 7, Berryville Pike, are anticipated in the future. Therefore, it is important that the right-of-way needs for the future improvements to Route 7 are accommodated, and the application provides some contribution to transportation improvements resulting from the impacts of this new development. The additional 10 feet of dedication appears to be sufficient. The proposed monetary contribution may be an acceptable alternative to the actual construction of physical improvements. It should be determined if the amount and timing of the contribution is sufficient given the potential use of the property.
- 4) The MBC parcel currently has two entrances onto Berryville Pike. The third entrance mentioned in the proffers would not be classified as an existing commercial entrance as described in the proffer statement. In the future, a new entrance onto Eckard Circle leading to the private road accessing Route 7 may be part of the development and desirable as part of the overall traffic circulation plan.
- 5) To the greatest extent possible, the proffer statement should avoid additional narrative and only include proffers that are above and beyond current ordinance requirements. I would suggest modifying proffer 1. a. Access, accordingly.
- 6) The most recent site plan for this site, SP#46-95, included a note to preserve the existing trees and vegetation where possible adjacent to the rear property line. This was in addition to the required screening and was aimed at providing an enhanced buffer between the commercial project and the adjacent residences within the mobile home park. Consideration of supplementing the buffer for the benefit of the adjacent residences may be warranted.



- 7) With regards to the proposed triggered approach to the proffered transportation improvements, it is noted that the provision of off-site improvements are delayed beyond the initial development of the site based upon future trip generation. Two triggers are used;
  - i. 500 VPD - entrance restrictions and a \$10,000 contribution to assist with pedestrian crossing improvements at the Route 7 and Denny Lane intersection.
  - ii. 1,500 VPD - a left turn lane improvement on Route 7 at Regency Lakes Drive.

A total cap of 2,977 VPD's is proffered, presumably, for uses locating on the site. Additional definition should be provided clarifying this proffer. Based on this, it appears as though no additional improvements or contributions are anticipated with the initial B2 development of this site as a result of the rezoning. The initial improvements are more consistent with those required for customary site development as required by ordinance. It may be appropriate to adjust the triggers accordingly to advance the anticipated improvements.

- 8) Please ensure that pedestrian accessibility and circulation is provided to the adjacent properties where appropriate to ensure this project is well integrated into the surrounding community. With regards to the proffered pedestrian crossing contribution, consideration could be given to providing a design for this improvement as approved by VDOT, in conjunction with the development of an initial site plan for this site. Any monetary contributions made in the future based on the triggers would then be applicable to a real project and could be available for a potential match. Depending on the use, pedestrian access may be an important consideration. At this time, no particular use is defined.

The following comments have been provided in conjunction with John Bishop, County Transportation Planner.

Due to the recent receipt of VDOT's comments on the package and their concerns with the TIA, staff would note that any comments that follow could be amended upon seeing updates/corrections to the TIA.

Staff is supportive of the entrance limitations and pedestrian enhancements proffered by the applicant. However, as VDOT did, staff would note that there is a possible need for a right turn lane into the proposed entrance on Route 7 and would suggest that warrants be run to determine this. Due to the phased nature of the transportation proffers and the associated trips, perhaps the turn lane can be accommodated the same way. Finally, regarding right-of-way, it appears that 10 feet is sufficient, but staff would recommend following VDOT's recommendation of a conceptual layout to evaluate this.

MBC, LC Commercial Rezoning  
1790 Berryville Pike; PIN's 55-A-34 and 55-A-34A  
March 25, 2015  
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In conclusion, please ensure that the above comments, and those offered by the reviewing agencies are addressed.

MTR/pd

**REZONING APPLICATION FORM  
FREDERICK COUNTY, VIRGINIA**

*To be completed by Planning Staff:*

Zoning Amendment Number	<u>03-15</u>	Fee Amount Paid	\$ <u>10,296.00</u>
PC Hearing Date	<u>5/6/15</u>	Date Received	<u>5/8/15</u>
		BOS Hearing Date	<u>5/27/15</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: GreyWolfe, Inc. - Gary R. Oates Telephone: (540) 667-2001

Address: 1073 Redbud Road, Winchester, VA, 22603

**2. Property Owner (if different than above):**

Name: MBC, LC Telephone: (540) 665-2402

Address: 202 North Loudoun Street  
Winchester, Virginia 22601

**3. Contact person if other than above:**

Name: Gary R. Oates Telephone: (540) 667-2001

**4. Property Information:**

- a. Property Identification Number(s): 55-(A)-34 and 55-(A)-34A
- b. Total acreage to be rezoned: 2.96 acres
- 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: 0.60 ac. MH-1  
& 2.36 ac. B-3
- e. Proposed zoning designation(s) and acreage(s) in each designation: 2.96 ac. B-2
- f. Magisterial District(s): Redbud



**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"/>
Digital copies (pdf's) of all submitted documents, maps and exhibits			<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:

Deborah S. Isom, Dinah S. Krasich, Jessica Danielle Krasich, Dawn M. Spears, Jared Thomas Spears,

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Tyler Edmund Spears, and Mildred F. Cole Trust, Bank of Clarke County Trustee

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**7. Adjoining Property:**

<u>PARCEL ID NUMBER</u>	<u>USE</u>	<u>ZONING</u>
54-(5)-5A	Industrial	M-1
55-(A)-32A & 33	Industrial	M-2
55-(A)-38	Mobile Home Park	MH-1
55-(A)-37	Gas Station-Store	B-2
55B-(A)-2 thru 6	Res. & Nursing Home	RP & B-2

**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):

Southern side of Route 7 about 3/4 miles east of Winchester at Eckard Circle

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

Number of Units Proposed

Single Family homes: 0      Townhome: 0      Multi-Family: 0  
 Non-Residential Lots: 0      Mobile Home: 0      Hotel Rooms: 0

Square Footage of Proposed Uses

Office: \_\_\_\_\_      Service Station: \_\_\_\_\_  
 Retail: \_\_\_\_\_      Manufacturing: \_\_\_\_\_  
 Restaurant: 6,000      Warehouse: \_\_\_\_\_  
 Commercial: \_\_\_\_\_      Other: \_\_\_\_\_

**10. Signature:**

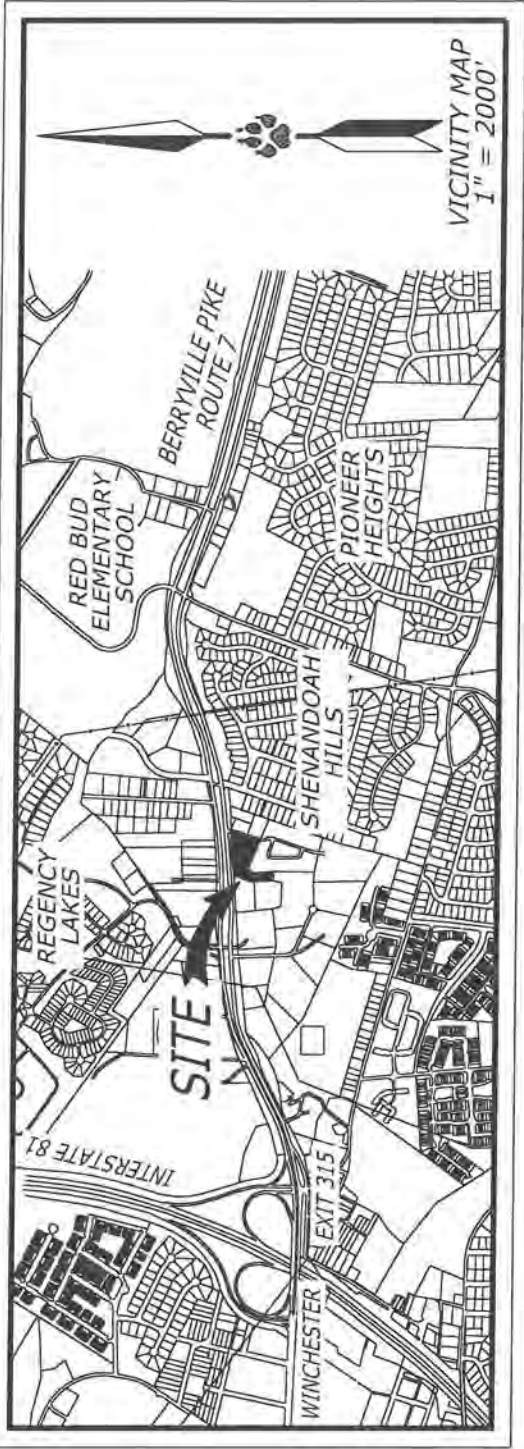
I (we), the undersigned, do hereby respectfully make application and petition the Frederick County Board of Supervisors to amend the zoning ordinance and to change the zoning map of Frederick County, Virginia. I (we) authorize Frederick County officials to enter the property for site inspection purposes.

