

**AGENDA
WORK SESSION WITH ECONOMIC DEVELOPMENT AUTHORITY, CLOSED SESSION AND
REGULAR MEETING
FREDERICK COUNTY BOARD OF SUPERVISORS
WEDNESDAY, OCTOBER 28, 2015
PAGE 3**

Public Hearing:

1. Proposed Conveyance of an Avigation Easement to Winchester Regional Airport Authority on the Real Property Known as the Millwood Station Volunteer Fire and Rescue and the Millwood Station Events Center Located at 250 and 252 Costello Drive, Winchester, Virginia, and Identified by Frederick County Property Identification Numbers 64-10-5A and 64-10-5B. The Hearing is Pursuant to Virginia Code Section 15.2-1800 and the Purpose of the Hearing is to Receive Public Comment on the Conveyance of the Avigation Easement to the Winchester Regional Airport Authority.

Parking Lot Lease Agreement (Not a Required Part of Public Hearing).

(See Attached) ----- **L**

Planning Commission Business:

Public Hearing:

1. Conditional Use Permit #02-15 for James and Susan Brown, for a Kennel. This Property is Located at 719 Barley Lane. The Property is Identified with Property Identification Number 61-A-23 in the Back Creek Magisterial District. **(See Attached)**----- **M**
2. Rezoning #05-15 Hiatt Run Condos, LLC Submitted by GreyWolfe, Inc., to Rezone 3.00 Acres from the RA (Rural Areas) District to the RP (Residential Performance) District with Proffers. This Property is Located Eastern Side of Martinsburg Pike (Route 11) Just Before Old Charlestown Road (Route 761). The Property is Identified with Property Identification Number 44-A-17 in the Stonewall Magisterial District. **(See Attached)**----- **N**
3. Rezoning #09-15 Artillery Business Center Submitted by Pennoni Associates, to Revise Proffers Associated with Rezoning #07-08. This Revision Relates Specifically to the Transportation Proffers. The Properties are Located East and Adjacent to Shady Elm Road Approximately 4,500 Feet South of the Intersection of Shady Elm Road and Apple Valley Drive. The Properties are Identified with Property Identification Numbers 75-A-1 and 75-A-1F in the Back Creek Magisterial District. **(See Attached)**----- **O**

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Other Planning Items:

1. Discussion - I-81 Distribution Park – Stonewall (Stonewall Industrial Park).
(See Attached) ----- **P**
2. Discussion – Ordinance Amendment Re: Supplementary Use Regulations –
Setback Extensions. **(See Attached)** ----- **Q**
3. Resolution Re: Rail Access Funding Application for Trex.
(See Attached) ----- **R**
4. Resolution Re: Revenue Sharing Application Support for Revenue Sharing
Program for 2016-2017. **(See Attached)**----- **S**

Board Liaison Reports (If Any)

Citizen Comments

Board of Supervisors Comments

Adjourn

L



MEMORANDUM


Kris C. Tierney
Assistant County Administrator

540/665-6382

Fax: 540/667-0370

E-mail: ktierney@fcva.us

TO: Board of Supervisors

FROM: Kris C. Tierney, Assistant County Administrator 

RE: Airport Authority Lease Agreement and Deed of Easement Millwood Station and Events Center Property

DATE: October 9, 2015

Lease

The attached lease agreement pertains to the portion of the Millwood Station Events Center parking lot which is located on property owned by the Airport Authority. As the previous owner of the Station property, Millwood Fire and Rescue Company leased this ground from the Authority. The proposed lease has a five year term with an option for three, five year renewals. Although we would have ideally preferred a longer term, the FAA was unwilling to extend the agreement further.

Deed of Easement

The associated "Deed of Easement and Restrictions" is a condition of the lease discussed above. The easement references Federal Regulations, "Part 77" which pertains to airspace in proximity to airports and utilizes a "Transitional Surface" elevation along with the associated ground elevation to determine the allowable height of objects on the ground. For the fire station and events center parcels the height restrictions imposed by the easement are actually less restrictive than the height limits imposed by the current County B-2 zoning that exists on the property.

Following the Public hearing on the Deed of easement, staff is requesting action on the attached resolution authorizing approval of both the lease and the deed of easement.

Please let me know if we can answer any questions.

PARKING LOT LEASE AGREEMENT

9/15/15

THIS PARKING LOT LEASE AGREEMENT made and dated this ____ day of _____, 2015, by and between **WINCHESTER REGIONAL AIRPORT AUTHORITY**, a political subdivision of the Commonwealth of Virginia (sometimes hereinafter called the "Landlord" or the "Authority"), and **THE COUNTY OF FREDERICK, VIRGINIA**, sometimes hereinafter called the "Tenant" or the "County").

RECITALS:

A. The Authority is the owner of that certain tract of land, containing 36.58 acres, more or less, situate in Shawnee Magisterial District, Frederick County, Virginia, being part of an assemblage of parcels upon which is located the Winchester Regional Airport, Tax Map No. 64-A-88 ("Airport Tract").

B. The County is the owner of that certain parcel of land lying and being situate in Shawnee Magisterial District, Frederick County, Virginia, containing 1.707 acres, more or less, designated as Lot 5A on that certain plat titled "Minor Subdivision Lot 5, Prince Frederick Office Park, Phase 2 Instrument Number 070003086" dated August 7, 2015, drawn by S. W. Marsh, L.S. ("Subdivision Plat"), which Subdivision Plat is attached to and made a material part of that certain Deed of Subdivision and Deed of Easements dated August 11, 2015, of record in the Clerk's Office of the Circuit Court of Frederick County, Virginia as Instrument No. 150007734, Tax Map No. 64-10-5A (the "Fire Station Parcel"), and that certain adjacent lot or parcel of land containing 2.455 acres, more or less, designated as Lot 5B on the Subdivision Plat, which Subdivision Plat is attached to and made a material part of the aforesaid Deed of Subdivision and Deed of Easements dated August 11, 2015, of record in the aforesaid Clerk's Office as Instrument No. 150007734, Tax Map No. 64-10-5B (the "Events Center Parcel"). The Fire Station Parcel and the Events Center Parcel were acquired by the County by that certain Deed dated August 11, 2015 from the Economic Development Authority of the County of Frederick, Virginia, of record in the aforesaid Clerk's Office as Instrument No. 150007736. A copy of the Subdivision Plat is attached hereto marked Exhibit "A" and incorporated herein by reference as if set out in full.

C. The Authority has previously leased a portion of the Airport Tract containing 47,700 square feet, more or less, to Millwood Station Volunteer Fire and Rescue Company 21, Inc., a Virginia corporation ("Millwood Station"), by the terms of that certain Lease Agreement dated April 1, 2003. The parcel of land subject to the Lease Agreement dated April 1, 2003 contains 1.206 acres, more or less, being more particularly described on that certain plat titled "Plat Showing 1.206 Acre Lease Area On A Portion Of The Land Of Winchester Regional Airport Authority Deed Book 659 Page 175" dated July 23, 2015, drawn by S. W. Marsh, L.S., a copy of which is attached hereto as part of Exhibit "A" (Sheet 5 of 5) and incorporated herein by reference as if set out in full (the "Lease Parcel").

D. Millwood Station has previously constructed a surface parking lot on the Lease Parcel in order to provide parking for the Fire Station Parcel and the Events Center Parcel.

E. The County has requested that the Authority approve this Lease Agreement concerning the demise of the Lease Parcel to the County upon the terms and conditions set forth hereinafter.

NOW, THEREFORE WITNESSETH: That for and in consideration of the sum of Ten Dollars (\$10.00), cash in hand paid by each of the parties hereto unto the other, the receipt and sufficiency of which is hereby acknowledged, and other consideration deemed adequate at law, the Landlord hereby agrees to rent and lease the Lease Parcel unto the Tenant upon the following terms and conditions:

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

2. **LEASE TERM:** The initial term of this Lease shall commence on the date of this Lease set out above for an initial period of five years, terminating on _____, 2020 (the "Lease Term").

3. **RENEWAL TERMS:** Upon expiration of the Lease Term, this Lease may be renewed at the option of the Authority for up to three (3) subsequent five (5) year terms each (if one, the "Renewal Term", and if more than one, the "Renewal Terms"). The Authority may renew this Lease for each Renewal Term by giving written notice to the County not less than sixty (60) days in advance of the end of the Renewal Term then in effect. In addition, the Authority and the County recognize and acknowledge that any Renewal Term shall be subject to approval by the Federal Aviation Administration ("FAA"). The Authority agrees to take all reasonable steps necessary to obtain FAA approval in sufficient time to allow each such Renewal Term that the Authority elects to initiate to commence.

4. **RENT:**

a. The Tenant shall pay unto Landlord the sum of \$300.00 per year for the initial twelve (12) month period of the Lease Term, in advance, with the first rent payment due on the date of execution of this Lease Agreement. The Rent shall increase by the amount of \$100.00 per year for each successive year during the Lease Term, for a total Rent in the sum of \$2,500.00 for the lease term.

b. The Rent for the first twelve (12) month period of the first five (5) year Renewal Term of this Lease, if there is one, shall be \$1,000.00 and shall increase by an amount of \$100.00 per year for each successive year during the first Renewal Term, for a total rent in the sum of \$6,000.00 during the first Renewal Term.

c. The Rent for the first twelve (12) month period of the second five (5) year Renewal Term of this Lease, if there is one, shall be \$1,500.00 and shall increase by an amount of \$100.00 per year for each successive year during the second Renewal Term, for a total rent in the sum of \$8,500.00 during the second Renewal Term.

d. The Rent for the first twelve (12) month period of the third five (5) year Renewal Term of this Lease, if there is one, shall be \$2,000.00 and shall increase by an amount of \$100.00 per year for each successive year during the third Renewal Term, for a total rent in the sum of \$11,000.00 during the third Renewal Term.

5. USE OF LEASE PARCEL:

a. The Tenant agrees that it shall use the Lease Parcel only for the purpose of surface parking for the fire and rescue station and the events center located upon the Fire Station Parcel.

b. The Tenant specifically agrees that the Lease Parcel shall not contain an open storm water management pond.

c. The Tenant agrees that the improvements upon the Lease Parcel shall be maintained at the sole cost and expense of the Tenant.

d. The Tenant agrees that any lighting structures shall be restricted to shielded style lights that do not project light in any manner that may interfere with approaching or departing aircraft. In the event of any modifications or changes to the existing lighting currently located on the Lease Parcel, Tenant agrees to submit to the Landlord, for its prior approval, any such modifications or changes to the lighting and agrees to comply with all reasonable requirements of the Landlord pertaining thereto.

e. Tenant agrees to notify the Landlord in the event that the existing fence located along the western, southern and eastern boundaries of the Lease Parcel sustains any damages or needs repair.

6. AVIGATION EASEMENT: Within ninety (90) business days after full the full execution of this Parking Lot Lease Agreement, the County agrees to execute an avigation easement running for the benefit of the Authority over the adjacent Fire Station Parcel and Events Center Parcel, upon terms and conditions reasonably acceptable to the Authority and to the County.

7. WASTE AND NUISANCE: During the Lease Term, the Tenant shall comply with all applicable laws and ordinances, including an occupancy laws and ordinances, affecting the Lease Parcel. The Tenant shall not commit, or allow to be committed, any waste or nuisance on the Lease Parcel.

8. **RIGHT OF ENTRY:** The Landlord, its employees and designated agents shall have the right to enter upon the Lease Parcel at all reasonable times for the purpose of inspecting the same and for the purpose of posting default notices or other notices related to this Lease, without any diminution of rents due.

9. **MINIMUM STANDARDS AND RULES AND REGULATIONS:** The Tenant agrees that the Lease Parcel shall be subject to, and in compliance with, all applicable minimum standards and rules and regulations of the Authority, as amended from time to time, in so far as said minimum standards and rules and regulations conflict with the provisions of this Lease.

10. **LIENS:** The Tenant shall keep the Lease Parcel free and clear from any and all mechanic's, materialman's and other liens for or arising out of or in connection with any work or labor done, services performed, or materials provided in connection with work or labor done and services performed in connection with any use of the Lease Parcel by the Tenant.

11. **REAL ESTATE TAXES:** The Tenant agrees to be responsible for and to promptly pay upon request to the Landlord any real estate taxes imposed or assessed upon the Lease Parcel, if any.

12. **WARRANTIES:** The Landlord covenants that it is seized of fee simple to the Lease Parcel and has full right to enter into this Lease. In addition, the Landlord covenants that the Tenant shall have quiet and peaceable possession of the Lease Parcel during the Lease Term.

13. **NO LIABILITY:** The Tenant agrees that the Landlord shall not be responsible or liable for any loss, injury, death or damage to persons or property which at any time may be suffered or sustained by the Tenant or by any person whatsoever that may at any time be using, occupying or visiting the Lease Parcel, whether such loss, injury, death or damage shall be caused or in any way resulting from or arising out of any act, omission and/or negligence of the Tenant or of any occupant, visitor or user of any part of the Lease Parcel, or shall result from or be caused by any other matter or thing whether related to the Tenant's use or not, and the Tenant shall indemnify, defend and hold harmless the Landlord against all claims, liability, suits, actions or loss for damages to any person or property arising from or related to the Lease Parcel. However, this Paragraph 13 shall not apply to any matter arising by reason of the negligence or misconduct of the Landlord or its employees while carrying out there duties.

14. **ASSIGNMENT:**

a. With the consent of the Authority, the Tenant may assign this Lease in the event of a sale, conveyance or other transfer of title to the Events Center Parcel. The Authority may reject any proposed assignment if the Authority deems such refusal to approve such assignment to be in the best interests of the Authority. Any such assignment is also expressly conditioned upon approval by the FAA. If the Authority approves the assignment, the Authority

agrees to take all reasonable steps necessary to obtain FAA approval of such assignment in sufficient time to allow such assignment to take place.

b. In the event of such assignment is approved by the Authority and the FAA, the Rent for the Lease Parcel shall be increased to a rent that is equal to the fair market rental for a similar parking lot property in the Frederick County area as reasonably determined by the Landlord and the Tenant. In the event that Landlord and Tenant cannot agree upon the amount of the fair market rent for the Lease Parcel, then and in the event, each party shall appoint a commercial real estate broker duly licensed in the Commonwealth of Virginia and regularly doing business in Frederick County, Virginia to determine the fair market rent for the Lease Parcel, and the average of the proposed rent from each commercial estate broker shall be the amount of Rent due for the remainder of the Lease Term or Renewal Term then in effect. The Tenant shall pay all costs and fees incurred by the commercial real estate brokers in preparing their determination of the fair market rent for the Lease Parcel.

15. **NOTICES:** Any notice required or permitted to be given under this Agreement shall be deemed to be 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; (iv) when received by registered or certified mail (return receipt requested, first-class postage prepaid); or (v) received by confirmed facsimile, in either case addressed to the parties as follows:

Landlord: Winchester Regional Airport Authority
491 Airport Road
Winchester, Virginia 22602
Attn: Executive Director
Email: okvmanuel@comcast.net

Tenant: The County of Frederick, Virginia
107 North Kent Street
Winchester, Virginia 22601
Attn: County Administrator
Email: jtibbs@fcva.us

16. **MISCELLANEOUS:**

a. This Lease shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

b. This Lease shall be construed in accordance with the laws of or applicable to the Commonwealth of Virginia.

c. This Lease contains the full and final agreement between the parties hereto

with respect to the lease of the Lease Parcel. Landlord and Tenant shall not be bound by any terms, conditions, statements, warranties, or representations, oral or written, not contained herein. No change or modification of this Lease shall be valid unless the same is in writing and is signed by the parties hereto. No waiver of any of the provisions of this Lease shall be valid unless the same is in writing and is signed by the party against which it is sought to be enforced.

d. Time is of the essence with respect to all matters set forth in this Lease.

e. This Lease may be executed in one or more counterparts, each of which is deemed to be an original, and all of which shall together constitute one and the same Lease. Documents obtained via facsimile machine shall be considered as originals.

WITNESS the following signatures and seals:

LANDLORD:

WINCHESTER REGIONAL AIRPORT
AUTHORITY

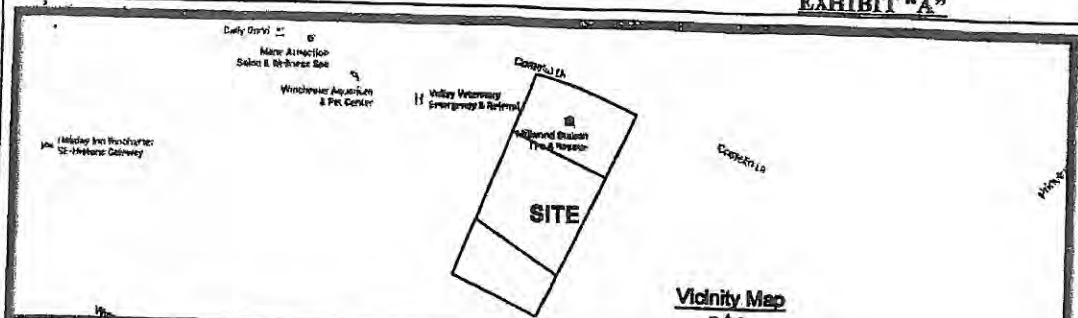
By: Seamus R. Marshall (SEAL)
Executive Director

TENANT:

THE COUNTY OF FREDERICK, VIRGINIA

By: _____ (SEAL)
County Administrator

MLB/pmm
c:\Leases\Airport - County Lease
9/1/15



NOTES:

1. NO TITLE REPORT FURNISHED, THEREFORE ENCUMBRANCES OR EASEMENTS MAY EXIST THAT ARE NOT SHOWN HEREON.
2. BOUNDARY INFORMATION IS BASED ON THE FINAL SUBDIVISION PLAT FOR PRINCE EDWARD OFFICE PARK PHASE 2 RECORDED WITH THE DEED OF SUBDIVISION IN DEED BOOK 855 AT PAGE 152 AND USING GPS METHODS ORIENTED TO VA NAD 83 STATE GRID NORTH ZONE BASED ON PROPERTY CORNERS FOUND AT THE TIME OF FIELD SURVEY.
3. LOTS 5A AND 5B IN THIS SUBDIVISION ARE CREATED FROM TAX PARCEL 64-10-5.

APPROVAL BLOCK

VIRGINIA DEPARTMENT OF TRANSPORTATION

FREDERICK COUNTY SANITATION AUTHORITY

FREDERICK COUNTY SUBDIVISION ADMINISTRATOR

Matt Smith 8/10/15
[Signature] 8-10-2015
[Signature] 11 Aug 15

OWNER'S CERTIFICATE

THE MINOR SUBDIVISION OF THE PROPERTY OF THE ECONOMIC DEVELOPMENT AUTHORITY OF THE COUNTY OF FREDERICK, VIRGINIA (FORMERLY KNOWN AS THE INDUSTRIAL DEVELOPMENT AUTHORITY OF FREDERICK COUNTY, VIRGINIA), AS APPEARS IN THE ACCOMPANYING PLAT, IS WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRES OF THE UNDERSIGNED OWNER, PROPRIETOR OR TRUSTEE, IF ANY.

ECONOMIC DEVELOPMENT AUTHORITY OF THE COUNTY OF FREDERICK, VIRGINIA
 (FORMERLY KNOWN AS THE INDUSTRIAL DEVELOPMENT AUTHORITY OF FREDERICK COUNTY, VIRGINIA)

DATE: August 11, 2015 BY [Signature]

NOTARY PUBLIC

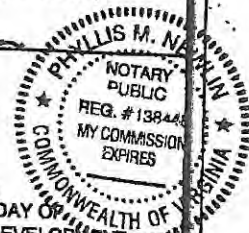
STATE OF VIRGINIA, AT LARGE,

CITY/COUNTY OF Winchester TO-WIT:

THE FOREGOING OWNER'S CERTIFICATE WAS ACKNOWLEDGED BEFORE ME THIS 11 DAY OF August, 2015, BY J. Stanley Crockett ON BEHALF OF ECONOMIC DEVELOPMENT AUTHORITY OF THE COUNTY OF FREDERICK, VIRGINIA.

MY COMMISSION EXPIRES 7/31/18

[Signature]
NOTARY PUBLIC



SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT THE PROPERTY CONTAINED IN THIS MINOR SUBDIVISION IS THE SAME PROPERTY THAT WAS CONVEYED TO THE INDUSTRIAL DEVELOPMENT AUTHORITY OF FREDERICK COUNTY, VIRGINIA (NOW KNOWN AS THE ECONOMIC DEVELOPMENT AUTHORITY OF THE COUNTY OF FREDERICK, VIRGINIA) BY DEED DATED FEBRUARY 23, 2007, FROM MILLWOOD STATION VOLUNTEER FIRE AND RESCUE COMPANY 21, INCORPORATED, WHICH DEED IS OF RECORD IN THE CLERK'S OFFICE OF THE CIRCUIT COURT OF FREDERICK COUNTY, VIRGINIA AS INSTRUMENT NUMBER 070003086.

MINOR SUBDIVISION
LOT 5, PRINCE FREDERICK OFFICE PARK, PHASE 2
 INSTRUMENT NUMBER 070003086
 SHAWNEE MAGISTERIAL DISTRICT
 FREDERICK COUNTY, VIRGINIA

DATE: 08/07/2015

Cover Sheet

SHEET 1 OF 5



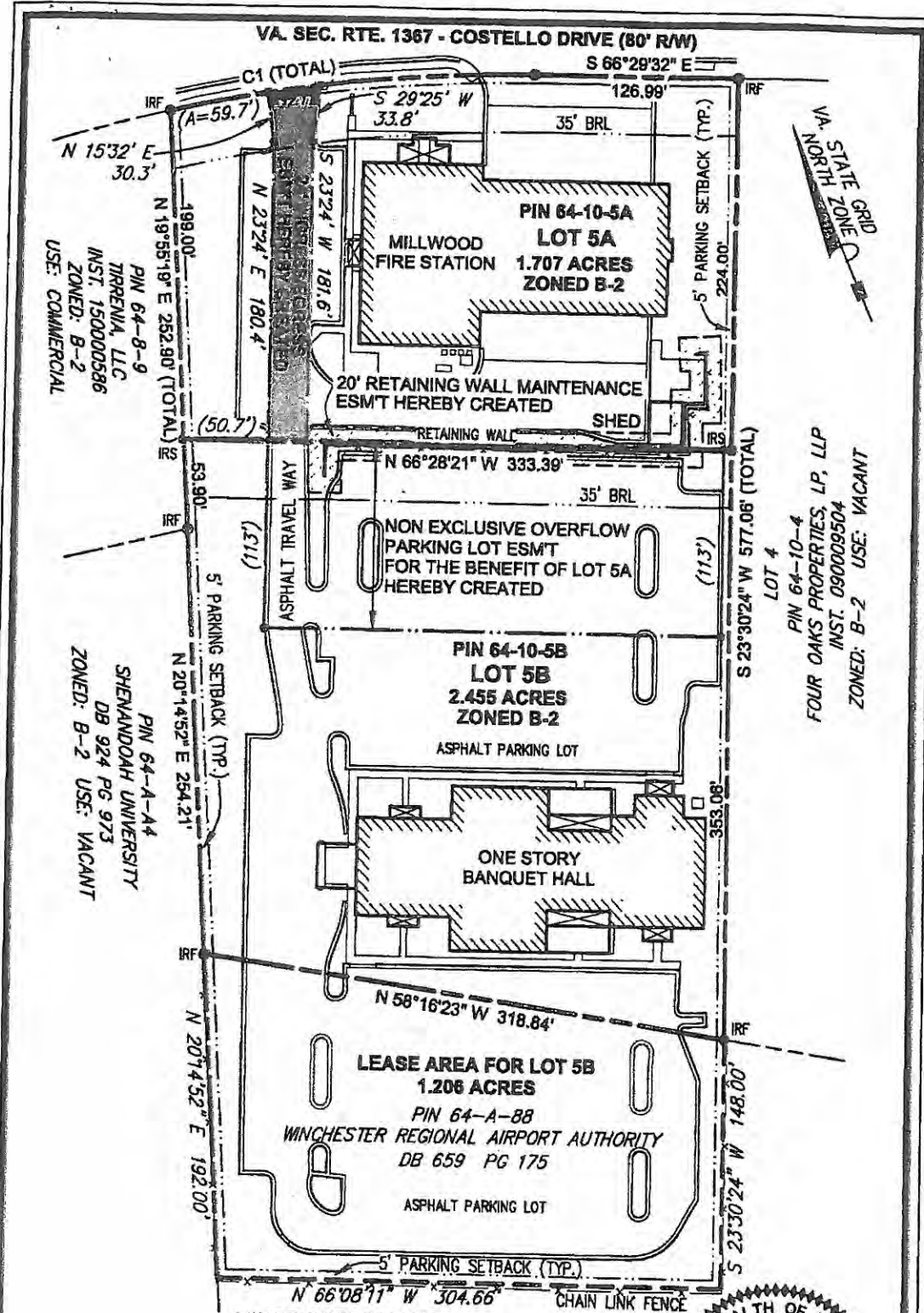
Marsh & Legge Land Surveyors, P.L.C.

560 NORTH LOUDOUN STREET - WINCHESTER, VIRGINIA 22601

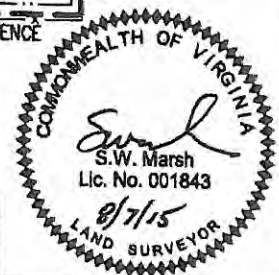
PHONE (540) 667-0468 - FAX (540) 667-0469 - EMAIL office@marshandlegge.com

DRAWN BY: CAJ

DWG NAME: ID9952-Subd Plat



MINOR SUBDIVISION
LOT 5, PRINCE FREDERICK OFFICE PARK, PHASE 2
INSTRUMENT NUMBER 070003086
 SHAWNEE MAGISTERIAL DISTRICT
 FREDERICK COUNTY, VIRGINIA



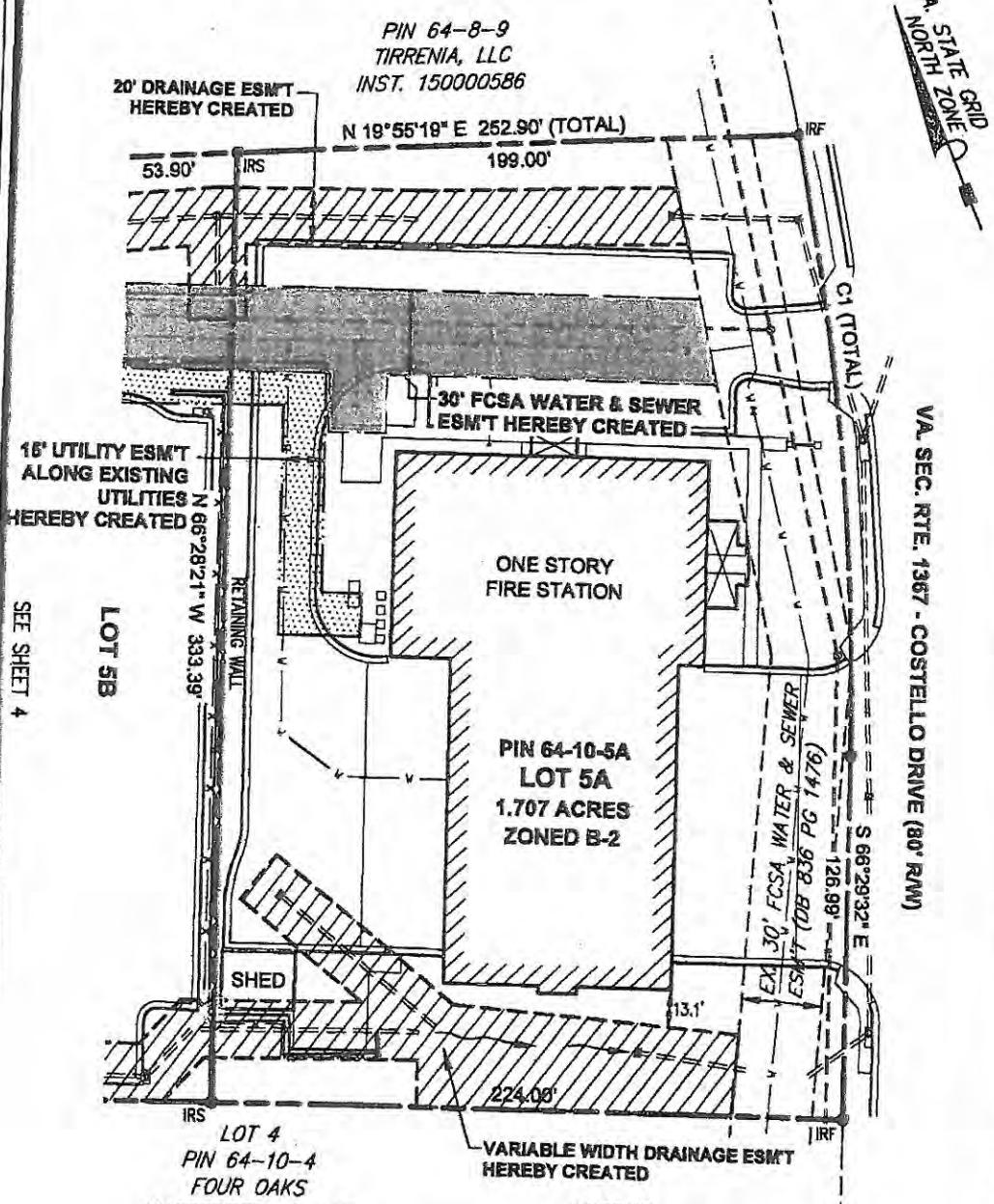
DATE: 08/07/2015	SCALE: 1"=75'	SHEET 2 OF 5
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Marsh & Legge Land Surveyors, P.L.C.
 560 NORTH LOUDOUN STREET - WINCHESTER, VIRGINIA 22601
 PHONE (540) 867-0468 - FAX (540) 667-0469 - EMAIL office@marshandlegge.com

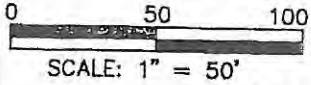
DRAWN BY: CAJ
 DWG NAME: ID9952-Subd Plat

CURVE TABLE

CURVE	RADIUS	ARC	CHORD	BEARING	DELTA ANGLE
C1	960.00'	220.78'	220.29'	N 73°04'50" W	13°10'36"



LOT 4
PIN 64-10-4
FOUR OAKS
PROPERTIES, LP, LLP
INST. 090009504



LEGEND

ABBREVIATION	DEFINITION
IRF	IRON ROD FOUND
IRS	IRON ROD SET

MINOR SUBDIVISION
LOT 5, PRINCE FREDERICK OFFICE PARK, PHASE 2
INSTRUMENT NUMBER 070003086
 SHAWNEE MAGISTERIAL DISTRICT
 FREDERICK COUNTY, VIRGINIA

DATE: 08/07/2015	SCALE: 1"=50'	SHEET 3 OF 5
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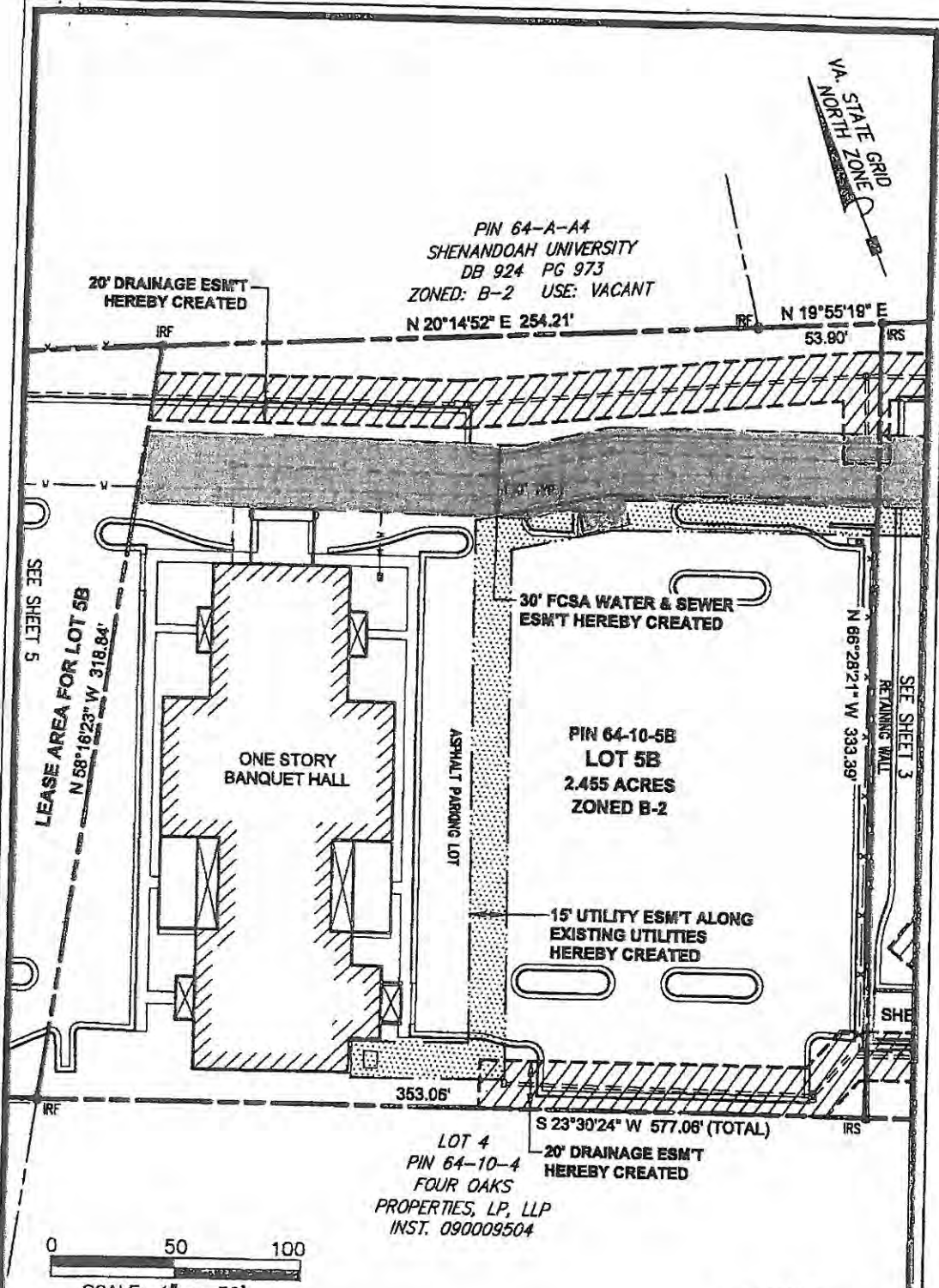
Marsh & Legge Land Surveyors, P.L.C.

560 NORTH LOUDOUN STREET - WINCHESTER, VIRGINIA 22601
 PHONE (540) 667-0468 - FAX (540) 867-0469 - EMAIL office@marshandlegge.com

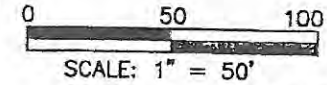


DRAWN BY: CAJ

DWG NAME: ID9952-Subd Plat



LEASE AREA FOR LOT 5B
N 58°16'23\" W 318.84'



MINOR SUBDIVISION
LOT 5, PRINCE FREDERICK OFFICE PARK, PHASE 2
INSTRUMENT NUMBER 070003086
 SHAWNEE MAGISTERIAL DISTRICT
 FREDERICK COUNTY, VIRGINIA

DATE: 08/07/2015 SCALE: 1"=50' SHEET 4 OF 5



Marsh & Legge Land Surveyors, P.L.C.
 560 NORTH LOUDOUN STREET ~ WINCHESTER, VIRGINIA 22601
 PHONE (540) 667-0488 - FAX (540) 667-0489 - EMAIL office@marshandlegge.com



DRAWN BY: CAJ
 DWG NAME: ID9952-Subd Plat



PIN 64-A-A4
SHENANDOAH UNIVERSITY
DB 924 PG 973
ZONED: B-2 USE: VACANT
N 20°14'52" E 192.00'

20' DRAINAGE ESM'T
HEREBY CREATED

30' FCSA WATER &
SEWER EASEMENT
HEREBY CREATED

LEASE AREA FOR LOT 5B
1.206 ACRES

PIN 64-A-88
WINCHESTER REGIONAL
AIRPORT AUTHORITY
DB 659 PG 175

ASPHALT PARKING LOT

LOT 5B
ONE STORY
BANQUET HALL

PIN 64-A-88
WINCHESTER REGIONAL AIRPORT
AUTHORITY
DB 659 PG 175

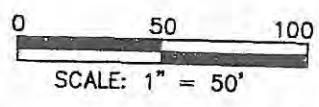
CHAIN LINK FENCE

N 66°08'11" W 304.66'

N 58°16'23" W 318.64'

S 23°30'24" W 148.00'

LOT 4
PIN 64-10-4
FOUR OAKS
PROPERTIES, LP, LLP
INST. 090009504



MINOR SUBDIVISION
LOT 5, PRINCE FREDERICK OFFICE PARK, PHASE 2
INSTRUMENT NUMBER 070003086
SHAWNEE MAGISTERIAL DISTRICT
FREDERICK COUNTY, VIRGINIA



DATE: 08/07/2015	SCALE: 1"=50'	SHEET 5 OF 5
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Marsh & Legge Land Surveyors, P.L.C.