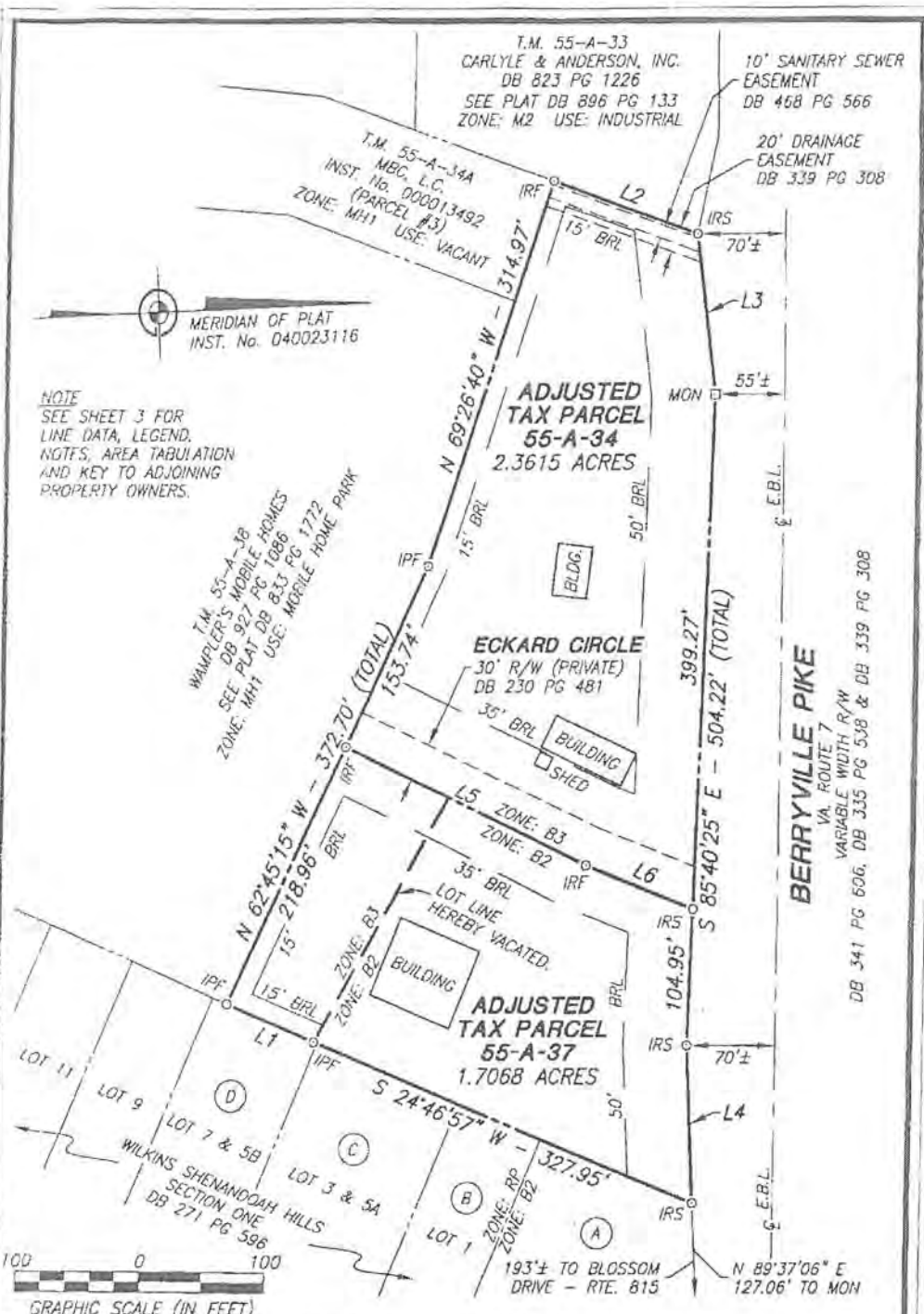
I (we) understand that the sign issued when this application is submitted must be placed at the front property line at least seven days prior to the Planning Commission public hearing and the Board of Supervisors public hearing and maintained so as to be visible from the road right-of-way until the hearing.

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

Applicant(s): Greg R. Oden      Date: 4/8/2015  
 \_\_\_\_\_      Date: \_\_\_\_\_

Owner(s): MBC, LLC by Paul A. Gentry for      Date: 4/6/2015  
Bank of Clarke County, Trustee  
of 17.1edved Cole Trust      Date: \_\_\_\_\_





FINAL PLAT FOR BOUNDARY LINE ADJUSTMENT  
BETWEEN THE LANDS OF

**MBC, L.C. AND GASMART, INC.**

RED BUD MAGISTERIAL DISTRICT, FREDERICK COUNTY, VIRGINIA

SCALE: 1" = 100'

DATE: AUGUST 21, 2006



Engineers  
Surveyors

**GREENWAY ENGINEERING**

151 Windy Hill Lane  
Winchester, Virginia 22602  
Telephone: (540) 662-1185  
FAX: (540) 722-9528  
www.greenwayeng.com

Founded in 1971



5340



# **Impact Statement**

For consideration of Rezoning the lands for

## **MBC Rezoning**

Redbud Magisterial District  
Frederick County, Virginia

February 26, 2015

Tax Map Numbers

55-(A)-34 and 55-(A)-34A

Total Area: 14.53 acres

Owner of Record:

MBC, LC

202 North Loudoun Street

Winchester, VA 22601

(540) 665-2402

Contact:

Gary R. Oates, LS-B, PE

GreyWolfe, Inc.

1073 Redbud Road

Winchester, VA 22603

(540) 667-2001 ofc

(540) 545-4001 fax

## **MBC Rezoning**

### Introduction

The site is located on the southern side of Route 7 (Berryville Pike) at the intersection of Eckard Circle in Frederick County, VA. The front parcel site was zoned B-2 in the past and was rezoned to B-3 (with proffers) in 1995. Since then it has been used for manufactured home model display and sales with associated sales office per proffers. The rear parcel has been zoned MH-1 for many years. The applicant is seeking a change in zoning from B-3 & MH-1 to B-2 (with proffers) to create a more viable commercial parcel consistent with the Frederick County Comprehensive Plan.

### Existing Conditions

The property is recently vacant. The stormwater drains generally to the west to a ravine and then in a southerly direction.

### Comprehensive Planning

The site is intended to be zoned commercial per the comprehensive plan. There is public water and sewer available along Route 7 and Eckard Circle. The benefit to Frederick County by approving this rezoning will be a positive economic impact from businesses through taxes, as well as employment opportunities for its citizens.

### Proposed Development

The site will be graded, landscaped, and roads installed that will meet current County and VDOT specifications. As long as traffic remains below 500 VPD's as is allowed now, a single entrance on Route 7 and a single entrance on Eckard Circle will be utilized. The development is planned for used car sales with the ability to eventually develop into office, retail, or restaurant.

### Physical Impacts

The site is not located within or near any 100 year flood plains per FEMA Flood Map No. 51069C0240D. Furthermore, there are not any woodlands or noteworthy landscaping on site to preserve.



### Surrounding Properties

The site is bounded by Route 7 to the north, Carlyle & Anderson (M-2) to the west, Gas-Mart (B-2) to the east, and a mobile home park (MH-1) to the south.

### Traffic Impact and Analysis

Report by Stowe Engineering is available upon request if not already provided.

### Sewer Conveyance and Treatment

The FCSA has an 8" gravity line to the west. This commercial development is expected to generate 50 gallons/day/per seat for a total of 10,000 gpd.

### Water Supply

The FCSA has a 20' waterline easement with an 8" main on the east side of the property. This development is expected to generate 50 gallons/day/per seat for a total of 10,000 gpd.

### Drainage

The stormwater runoff drains to the southwest towards Ash Hollow stream. The applicant will be required to implement BMP's and other devices to meet the Commonwealth of Virginia's requirements as required by DEQ.

### Solid Waste Disposal

The Civil Engineering Reference Manual, 4<sup>th</sup> edition, uses a rate of 5.4 cubic yards per 1,000 square feet of floor area. A 10,000 sf development will yield 54 cubic yards per year. The solid waste will be transferred to the Frederick County Landfill Facility by private licensed commercial carriers.

### Historical Impact

There are no historically significant structures or features present.

### Educational Impact

This development will not create additional students for the schools.

### Police, Fire, and Rescue Impact

The development will increase the burden on fire and rescue. The applicant is offering a proffer of \$0.10 per constructed building square foot to the County for fire and rescue services.

### Parks & Recreation Impact

This development is not expected to increase population; therefore, no measurable impacts are predicted.

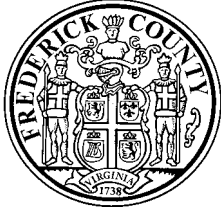
### Soils

The only soil type identified on the General Soil Map of the Soil Survey of Frederick County, Virginia is an Weikert-Berks channery silt loam (#41C) as shown on map sheet #30. This soil type is generally shallow. The characteristics of this soil are manageable for development following the Virginia Erosion and Sediment Control practices.

### Geology

This area is also known for shale topography.

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## REZONING APPLICATION #05-14

CB VENTURES, LLC

Staff Report for the Board of Supervisors

Prepared: June 4, 2015.

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

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	<u>Reviewed</u>	<u>Action</u>
Planning Commission:	01/07/15	Public Hearing Held; Action Tabled for 45 days
Planning Commission:	02/18/15	Denied
Board of Supervisors:	03/11/15	Public Hearing Held; Action Tabled for 60 days
	05/13/15	Public Meeting; Action Postponed to June 10, 2015
	06/10/15	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.

### **BOARD OF SUPERVISORS UPDATE FOR THE 06/10/15 MEETING:**

**The Board of Supervisors at their 05/13/15 meeting postponed voting on this request to the June 10, 2015 meeting.** The Applicant had presented exhibits during this Board meeting depicting the potential buildings that would be permitted to be constructed on the property. The Board wanted the opportunity to review this additional information before making a decision on this rezoning request. This also gave the Applicant an additional opportunity to meet with the neighboring property owners, should they choose to do so. The May 1, 2015 revision to the Proffer Statement was the version of the Proffer Statement considered by the Board at that meeting. This is the version noted below that contains the commitment that the maximum building height allowed for all B2 uses shall be 35 feet.

**On Wednesday June 3, 2015, the Applicant, their representatives, neighboring property owners, and Supervisor Wells attended a meeting regarding this application to discuss the proposal further.** The meeting was coordinated by Supervisor Wells. As a result of this meeting, the Applicant provided a proffer statement that was further revised to reflect several additional changes. The revised date for the proffer statement is June 4, 2015. The changes made are to Section 4. Land Use. The Applicant has increased the number of specific B2 uses that may not be developed on the property, thereby, limiting the B2 uses that may be developed on the property further. **It is important to recognize that the hotel/motel use (SIC 701) is listed as a prohibited use and therefore may not be developed on the property.**

### **BOARD OF SUPERVISORS UPDATE FOR THE 05/13/15 MEETING:**

The Board of Supervisors at their 03/11/15 meeting tabled this request for 60 days to allow the Applicant the opportunity to meet with the neighboring property owners and the opportunity to adjust their rezoning request further. A copy of the Board's minutes has been attached for your information.

**On May 6, 2015 the Applicant provided Staff with an updated Proffer Statement (revision date May 1, 2015). This Proffer Statement had one modification; Proffer 5. Allowed Building Height. The Applicant has eliminated the maximum building height allowance for office buildings and hotels/motels of 50 feet. The proffer now states that the maximum building height allowed for all B2 uses shall be 35 feet.**

**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

Rezoning #05-14 CB Ventures, LLC  
June 4, 2015  
Page 3

Planning Commission ultimately determined that the neighborhood character of the area will be adversely impacted by this rezoning request.

**The public hearing has been held for this request, 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.**

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***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>
<b>Planning Commission:</b>	01/07/15	Public Hearing Held; Action Tabled for 45 days
<b>Planning Commission:</b>	02/18/15	Denied
<b>Board of Supervisors:</b>	03/11/15	Public Hearing Held; Action Tabled for 60 days
	05/13/15	Public Meeting; Action Postponed to June 10, 2015.
	06/10/15	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.**

**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 MAGISTERIAL DISTRICT. – VOTE POSTPONED FOR 60 DAYS**

Deputy Planning Director Michael Ruddy appeared before the Board regarding this item. He advised this was a proposal to rezone 2.42 acres from B1 (Neighborhood Business) District to B2 (General Business) District with proffers. The property is located at 1033 Aylor Road in the Opequon Magisterial District. Deputy Director Ruddy advised the applicant has proffered a generalized development plan that includes the relocated Aylor Road. The proposed commercial uses are generally consistent with the Comprehensive Plan; however, the neighborhood characteristics of the adjacent land uses should be considered. He noted the proposal calls for increased vehicle trips per day, increased building height, and increased density. The Planning Commission recommended denial of this application due to its adverse impact on the adjacent neighborhood. He concluded by saying that staff was seeking Board action following the public hearing.

**Benjamin C. Montgomery** appeared before the Board on behalf of the applicant. He reviewed the proposal to include the conversion of current Aylor Road into a utility road for I-81. He stated the nature of the location begs to be more intense from a zoning perspective. He noted there was existing B2 zoning against some of the residential area. He went on to say three uses make sense for this particular parcel: office, hotel, and restaurant. He noted part of the property could not be used due to the relocation of Aylor Road. He stated the current B1 zoning guarantees a three-story office building. B2 would permit a hotel with no windows facing the residential neighborhood. He noted that buffering had been added to aid the neighbors beside the



project.

Chairman Shickle convened the public hearing.

**Dorothy Carriker**, Opequon District, advised she was an adjoining property owner. She did not believe the proposed rezoning met the current B2 requirements. She stated the B2 district provided for uses on large acreage; however, the proposed parcel was not large. She noted the parcel was not located near the Aylor Road intersection. She asked if this was the type of spot zoning Frederick County wants to see. The Planning Commission unanimously rejected this proposal and she hoped the Board would do the same.

**Ulysses Carriker**, Opequon District, stated the site overlooks a mostly residential neighborhood due to the topography. He believed site access should be controlled and nuisances mitigated. He was concerned about the building overlooking his property and the illuminated signage. He also expressed concern about stormwater runoff because it could flood his yard and crawlspace. He concluded by asking the Board to deny this proposed rezoning request.

**Kevin Chapman**, Opequon District, stated he believed the hill elevation to be greater than what was shown on the illustration. He noted the proposed landscaping was less than adequate and the building would dominate the view from his home. He went on to say if the Board wanted to approve this application, he asked that the action be postponed until more thorough environmental studies of the property could be done. He advised that the debris from the carwash drains had been dumped on the property and there had been no reports that this property had been remediated. He noted a phase I environmental study did not always detect contamination.

**Alan Moeck**, Opequon District, expressed concern about the height of the proposed building, how people would enter the site due to the relocated Aylor Road, and lighted signage.

He hoped the Board would deny this request.

There being no further comments, Chairman Shickle closed the public hearing.

Mr. Montgomery responded to the various comments. He stated he appreciated the residents' concerns. He proposed the Board postpone this application in order to allow the applicant to work with the neighbors to address their concerns.

Supervisor Wells advised that he had spoken with the project owner and two adjacent landowner and some board members. He would like to say that he could find a way for the neighbors to have their concerns addressed.

Supervisor Wells moved to deny rezoning #05-14. The motion was seconded by Supervisor Hess.

Supervisor Lofton stated that looking at the relocated Aylor Road this rezoning would appear to create an island of B2 zoned property. He stated that he could argue that this might not be the right zoning for this property.

Supervisor Fisher stated there was a part of him that would like to see the application postponed in order to allow the applicant to work out the concerns expressed by the neighbors.

Supervisor Wells withdrew his motion to deny.

Supervisor Hess withdrew his second.

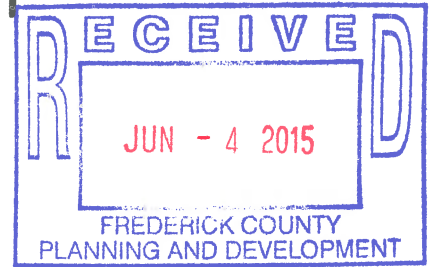
Upon a motion by Supervisor Wells, seconded by Supervisor Fisher, the Board postponed Rezoning #05-14 for 60 days.

The above motion was approved by the following recorded vote:

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

Original - MR

# PROPOSED PROFFER STATEMENT



REZONING: BZ#  
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) May 1, 2015, *JUNE 4, 2015*

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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 the 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 he 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 provisions 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 and 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. Improvement 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 on light onto adjoining properties.

### 4. Land Use

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

SIC Code	Use
0704	Veterinary Offices
554	Gasoline Service Stations
0741	Veterinary services-livestock
0752	Animal specialty services, except veterinary, with all activities And animals kept within the fully enclosed primary structure
5431	Fruit and vegetable stands
55	Automotive dealers and gasoline service stations
598	Fuel dealers
701	Hotel & Motels
704	Organization hotels and lodging
7213	Linen supply
7216	Dry cleaning plants
7218	Industrial launderers
7299	Escort services

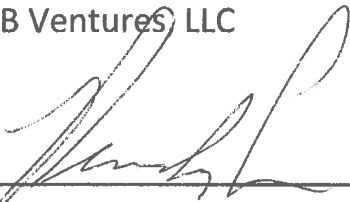
7299	Turkish Baths
7299	Steam Baths
7312	Outdoor ad services
735	Miscellaneous equipment rental
7389	Automobile recover service, automobile repossession services, Exhibits building of by industrial contractors, Filling of pressure Containers (aerosol) Gas systems Contract conversion from Manufactured to natural gas, Produce weight service, Production sterilization service, Repossession service, Salvaging Of damaged merchandise not engaged in sales, Scrap steel Cutting.
7692	Welding repair
7699	Blacksmith shops Boiler cleaning and repair, Cesspool cleaning Coppersmithing, Dental and medical instrument repair Engine repair, Farm machinery and tractor repair, Farriers Horseshoeing, industrial truck repair, laboratory instrument Repair, machinery cleaning, Measuring and Controlling Instrument repair, mechanical, Meteorological instrument Precision instrument repair, Repair of Optical instruments, Repair of service station equipment, Scale repair services, Septic tank cleaning services, sewer Cleaning, Surgical Instrument repair, Tank and Boiler cleaning service, Tank truck Cleaning service, Taxidermist, Tinsmithing.
7832	Motion picture theater, drive-in
507	Commercial batting cages operated indoors, Fire Stations, Companies and rescue squads, Commercial sport and Recreation clubs
784	Videotape rental

- 79 Amusement and recreation services operated indoors
- 7999 Golf driving ranges and miniature golf courses
- 8734 Testing laboratories, Self-service storage facilities Public Utility distribution facilities, Commercial sport and recreation Clubs.

5. Allowed Building Height

The maximum building height allowed for all 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

  
\_\_\_\_\_  
Randy Craun

*Member/Manager*  
\_\_\_\_\_  
(Title)

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

The foregoing instrument was acknowledged before me this the 4<sup>th</sup> day  
Of June, 2015 by Debbie Jenkins

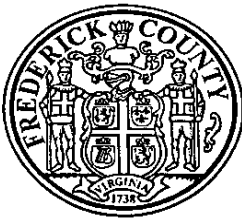
  
\_\_\_\_\_  
NOTARY PUBLIC

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

Debbie Jenkins  
Notary Public  
Commonwealth of Virginia  
Notary Registration #7593285







## AMENDMENT

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**Action:**

PLANNING COMMISSION: February 18, 2015 - Recommended Denial

BOARD OF SUPERVISORS: June 10, 2015       APPROVED       DENIED

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### 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 June 4, 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 Board of Supervisors held a public meeting on this rezoning on May 13, 2015 and again on June 10, 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 10th day of June, 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.	_____
Jason E. Ransom	_____		

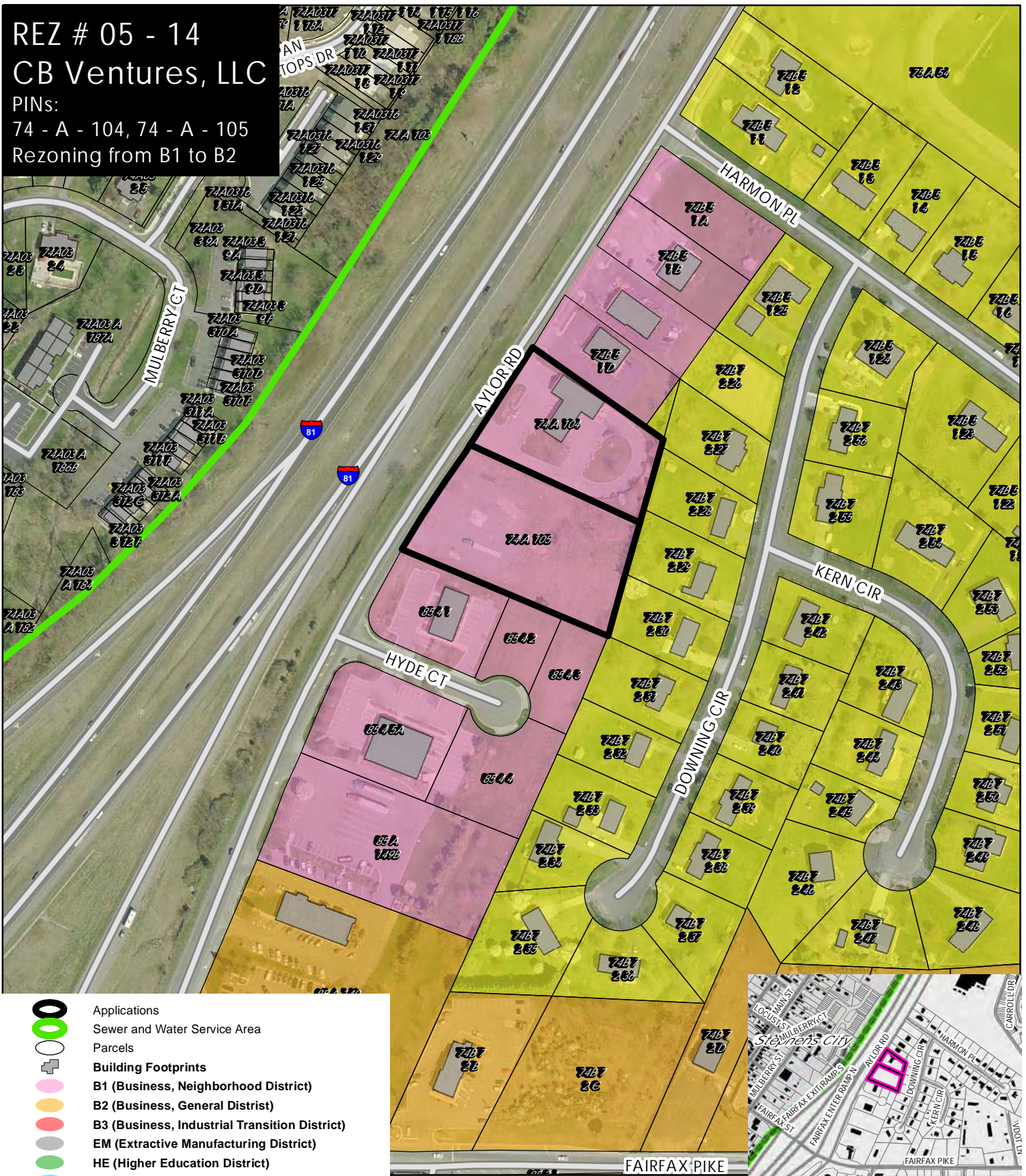
**A COPY ATTEST**

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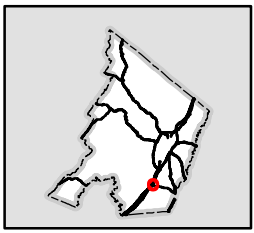
Brenda G. Garton  
Frederick County Administrator