560 NORTH LOUDOUN STREET - WINCHESTER, VIRGINIA 22601
PHONE (540) 667-0468 - FAX (540) 667-0468 - EMAIL offices@marshandlegge.com

DRAWN BY: CAJ
DWG NAME: ID9952-Subd Plat

BRYAN & COLEMAN, P.L.C.
ATTORNEYS AT LAW

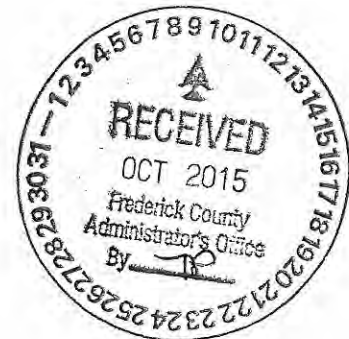
116 SOUTH BRADDOCK STREET
WINCHESTER, VIRGINIA 22601
TELEPHONE: (540) 545-4130
FAX: (540) 545-4131

MICHAEL L. BRYAN, ESQUIRE

Email: mbryan2@earthlink.net

October 9, 2015

Kris Tierney
Assistant County Administrator
County of Frederick
107 North Kent Street
Winchester, Virginia 22601



RE: Millwood Station

Dear Kris:

Please find enclosed a copy of the revised Deed of Easement and Restrictions which creates the avigation easement over the Millwood Station Parcels. Please let me know when this instrument is executed by the County Administrator. I will go ahead and get the Airport's signature in advance of the County signature.

The County will also need to execute the Parking Lot Lease once the avigation easement has been approved by the Board of Supervisors. The Airport Authority has already signed this Lease.

Very truly yours,

A handwritten signature in black ink, appearing to be "MLB", with a long horizontal line extending to the right.

Michael L. Bryan
MLB/pmn

Enclosure

THIS DEED OF EASEMENT AND RESTRICTIONS is made this ____ day of _____, 2015, by and between the **COUNTY OF FREDERICK, VIRGINIA**, a political subdivision of the Commonwealth of Virginia (the "**Grantor**") and the **WINCHESTER REGIONAL AIRPORT AUTHORITY**, a political subdivision of the Commonwealth of Virginia (the "**Grantee**").

RECITALS:

- A. The Grantee is the owner of the Winchester Regional Airport ("**Airport**"), located within Frederick County, Virginia.
- B. The Grantor is the owner of certain real property described on "Legal Description", attached hereto and by this reference made a part hereof as if set out in full (the "**Property**").
- C. The Property is subject to certain height limitations as established under the provisions of Title 14, Aeronautics and Space, Code of Federal Regulations, Part 77 ("**FAR Part 77**") and as set forth in Chapter 165, Part 701 of the Code of the County of Frederick, Virginia ("**Frederick County Code**").
- D. The Grantor has agreed to create and impress an avigation easement upon the Property (the "**Avigation Easement**"), as more fully set forth hereinafter.
- E. The terms "Transitional Surface" and "Horizontal Surface" shall have the meanings as set forth in FAR Part 77, and any amendments, revisions, supplements or successor regulations.

WITNESSETH:

THAT for and in consideration of the mutual benefits to the parties hereto, the Grantor does hereby grant unto the Grantee an Avigation Easement, subject to the terms and conditions set forth herein below, and in accordance with FAR Part 77 and the Frederick County Code, to-wit:

- 1. That the Grantor, for itself, its heirs, successors and assigns, hereby grants unto Grantee for the benefit of the public in the use and operation of the Airport, a right of the public and specifically, without limitation, a right of owners, operators and occupants of aircraft to use the airspace over the Property and for all said persons and entities to cause in the navigable airspace above the Property such light, sound, noise, smoke and vibration as maybe inherent in or related to the operation of aircraft using said airspace for landing at, taking off from, flying over or otherwise operating at or about the Airport; and,

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

2. That Grantor, for itself, its heirs, successors and assigns, and for the benefit of the public in the use and operation of the Airport and the airspace above the Airport, covenants and agrees that it will not use the Property, or permit any use of the Property, in a manner that would constitute an obstruction to the passage of aircraft using the navigable airspace above the Property for landing at, taking off from or otherwise operating at or about the Airport, and that they will not use the Property, or permit any use of the Property, in a manner, including casting of light into the airspace above the Property, which would present a hazard to any aircraft using the navigable airspace above the Property for landing at, taking off from, or otherwise operating at or about the Airport.

- A. For the purpose of this restriction “object” including any mobile object, shall mean any natural growth, any terrain; any permanent or temporary construction or alteration of any structure, including equipment or materials used therein; any apparatus of a permanent or temporary character; and alteration of any permanent or temporary existing structure by a change in its height (including appurtenances) or lateral dimensions, including equipment or materials used therein.
- B. For the purpose of this restriction, “structure” shall mean any object including a mobile object, constructed or erected by man, including but not limited to: buildings, towers, communications towers, radio and television antennae, cranes, smokestacks, earth formations, overhead transmission lines, flag poles and ship masts.
- C. For the purpose of this restriction, “obstruction” shall mean any existing object or structure, any future object or structure, including a mobile object or structure, if such object or structure is of greater height than any of the following heights or surfaces:
 - (1) The Horizontal Surface described herein or any imaginary surface of the Airport that may be applicable to the Property, as established by FAR Part 77. The Horizontal Surface located over a portion of the Property is more particularly described on Exhibit “A” attached hereto and incorporated herein by reference as if set out in full;
 - (2) The Transitional Surface described herein or any imaginary surface of the Airport that may be applicable to the Property, as established by FAR Part 77, or any applicable successor regulations. The Transitional Surface located over a portion of the Property is more particularly described on Exhibit “A”

attached hereto and incorporated herein by reference as if set out in full;

- (3) Any other heights or surfaces established as standards for determining obstructions by FAR Part 77, or any applicable successor regulations, as such standards may apply to the Property; and

3. That Grantor for itself, its heirs, successors and assigns, covenants and agrees with the Grantee that for the benefit of the public in the use and operation of the Airport, they will not hereafter establish, construct, erect or grow, or permit the establishment, construction, erection or growth of, any structure or vegetation, whether natural or man-made, which would penetrate into or through the Horizontal Surface or the Transitional Surface described herein, or any Airport clear zone, runway protection zone, approach zone, imaginary surface, obstruction clearance surface, obstruction clearance zone, or other surface or zone (as such zones or surfaces may currently or hereafter be defined by applicable regulations of the Virginia Department of Aviation and/or the Federal Aviation Administration, and as such zones or surfaces are shown on the documents of the Grantee). Grantor and Grantee agree on behalf of themselves, their successors and assigns that a structure erected in such zone or surface pursuant to, and in accordance with, a permit issued by the Virginia Board of Aviation pursuant to Section 5.1-25.1 of the Virginia Code, 1950, as amended or any applicable successor statute, shall not violate this restriction.

4. The Grantor does hereby grant unto the Grantee the right to cut and fell all trees which are located within the limits of the Avigation Easement as of the execution date of this Deed of Easement or at any later time. The Grantee shall have the additional right to cut any trees to a height of 10' below the minimum elevation of the Avigation Easement so as to keep the trees below the prescribed minimum elevation of the Avigation Easement.

5. The Grantor does hereby agree to preclude and prevent the construction or development of facilities upon the Property that will create electronic interference with the Winchester Regional Airport or aircraft navigational aids, and preclude and prevent construction or development of facilities that will result in directed lighting or glare from the Property upon the Airport.

THE GRANTEE TO HAVE AND TO HOLD such Avigation Easement and all rights appertaining thereto under the Grantee, its successors and assigns, with the understanding and agreement that the covenants, restrictions and agreements set forth herein shall be binding upon the heirs, administrators, executors, successors in interest and assigns of the Grantee and Grantor, and that these covenants and agreements shall run with the land, unless and until the Airport is abandoned or ceases to be used as an airport. In the event the Airport is abandoned or ceases to be used as an airport this easement shall automatically terminate

without the need of any further action by the parties or their successors.

THIS DEED IS EXEMPT from the state recordation taxes imposed by Virginia Code §58.1-801, pursuant to Virginia Code §58.1-811(A)(3).

WITNESS the following signatures and seals:

GRANTOR:

COUNTY OF FREDERICK, VIRGINIA

By: _____ (SEAL)
BRENDA G. GARTON, County
Administrator

Commonwealth of Virginia
City/County of _____, to-wit:

Before me, a Notary Public on this ____ day of _____, 2015, appeared Brenda G. Garton, County Administrator of County of Frederick, Virginia, who acknowledged her signature to the foregoing easement, dated _____, 2015.

My Commission expires: _____

Notary Public

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

GRANTEE:

WINCHESTER REGIONAL AIRPORT
AUTHORITY

By: _____ (SEAL)
SERENA MANUEL, Executive Director

Commonwealth of Virginia

City/County of _____, to-wit:

Before me, a Notary Public on this ____ day of _____, 2015, appeared
Serena Manuel as Executive Director of the Winchester Regional Airport Authority, who
acknowledged her signature to the foregoing easement, dated _____, 2015.

My Commission expires: _____

Notary Public

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

Legal Description

Parcel One: All of that certain lot or parcel of land, together with the improvements thereon and all rights, rights of way and appurtenances thereto belonging, lying and being situate in Shawnee Magisterial District, Frederick County, Virginia, containing 1.707 acres, more or less, designated as Lot 5A on that certain plat titled "Minor Subdivision Lot 5, Prince Frederick Office Park, Phase 2 Instrument Number 070003086" dated August 7, 2015, drawn by S. W. Marsh, L.S. L.S. (the "**Subdivision Plat**"), which Subdivision Plat is attached to and made a material part of that certain Deed of Subdivision and Deed of Easements dated August 11, 2015, of record in the Clerk's Office of the Circuit Court of Frederick County, Virginia as Instrument No. 150007734.

TAX MAP NO. 64-10-5A

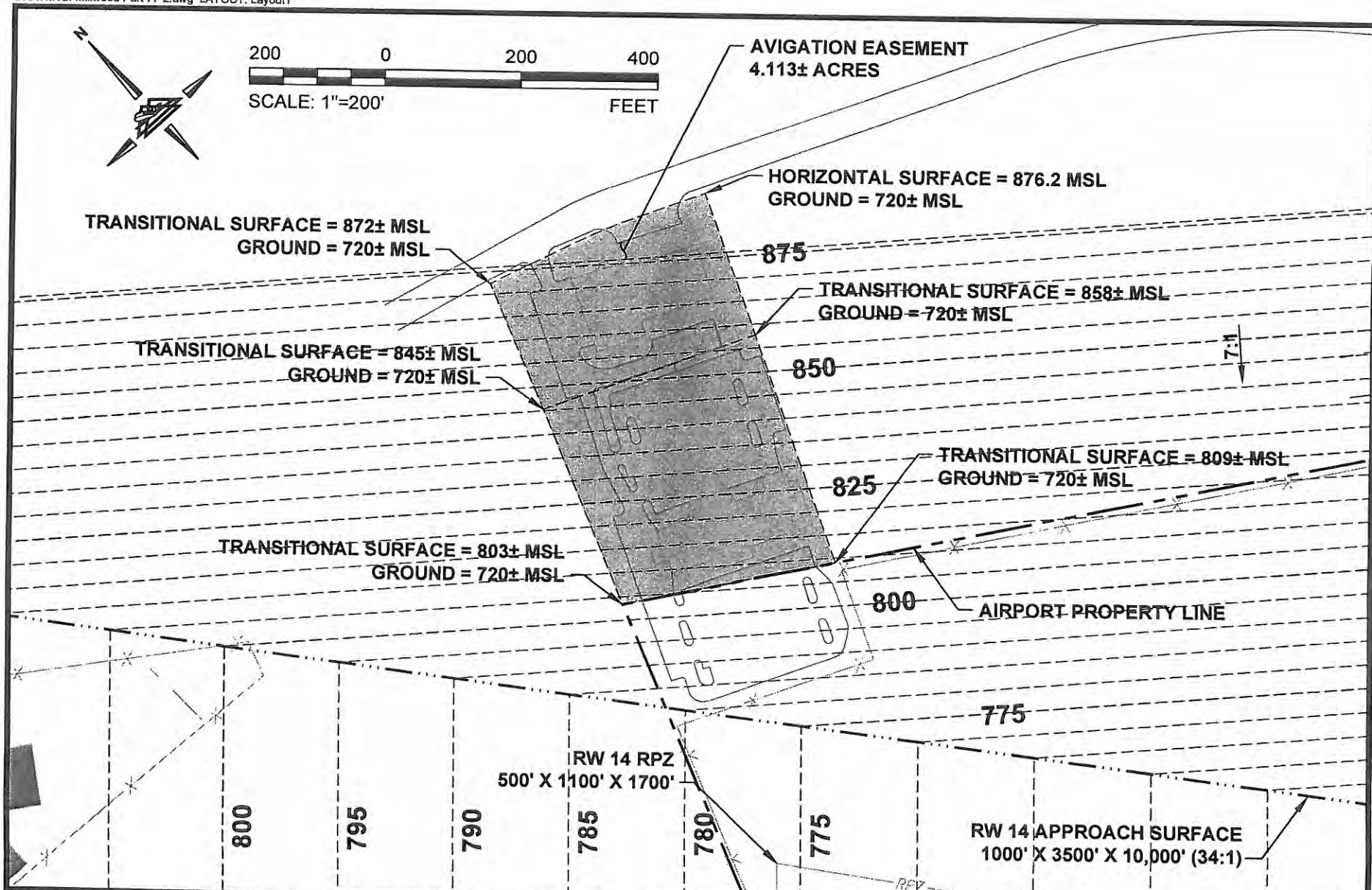
Parcel Two: All of that certain lot or parcel of land, together with the improvements thereon and all rights, rights of way and appurtenances thereto belonging, lying and being situate in Shawnee Magisterial District, Frederick County, Virginia, containing 2.455 acres, more or less, designated as Lot 5B on the Subdivision Plat, which Subdivision Plat is attached to and made a material part of that certain Deed of Subdivision and Deed of Easements dated August 11, 2015, of record in the Clerk's Office of the Circuit Court of Frederick County, Virginia as Instrument No. 150007734.

TAX MAP NO. 64-10-5B.

Parcel One and Parcel Two are the same property conveyed to County of Frederick, Virginia by Deed dated August 11, 2015, of record in the aforesaid Clerk's Office as Instrument No. 150007736. Reference is made to the aforesaid instruments for a more particular description of the property herein conveyed.

MLB/pmn
c:\Deeds\Airport Avigation Easement
10/9/15

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



www.deltaairport.com

EXHIBIT A - MILLWOOD STATION EASEMENT WINCHESTER REGIONAL AIRPORT

EXHIBIT
1

DRAWN BY:

ADS

CHECKED BY:

ADS

SCALE:

1" = 200'

DATE:

OCTOBER 2015



BOARD OF SUPERVISORS

RESOLUTION

Authorizing Execution of a Parking Lot Lease Agreement and Deed of Easement and Restrictions between the County of Frederick and the Winchester Regional Airport Authority

WHEREAS, the County 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 numbers 64-10-5A – 64-10-5B (the “Property”), which contains the Millwood Fire and Rescue Station and events center, and;

WHEREAS, the Property is situated adjacent to the Winchester Regional Airport with a portion of the parking associated with the events center located on land owned by the Airport Authority, and

WHEREAS, the County and the Airport wish to enter into a lease agreement regarding terms for the use of the land for a parking lot as well as into a separate Deed of Easement and Restrictions granting an avigation easement on the Property to the Airport Authority,

NOW, THEREFORE, BE IT RESOLVED that the Frederick County Board of Supervisors does hereby approve the Parking Lot Lease Agreement and Deed of Easement and Restriction and authorizes the County Administrator to execute said agreements.

ADOPTED this 28th day of October, 2015.

Richard C. Shickle _____
Charles S. DeHaven, Jr. _____
Gary A. Lofton _____
Robert A. Hess _____

Robert W. Wells _____
Jason E. Ransom _____
Gene E. Fisher _____

**Resolution Authorizing Execution of a Parking Lot Lease Agreement and Deed of Easement
and Restrictions between the County of Frederick and the Winchester Regional Airport
Authority
Board of Supervisors Meeting of October 28, 2015
Page 2**

A COPY ATTEST:

Brenda G. Garton
Clerk, Board of Supervisors
County of Frederick, Virginia

Resolution No.: 021-15

M



CONDITIONAL USE PERMIT #02-15
JAMES AND SUSAN BROWN
Staff Report for the Board of Supervisors
Prepared: September 24, 2015
Staff Contact: Mark Cheran, Zoning Administrator

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 request. It may also be useful to others interested in this zoning matter.

	<u>Reviewed</u>	<u>Action</u>
Planning Commission:	09/16/15	Public Hearing Held; Recommend Approval
Board of Supervisors:	10/28/15	Pending

EXECUTIVE SUMMARY:

This is a request by James M. Brown and Susan K. Brown for a Conditional Use Permit for a Kennel-Dog Breeding.

If the Planning Commission feels the kennel to be appropriate, staff recommends that the following conditions be attached to the CUP.

1. All review agency comments shall be complied with at all times.
2. This CUP is solely to enable the breeding of dogs on this property.
3. No more than twenty (20) adult dogs shall be permitted on the property at any given time.
4. No employees other than those residing on the property shall be allowed.
5. All dogs shall be controlled so as not to create a nuisance to any adjoining properties by roaming free or barking.
6. All dogs must be confined indoors by 9:00 p.m. and not let outdoors prior to 8:00 a.m.
7. Any proposed business sign shall conform to the Cottage Occupation sign requirements and shall not exceed four (4) square feet in size and five (5) feet in height.
8. Any expansion or modification of this use will require the approval of a new CUP.

Following this public hearing, a decision regarding this Conditional Use Permit 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.

LOCATION: This property is located at 719 Barley Lane.

MAGISTERIAL DISTRICT: Back Creek

PROPERTY ID NUMBER: 61-A-23

PROPERTY ZONING & PRESENT USE:

Zoned: RA (Rural Areas)

Land Use: Residential

ADJOINING PROPERTY ZONING & PRESENT USE:

North: RA (Rural Areas)	Use: Vacant
South: RA (Rural Areas)	Use: Residential
East: RA (Rural Areas)	Use: Residential
West: RA (Rural Areas)	Use: Vacant

PROPOSED USE: This application is for a Kennel - Dog breeding.

REVIEW EVALUATIONS:

Virginia Department of Transportation: There does not appear to be any traffic impact with this request. We have no objections to the homeowner using this facility for their own kennel facility. Should McKenzie's Doodles expand this facility to a boarding kennel or a grooming facility to the public, VDOT would like to revisit this request for possible commercial entrance improvements.

Frederick County Fire and Rescue: Plan approved provided that a 5# ABC Multi-Purpose Fire Extinguisher be available no further that 75'awa Frederick County Fire Prevention Code 906.3 Size & Distribution. Also at least 1 smoke detector shall be in each of the structures.

Frederick County Inspections: Conditional Use request for use of dwelling as kennel. The area utilized shall comply with The Virginia Uniform Statewide Building Code. Permit is required to renovate large building. Please submit floor plan with a building permit application. Mechanical air change shall be provided as required per International Mechanical Code. Accessible parking shall be provided per ANSI A117.1-09. Accessible route from parking area/unloading to kennel entrance shall be provided. Cost of Accessibility shall not exceed 20% of the cost of renovations. Anchorage shall be provided for accessory structures, at least one on each corner. Electrical feed to building shall be installed per code and will require an electrical permit. Final inspection/approval with certificate of occupancy shall be issued prior to new use

of the facility.

Winchester-Frederick County Health Department: The Frederick County Health Department has no objections as long as canine excrement is properly disposed of. If canine excrement is being disposed of with human excrement into an existing or proposed sewage disposal system, an engineered plan is required to be submitted to this office. If canine excrement is disposed of in any other method, the EPA would need to be contacted. If any failures arise to the current sewage disposal system due to the minimal increase of human visitors, please contact the Health Department.

Planning and Zoning: Kennels are a permitted use in the RA (Rural Areas) Zoning District with an approved Conditional Use Permit (CUP) [Code of Frederick County §165-401.03.K]. This proposed use will take place on a 154.75+/- acre parcel; surrounded by properties that are zoned RA. The 2030 Comprehensive Policy Plan of Frederick County (Comprehensive Plan) identifies this area of the County to remain rural in nature and the property is not part of any land use study. The Zoning Ordinance defines a Kennel: “**As a place prepared to house, board, breed, handle or otherwise keep or care for dogs for sale or in return for compensation.**” The Zoning Ordinance requires that kennels be subject to additional performance standards in order to mitigate negative impacts to adjoining residential properties to include, **all dogs to be confined within a secure structure and a Category C Buffer.** This application would only enable the breeding component of the kennel use.

The applicant will be utilizing a 34x12 foot enclosed kennel for adult dogs, a 12x24 foot building for storage, and two 10x16 foot enclosed kennels for whelping and weaning in the rear of the property. There will be a fenced area for the dogs, to the rear of the residence. The kennel is located in the middle of the 154 acre parcel, adjacent to the existing residence. The applicant has indicated that no more than twenty (20) dogs will be on the property for breeding. All dogs must be confined indoors with the exception of when they are walked or exercised, and will not to be let outdoors prior to 8:00 a.m. Dogs must be confined indoors by 9:00 p.m. There will be no employees with this proposed kennel. This proposed kennel will not be used for boarding of dogs. The customer base will be no more than ten (10) families 10-12 times a year to see and pick-up the dogs. These visits will occur on Saturdays from 10:00 a.m. to 5:00 p.m. these visits will be scheduled as appointments by the applicant.

The properties immediately adjacent to this proposed CUP are currently zoned RA Zoning District, with the nearest residential dwelling being approximately 500 to 1,000 feet from this proposed kennel. Therefore, the intent of the Category C Buffer can be met, as 400 feet is required for a no screen Category C Buffer.

STAFF CONCLUSIONS FOR THE 09/16/15 PLANNING COMMISSION MEETING:

If the Planning Commission feels the kennel to be appropriate, staff recommends the following conditions be attached to the CUP.

1. All review agency comments shall be complied with at all times.
2. This CUP is solely to enable the breeding of dogs on this property.
3. No more than twenty (20) adult dogs shall be permitted on the property at any given time.
4. No employees other than those residing on the property shall be allowed.
5. All dogs shall be controlled so as not to create a nuisance to any adjoining properties by roaming free or barking.
6. All dogs must be confined indoors by 9:00 p.m. and are not to be let outdoors prior to 8:00 a.m.
7. Any proposed business sign shall conform to Cottage Occupation sign requirements and shall not exceed four (4) square feet in size and five (5) feet in height.
8. Any expansion or modification of this use will require the approval of a new CUP.

PLANNING COMMISSION SUMMARY AND ACTION OF THE 09/16/15 MEETING:

Staff presented an overview of the proposed CUP #02-15. A Commissioner inquired should condition #3 read; no more than twenty (20) adult dogs shall be permitted on the property at any given time, rather than twenty (20) dogs and puppies. Staff clarified that is correct, and after discussion with the Applicant and the Commissioner for that district this change was agreed upon by all.

The Applicant came forward to answer questions, and there were no questions at this time.

There were no citizen comments, either in favor or opposition.

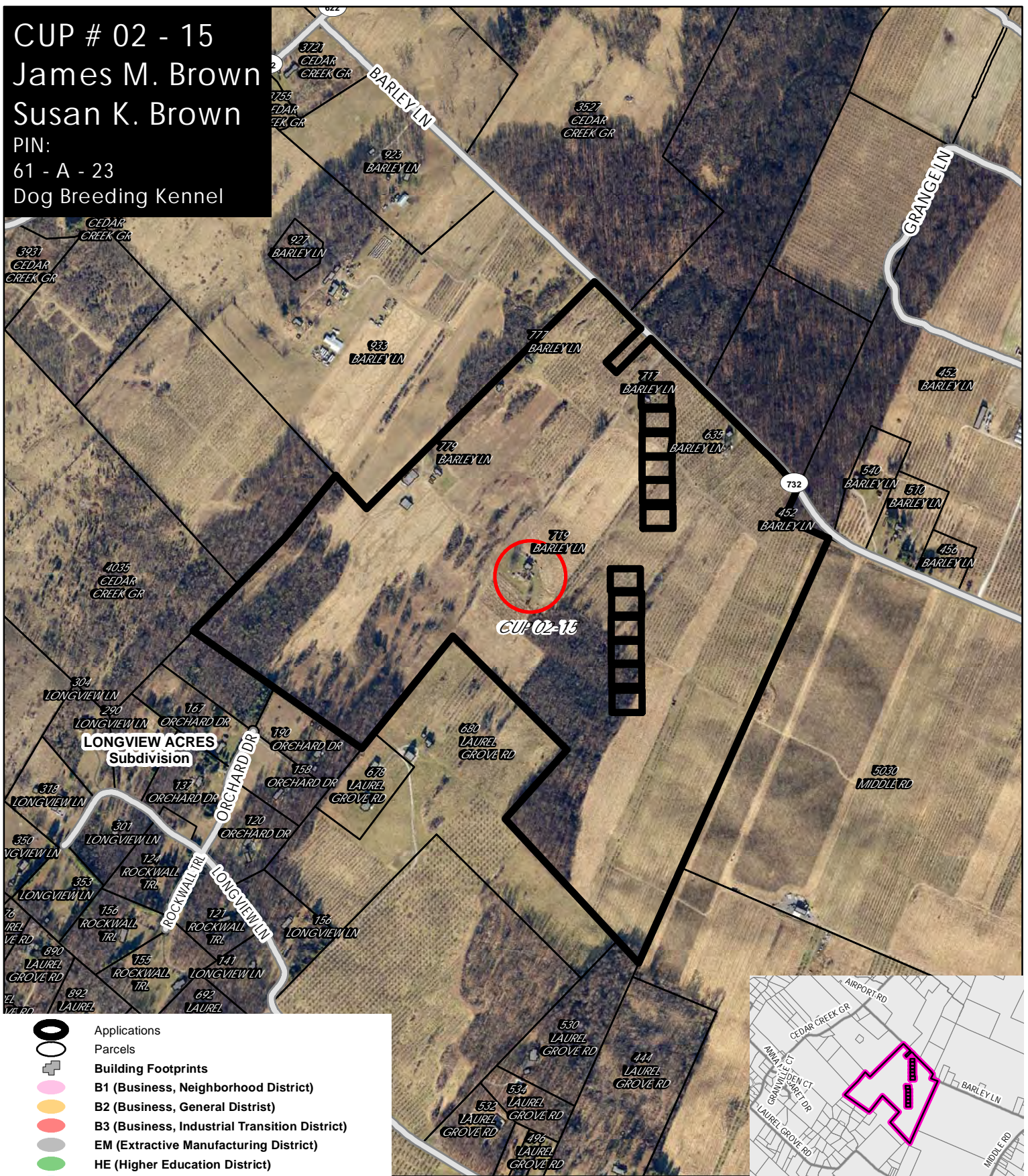
The Planning Commission voted unanimously to recommend approval of the CUP, with the following conditions:

1. All review agency comments shall be complied with at all times.

2. This CUP is solely to enable the breeding of dogs on this property.
3. No more than twenty (20) adult dogs shall be permitted on the property at any given time.
4. No employees other than those residing on the property shall be allowed.
5. All dogs shall be controlled so as not to create a nuisance to any adjoining properties by roaming free or barking.
6. All dogs must be confined indoors by 9:00 p.m. and not let outdoors prior to 8:00 a.m.
7. Any proposed business sign shall conform to Cottage Occupation sign requirements and shall not exceed four (4) square feet in size and five (5) feet in height.
8. Any expansion or modification of this use will require the approval of a new CUP.

Following the requisite public hearing, a decision regarding this Conditional Use Permit 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.

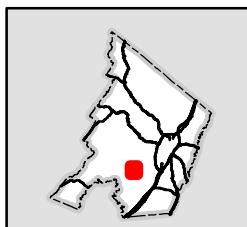
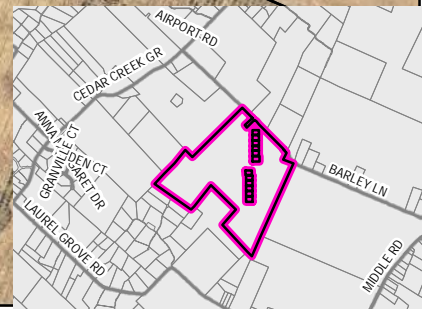
CUP # 02 - 15
 James M. Brown
 Susan K. Brown
 PIN:
 61 - A - 23
 Dog Breeding Kennel



LONGVIEW ACRES
 Subdivision

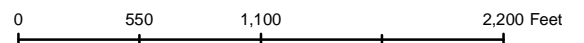
CUP # 02-15

-  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)


















CUP # 02 - 15
 James M. Brown
 Susan K. Brown
 PIN:
 61 - A - 23
 Dog Breeding Kennel

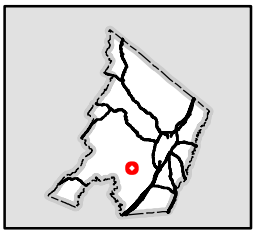
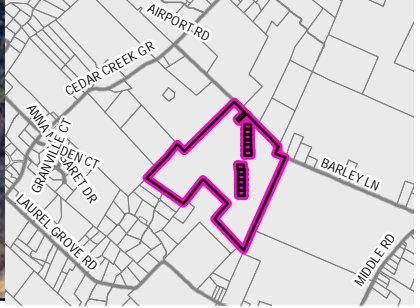
Note:
 Frederick County Dept of
 Planning & Development
 107 N Kent St
 Suite 202
 Winchester, VA 22601
 540 - 665 - 5651
 Map Created: August 24, 2015
 Staff: mcheran



CUP # 02 - 15
 James M. Brown
 Susan K. Brown
 PIN:
 61 - A - 23
 Dog Breeding Kennel

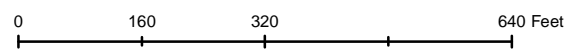


-  Parcels
-  Building Footprints
-  B1 (Business, Neighborhood District)
-  B2 (Business, General District)
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-  R5 (Residential Recreational Community District)
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-  RP (Residential Performance District)



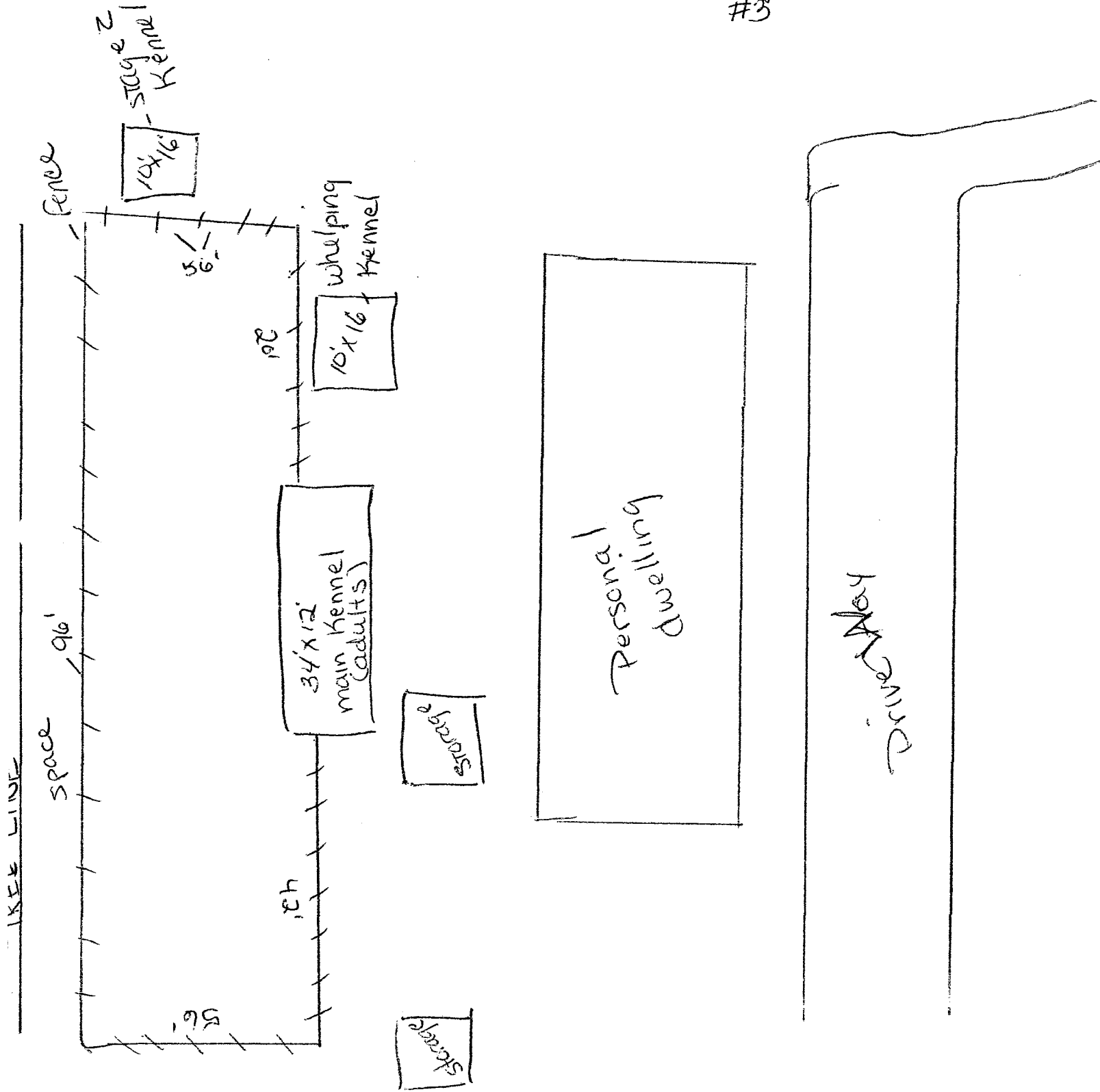
CUP # 02 - 15
 James M. Brown
 Susan K. Brown
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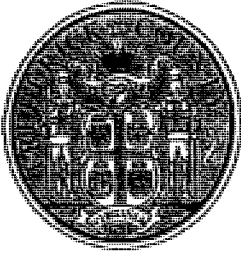
Note:
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 107 N Kent St
 Suite 202
 Winchester, VA 22601
 540 - 665 - 5651
 Map Created: August 24, 2015
 Staff: mcheran



11. Please use this page for your sketch of the property. Show proposed and/or existing structures on the property, including (measurements to all property lines.)

see platt #3





Submittal Deadline	8/21/15
P/C Meeting	9/16/15
BOS Meeting	10/14/15

**APPLICATION FOR CONDITIONAL USE PERMIT
FREDERICK COUNTY, VIRGINIA**

1. Applicant (check one): Property Owner Other

NAME: James M. Brown Susan K Brown (McKenzie's Deedles)

ADDRESS: 719 Barley Lane Winchester, Va 22602

TELEPHONE: 1-540-667-2525

2. Please list all owners, occupants, or parties in interest of the property:

Katherine Whitesel Solenberg
Owner

James M. & Susan K. Brown

3. The property is located at: (please give exact directions and include the route number of your road or street)

719 Barley Ln. From Valley Ave (going south) turn Right on to Middle Rd & travel about 6 mi. Turn Right onto Barley Ln (Rt #) & travel about 1.5 mi. Turn Left onto gravel road & go .4 mi. to 719.