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

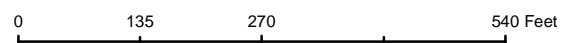


- Applications
- Sewer and Water Service Area
- Parcels
- Building Footprints
- B1 (Business, Neighborhood District)
- B2 (Business, General District)
- B3 (Business, Industrial Transition District)
- EM (Extractive Manufacturing District)
- HE (Higher Education District)
- M1 (Industrial, Light District)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





**Project Location**



**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](mailto:Chris.Colson@VDOT.Virginia.gov)

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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:

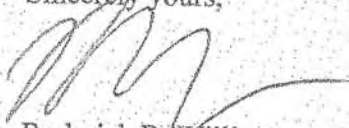
- a. For clarity, it may better to divide Proffer 2 into a part a (re property access) and a part b (re right of way dedication).
  - b. The second sentence regarding property access might better read that the existing entrances shall be reduced to those shown on the GDP at the time of construction of the realigned Aylor Road. In this regard, I note that, as worded, the sentence would apparently only limit the entrances at development (of the Property?) after conveyance (of the right of way?). This would not necessarily be practical in the context of the road realignment project. Also, I would suggest adding on the GDP labels for the new entrances.
  - c. The first sentence regarding dedication might better read along the lines of: "The right of way shown on the GDP for the future Aylor Road realignment project shall be conveyed to the Commonwealth of Virginia within 90 days of a written request from either VDOT or Frederick County." I believe this is fairly standard language that has been used for road improvement dedications in other rezonings. The second sentence regarding dedication might better read by starting with "The right of way", instead of "This property". Also regarding dedication, staff should be aware that, as written, the obligation to dedicate right of way is ineffective if new development does not occur on the Property.
  - d. As well, regarding dedication, the GDP might specifically identify, with a text notation and arrows, the area of the right of way dedication. Presumably, this would be the area to the west of the --- -- line on the GDP, but this is not clear.
4. Staff should be aware that the impact analysis accompanying the application materials asserts that the county's tax base "will increase with only minimal service requirements". Staff may wish to undertake independent analysis.
  5. Signature – Thank you for adding a signature by Mr. Browning, but I note that the Proffer Statement still fails to state that it is on behalf of CB Ventures, LLC. This might best be solved by adding "CB VENTURES, LLC" under the "Respectfully submitted" line and also stating the titles of Messrs. Browning and Craun. Also, the notarizations are defective in that, where they indicate "by", the name should be that of the signatory and not that of the notary. Finally, the notary is required to affix a raised seal to the document. Va. Code §47.1-16(C).



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,



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](mailto: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](http://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:

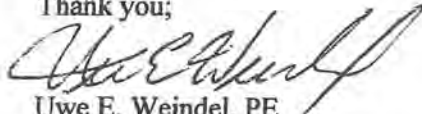
Per your request, a review of the proposed rezoning plan has been performed. The Frederick County Sanitation Authority offers comments limited to the anticipated impact/effect upon the Authority's public water and sanitary sewer system and the demands thereon.

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**

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## *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,



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 05-14  
PC Hearing Date 1/7/15

Fee Amount Paid \$ 10,242.<sup>00</sup>  
Date Received 11/24/14  
BOS Hearing Date 1/28/15

*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

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Randy Craun

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**7. Adjoining Property:**

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

**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.

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

Number of Units Proposed

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

Square Footage of Proposed Uses

Office: 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

\_\_\_\_\_ Date: \_\_\_\_\_

Owner(s):  \_\_\_\_\_ 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 & Dorothy 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

M





**MEMORANDUM**

**TO:** Frederick County Board of Supervisors  
**FROM:** Candice E. Perkins, AICP, Senior Planner *CEP*  
**SUBJECT:** Farm Breweries and Distilleries in the RA (Rural Areas) Zoning District  
**DATE:** June 1, 2015

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In 2009 Frederick County adopted standards for farm wineries pursuant to the requirements of the Code of Virginia. The standards allowed for the wineries along with permissible accessory uses such as special events and onsite tasting and sales. In 2014, additional standards were introduced in the Code of Virginia to allow for farm breweries. Additionally, this year allowances were introduced for farm distilleries. Staff has drafted revisions to the farm winery text to include allowances for farm breweries and farm distilleries along with other minor changes.

The changes included with this revision are as follows:

- Addition of Farm Breweries and Distilleries, with updated and new definitions.
- Addition of on-site sales, tasting during regular business hours.
- Kitchen and catering activities related to the businesses.
- Removal of the site plan requirement and addition of an illustrative sketch plan requirement.
- Revision to the special events allowance to decrease the number of people permitted onsite without a festival permit from 150 to 100 (consistent with the County Code requirement for festival permits).

The DRRC discussed this amendment at their April 2015 meeting and sent the proposed changes to the Planning Commission for discussion. The Planning Commission discussed this item on May 20, 2015; the Commission 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.

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**Attachments:**

- 1. Revised ordinance with additions shown in bold underlined italics.**
- 2. Code of Virginia – Farm Breweries and Distilleries**
- 3. Resolution**

CEP/pd

ARTICLE IV  
AGRICULTURAL AND RESIDENTIAL DISTRICTS

Part 401 – RA Rural Areas District

§ 165-401.02 Permitted uses.

Structures and land shall be used for one of the following uses:

EE. Farm Breweries.

FF. Farm Distilleries.

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Article II

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

Part 204 – Additional Regulations for Specific Uses

§ 165-204.22. Farm Wineries , Farm Breweries and Farm Distilleries.

Farm Wineries, Farm Breweries and Farm Distilleries in the RA (Rural Areas) District, shall meet the following requirements:

- A. ~~The following shall be considered by right accessory uses at~~ Uses permitted. The following uses, events and activities (hereinafter, collectively, “uses”) are permitted at farm wineries:
- (1) The production and harvesting of fruit and other agricultural products;
  - (2) The manufacturing of wine;
  - (3) The storage and sale of wine produced by the winery, including retail sales, direct sales and shipment, as well as wholesaling;
  - (4) The provision for on-site winery tours;
  - (5) The incidental retail of wine-related items;
  - (6) ~~Wine tasting;~~ The on-premises sale, tasting, or consumption of wine produced by the winery during regular business hours within the normal course of business of such winery;
  - (7) Providing finger foods, soups, and appetizers for visitors; and
  - (8) Kitchen and catering activities related to a use at the farm winery.
- B. Uses permitted. The following uses, events and activities (hereinafter, collectively, “uses”) are permitted at a farm brewery:
- (1) The production and harvesting of barley, other grains, hops and other agriculture products;
  - (2) The manufacturing of beer (up to a maximum of 15,000 barrels of beer per calendar year);
  - (3) The storage and sale of beer produced by the brewery including retail sales, direct sales and shipment, as well as wholesaling;
  - (4) The provision of on-site brewery tours.
  - (5) The incidental retail of beer-related items; and
  - (6) The on-premises sale, tasting, or consumption of beer produced by the brewery during regular business hours within the normal course of business of such brewery;
  - (7) Providing finger foods, soups, and appetizers for visitors; and
  - (8) Kitchen and catering activities related to a use at the farm brewery.



- C. Uses permitted. The following uses, events and activities (hereinafter, collectively, “uses”) are permitted at a farm distillery:
- 1) The production and harvesting of agricultural products used by the distillery;
  - 2) The manufacturing of alcoholic beverages (up to a maximum of 36,000 gallons of alcoholic beverages per calendar year);
  - 3) The storage and sale of alcoholic beverages produced by the distillery including retail sales, direct sales and shipment, as well as wholesaling;
  - 4) The provision of on-site distillery tours.
  - 5) The incidental retail of distillery -related items; and
  - 6) The on-premises sale, tasting, or consumption of distillery produced by the distillery during regular business hours within the normal course of business of such distillery;
  - 7) Providing finger foods, soups, and appetizers for visitors; and
  - 8) Kitchen and catering activities related to a use at the farm distillery.
- D. Special events shall be permitted only on farm wineries, farm breweries and farm distilleries of ten acres or larger. Special events for the purposes of this section shall include but are not limited to meetings, conferences, dinners, and wedding receptions. Any event at which more than ~~150~~ 100 people are anticipated will require a festival permit.
- E. An illustrative sketch site plan in accordance with the requirements of Article VIII shall be submitted to and approved by Frederick County.

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**ARTICLE I**  
**GENERAL PROVISIONS, AMENDMENTS, AND CONDITIONAL USE PERMITS**

**Part 101 – General Provisions**

**§ 165-101.02. Definitions and word usage.**

**FARM BREWERY - A brewery licensed as a limited brewery under subdivision 2 of Section 4.1-208 of the Code of Virginia (1950, as amended).**

**FARM DISTILLERY - A distillery licensed as a limited distillery under subdivision 2 of Section 4.1-206 of the Code of Virginia (1950, as amended).**

**FARM WINERY – A winery licensed as a farm winery under subdivision 5 of Section 4.1-207 of the Code of Virginia (1950, as amended).**

**FARM WINERY**—An establishment (i) located on a farm in the commonwealth with a producing vineyard, orchard, or similar growing area and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 18% alcohol by volume or (ii) located in the commonwealth with a producing vineyard, orchard, or similar growing area or agreements for purchasing grapes or other fruits from agricultural growers within the commonwealth, and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 18% alcohol by volume. A minimum of 51% of the fresh fruits or agricultural products used at the winery for the production of wine shall be grown or produced on the farm, and no more than 25% of the fruits, fruit juices or other agricultural products may be grown outside of the commonwealth. Accessory uses shall include wine tasting rooms, accessory food sales related to wine tasting, and the sale of wines produced on-site.