4. The property has a road frontage of 2000' feet and a depth of 2300' feet and consists of 154.75 acres. (Please be exact)

5. The property is owned by BHS LC as evidenced by deed from Fruit Hill Orchard Inc. (previous owner) recorded in Inst. ~~deed book~~ no. 0400267 on page 27, as recorded in the records of the Clerk of the Circuit Court, County of Frederick.

6. Property Identification Number (P.I.N.) 61-A-23
Magisterial District Back Creek
Current Zoning RA

12. Additional comments, if any: See following page for
additional comments.

I (we), the undersigned, do hereby respectfully make application and petition the governing body of Frederick County, Virginia to allow the use described in this application. I understand that the sign issued to me when this application is submitted must be placed at the front property line at least seven (7) days prior to the first public hearing and maintained so as to be visible until after the Board of Supervisors' public hearing. Your application for a Conditional Use Permit authorizes any member of the Frederick County Planning Commission, Board of Supervisors or Planning and Development Department to inspect your property where the proposed use will be conducted.

Signature of Applicant Jane M. Brown Susan K. Brown
Signature of Owner David Burns, Aunt Hel Indial Inc.
Owners' Mailing Address P.O. Box 2368 Winchester, Va. 22604
Owners' Telephone No. 1-540-323-0221

TO BE COMPLETED BY THE ZONING ADMINISTRATOR:
USE CODE: _____
RENEWAL DATE: _____

CUP 02-15
 James M Brown
 Susan K Brown
 PIN # 61-A-23

Adjoining Property:

	USE	ZONING
North	Ag	RA
East	Ag	RA
South	Res.	RA
West	Ag	RA

8. The type of use proposed is (consult with the Planning Dept. before completing):

Dog breeding facility

9. It is proposed that the following buildings will be constructed:

Mckenzie's Doodles is in process of major upgrades/repairs to current existing buildings & welcomes comments concerning code issues from various agency officials prior to performing upgrades.

10. The following are all of the individuals, firms, or corporations owning property adjacent to both sides and rear and in front of (across street from) the property where the requested use will be conducted. (Continue on back if necessary.) These people will be notified by mail of this application:

Name and Property Identification Number	Address
Name Vernon C. & Eula H. Wright	933 Barley Ln. Winchester, Va 22602
Property # 61-A-22	
Name BHS LC	P.O. Box 2368 Winchester, Va. 22604
Property # 61-A-21	
Name Janet G. & Alfred Zivullo	5 West Gate Ln. Setauket, N.Y. 11733
Property # 60-A-84	
Name Howard W. & Jean S. Klutz	1879 Amberwood Manor Ct. Vienna, Va. 22182-3102
Property # 73-2-1-15	
Name Donovan E. & Brenda L. Wilson	190 Orchard Dr. Winchester, Va 22602
Property # 73-2-1-16	
Name Bridget M. Ryan	P.O. Box 252315 West Bloomfield, Mich. 48325
Property # 73-A-48	
Name Dogwood Knoll LLC	678 Laurel Grove Rd Winchester, Va. 22602
Property # 73-A-4A	

Name and Property Identification Number		Address
Name	NVA Properties LLC	2071 Chain Bridge Rd. Suite 600 Vienna, Va 22182
Property #	73-A-5	
Name	BHS LC	P.O. Box 2368 Winchester, Va 22604
Property #	73-A-10	
Name	BHS LC	P.O. Box 2368 Winchester, Va. 22604
Property #	73-A-63	
Name	Ruth Ann Wright Boyer	923 Barley Ln. Winchester, Va 22602
Property #	61-A-32	
Name	Linda K. Nelson	429 Briarmont Dr. Winchester, Va 22601
Property #	61-A-31	
Name	Woodbine Farms Inc.	510 Barley Ln. Winchester, Va 22602
Property #	61-A-30	
Name	Woodbine Farms Inc.	510 Barley Ln. Winchester, Va 22602
Property #	73-A-66	
Name		
Property #		
Name		
Property #		
Name		
Property #		
Name		
Property #		
Name		
Property #		
Name		
Property #		



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

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

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

(Name) Fruit Hill Orchard, Inc (Phone) 667-2529

(Address) 719 Bailey Lane Winchester VA 22602

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

Instrument No. 040026727 on Page —, and is described as

Parcel: _____ Lot: _____ Block: _____ Section: _____ Subdivision: _____
 do hereby make, constitute and appoint:

(Name) Fruit Hill Orchard (Phone) (540) 667-3390 / 323-0221

(Address) P.O. Box 2368 Winchester VA 22604

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

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

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

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

In witness thereof, I (we) have hereto set my (our) hand and seal this 25 day of August, 20015.

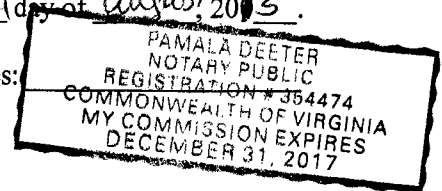
Signature(s) [Signature]

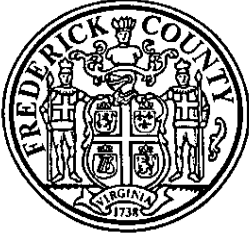
State of Virginia, City/County of _____, To-wit:

I, Pamala Deeter, a Notary Public in and for the jurisdiction aforesaid, certify that the person(s) who signed to the foregoing instrument personally appeared before me and has acknowledged the same before me in the jurisdiction aforesaid this 24 day of August, 20015.

[Signature] My Commission Expires:

Notary Public
 Revised 3/17/08





RESOLUTION

Action:

PLANNING COMMISSION: September 16, 2015 - Recommended Approval

BOARD OF SUPERVISORS: October 28, 2015 APPROVED DENIED

RESOLUTION

CONDITIONAL USE PERMIT #02-15 JAMES AND SUSAN BROWN

WHEREAS, Conditional Use Permit #02-15 of James and Susan Brown, submitted by James M. Brown and Susan K. Brown for a Kennel-Dog Breeding facility was considered. The property is located at 719 Barley Lane. The property is further identified with Property Identification Number 61-A-23 in the Back Creek Magisterial District. The conditional use is a permitted use in the RA (Rural Areas) Zoning District; and

WHEREAS, the Frederick County Planning Commission held a public hearing on the conditional use permit on September 16, 2015, and recommended approval of the Conditional Use Permit with conditions; and,

WHEREAS, the Frederick County Board of Supervisors held a public hearing on this Conditional Use Permit during their regular meeting on October 28, 2015; and,

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

NOW, THEREFORE, BE IT ORDAINED by the Frederick County Board of Supervisors that Chapter 165 of the Frederick County Code, Zoning, is amended to revise the zoning map to reflect that Conditional Use Permit Application #02-15 – James and Susan Brown for a Kennel-Dog Breeding facility is permitted on the parcel identified by Property Identification Number (PIN) 61-A-23 with the following conditions:

1. All review agency comments shall be complied with at all times.
2. This CUP is solely to enable the breeding of dogs on this property.
3. No more than twenty (20) adult dogs and shall be permitted on the property at any given time.
4. No employees other than those residing on the property shall be allowed.
5. All dogs shall be controlled so as not to create a nuisance to any adjoining properties by roaming free or barking.
6. All dogs must be confined indoors by 9:00 p.m. and not let outdoors prior to 8:00 a.m.
7. Any proposed business sign shall conform to the Cottage Occupation sign requirements and shall not exceed four (4) square feet in size and five (5) feet in height.
8. Any expansion or modification of this use will require the approval of a new Conditional Use Permit.

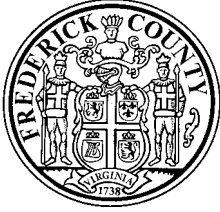
Passed this 28th day of October, 2015 by the following recorded vote:

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

A COPY ATTEST

 Brenda G. Garton
 Frederick County Administrator

N



REZONING APPLICATION #05-15

HIATT RUN CONDOS, LLC

Staff Report for the Board of Supervisors

Prepared: September 25, 2015 (Updated October 9, 2015)

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

	<u>Reviewed</u>	<u>Action</u>
Planning Commission:	10/07/15	Recommended Approval
Board of Supervisors:	10/28/15	Pending

PROPOSAL: To rezone 3.00 acres from the RA (Rural Areas) District to RP (Residential Performance) District with proffers.

LOCATION: The property is located on the eastern side of Martinsburg Pike (Route 11) just before Old Charlestown Road (Route 761).

EXECUTIVE SUMMARY & PLANNING COMMISSION RECOMMENDATION FOR THE 10/28/15 BOARD OF SUPERVISORS MEETING:

This request to rezone three acres from the RA (Rural Areas) District to the RP (Residential Performance) District would appear to be appropriate when considering the limitations on the residential use of the property provided in the Applicant's proffer statement (the Applicant has proffered that no residential structures are to be located on the property), and the adjacent residential development, recently approved by the County, into which this property has been adjusted. The adjacent residential development is the Hiatt Run Condominium project. There are no anticipated issues or additional impacts associated with this proposed rezoning request, most particularly, as no additional residential uses or buildings will be constructed on the three acres subject to this rezoning request.

While the residential land use proposed with this plan is inconsistent with the Northeast Land Use Plan, as it is outside of the UDA, it can be said that the environmental and recreation land use components of the application are in line with the 2030 Comprehensive Plan and the most recent McCann-Slaughter Amendment to the Northeast Land Use Plan. The majority of the subject property is currently zoned RP (Residential Performance) District. This three acre minor portion of the property was recently incorporated into the property by a Boundary Line Adjustment. Further, the Master Development Plan for the Hiatt Run Condominiums immediately to the west of this property (and now incorporated into the property) was approved meeting all County standards. The subject property is also located within the Sewer and Water Service Area (SWSA).

The rezoning application with its proffered conditions, appear to be an appropriate land use. **The Planning Commission did not identify any issues or concerns with the request and recommended approval of this request.**

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

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

	<u>Reviewed</u>	<u>Action</u>
Planning Commission:	10/07/15	Recommended Approval
Board of Supervisors:	10/28/15	Pending

PROPOSAL: To rezone 3.00 acres from the RA (Rural Areas) District to RP (Residential Performance) District with proffers.

LOCATION: The property is located on the eastern side of Martinsburg Pike (Route 11) just before Old Charlestown Road (Route 761).

MAGISTERIAL DISTRICT: Stonewall

PROPERTY ID NUMBERS: 44-A-17

PROPERTY ZONING: RA (Rural Areas) District

PRESENT USE: Vacant

ADJOINING PROPERTY ZONING & PRESENT USE:

North: RA (Rural Areas)	Use: Vacant/Agriculture
South: RA (Rural Areas)	Use: Residential
East: RA (Rural Areas)	Use: Vacant/Agriculture
West: RP (Residential Performance)	Use: Residential

REVIEW EVALUATIONS:

Public Works Department: We do not have any comments concerning the proposed rezoning.

Frederick County Park & Recreation: Parks and Recreation supports the proffers identified in the rezoning request.

Frederick County Attorney: *Please see attached letter from Rod Williams, dated August 11, 2015.*

Planning & Zoning:

1) Site History

The original Frederick County Zoning Map (U.S.G.S. Stephenson Quadrangle) depicts the zoning for the subject parcel as A-2 (Agricultural General) District. The County's agricultural zoning districts were combined to form the RA (Rural Areas) District upon adoption of an amendment to the Frederick County Zoning Ordinance on May 10, 1989. The corresponding revision of the zoning map resulted in the re-mapping of the subject property and all other A-1 and A-2 zoned land to the RA District.

In 2015 a Master Development Plan MPD #04-15, the Hiatt Run Condominiums Master Development Plan, was approved by the County that enabled the development of 120 units contained within eight garden apartment buildings. A Boundary Line Adjustment Plat was approved that incorporated this three acre parcel into the Hiatt Run property on July 29, 2015.

2) Comprehensive Policy Plan

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

Land Use.

The 2030 Comprehensive Plan and the Northeast Frederick Land Use Plan provide guidance on the future development of the property. The property is located within the Sewer and Water Service Area (SWSA). It is located outside of the Urban Development Area (UDA). The 2030 Comprehensive Plan identifies the general area surrounding this property with a Developmentally Sensitive Area (DSA) designation, and in the area immediately east of this property, with an OM (Office Manufacturing) District land use designation. In general, the proposed residential land use would be inconsistent with the current land use plan. However, it is recognized that the proposed residential project immediately to the west of this three acre property was rezoned and master planned for residential uses with the approval of the County, (this property was previously within the UDA). Further, the proffered recreational context and environmental preservation proposed for this property would be consistent with the current land use supported by the Comprehensive Plan. As noted, the Northeast Frederick Land Use Plan

continues to promote such environmental and recreational land uses in this area through the DSA designation.

Careful consideration was given to ensure that no additional residential density would be permitted based on this rezoning and that no residential land uses would be permitted within this area to be rezoned. This would be inconsistent with the land use plan. As proposed in the proffer statement, no residential buildings will be located on these three3 acres. Therefore, no additional residential density may be gained with the rezoning of this property. It should be recognized that uses accessory to the residential development would still be permitted if this property is rezoned. As noted in the proffer statement, this may include a community center, manager's office, parking, garages, open space, and recreational amenities.

4) **Potential Impacts**

Site Access and Transportation.

Access to the site will be via the Hiatt Run Condominium project immediately to the west and more specifically, through the two entrances shown on the approved Master Development Plan for Hiatt Run Condominiums.

Environment.

Hiatt Run, a tributary to Opequon Creek, flows through the southern portion of parcel 44-A-17. There is a zoning ordinance requirement for a riparian buffer along natural waterways in Frederick County. No development or land disturbance is permitted in a riparian buffer, other than the recreational area and trails within the open space for this development. Floodplains also exist on the property.

5) **Proffer Statement**

A) Allowed Uses:

The Applicant has proffered that the three acres that will be rezoned will not contain any residential uses. In addition, all other uses in the RP (Residential Performance) District have been excluded with the exception of a community center, manager's office, parking, garages, open space, and recreational amenities.

B) Access Management and Transportation:

The Applicant has committed to utilize for access to the property, the two entrances shown on the approved Master Development Plan for the Hiatt Run Condominiums, MDP #04-15. Therefore, there will be no additional access to this site via McCanns Lane or Martinsburg Pike.

C) Site Development:

The Applicant has proffered to construct a public hiker/biker trail, the location of which is shown on the Generalized Development Plan for this site included in the proffer statement. The public trail is actually located on the adjacent property within a proposed 20' easement. In

conjunction with the trail, a fence will be constructed by the Applicant. It is recognized that the trail and fence will be conducted in two phases; Phase One to be completed by July 1, 2018, and Phase Two to be completed by July 1, 2021 or prior to the final Certificate of Occupancy Permit of the 120th apartment unit in the Hiatt Run project located on this property.

STAFF CONCLUSIONS FOR THE 10/07/15 PLANNING COMMISSION MEETING:

This request to rezone three acres from the RA (Rural Area) District to the RP (Residential Performance) District would appear to be appropriate when considering the limitations on the use of the property provided in the Applicant's proffer statement and the adjacent residential development, recently approved by the County, into which this property has been adjusted. There are no anticipated issues or additional impacts associated with this proposed rezoning request, most particularly, as no additional residential uses or buildings will be constructed on the three acres subject to this rezoning request.

While the residential land use proposed with this plan is inconsistent with the Northeast Land Use Plan, as it is outside of the UDA, it can be said that the environmental and recreation land use components of the application are in line with the 2030 Comprehensive Plan and the most recent McCann-Slaughter Amendment to the Northeast Land Use Plan. The majority of the subject property is currently zoned RP (Residential Performance). Further, the Master Development Plan for the Hiatt Run Condominiums immediately to the west of this property (and now incorporated in to the property) was approved meeting all County standards. The subject property is also located within the Sewer and Water Service Area (SWSA).

Any issues brought forth by the Planning Commission should be appropriately addressed by the applicant.

EXECUTIVE SUMMARY & PLANNING COMMISSION RECOMMENDATION FOR THE 10/28/15 BOARD OF SUPERVISORS MEETING:

This request to rezone three acres from the RA (Rural Areas) District to the RP (Residential Performance) District would appear to be appropriate when considering the limitations on the residential use of the property provided in the Applicant's proffer statement (the Applicant has proffered that no residential structures are to be located on the property), and the adjacent residential development, recently approved by the County, into which this property has been adjusted. The adjacent residential development is the Hiatt Run Condominium project. There are no anticipated issues or additional impacts associated with this proposed rezoning request, most particularly, as no additional residential uses or buildings will be constructed on the three acres subject to this rezoning request.

While the residential land use proposed with this plan is inconsistent with the Northeast Land Use Plan, as it is outside of the UDA, it can be said that the environmental and recreation land use components of the application are in line with the 2030 Comprehensive Plan and the most recent McCann-Slaughter

Amendment to the Northeast Land Use Plan. The majority of the subject property is currently zoned RP (Residential Performance) District. This three acre minor portion of the property was recently incorporated into the property by a Boundary Line Adjustment. Further, the Master Development Plan for the Hiatt Run Condominiums immediately to the west of this property (and now incorporated into the property) was approved meeting all County standards. The subject property is also located within the Sewer and Water Service Area (SWSA).

The rezoning application with its proffered conditions, appear to be an appropriate land use. **The Planning Commission did not identify any issues or concerns with the request and recommended approval of this request.**

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

Rezoning: RZ # __-15

Property: Area: 3.000 acres
Tax Parcel 44-(A)-17

Record Owner: Hiatt Run Condos, LLC

Project Name: Hiatt Run Condos

Original Date of Proffers: June 24, 2015

Revised: September 10, 2015

Magisterial District: Stonewall

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 3.000-acres, as shown on the Generalized Development Plan and Plat of Record as instrument 150008123, from the RA (Rural Areas) Districts to RP (Residential Performance) 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 Property are more particularly described as the lands conveyed to Hiatt Run Condos, LLC, from SEI Winchester, LLC, as recorded in the Frederick County Circuit Court Clerk's Office as instrument #150000684 dated January 27, 2015, from Vincent L. Lord and Lila T. Lord as recorded in the Frederick County Circuit Court Clerk's Office as instrument 150003035 dated April 7, 2015, and from McCann Family Land Trust as recorded in the Frederick County Circuit Court Clerk's Office as instrument #150008123 dated August 11, 2015.

Proffers:

1. Residential Density

- a. The three (3.000) acre portion of the site shown on the attached Generalized Development Plan as “3.000 Acres to be rezoned from RA to RP” will not contain any residential buildings. All uses for RP on the referenced three (3.000) acre portion of the site are hereby excluded except for community center, manager’s office, parking, garages, open space, and recreational amenities for the development.