# VIRGINIA ACTS OF ASSEMBLY -- 2015 SESSION

## CHAPTER 695

*An Act to amend and reenact §§ 4.1-206, 4.1-231, and 4.1-233 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 15.2-2288.3:2, relating to alcoholic beverage control; limited distiller's license.*

[S 1272]

Approved March 27, 2015

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 4.1-206, 4.1-231, and 4.1-233 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 15.2-2288.3:2 as follows:**

**§ 4.1-206. Alcoholic beverage licenses.**

The Board may grant the following licenses relating to alcoholic beverages generally:

1. Distillers' licenses, which shall authorize the licensee to manufacture alcoholic beverages other than wine and beer, and to sell and deliver or ship the same, in accordance with Board regulations, in closed containers, to the Board and to persons outside the Commonwealth for resale outside the Commonwealth. When the Board has established a government store on the distiller's licensed premises pursuant to subsection D of § 4.1-119, such license shall also authorize the licensee to make a charge to consumers to participate in an organized tasting event conducted in accordance with subsection G of § 4.1-119 and Board regulations.

2. *Limited distillers' licenses, to distilleries that manufacture not more than 36,000 gallons of alcoholic beverages other than wine or beer per calendar year, provided (i) the distillery is located on a farm in the Commonwealth on land zoned agricultural and owned or leased by such distillery or its owner and (ii) agricultural products used by such distillery in the manufacture of its alcoholic beverages are grown on the farm. Limited distillers' licensees shall be treated as distillers for all purposes of this title except as otherwise provided in this subdivision.*

3. Fruit distillers' licenses, which shall authorize the licensee to manufacture any alcoholic beverages made from fruit or fruit juices, and to sell and deliver or ship the same, in accordance with Board regulations, in closed containers, to the Board and to persons outside the Commonwealth for resale outside the Commonwealth.

~~3-~~ 4. Banquet facility licenses to volunteer fire departments and volunteer rescue squads, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any person, and bona fide members and guests thereof, otherwise eligible for a banquet license. However, lawfully acquired alcoholic beverages shall not be purchased or sold by the licensee or sold or charged for in any way by the person permitted to use the premises. Such premises shall be a fire or rescue squad station or both, regularly occupied as such and recognized by the governing body of the county, city or town in which it is located. Under conditions as specified by Board regulation, such premises may be other than a fire or rescue squad station, provided such other premises are occupied and under the control of the fire department or rescue squad while the privileges of its license are being exercised.

4- 5. Bed and breakfast licenses, which shall authorize the licensee to serve alcoholic beverages in dining areas, private guest rooms and other designated areas to persons to whom overnight lodging is being provided, with or without meals, for on-premises consumption only in such rooms and areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises.

~~5-~~ 6. Tasting licenses, which shall authorize the licensee to sell or give samples of alcoholic beverages of the type specified in the license in designated areas at events held by the licensee. A tasting license shall be issued for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. A separate license shall be required for each day of each tasting event. No tasting license shall be required for conduct authorized by § 4.1-201.1.

~~6-~~ 7. Museum licenses, which may be issued to nonprofit museums exempt from taxation under § 501(c)(3) of the Internal Revenue Code, which shall authorize the licensee to (i) permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide member and guests thereof and (ii) serve alcoholic beverages on the premises of the licensee to any bona fide member and guests thereof. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be limited to the premises of the museum, regularly occupied and utilized as such.

~~7-~~ 8. Equine sporting event licenses, which may be issued to organizations holding equestrian, hunt and steeplechase events, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such event.

However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be (i) limited to the premises of the licensee, regularly occupied and utilized for equestrian, hunt and steeplechase events and (ii) exercised on no more than four calendar days per year.

~~8-~~ 9. Day spa licenses, which shall authorize the licensee to (i) permit the consumption of lawfully acquired wine or beer on the premises of the licensee by any bona fide customer of the day spa and (ii) serve wine or beer on the premises of the licensee to any such bona fide customer; however, the licensee shall not give more than two five-ounce glasses of wine or one 12-ounce glass of beer to any such customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. The privileges of this license shall be limited to the premises of the day spa regularly occupied and utilized as such.

~~9-~~ 10. Motor car sporting event facility licenses, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee. The privileges of this license shall be limited to those areas of the licensee's premises designated by the Board that are regularly occupied and utilized for motor car sporting events.

~~10-~~ 11. Meal-assembly kitchen license, which shall authorize the licensee to serve wine or beer on the premises of the licensee to any such bona fide customer attending either a private gathering or a special event; however, the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any such customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. The privileges of this license shall be limited to the premises of the meal-assembly kitchen regularly occupied and utilized as such.

~~11-~~ 12. Canal boat operator license, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide customer attending either a private gathering or a special event; however, the licensee shall not sell or otherwise charge a fee to such customer for the alcoholic beverages so consumed. The privileges of this license shall be limited to the premises of the licensee, including the canal, the canal boats while in operation, and any pathways adjacent thereto. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license.

~~12-~~ 13. Annual arts venue event licenses, to persons operating an arts venue, which shall authorize the licensee participating in a community art walk that is open to the public to serve lawfully acquired wine or beer on the premises of the licensee to adult patrons thereof during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee, and the licensee shall not give more than two five-ounce glasses of wine or one 12-ounce glass of beer to any one adult patron. The privileges of this license shall be (i) limited to the premises of the arts venue regularly occupied and used as such and (ii) exercised on no more than 12 calendar days per year.

#### **§ 4.1-231. Taxes on state licenses.**

A. The annual fees on state licenses shall be as follows:

1. Alcoholic beverage licenses. For each:

a. Distiller's license, if not more than 5,000 gallons of alcohol or spirits, or both, manufactured during the year in which the license is granted, \$450; *if more than 5,000 gallons but not more than 36,000 gallons manufactured during such year*, \$2,500; and if more than ~~5,000~~ 36,000 gallons manufactured during such year, \$3,725;

b. Fruit distiller's license, \$3,725;

c. Banquet facility license or museum license, \$190;

d. Bed and breakfast establishment license, \$35;

e. Tasting license, \$40 per license granted;

f. Equine sporting event license, \$130;

g. Motor car sporting event facility license, \$130;

h. Day spa license, \$100;

i. Delivery permit, \$120 if the permittee holds no other license under this title;

j. Meal-assembly kitchen license, \$100;

k. Canal boat operator license, \$100; and

l. Annual arts venue event license, \$100.

2. Wine licenses. For each:

a. Winery license, if not more than 5,000 gallons of wine manufactured during the year in which the license is granted, \$189, and if more than 5,000 gallons manufactured during such year, \$3,725;

b. (1) Wholesale wine license, \$185 for any wholesaler who sells 30,000 gallons of wine or less per year, \$930 for any wholesaler who sells more than 30,000 gallons per year but not more than 150,000 gallons of wine per year, \$1,430 for any wholesaler who sells more than 150,000 but not more than 300,000 gallons of wine per year, and, \$1,860 for any wholesaler who sells more than 300,000 gallons

of wine per year;

(2) Wholesale wine license, including that granted pursuant to § 4.1-207.1, applicable to two or more premises, the annual state license tax shall be the amount set forth in subdivision b (1), multiplied by the number of separate locations covered by the license;

- c. Wine importer's license, \$370;
- d. Retail off-premises winery license, \$145, which shall include a delivery permit;
- e. Farm winery license, \$190 for any Class A license and \$3,725 for any Class B license, each of which shall include a delivery permit;
- f. Wine shipper's license, \$95; and
- g. Internet wine retailer license, \$150.

3. Beer licenses. For each:

a. Brewery license, if not more than 500 barrels of beer manufactured during the year in which the license is granted, \$350; if not more than 10,000 barrels of beer manufactured during the year in which the license is granted, \$2,150; and if more than 10,000 barrels manufactured during such year, \$4,300;

b. Bottler's license, \$1,430;

c. (1) Wholesale beer license, \$930 for any wholesaler who sells 300,000 cases of beer a year or less, and \$1,430 for any wholesaler who sells more than 300,000 but not more than 600,000 cases of beer a year, and \$1,860 for any wholesaler who sells more than 600,000 cases of beer a year;

(2) Wholesale beer license applicable to two or more premises, the annual state license tax shall be the amount set forth in subdivision c (1), multiplied by the number of separate locations covered by the license;

d. Beer importer's license, \$370;

e. Retail on-premises beer license to a hotel, restaurant, club or other person, except a common carrier of passengers by train or boat, \$145; for each such license to a common carrier of passengers by train or boat, \$145 per annum for each of the average number of boats, dining cars, buffet cars or club cars operated daily in the Commonwealth;

f. Retail off-premises beer license, \$120, which shall include a delivery permit;

g. Retail on-and-off premises beer license to a hotel, restaurant, club or grocery store located in a town or in a rural area outside the corporate limits of any city or town, \$300, which shall include a delivery permit;

h. Beer shipper's license, \$95; and

i. Retail off-premises brewery license, \$120, which shall include a delivery permit.

4. Wine and beer licenses. For each:

a. Retail on-premises wine and beer license to a hotel, restaurant, club or other person, except a common carrier of passengers by train, boat or airplane, \$300; for each such license to a common carrier of passengers by train or boat, \$300 per annum for each of the average number of boats, dining cars, buffet cars or club cars operated daily in the Commonwealth, and for each such license granted to a common carrier of passengers by airplane, \$750;

b. Retail on-premises wine and beer license to a hospital, \$145;

c. Retail off-premises wine and beer license, including each gift shop, gourmet shop and convenience grocery store license, \$230, which shall include a delivery permit;

d. Retail on-and-off premises wine and beer license to a hotel, restaurant or club, \$600, which shall include a delivery permit;

e. Banquet license, \$40 per license granted by the Board, except for banquet licenses granted by the Board pursuant to subsection A of § 4.1-215 for events occurring on more than one day, which shall be \$100 per license;

f. Gourmet brewing shop license, \$230;

g. Wine and beer shipper's license, \$95;

h. Annual banquet license, \$150;

i. Fulfillment warehouse license, \$120;

j. Marketing portal license, \$150; and

k. Gourmet oyster house license, \$230.

5. Mixed beverage licenses. For each:

a. Mixed beverage restaurant license granted to persons operating restaurants, including restaurants located on premises of and operated by hotels or motels, or other persons:

(i) With a seating capacity at tables for up to 100 persons, \$560;

(ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$975; and

(iii) With a seating capacity at tables for more than 150 persons, \$1,430.

b. Mixed beverage restaurant license for restaurants located on the premises of and operated by private, nonprofit clubs:

(i) With an average yearly membership of not more than 200 resident members, \$750;

(ii) With an average yearly membership of more than 200 but not more than 500 resident members, \$1,860; and

(iii) With an average yearly membership of more than 500 resident members, \$2,765.