2. Transportation

- a. The owner hereby proffers to utilize only the entrances shown on their approved Master Development Plan “Hiatt Run Condominiums” #04-15.

3. Trails

- a. The owner hereby proffers to construct a hike-biker trail with fencing in two phases, to be used by the public, in a 20’ easement on the adjacent property, tax parcel 44-(A)-40. See detail on Generalized Development Plan (GDP). All physical maintenance of the trail, including the fence, shall be the responsibility of the owner, its successors and assigns, and shall be expressly set forth in future deeds of conveyance of the property.
 - i. The first phase will begin at McCann’s Road (Route 838) and extend in a northerly direction for at least 1750’. This portion will be constructed by July 1, 2018. See GDP.
 - ii. The second phase will complete the remaining 2450’ per the attached GDP by July 1, 2021. All of the trail shall be constructed prior to the final occupancy permit of the 120th apartment unit.

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: SSA Rosenfeld
Scott S. Rosenfeld, manager
Hiatt Run Condos, LLC

9-10-15
Date

Commonwealth of Virginia,

City/County of Frederick To Wit:

The foregoing instrument was acknowledged before me this 10 day of Sept, 2015

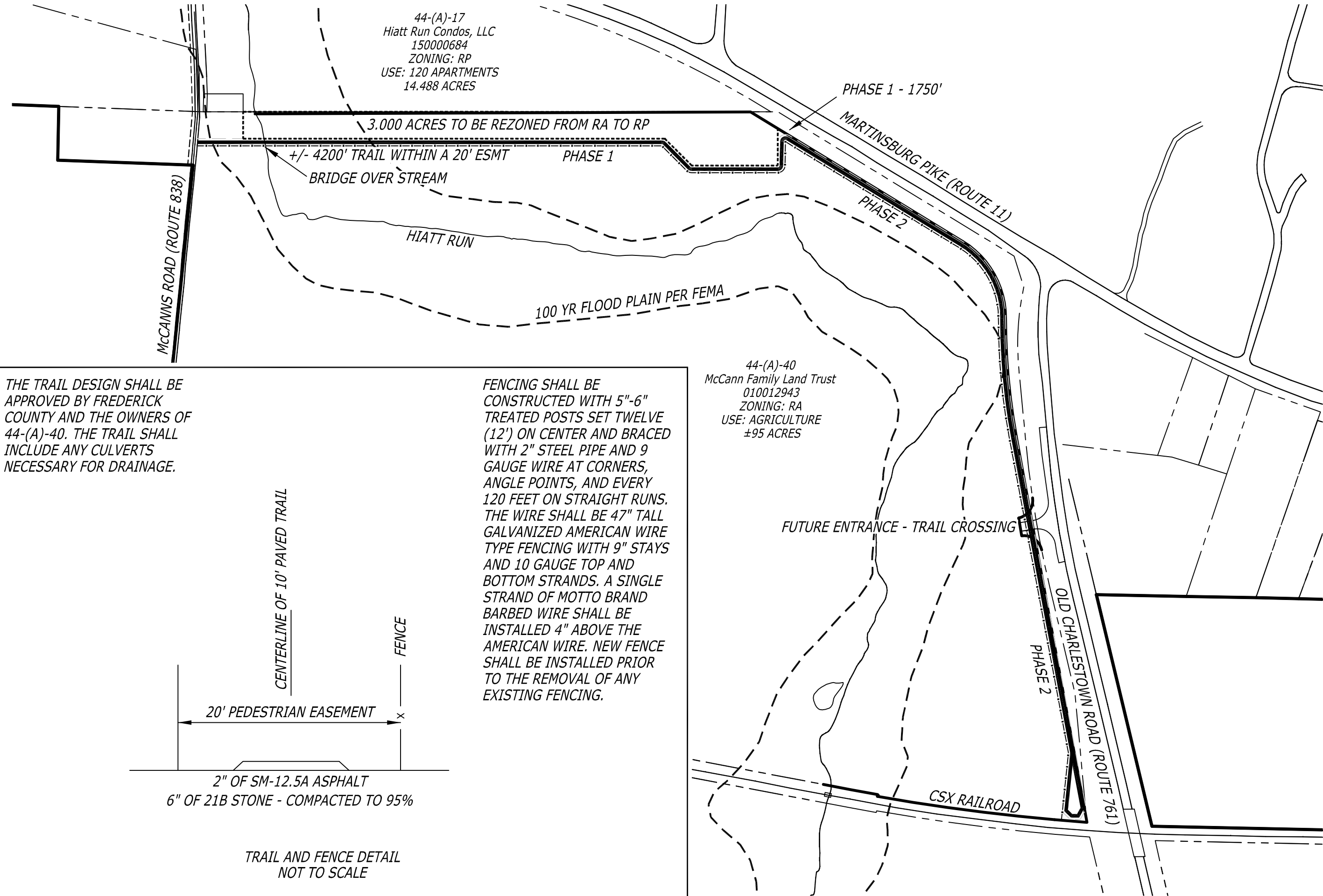
By Wanda Taylor

Wanda Taylor
Notary Public

365941
Registration Number

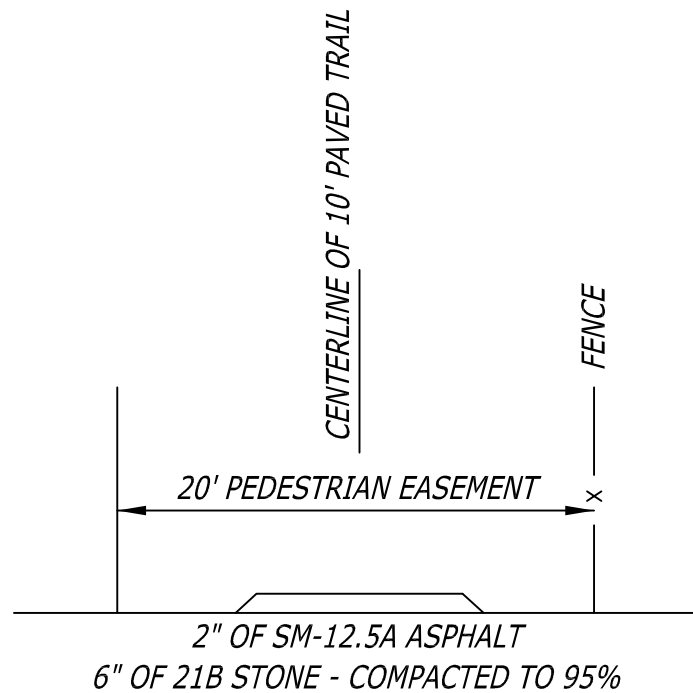
My Commission Expires 1-31-17



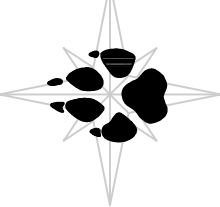


THE TRAIL DESIGN SHALL BE APPROVED BY FREDERICK COUNTY AND THE OWNERS OF 44-(A)-40. THE TRAIL SHALL INCLUDE ANY CULVERTS NECESSARY FOR DRAINAGE.

FENCING SHALL BE CONSTRUCTED WITH 5"-6" TREATED POSTS SET TWELVE (12') ON CENTER AND BRACED WITH 2" STEEL PIPE AND 9 GAUGE WIRE AT CORNERS, ANGLE POINTS, AND EVERY 120 FEET ON STRAIGHT RUNS. THE WIRE SHALL BE 47" TALL GALVANIZED AMERICAN WIRE TYPE FENCING WITH 9" STAYS AND 10 GAUGE TOP AND BOTTOM STRANDS. A SINGLE STRAND OF MOTTO BRAND BARBED WIRE SHALL BE INSTALLED 4" ABOVE THE AMERICAN WIRE. NEW FENCE SHALL BE INSTALLED PRIOR TO THE REMOVAL OF ANY EXISTING FENCING.



TRAIL AND FENCE DETAIL
NOT TO SCALE



GreyWolfe, Inc.
Land Surveying and Consulting
1073 Redbud Road
Winchester, VA 22603
GreyWolfeInc@aol.com
(540) 667-2001 OFC
(540) 545-4001 FAX

GENERALIZED DEVELOPMENT PLAN FOR

HIATT RUN CONDOS, LLC
3.000 ACRE REZONING


Stonewall Magisterial District, Frederick County, Virginia

DATE:	JUNE 24, 2015
SCALE:	1"=250'
DRAWN BY:	GRO
JOB NO.	#0432



MEMORANDUM

TO: Gary Oates
GreyWolfe, Inc.

FROM: Michael T. Ruddy, AICP 
Deputy Director

RE: Rezoning Comments: Hiatt Run Condos, LLC Rezoning. PIN 44-A-17.

DATE: August 17, 2015

The following comments are offered regarding the Hiatt Run Condos, LLC Rezoning Application. This is a request to rezone 3 acres from RA (Rural Area) to RP (Residential Performance) with Proffers. The review is generally based upon the proffer statement dated June 24, 2015, and the Impact Analysis Statement dated June 29, 2015.

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 \$10,300.00, based upon acreage of 3 acres.

Land Use

- 1) The 2030 Comprehensive Plan and the Northeast Frederick Land Use Plan provide guidance on the future development of the property. The property is located within the Sewer and Water Service Area (SWSA). It is located outside of the Urban Development Area (UDA). The 2030 Comprehensive Plan identifies the general area surrounding this property with a Developmentally Sensitive Area designation, and in the area immediately east of this property, with an OM (Office Manufacturing) land use designation. In general, the proposed residential land use would be inconsistent with the current land use plan. However, it is recognized

that the proposed residential project immediately to the west of this 3 acre property was rezoned and master planned for residential uses with the approval of the County (this property was previously within the UDA). Further, the recreational context and environmental preservation proposed for this property would be consistent with the current land use supported by the Comprehensive Plan. As noted, the Northeast Frederick Land Use Plan continues to promote such environmental and recreational land uses in this area through the DSA designation.

Careful consideration should be given to ensure that no additional residential density would be permitted based on this rezoning and that no residential land uses would be permitted within this area to be rezoned. This would be inconsistent with the land use plan. As proposed, no residential buildings will be located on these 3 acres. However, uses accessory to the residential development would still be permitted if this property is rezoned. Ultimately, the Board of Supervisors will determine if this proposal to rezone the property to residential to allow uses accessory to the residential uses would be appropriate.

Impact Analysis and Proffer Statements

Please address the following items from the Impact Analysis and Proffer Statements prepared for this Application.

- 1) Please provide a plat of rezoning showing the metes and bounds of the area being rezoned.
- 2) Please revise the Impact Analysis and Proffer Statement to be specific to only the three acres. This would help avoid any confusion when discussing the request. 14.88 acres is noted. In addition, improvements are proposed, and the GDP identifies, improvements on the adjacent property to the west.
- 3) It would be helpful to discuss the adjacent residential project in the Impact Analysis in a separate section and describe what the approval of this property would enable the residential project to provide that it would not be able to if this parcel was not included.
- 4) Within the 3 acres, it would be helpful to understand the amount of physical development that would occur, including areas of structures, any kind of buffering that would be proposed or required, setback areas, and area within the floodplain.
- 5) The sections on Comprehensive Planning and Historical Impact should be updated based upon the McCann-Slaughter revision to the 2030 Comprehensive Plan.
- 6) The right-of-way dedication on the north end of the property should be identified as part of this request. It appears as though the anticipated right-of-way along Route 11 is consistent with that envisioned for the McCann-Slaughter project

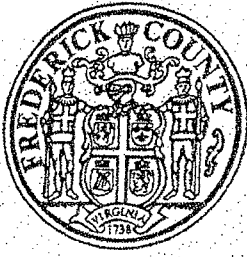
which has yet to be submitted.

- 7) The Proffer Statement appears to include language describing the adjacent project and details about an agreement between property owners. This should be limited to the extent possible within the proffer statement.

- 8) With regards to the Proffer Statement, I would suggest the following:
 - i. Proffer 1. should just address land use on the 3 acre property and not include the first two sentences.
 - ii. The GDP should be specifically identified and proffered. This could also be located in a land use section.
 - iii. That any commitment to proffer improvements on an adjacent property includes recognition from that property owner in some form.
 - iv. The phasing of any improvement is realistic in time frame and its completion tied to final Certificate of Occupancy for the project that it is associated to and in this case the residential development. Otherwise, this is merely copying a commitment that may be made by others in the future for credit with this application.

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

MTR/pd



COUNTY of FREDERICK

Roderick B. Williams
County Attorney

540/722-8383

Fax 540/667-0370

E-mail:

rwillia@co.frederick.va.us

August 11, 2015

VIA E-MAIL AND REGULAR MAIL

Mr. Gary Oates
Grey Wolfe, Inc.
1073 Redbud Road
Winchester, VA 22603

Re: Rezoning Application – Hiatt Run Condos
Proffer Statement dated June 24, 2015

Dear Gary:

You have submitted to Frederick County for review the above-referenced proffer statement (the "Proffer Statement") for the proposed rezoning of a portion of Tax Parcel Number 44-A-17, as proposed to be consolidated (the "Property"), the rezoning area being 3.00 acres, more or less, in the Stonewall Magisterial District, from the RA (Rural Areas) District to the RP (Residential Performance) District, with 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:

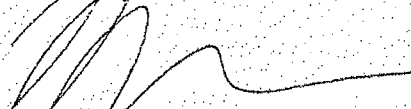
- I note that the rezoning involves acreage that is to be added via a boundary line adjustment (BLA). Obviously, the BLA will need to be completed and appropriate documents recorded prior to submission of the rezoning application.
- Introduction, 1st paragraph – In the reference to the "rezoning of 3.000-acres", it would be appropriate to indicate as well that the rezoning area is as is shown on the attached Generalized Development Plan. Along similar lines, it would be appropriate, for clarity, for the full metes and bounds of the rezoning area to be shown on some document that is part of the Proffer Statement.
- Proffer 1.a. – For clarity, the second sentence would best read, "The three (3.000) acre portion of the site shown on the attached Generalized Development Plan as '3.000 Acres to be rezoned from RA to RP' will not contain any residential

buildings.” Likewise, the third sentence should start, “All uses for RP on the referenced three (3.000) acre portion of the site are hereby excluded except for...”.

- Proffer 2 – The proffer should refer to the specific date and title of the Master Development Plan.
- Proffer 3 – Staff and the owner should be aware that the proffer’s obligations to construct an improvement – the trail – on property not owned by the owner will therefore be subject to the fulfillment of contractual arrangements to be made with a third party. Any failure to reach necessary agreements and/or any breaches of those agreements, including by third parties, could result in the owner of the Property being subject to zoning violations and/or could result in the inability to develop or continue development of the Property.
- Proffer 3.a.ii. – The proffer does not state an obligation that is enforceable by any means other than the filing of a zoning violation case, as tax parcel 44-A-40 is not subject to the currently proposed rezoning and it is development on that parcel which triggers the obligation in this proffer.

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 review will be done by staff and the Planning Commission.

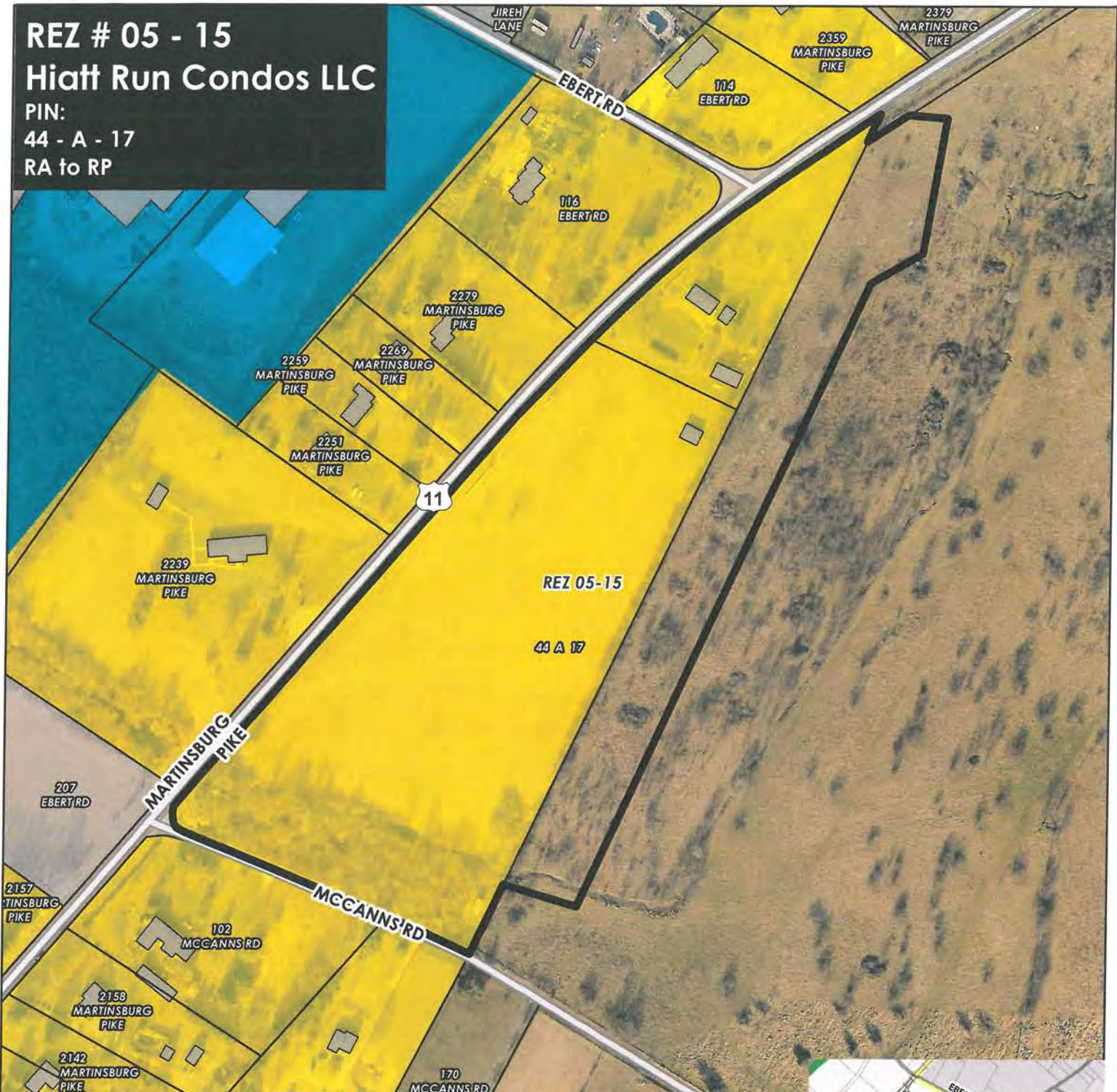
Sincerely,



Roderick B. Williams
County Attorney

cc: Michael T. Ruddy, Deputy Director of Planning & Development, Frederick County (via e-mail)