- c. Mixed beverage caterer's license, \$1,860;
  - d. Mixed beverage limited caterer's license, \$500;
  - e. Mixed beverage special events license, \$45 for each day of each event;
  - f. Mixed beverage club events licenses, \$35 for each day of each event;
  - g. Annual mixed beverage special events license, \$560;
  - h. Mixed beverage carrier license:
    - (i) \$190 for each of the average number of dining cars, buffet cars or club cars operated daily in the Commonwealth by a common carrier of passengers by train;
    - (ii) \$560 for each common carrier of passengers by boat;
    - (iii) \$1,475 for each license granted to a common carrier of passengers by airplane.
  - i. Annual mixed beverage amphitheater license, \$560;
  - j. Annual mixed beverage motor sports race track license, \$560;
  - k. Annual mixed beverage banquet license, \$500;
  - l. Limited mixed beverage restaurant license:
    - (i) With a seating capacity at tables for up to 100 persons, \$460;
    - (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$875;
    - (iii) With a seating capacity at tables for more than 150 persons, \$1,330;
  - m. Annual mixed beverage motor sports facility license, \$560; and
  - n. Annual mixed beverage performing arts facility license, \$560.
6. Temporary licenses. For each temporary license authorized by § 4.1-211, one-half of the tax imposed by this section on the license for which the applicant applied.

B. The tax on each such license, except banquet and mixed beverage special events licenses, shall be subject to proration to the following extent: If the license is granted in the second quarter of any year, the tax shall be decreased by one-fourth; if granted in the third quarter of any year, the tax shall be decreased by one-half; and if granted in the fourth quarter of any year, the tax shall be decreased by three-fourths.

If the license on which the tax is prorated is a distiller's license to manufacture not more than 5,000 gallons of alcohol or spirits, or both, during the year in which the license is granted, or a winery license to manufacture not more than 5,000 gallons of wine during the year in which the license is granted, the number of gallons permitted to be manufactured shall be prorated in the same manner.

Should the holder of a distiller's license or a winery license to manufacture not more than 5,000 gallons of alcohol or spirits, or both, or wine, apply during the license year for an unlimited distiller's or winery license, such person shall pay for such unlimited license a license tax equal to the amount that would have been charged had such license been applied for at the time that the license to manufacture less than 5,000 gallons of alcohol or spirits or wine, as the case may be, was granted, and such person shall be entitled to a refund of the amount of license tax previously paid on the limited license.

Notwithstanding the foregoing, the tax on each license granted or reissued for a period of less than 12 months shall be equal to one-twelfth of the taxes required by subsection A computed to the nearest cent, multiplied by the number of months in the license period.

C. Nothing in this chapter shall exempt any licensee from any state merchants' license or state restaurant license or any other state tax. Every licensee, in addition to the taxes imposed by this chapter, shall be liable to state merchants' license taxation and state restaurant license taxation and other state taxation the same as if the alcoholic beverages were nonalcoholic. In ascertaining the liability of a beer wholesaler to merchants' license taxation, however, and in computing the wholesale merchants' license tax on a beer wholesaler, the first \$163,800 of beer purchases shall be disregarded; and in ascertaining the liability of a wholesale wine distributor to merchants' license taxation, and in computing the wholesale merchants' license tax on a wholesale wine distributor, the first \$163,800 of wine purchases shall be disregarded.

#### **§ 4.1-233. Taxes on local licenses.**

A. In addition to the state license taxes, the annual local license taxes which may be collected shall not exceed the following sums:

- 1. Alcoholic beverages. - For each:
  - a. Distiller's license, *if more than 5,000 gallons but not more than 36,000 gallons manufactured during such year, \$750; if more than 36,000 gallons manufactured during such year, \$1,000; and no local license shall be required for any person who manufactures not more than 5,000 gallons of alcohol or spirits, or both, during such license year;*
  - b. Fruit distiller's license, \$1,500;
  - c. Bed and breakfast establishment license, \$40;
  - d. Museum license, \$10;
  - e. Tasting license, \$5 per license granted;
  - f. Equine sporting event license, \$10;
  - g. Day spa license, \$20;
  - h. Motor car sporting event facility license, \$10;
  - i. Meal-assembly kitchen license, \$20;

- j. Canal boat operator license, \$20; and
  - k. Annual arts venue event license, \$20.
  - 2. Beer. - For each:
    - a. Brewery license, if not more than 500 barrels of beer manufactured during the year in which the license is granted, \$250, and if more than 500 barrels of beer manufactured during the year in which the license is granted, \$1,000;
    - b. Bottler's license, \$500;
    - c. Wholesale beer license, in a city, \$250, and in a county or town, \$75;
    - d. Retail on-premises beer license for a hotel, restaurant or club and for each retail off-premises beer license in a city, \$100, and in a county or town, \$25; and
    - e. Beer shipper's license, \$10.
  - 3. Wine. - For each:
    - a. Winery license, \$50;
    - b. Wholesale wine license, \$50;
    - c. Farm winery license, \$50; and
    - d. Wine shipper's license, \$10.
  - 4. Wine and beer. - For each:
    - a. Retail on-premises wine and beer license for a hotel, restaurant or club; and for each retail off-premises wine and beer license, including each gift shop, gourmet shop and convenience grocery store license, in a city, \$150, and in a county or town, \$37.50;
    - b. Hospital license, \$10;
    - c. Banquet license, \$5 for each license granted, except for banquet licenses granted by the Board pursuant to subsection A of § 4.1-215 for events occurring on more than one day, which shall be \$20 per license;
    - d. Gourmet brewing shop license, \$150;
    - e. Wine and beer shipper's license, \$10;
    - f. Annual banquet license, \$15; and
    - g. Gourmet oyster house license, in a city, \$150, and in a county or town, \$37.50.
  - 5. Mixed beverages. - For each:
    - a. Mixed beverage restaurant license, including restaurants located on the premises of and operated by hotels or motels, or other persons:
      - (i) With a seating capacity at tables for up to 100 persons, \$200;
      - (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$350; and
      - (iii) With a seating capacity at tables for more than 150 persons, \$500.
    - b. Private, nonprofit club operating a restaurant located on the premises of such club, \$350;
    - c. Mixed beverage caterer's license, \$500;
    - d. Mixed beverage limited caterer's license, \$100;
    - e. Mixed beverage special events licenses, \$10 for each day of each event;
    - f. Mixed beverage club events licenses, \$10 for each day of each event;
    - g. Annual mixed beverage amphitheater license, \$300;
    - h. Annual mixed beverage motor sports race track license, \$300;
    - i. Annual mixed beverage banquet license, \$75;
    - j. Limited mixed beverage restaurant license:
      - (i) With a seating capacity at tables for up to 100 persons, \$100;
      - (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$250;
      - (iii) With a seating capacity at tables for more than 150 persons, \$400;
    - k. Annual mixed beverage motor sports facility license, \$300; and
    - l. Annual mixed beverage performing arts facility license, \$300.
- B. Common carriers. - No local license tax shall be either charged or collected for the privilege of selling alcoholic beverages in (i) passenger trains, boats or airplanes and (ii) rooms designated by the Board of establishments of air carriers of passengers at airports in the Commonwealth for on-premises consumption only.

C. Merchants' and restaurants' license taxes. - The governing body of each county, city or town in the Commonwealth, in imposing local wholesale merchants' license taxes measured by purchases, local retail merchants' license taxes measured by sales, and local restaurant license taxes measured by sales, may include alcoholic beverages in the base for measuring such local license taxes the same as if the alcoholic beverages were nonalcoholic. No local alcoholic beverage license authorized by this chapter shall exempt any licensee from any local merchants' or local restaurant license tax, but such local merchants' and local restaurant license taxes may be in addition to the local alcoholic beverage license taxes authorized by this chapter.

The governing body of any county, city or town, in adopting an ordinance under this section, shall provide that in ascertaining the liability of (i) a beer wholesaler to local merchants' license taxation under the ordinance, and in computing the local wholesale merchants' license tax on such beer wholesaler, purchases of beer up to a stated amount shall be disregarded, which stated amount shall be

the amount of beer purchases which would be necessary to produce a local wholesale merchants' license tax equal to the local wholesale beer license tax paid by such wholesaler and (ii) a wholesale wine licensee to local merchants' license taxation under the ordinance, and in computing the local wholesale merchants' license tax on such wholesale wine licensee, purchases of wine up to a stated amount shall be disregarded, which stated amount shall be the amount of wine purchases which would be necessary to produce a local wholesale merchants' license tax equal to the local wholesale wine licensee license tax paid by such wholesale wine licensee.

D. Delivery. - No county, city or town shall impose any local alcoholic beverages license tax on any wholesaler for the privilege of delivering alcoholic beverages in the county, city or town when such wholesaler maintains no place of business in such county, city or town.

E. Application of county tax within town. - Any county license tax imposed under this section shall not apply within the limits of any town located in such county, where such town now, or hereafter, imposes a town license tax on the same privilege.

**§ 15.2-2288.3:2. Limited distiller's license; local regulation of certain activities.**

A. *Local restriction upon activities of distilleries licensed pursuant to subdivision 2 of § 4.1-206 to market and sell their products shall be reasonable and shall take into account the economic impact on such licensed distillery of such restriction, the agricultural nature of such activities and events, and whether such activities and events are usual and customary for such licensed distilleries. Usual and customary activities and events at such licensed distilleries shall be permitted unless there is a substantial impact on the health, safety, or welfare of the public.*

B. *No locality shall regulate any of the following activities of a distillery licensed under subdivision 2 of § 4.1-206:*

1. *The production and harvesting of agricultural products and the manufacturing of alcoholic beverages other than wine or beer;*

2. *The on-premises sale, tasting, or consumption of alcoholic beverages other than wine or beer during regular business hours in accordance with a contract between a distillery and the Alcoholic Beverage Control Board pursuant to the provisions of subsection D of § 4.1-119;*

3. *The sale and shipment of alcoholic beverages other than wine or beer to licensed wholesalers and out-of-state purchasers in accordance with Title 4.1, regulations of the Alcoholic Beverage Control Board, and federal law;*

4. *The storage and warehousing of alcoholic beverages other than wine or beer in accordance with Title 4.1, regulations of the Alcoholic Beverage Control Board, and federal law; or*

5. *The sale of items related to alcoholic beverages other than wine or beer that are incidental to the sale of such alcoholic beverages.*

C. *Any locality may exempt any distillery licensed in accordance with subdivision 2 of § 4.1-206 on land zoned agricultural from any local regulation of minimum parking, road access, or road upgrade requirements.*



§ 15.2-2288.3:1. **Limited brewery** license; local regulation of certain activities.

A. It is the policy of the Commonwealth to preserve the economic vitality of the Virginia beer industry while maintaining appropriate land use authority to protect the health, safety, and welfare of the citizens of the Commonwealth and to permit the reasonable expectation of uses in specific zoning categories. Local restriction upon such activities and public events of breweries licensed pursuant to subdivision 2 of § 4.1-208 to market and sell their products shall be reasonable and shall take into account the economic impact on such licensed brewery of such restriction, the agricultural nature of such activities and events, and whether such activities and events are usual and customary for such licensed breweries. Usual and customary activities and events at such licensed breweries shall be permitted unless there is a substantial impact on the health, safety, or welfare of the public. No local ordinance regulating noise, other than outdoor amplified music, arising from activities and events at such licensed breweries shall be more restrictive than that in the general noise ordinance. In authorizing outdoor amplified music at such licensed brewery, the locality shall consider the effect on adjacent property owners and nearby residents.

B. No locality shall regulate any of the following activities of a brewery licensed under subdivision 2 of § 4.1-208:

1. The production and harvesting of barley, other grains, hops, fruit, or other agricultural products and the manufacturing of beer;
2. The on-premises sale, tasting, or consumption of beer during regular business hours within the normal course of business of such licensed brewery;
3. The direct sale and shipment of beer in accordance with Title 4.1 and regulations of the Alcoholic Beverage Control Board;
4. The sale and shipment of beer to licensed wholesalers and out-of-state purchasers in accordance with Title 4.1, regulations of the Alcoholic Beverage Control Board, and federal law;
5. The storage and warehousing of beer in accordance with Title 4.1, regulations of the Alcoholic Beverage Control Board, and federal law; or
6. The sale of beer-related items that are incidental to the sale of beer.

C. Any locality may exempt any brewery licensed in accordance with subdivision 2 of § 4.1-208 on land zoned agricultural from any local regulation of minimum parking, road access, or road upgrade requirements.

(2014, c. 365.)

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[Legislative Information System](#)



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**Action:**

BOARD OF SUPERVISORS: June 10, 2015    APPROVED    DENIED

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**RESOLUTION**

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

**PART 401 – RA RURAL AREAS DISTRICT  
§165-401.02 – PERMITTED USES**

**PART 204 – ADDITIONAL REGULATIONS FOR SPECIFIC USES  
ARTICLE II – SUPPLEMENTARY USE REGULATIONS, PARKING,  
BUFFERS, AND REGULATIONS FOR SPECIFIC USES  
§165-204.22 – FARM WINERIES, FARM BREWERIES AND  
FARM DISTILLERIES**

**PART 101 – GENERAL PROVISIONS  
ARTICLE I – GENERAL PROVISIONS, AMENDMENTS, AND  
CONDITIONAL USE PERMITS  
§165-101.02 – DEFINITIONS AND WORD USAGE**

**WHEREAS**, the Frederick County Planning Department has drafted revisions to the farm winery text to include allowances for farm breweries and farm distilleries, along with new and updated definitions and revised regulations; and

**WHEREAS**, The Development Review and Regulations Committee (DRRC) reviewed the changes at their April 23, 2015 meeting and agreed with the revisions 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 May 20, 2015 and agreed with the revised change; and

**WHEREAS**, the Board of Supervisors discussed the revised change at their regularly scheduled meeting on June 10, 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 ; and

**NOW, THEREFORE, BE IT REQUESTED** by the Frederick County Board of Supervisors that the Frederick County Planning Commission shall hold a public hearing to include allowances for farm breweries and farm distilleries, new and updated definitions, and other minor changes.

Passed this 10th day of June, 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	_____	Jason E. Ransom	_____
Robert W. Wells	_____		

**A COPY ATTEST**

\_\_\_\_\_  
Brenda G. Garton  
Frederick County Administrator

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## MEMORANDUM

**TO:** Frederick County Board of Supervisors  
**FROM:** Candice E. Perkins, AICP, Senior Planner *CEP*  
**SUBJECT:** Site Plan Revisions and Additions  
**DATE:** June 1, 2015

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Staff has prepared a revision to Part 802 of the Zoning Ordinance to update the text to include provisions for minor site plans as well as inclusion of a new illustrative sketch plan. Minor site plans have commonly been submitted and approved; however the term and requirements for these plans has never been codified. Illustrative sketch plans are also proposed for inclusion; these would be applicable to agricultural businesses such as farm wineries, distilleries and breweries, as well as conditional use permits that may not need an engineered site plan.

A minor site plan would constitute a revision that increases an existing structure area by 20% or less and does not exceed 5,000 square feet of disturbed area. Minor site plans include reduced submission guidelines and have a reduced review fee.

Illustrative sketch plans would not need to be sealed by a licensed professional, the property owner would be able to complete this exercise on their own. There would be no fee associated with this exercise.

The DRRC discussed this amendment at their April 2015 meeting. The DRRC had minor revisions and sent the proposed changes to the Planning Commission for discussion. The Planning Commission discussed this item on May 20, 2015; the Planning Commission 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.

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

CEP/pd

**ARTICLE VIII  
DEVELOPMENT PLANS AND APPROVALS**

**Part 802 – Site Plans**

**§ 165-802.01 Activities requiring site plans or illustrative sketch plans.**

A. In order to ensure that the requirements of this chapter have been met, a site plan shall be required to be submitted to the County for the following uses:

- (1) Any use in the business or industrial zoning districts, the EM Extractive Manufacturing District, the MS Medical Support District, or the HE Higher Education District.
- (2) Any nonresidential uses ~~in which~~ **with** automobile parking spaces ~~is to be used by more than one establishment.~~
- (3) Any of the following residential uses not required to submit a subdivision design plan for approval:
  - (a) Multiplexes;
  - (b) Townhouses, Back-to-Back Townhouses;
  - (c) Garden apartments;
  - (d) Multifamily residential buildings;
  - (e) Age-restricted multifamily housing;
  - (f) Other allowed multifamily residential uses;
  - (g) Mobile home parks.**
- (4) Convalescent and nursing homes. ~~and allowed nonresidential uses in the RP, R4 and R5 Zoning Districts.~~
- (5) Public and semipublic uses and buildings.
- (6) Required landscaped buffers and landscaped screens.
- (7) Required recreational facilities.
- (8) Any parcel of land proposed to contain more than one dwelling unit, except those **residential units** allowed as agricultural accessory uses.
- (9) ~~Mobile home parks.~~ **Non-residential uses permitted in the RP, R4 and R5 Zoning Districts.**
- (10) The use, change of use or construction of any improvement or facility that is to be reviewed by the Planning Commission to determine conformance with the Comprehensive Plan under § 15.2-2232 of the Code of Virginia.

B. The Zoning Administrator may require a site plan **or illustrative sketch plan** to be submitted with an application for a conditional use permit **or any use specified under 165-204.**

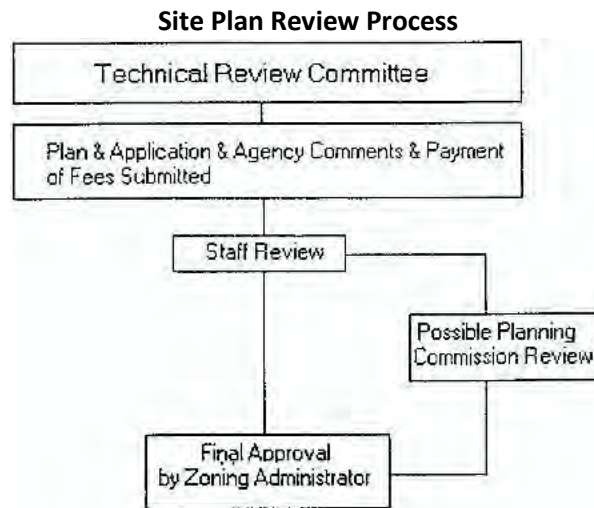
- C. No permit shall be issued for the construction of any building or improvement on the site of any of the above uses until the site plan or illustrative sketch plan is approved.
- D. All nonbusiness or nonindustrial uses in a residential subdivision shall submit a subdivision design plan, as required in the Frederick County Subdivision Ordinance, instead of a site plan.
- E. ***Illustrative sketch plan shall be required for the following uses:***
  - (a) Farm Wineries;***
  - (b) Farm Breweries;***
  - (c) Farm Distilleries.***

**§ 165-802.02 Site plan applications; review.**

- A. Applicants shall submit two copies of the site plan to the Zoning Administrator for review, along with applicable fees and completed application materials required by the Zoning Administrator. Final approval of the site plan shall be given by the Zoning Administrator. At least five copies of the site plan are required to be submitted to the Zoning Administrator for final approval.
- B. Applicants shall prepare and submit a Traffic Impact Analysis with all site plan applications, in accordance with the adopted Traffic Impact Analysis Standards.
- C. Applicants shall provide comments on the site plan from various agencies as required by the Department of Planning and Development.
- D. The Zoning Administrator may require the applicant to present the site plan to the Technical Review Committee for review. The Committee shall make recommendations to the Zoning Administrator concerning whether the plan meets the requirements of the Frederick County Code.
- E. A site plan submission shall be considered to be complete when the fees, plans, application materials and comments have been received and when the Technical Review Committee has reviewed the plan, if required.
- F. When the site plan submission is complete, the Zoning Administrator may submit the site plan to the Planning Commission for its review.
  - (1) The Zoning Administrator shall determine whether to submit the site plan to the Planning Commission based on the following considerations:
    - (a) The scale or intensity of the proposed use.
    - (b) Potential impacts on surrounding properties.
    - (c) Potential traffic hazards or congestion.
  - (2) In addition, the Planning Commission may request that the site plan be presented to the Commission for its review.
- G. The Planning Commission may make recommendations to the Zoning Administrator concerning the site plan. The Zoning Administrator shall incorporate such recommendations into the review of the site plan. The site plan shall be finally approved or denied by the Zoning Administrator.



- H. Approval of the site plan shall expire within five years of the approval date unless building permits have been obtained for construction.
- I. The Zoning Administrator or his designated representative shall periodically inspect the site during construction to ensure that the site plan requirements are met.
- J. No certificate of occupancy shall be issued for any use or site requiring a site plan until all requirements shown on the approved site plan have been met and all improvements shown on the site plan have been provided. If structures and improvements have been provided sufficient to guarantee public health and safety but if all site plan improvements have not been completed, a certificate of occupancy shall only be issued if a bond with surety or other acceptable guaranties have been provided to insure that all approved improvements will be provided. Such guaranties shall be for a limited time period acceptable to the Zoning Administrator, during which time said improvement shall be completed.



- K. The Board of Supervisors, by resolution, may establish a schedule of fees for the review of site plans.

**§ 165-802.03 Site plan and illustrative sketch plan contents.**

The site plan or illustrative sketch plan shall be clearly legible and shall be drawn at a scale acceptable to the Zoning Administrator. The site plan shall include three general sections, the project information section, the calculations section, and the site plan and details section. The information required for each section is listed below:

A. Project information section.

- (1) A title that includes the name of the proposed or existing business and a subtitle which describes the proposed development.
- (2) The name, address, and phone number of the landowner, developer, and designer.
- (3) The Frederick County Property Identification Number (PIN) of all lots included on the site plan.