REZ # 05 - 15
Hiatt Run Condos LLC
 PIN:
 44 - A - 17
 RA to RP

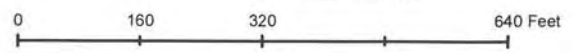


- Applications
- Parcels
- Building Footprints
- B1 (Business, Neighborhood District)
- B2 (Business, General District)
- B3 (Business, Industrial Transition District)
- EM (Extractive Manufacturing District)
- HE (Higher Education District)
- M1 (Industrial, Light District)
- M2 (Industrial, General 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)

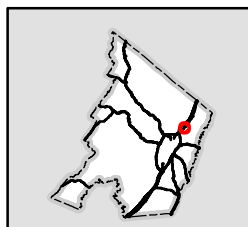
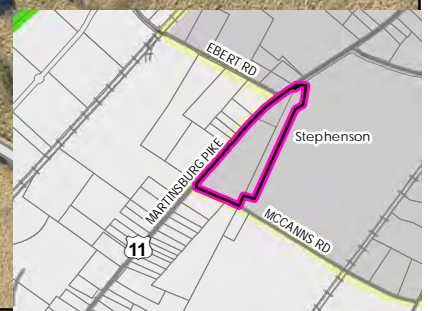
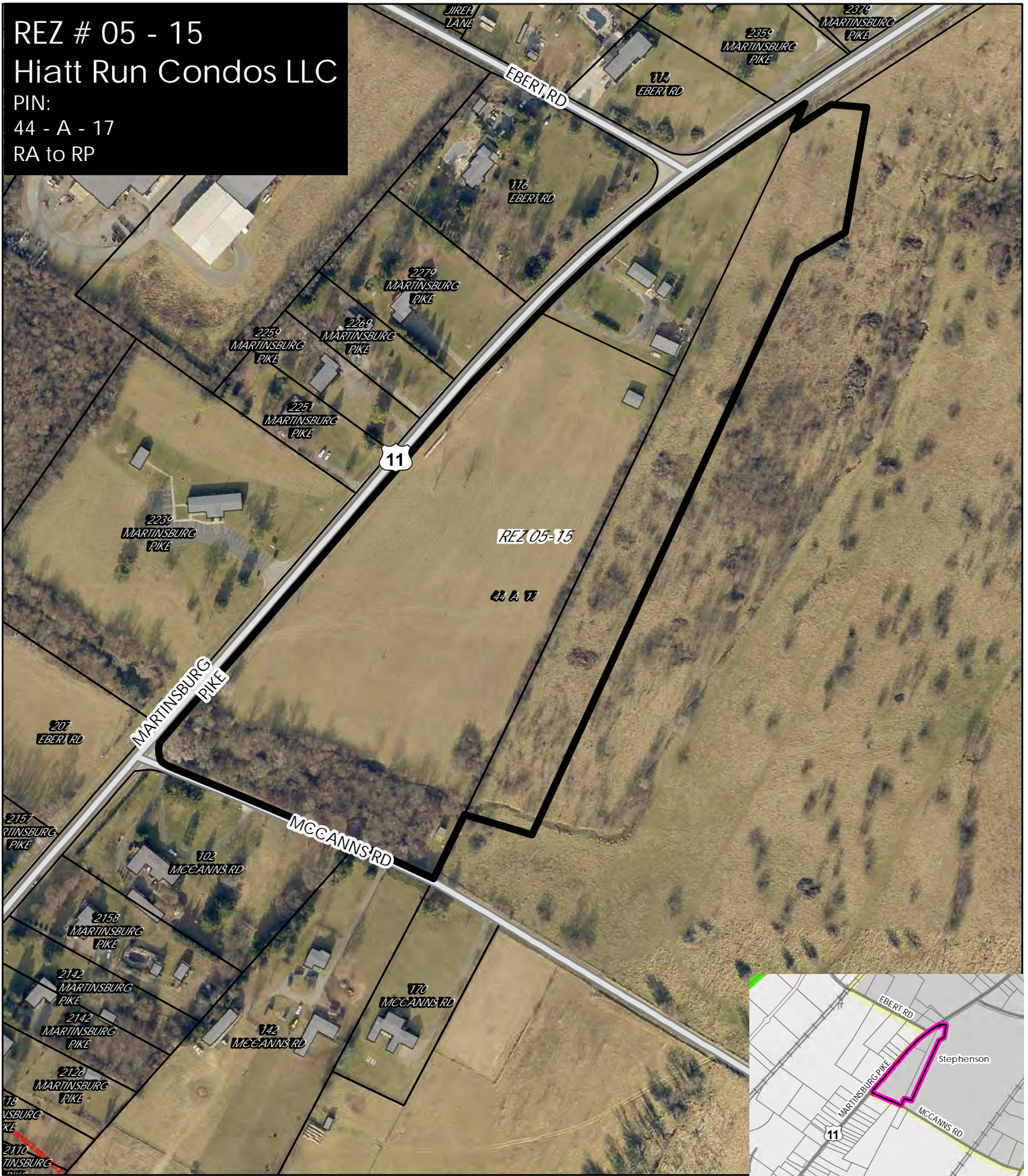





REZ # 05 - 15
Hiatt Run Condos LLC
 PIN:
 44 - A - 17
 RA to RP

Note:
 Frederick County Dept of
 Planning & Development
 107 N Kent St
 Suite 202
 Winchester, VA 22601
 540 - 665 - 5651
 Map Created: September 14, 2015
 Staff: muddy



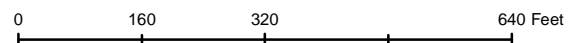
REZ # 05 - 15
Hiatt Run Condos LLC
 PIN:
 44 - A - 17
 RA to RP



-  Applications
-  Parcels
-  Building Footprints

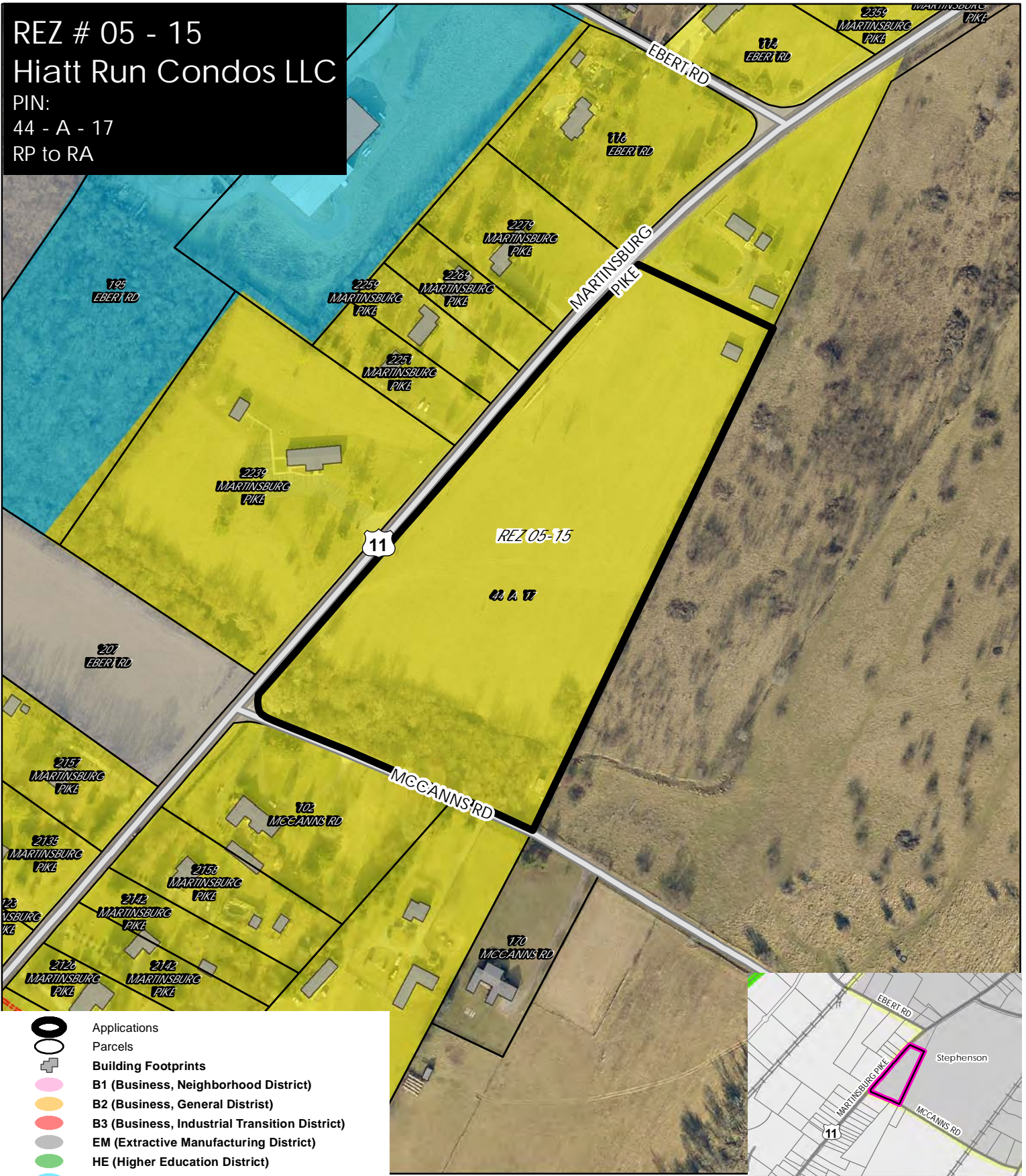
REZ # 05 - 15
Hiatt Run Condos LLC
 PIN:
 44 - A - 17
 RA to RP



Note:
 Frederick County Dept of
 Planning & Development
 107 N Kent St
 Suite 202
 Winchester, VA 22601
 540 - 665 - 5651
 Map Created: September 14, 2015
 Staff: mruddy

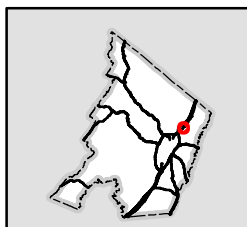


REZ # 05 - 15 Hiatt Run Condos LLC

PIN:
44 - A - 17
RP to RA

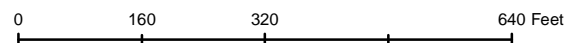


-  Applications
-  Parcels
-  Building Footprints
-  B1 (Business, Neighborhood District)
-  B2 (Business, General District)
-  B3 (Business, Industrial Transition District)
-  EM (Extractive Manufacturing District)
-  HE (Higher Education District)
-  M1 (Industrial, Light District)
-  M2 (Industrial, 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 # 05 - 15
Hiatt Run Condos LLC
PIN:
44 - A - 17
RP to RA

Note:
Frederick County Dept of
Planning & Development
107 N Kent St
Suite 202
Winchester, VA 22601
540 - 665 - 5651
Map Created: September 14, 2015
Staff: mruddy



**REZONING APPLICATION FORM
FREDERICK COUNTY, VIRGINIA**

To be completed by Planning Staff:

Zoning Amendment Number	<u>05-15</u>	Fee Amount Paid	\$ <u>10,300.⁰⁰</u>
PC Hearing Date	<u> </u>	Date Received	<u>9/11/15</u>
		BOS Hearing Date	<u> </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: Hiatt Run Condos, LLC Telephone: (540) 247-6218
Address: 821 Apple Pie Ridge Road
Winchester, VA 22603

3. Contact person if other than above:

Name: Gary R. Oates Telephone: (540) 667-2001

4. Property Information:

- a. Property Identification Number(s): 44-(A)-17
- b. Total acreage to be rezoned: 3.000 acres
- c. Total acreage of the parcel(s) to be rezoned (if the entirety of the parcel(s) is not being rezoned): 14.488 acres
- d. Current zoning designation(s) and acreage(s) in each designation: 11.488 RP, 3.000 RA
- e. Proposed zoning designation(s) and acreage(s) in each designation: 14.488 RP
- f. Magisterial District(s): Stonewall

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

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

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

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

Scott S. Rosenfeld, manager

James Haslle, member

7. Adjoining Property:

<u>PARCEL ID NUMBER</u>	<u>USE</u>	<u>ZONING</u>
44-(A)-7, 8, 11,13,14,15, 16	Residential	RP
44-(A)-40	Agricultural	RA
44-(A)-12	Industrial	M-2
44-(A)-18, 20, 24	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):

Eastern side of Martinsburg Pike (Route 11) just before Old Charlestown Road (Route 761)

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: _____ Warehouse: 0 _____
 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): Gay R Ode Date: 6-24-15
 _____ Date: _____

Owner(s): Scott Rosenfeld Date: 6-24-15
 _____ Date: _____



**Special Limited Power of Attorney
County of Frederick, Virginia
Frederick Planning Website: www.co.frederick.va.us**

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

Know All Men By These Presents: That I (We)

(Name) Scott S. Rosenfeld, manager for Hiatt Run Condos, LLC (Phone) 540-247-6218

(Address) 821 Apple Pie Ridge Road, Winchester, VA 22603

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

Instrument No. 150000684 on Page _____, and is described as

Parcel: _____ Lot: _____ Block: _____ Section: _____ Subdivision: _____
do hereby make, constitute and appoint:

(Name) Gary R. Oates, LS-B, PE (Phone) 540-667-2001

(Address) 1073 Redbud Road, Winchester, VA 22603

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

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

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

This authorization shall expire one year from the day it is signed, or until it is otherwise rescinded or modified.
In witness thereof, I (we) have hereto set my (our) hand and seal this 24th day of June, 2015.

Signature(s)

State of Virginia, City/County of Frederick, To-wit: Scott Rosenfeld

I, Barbara A. Vonsickler, a Notary Public in and for the jurisdiction aforesaid, certify that the person(s) who signed to the foregoing instrument personally appeared before me and has acknowledged the same before me in the jurisdiction aforesaid this 24th day of June, 2015.

My Commission Expires: 9/30/16
Notary Public

Impact Statement

For consideration of Rezoning the lands for

Hiatt Run Condos, LLC

Stonewall Magisterial District
Frederick County, Virginia

June 29, 2015

Revised: Sept. 10, 2015

Tax Map Numbers

44-(A)-17

Land to be Rezoned: 3.000 acres

Owner of Record:

Hiatt Run Condos, LLC
821 Apple Pie Ridge Road
Winchester, VA 22603
(540) 247-6218

Contact:

Gary R. Oates, LS-B, PE
GreyWolfe, Inc.
1073 Redbud Road
Winchester, VA 22603
(540) 667-2001 ofc
(540) 545-4001 fax

Hiatt Run Condos

Introduction

The site is located on the eastern side of Martinsburg Pike (Route 11) and south of Old Charlestown Road (Route 761). The parcel is currently split zoned RP and RA. The RP portion is Master Planned for 120 apartments units (MDP #04-15 “Hiatt Run Condominiums”). The goal of this proposal is to rezone the newly acquired 3.000 acres from RA to RP. This will allow the owner to develop garages and recreational amenities for the apartment complex. The owner is offering a proffer to keep the current number of units the same. This rezoning will not create additional density, nor will it allow any residential units to be placed on the 3.000 acre portion. There is not an increase in traffic nor other detrimental impacts on the County.

If the rezoning is denied, the development of the 120-unit apartments will still occur under the approved Master Development Plan, but will do so without the benefit amenities such as garages, pool, tennis courts, etc. due to limited space.

Existing Conditions

The 3.000 acre is currently used for agriculture. The stormwater drains generally to the east to Hiatt Run.

Comprehensive Planning

The site was removed from a DSA designation in 2014. This particular area is now planned for trails and minimal development. The applicant is proffering to construct and maintain approximately 4200’ of 10’ wide hiker-biker trails that will be available for the public.

Proposed Development

The site will be used for only community center, manager’s office, parking, garages and recreational amenities. There will not be any residential units on the 3.000 acres.

Physical Impacts

A portion of the site is located within the 100 year flood plains per FEMA Flood Map No. 51069C0250D. This area will either be utilized for trails and recreational amenities. It may also be utilized for water quality measures, or BMP’s, to protect Hiatt Run from any runoff associated with development per Frederick County Zoning Ordinance.

Surrounding Properties

The site is bounded to the west by Martinsburg Pike (route 11) and by the McCann Family Land Trust on all other sides.

Traffic Impact and Analysis

There is no increase in traffic from this proposed rezoning application.

Sewer Conveyance and Treatment

There is no increase in sewage from this rezoning application.

Water Supply

There is no increase in water usage from this rezoning application.

Drainage

The stormwater runoff drains to the east into Hiatt Run. 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, 4th edition, uses a rate of 5.4 cubic yards per 1,000 square feet of floor area. However, there are no residential units proposed. The applicant will be responsible for the maintenance of the trails and regular garbage collection will utilize the existing dumpsters within their proposed development.

Historical Impact

The site was included in amendment in 2014 to the 2030 Comprehensive Plan for the McCann-Slaughter properties. The area to the north is known as Stephenson Depot and is noted in Battlefield Network Plan dated February, 1997, and indicates the core area for preserving lies within the buffer area north of Hiatt Run. This development will provide trails to the area, similar to the trails at the Third Battle of Winchester Park.

Educational Impact

This application will not create additional students for the schools.

Police, Fire, and Rescue Impact

This application will not create additional impacts.

Parks & Recreation Impact

This application will not increase population; therefore, no measurable impacts are predicted. The construction of the trails and open space available to the public should have a positive impact.