- (4) The number and type of dwelling units included on the site plan for residential uses.
- (5) The total land area and total developed land area of all lots included on the site plan.
- (6) A detailed description of the proposed use or uses of the development, as well as a description of the existing use or uses.
- (7) A reference to any other site plan or master development plan approved by the County for the site.
- (8) The date the site plan was prepared and a list of all revisions made, including the date and a description of why the site plan was revised.
- (9) A table of contents including all pages of the site plan.
- (10) A list of all proposed utility providers, with their address, name and phone number.
- (11) An inset map showing the location of the site, along with the location of streets, roads and land uses within 500 feet of the property.
- (12) A statement listing all requirements and conditions placed on the land included in the site plan resulting from approval of conditional zoning or a conditional use permit.
- (13) A description of setbacks or conditions placed on the site as a result of an approved variance.
- (14) The name of the Magisterial District within which property is located.

B. Calculations section.

- (1) Calculations showing the floor area ration (FAR) of the site, including the maximum allowed FAR, total ground floor area, total floor area, and total lot area.
- (2) Calculations showing the total number of required and proposed parking spaces, including the total number of existing and proposed spaces.
- (3) Calculations showing the total number of required handicap spaces, including the total number of existing and proposed spaces.
- (4) Calculations showing the total number of required loading spaces, including the total number of existing and proposed spaces.
- (5) Calculations showing the total number of required perimeter and interior trees required, including the number of provided trees.
- (6) Calculations showing the percentage of the property that will be landscaped and the percentage of woodlands disturbed.

C. Site plan and details section.

- (1) The location of all adjoining lots with the owner's name, specific use, zoning, and zoning boundaries shown.
- (2) The location of all existing or planned rights-of-way and easements that adjoin the property, with street names, widths, and speed limits shown.
- (3) All nearby entrances that are within 200 feet of any existing or proposed entrances to the site.
- (4) All existing and proposed driveways, parking and loading spaces, parking lots and a description of surfacing material and construction details to be used. The size and angle of parking spaces, aisles, maneuvering areas, and loading spaces shall be shown.
- (5) A North arrow.
- (6) A graphic scale and statement of scale.
- (7) A legend describing all symbols and other features that need description.
- (8) A boundary survey of the entire parcel and all lots included with distances described at least to the nearest hundredth of a foot.
- (9) The present zoning of all portions of the site, with the location of zoning boundaries.

- (10) The location of all existing and proposed structures, with the height, specific use, ground floor area, and total floor area labeled.
- (11) The location of all existing and proposed outdoor uses, with the height, specific use, and land area labeled.
- (12) Existing topographic contour lines at intervals acceptable to the Zoning Administrator. Proposed finished grades shall be shown by contour.
- (13) The location of the front, side, and rear yard setback lines required by the applicable zoning district.
- (14) The location and boundaries of existing environmental features, including streams, floodplains, lakes and ponds, wetlands, natural stormwater retention areas, steep slopes, and woodlands.
- (15) The location of outdoor trash receptacles.
- (16) The location of all outdoor lighting fixtures.
- (17) The location, dimensions, and height of all signs.
- (18) The location of required buffers, landscaping buffers, and landscaped screens, including examples, typical cross sections or diagrams of screening to be used. The location and dimensions of required fencing, berms, and similar features shall be specified.
- (19) The location of recreational areas and common open space.
- (20) The location of all proposed landscaping with a legend; the caliper, scientific name, and common name of all deciduous trees; the height at planting, scientific name, and common name of all evergreen trees and shrubs.
- (21) The height at planting, caliper, scientific name, and common name shall be provided for all proposed trees. The height at planting, scientific name and common name shall be provided for all shrubs.
- (22) The location of sidewalks and walkways.
- (23) The location and width of proposed easements and dedications.
- (24) A stormwater management plan describing the location of all stormwater management facilities with design calculations and details.
- (25) A soil erosion and sedimentation plan describing methods to be used.
- (26) The location and size of sewer and water mains and laterals serving the site.
- (27) Facilities necessary to meet the requirements of the Fire Code.
- (28) A signed seal of the certified Virginia land surveyor, architect, or engineer who prepared the plan.
- (29) A space labeled "Approved by the Frederick County Zoning Administrator" for the signature of the Zoning Administrator, approval date, and a statement that reads "site plan valid for five years from approval date."

**D. Minor Site Plans. A minor site plan may be submitted in lieu of a full site plan for additions to existing sites. A minor site plan shall constitute a revision that increases an existing structure area by 20% or less and does not exceed 5,000 square feet of disturbed area. Minor site plans, at a minimum shall include the following information:**

- (1) A title that includes the name of the proposed or existing business and a subtitle which describes the proposed development.**
- (2) The name, address, and phone number of the landowner, developer, and designer.**
- (3) The Frederick County Property Identification Number (PIN) of all lots included on the site plan.**
- (4) The total land area and total developed land area of all lots included on the site plan.**
- (5) A detailed description of the proposed use or uses of the development, as well as a description of the existing use or uses.**

- (6) A reference to any other site plan or master development plan approved by the County for the site.
- (7) The date the site plan was prepared and a list of all revisions made, including the date and a description of why the site plan was revised.
- (8) A table of contents including all pages of the site plan.
- (9) An inset map showing the location of the site, along with the location of streets, roads and land uses within 500 feet of the property.
- (10) A statement listing all requirements and conditions placed on the land included in the site plan resulting from approval of conditional zoning or a conditional use permit.
- (11) A description of setbacks or conditions placed on the site as a result of an approved variance.
- (12) The name of the Magisterial District within which property is located.
- (13) Calculations showing the total number of required and proposed parking and loading spaces, including the total number of existing and proposed spaces.
- (14) Calculations showing the total number of required perimeter and interior trees required, including the number of provided trees. The Zoning Administrator shall determine the number of landscaping plants required, proportional to the additions shown on the minor site plan.
- (15) A signed seal of the certified Virginia land surveyor, architect, or engineer who prepared the plan.
- (16) Any other information determined by the Zoning Administrator necessary for the review of the minor site plan.
- (17) The Zoning Administrator may eliminate any of the above requirements on a minor site plan, if it is determined not to be warranted.

**E. Illustrative sketch plan.** An illustrative sketch plan may be submitted in lieu of a site plan for farm wineries, farm breweries and farm distilleries, or if required as part of a Conditional Use Permit. Illustrative sketch plans, at a minimum shall include the following information:

- (1) A title that includes the name of the proposed or existing business and a subtitle which describes the proposed development.
- (2) The name, address, and phone number of the landowner, developer, and designer.
- (3) The Frederick County Property Identification Number (PIN) of all lots included on the sketch plan.
- (4) The total land area and total developed land area of all lots included on the sketch plan.
- (5) Illustrative Sketch plan shall include a drawing of all aspects of the business operations on the site.
- (6) Size and dimensions of parking areas and signs if any, location of any floodplains or other environmental features.
- (7) For cottage occupations, the sketch plan shall show the residence and all improvements associated with the cottage occupation.
- (8) Distances between on site structures and adjacent residential structures and other buildings, the location and width of adjacent right-of-way, adjoining properties, and easements.
- (9) A statement listing all requirements and conditions placed on the land included in the sketch plan resulting from approval of a conditional use permit.
- (10) The name of the Magisterial District within which property is located.
- (11) The illustrative sketch plan need not be drawn to scale, nor does it have to be prepared by a licensed professional. However, distances from structure to adjacent lot lines must be accurately depicted.

- F. ~~D.~~ Other information or statements may be required on the site plan by the Zoning Administrator to ensure that all requirements of the Frederick County Code are met.
- G. ~~E.~~ All site plans shall conform with master development plans that have been approved for the land in question.
- H. ~~F.~~ When required, deed restrictions, deeds of dedication, agreements, contracts, guaranties or other materials shall be submitted with the site plan.

**§ 165-802.04 Required improvements.**

- A. All improvements and construction on the site shall conform with the approved site plan ***or illustrative sketch plan*** and the requirements of the Frederick County Code.
- B. The Zoning Administrator may require a bond with surety or other acceptable guaranties to insure the completion of required improvements. Such guaranties shall be in the estimated amount of the required improvements. Such guaranties shall be for a period of completion set by the Zoning Administrator with consultation with the applicant. Such guaranties shall be released when the required improvements have been completed.

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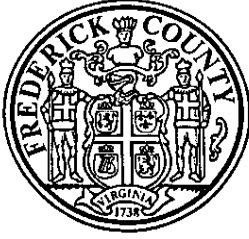
**ARTICLE I  
GENERAL PROVISIONS; AMENDMENTS; AND CONDITIONAL USE PERMITS**

**Part 101 – General Provisions**

**§ 165-101.02 Definitions & word usage.**

SITE PLAN - A ~~specific and detailed~~ plan of development ***which contains detailed engineering drawings of the proposed uses and improvements required in the development of a given parcel or use of development*** meeting the requirements of this chapter. ***In all Articles of this Chapter, where the term 'site plan' is used, it shall also include the term 'minor site plan'.***

***ILLUSTRATIVE SKETCH PLAN*** – An illustrative plan that accurately depicts the development of a parcel or use meeting the requirements of this chapter. Illustrative site plans may be required for agricultural uses or as part of a conditional use permit.



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**Action:**

BOARD OF SUPERVISORS: June 10, 2015    APPROVED    DENIED

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**RESOLUTION**

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

**ARTICLE VIII DEVELOPMENT PLANS AND APPROVALS  
PART 802 – SITE PLANS**

**§ 165-802.01 ACTIVITIES REQUIRING SITE PLANS**

**ARTICLE I GENERAL PROVISIONS; AMENDMENTS;  
AND CONDITIONAL USE PERMITS  
PART 101 – GENERAL PROVISIONS**

**§ 165-101.02 DEFINITIONS & WORD USAGE.**

**WHEREAS**, the Frederick County Planning Department has drafted revisions to Part 802 of the Zoning Ordinance to include provisions for minor site plans, illustrative sketch plans and updated and new definitions for minor site plans and illustrative sketch plans; and

**WHEREAS**, The Development Review and Regulations Committee (DRRC) reviewed the changes at their April 23, 2015 meeting and agreed with the revisions 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 May 20, 2015 and agreed with the revised change; and

**WHEREAS**, the Board of Supervisors discussed the revised change at their regularly scheduled meeting on June 10, 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; and

**NOW, THEREFORE, BE IT REQUESTED** by the Frederick County Board of Supervisors that the Frederick County Planning Commission shall hold a public hearing to include provisions for minor site plans, illustrative sketch plan and updated and new definitions for minor site plans and illustrative sketch plans.

Passed this 10th day of June, 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	_____	Jason E. Ransom	_____
Robert W. Wells	_____		

**A COPY ATTEST**

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Brenda G. Garton  
Frederick County Administrator