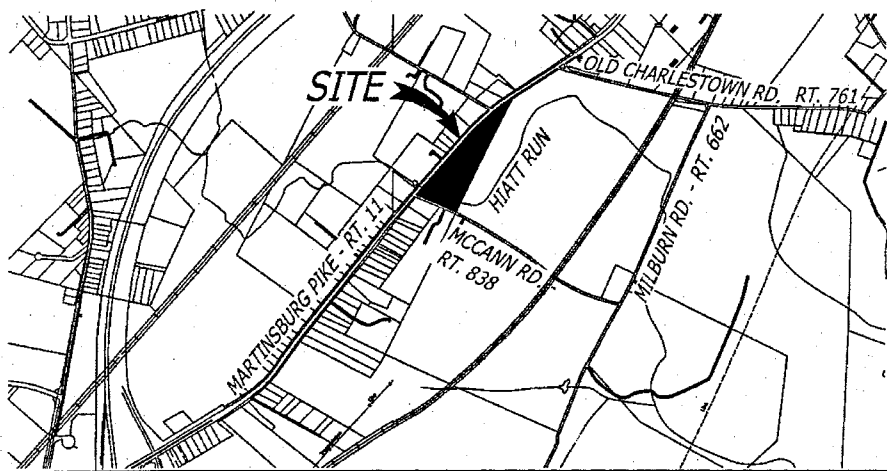
Soils

The soil types identified on the General Soil Map of the Soil Survey of Frederick County, Virginia are Carbo-Oaklet-Rock Outcropping (#7C) and Carbo-Oaklet Silt Loams (#32B) as shown on map sheet 19. These soil types are clay with an abundance of limestone rock. The characteristics of this soil are manageable for development following the Virginia Erosion and Sediment Control practices.

Geology

This area is also known for karst topography. Care should be taken to explore for sinkholes and caverns prior to any excavation or development.

0136



VICINITY MAP
1" = 2000'

FINAL PLAT OF LOT CONSOLIDATION, EASEMENT DEDICATION, AND
BOUNDARY LINE ADJUSTMENT OF TAX PARCELS

44-(A)-17, 44-(A)-10, & 44-(A)-40

STONEWALL MAGISTERIAL DISTRICT, FREDERICK COUNTY, VIRGINIA
JUNE 18, 2015

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THE PARCELS CONTAINED IN THIS LOT CONSOLIDATION, EASEMENT DEDICATION, AND BOUNDARY LINE ADJUSTMENT ARE THE LANDS CONVEYED TO HIATT RUN CONDOS, LLC; FROM SEI WINCHESTER, LLC. BY DEED DATED JANUARY 27, 2015, OF RECORD AS INSTRUMENT 150000684. TO HIATT RUN CONDOS, LLC.; FROM VINCENT L. LORD AND LILA T. LORD BY DEED DATED APRIL 7, 2015, OF RECORD AS INSTRUMENT 150003035. TO McCANN FAMILY LAND TRUST BY DEED DATED JULY 1, 2001, OF RECORD AS INSTRUMENT 010012943. ALL INSTRUMENTS RECORDED IN THE FREDERICK COUNTY CIRCUIT COURT CLERKS OFFICE.

Gary R. Oates
GARY R. OATES, LAND SURVEYOR

NOTES

1. A FIELD SURVEY WAS PERFORMED BY GREYWOLFE, INC. IN DECEMBER, 2014.
2. A TITLE REPORT HAS NOT BEEN FURNISHED; THEREFORE, OTHER EASEMENTS OR ENCUMBRANCES MAY EXIST THAT ARE NOT SHOWN ON THIS PLAT.
3. THIS PARCEL IS LOCATED ON FLOOD INSURANCE RATE MAP No. 51069C0250D IN FLOOD ZONE 'A', AREAS SUBJECT TO INUNDATION BY THE 1% ANNUAL CHANCE FLOOD, AND FLOOD ZONE 'X', AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN, DATED SEPTEMBER 2, 2009.
4. THERE WAS NO READILY APPARENT EVIDENCE OF A CEMETERY WITHIN CLOSE PROXIMITY TO THE BOUNDARY LINES.
5. A 50' GENERAL ACCESS EASEMENT IS HEREBY DEDICATED TO THE McCANN FAMILY LAND TRUST FOR INGRESS-EGRESS, GRADING, DRAINAGE, MAINTENANCE, UTILITIES, AND SIGNAGE. FURTHERMORE, HIATT RUN CONDOS, LLC., AGREES THAT ANY PORTION OF THIS EASEMENT SHALL BE DEDICATED TO THE COUNTY OF FREDERICK WITHIN 30 DAYS OF WRITTEN REQUEST BY THE McCANN FAMILY LAND TRUST, SUCCESSORS OR ASSIGNS.

APPROVAL

Mark C. [Signature]
FREDERICK COUNTY SUBDIVISION ADMINISTRATOR

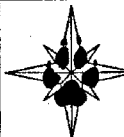
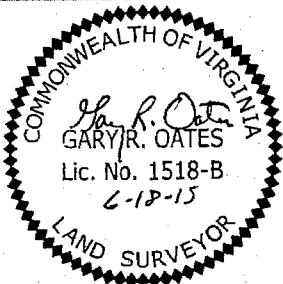
29 JUL 15
DATE

[Signature]
FREDERICK COUNTY SANITATION AUTHORITY

6-30-2015
DATE

[Signature]
VIRGINIA DEPARTMENT OF TRANSPORTATION

17 July 15
DATE



GreyWolfe, Inc.
Land Surveying and Consulting

1073 Redbud Road
Winchester, VA 22603
GreyWolfeInc@aol.com
540-667-2001 OFC
540-545-4001 FAX

0137

OWNER'S CERTIFICATE

THE ABOVE AND FOREGOING LOT CONSOLIDATION, EASEMENT DEDICATION, AND BOUNDARY LINE ADJUSTMENT SURVEY OF THE LANDS OF HIATT RUN CONDOS, LLC. AND McCANN FAMILY LAND TRUST, AS APPEARS ON THE ACCOMPANYING PLAT IS WITH THE CONSENT OF AND IN ACCORDANCE WITH THE DESIRES OF THE UNDERSIGNED OWNERS, PROPRIETORS, AND TRUSTEES, IF ANY.

Judy McCann Slaughter
JUDY McCANN-SLAUGHTER
TRUSTEE, McCANN FAMILY LAND TRUST

COMMONWEALTH OF VIRGINIA

CITY/COUNTY OF Winchester, TO WIT: THE FOREGOING OWNER'S CERTIFICATE WAS ACKNOWLEDGED BEFORE ME THIS 25th DAY OF June, 2015 BY:

McCann Family Land Trust
Judith McCann Slaughter, Trustee

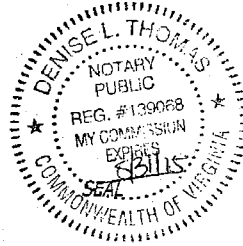
PRINTED OWNER

Denise L. Thomas

PRINTED NOTARY PUBLIC

Denise L. Thomas
SIGNATURE NOTARY PUBLIC

MY COMMISSION EXPIRES August 31, 2015



Ellen L. Marshall

ELLEN L. MARSHALL
TRUSTEE, McCANN FAMILY LAND TRUST

WASHINGTON, DC
COMMONWEALTH OF VIRGINIA

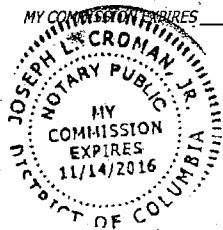
CITY/COUNTY OF Washington, DC, TO WIT: THE FOREGOING OWNER'S CERTIFICATE WAS ACKNOWLEDGED BEFORE ME THIS 26th DAY OF June, 2015 BY:

Ellen L. Marshall
PRINTED OWNER

Joseph L. Croman, Jr.
PRINTED NOTARY PUBLIC

Joseph L. Croman, Jr.
SIGNATURE NOTARY PUBLIC

MY COMMISSION EXPIRES 11-14, 2016



SEAL



FINAL PLAT OF LOT CONSOLIDATION, EASEMENT DEDICATION, AND BOUNDARY LINE ADJUSTMENT OF TAX PARCELS

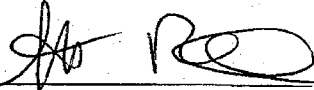
44-(A)-17, 44-(A)-10, & 44-(A)-40

STONEWALL MAGISTERIAL DISTRICT, FREDERICK COUNTY, VIRGINIA



GreyWolfe, Inc.
Land Surveying and Consulting

1073 Redbud Road
Winchester, VA 22603
GreyWolfeInc@aol.com
540-667-2001 OFC
540-545-4001 FAX


 SCOTT ROSENFELD, MANAGER
 HIATT RUN CONDOS, LLC.

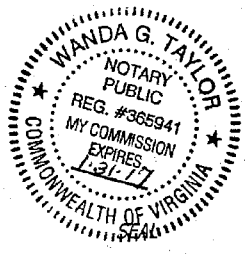
COMMONWEALTH OF VIRGINIA
 CITY/COUNTY OF Frederick Co, TO WIT: THE FOREGOING OWNER'S CERTIFICATE
 WAS ACKNOWLEDGED BEFORE ME THIS 17 DAY OF July, 2015 BY:

Scott Rosenfeld
 PRINTED OWNER

Wanda Taylor
 PRINTED NOTARY PUBLIC

Wanda Taylor
 SIGNATURE NOTARY PUBLIC

MY COMMISSION EXPIRES Jan 31, 2017



0138

AREA TABULATION

TAX PARCEL	ZONED	USE	ORIG. ACREAGE	ADJ. ACREAGE
44-(A)-17	RP/RA	VACANT	10.507	14.101
44-(A)-10	RP	RESIDENTIAL	1.676	N/A (CONSOLIDATED)
44-(A)-40	RA	AGRICULTURE	95.723	92.723
COMMONWEALTH OF VIRGINIA			N/A	0.793
COUNTY OF FREDERICK			N/A	0.289
			107.906	107.906

ABBREVIATIONS

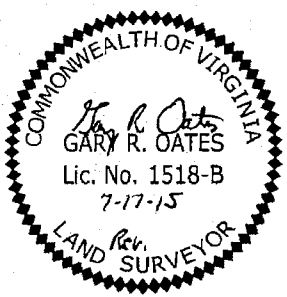
- BRL = BUILDING RESTRICTION LINE
- DB = DEED BOOK
- PG = PAGE
- AGR. = AGRICULTURAL
- VAC. = VACANT
- R.O.W. = RIGHT OF WAY

LEGEND

- ⊙ = PROPERTY CORNER FOUND
1/2" REBAR UNLESS OTHERWISE STATED
- ⊕ = PROPERTY CORNER SET
5/8" X 24" REBAR WITH YELLOW PLASTIC CAP
- ⊥ = CENTERLINE
- = POINT OF REFERENCE

ADJOINERS

LETTER	OWNER	PARCEL	REF.	USE	ZONING	±ACREAGE
A	FREDERICK COUNTY SANITATION AUTHORITY		010015333	BOOSTER STA.	RP	0.1
B	RITA WILSON	44-(A)-24	070014065	RESIDENTIAL	RP	10.0
C	PETER C. & DARLEN ROSE MORGAN	44-(A)-20	120008602	RESIDENTIAL	RP	2.4



FINAL PLAT OF LOT CONSOLIDATION, EASEMENT DEDICATION, AND
 BOUNDARY LINE ADJUSTMENT OF TAX PARCELS

44-(A)-17, 44-(A)-10, & 44-(A)-40

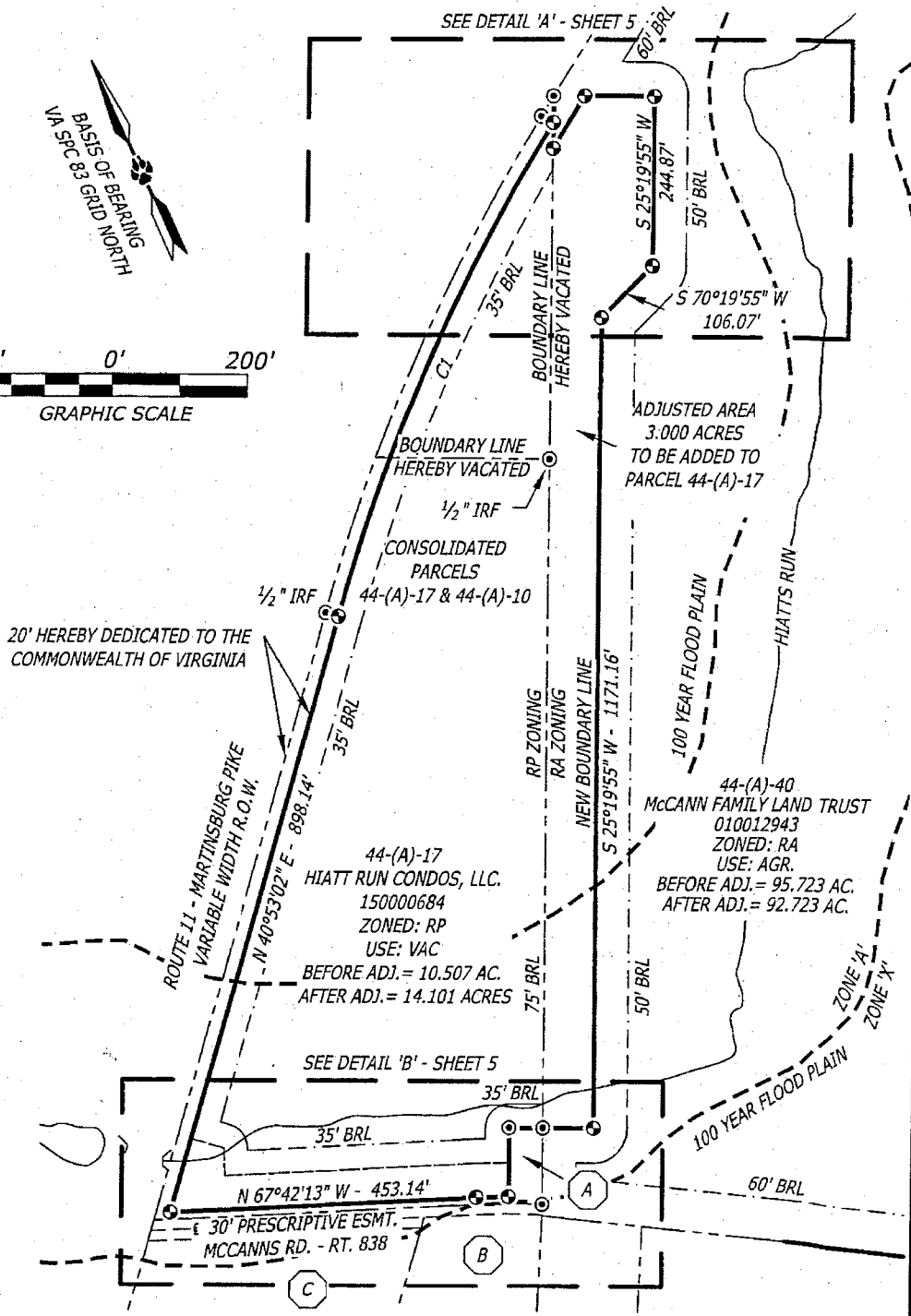
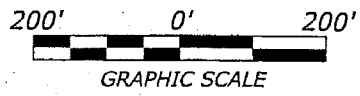
STONEWALL MAGISTERIAL DISTRICT, FREDERICK COUNTY, VIRGINIA



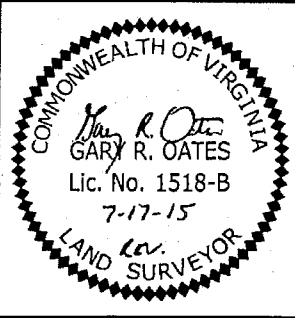
GreyWolfe, Inc.
 Land Surveying and Consulting

1073 Redbud Road
 Winchester, VA 22603
 GreyWolfeInc@aol.com
 540-667-2001 OFC
 540-545-4001 FAX

0139



CURVE	RADIUS	ARC LENGTH	DELTA ANGLE	CHORD LENGTH	CHORD BEARING
C1	2804.79'	779.72'	15°55'41"	777.21'	N 48°50'52" E



FINAL PLAT OF LOT CONSOLIDATION, EASEMENT DEDICATION, AND BOUNDARY LINE ADJUSTMENT OF TAX PARCELS

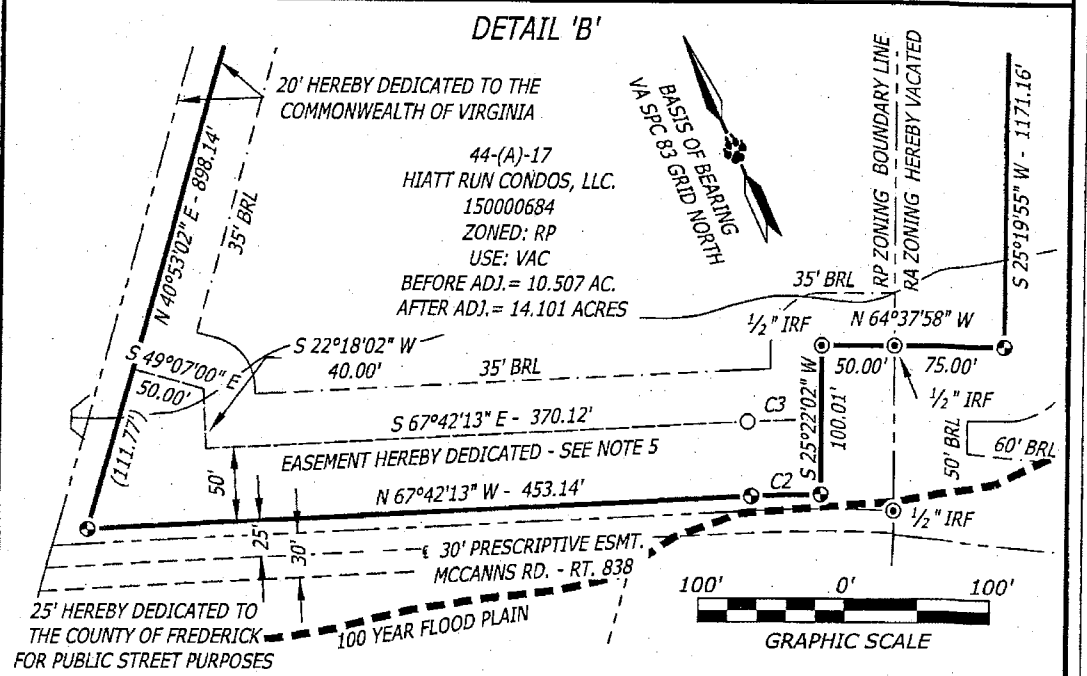
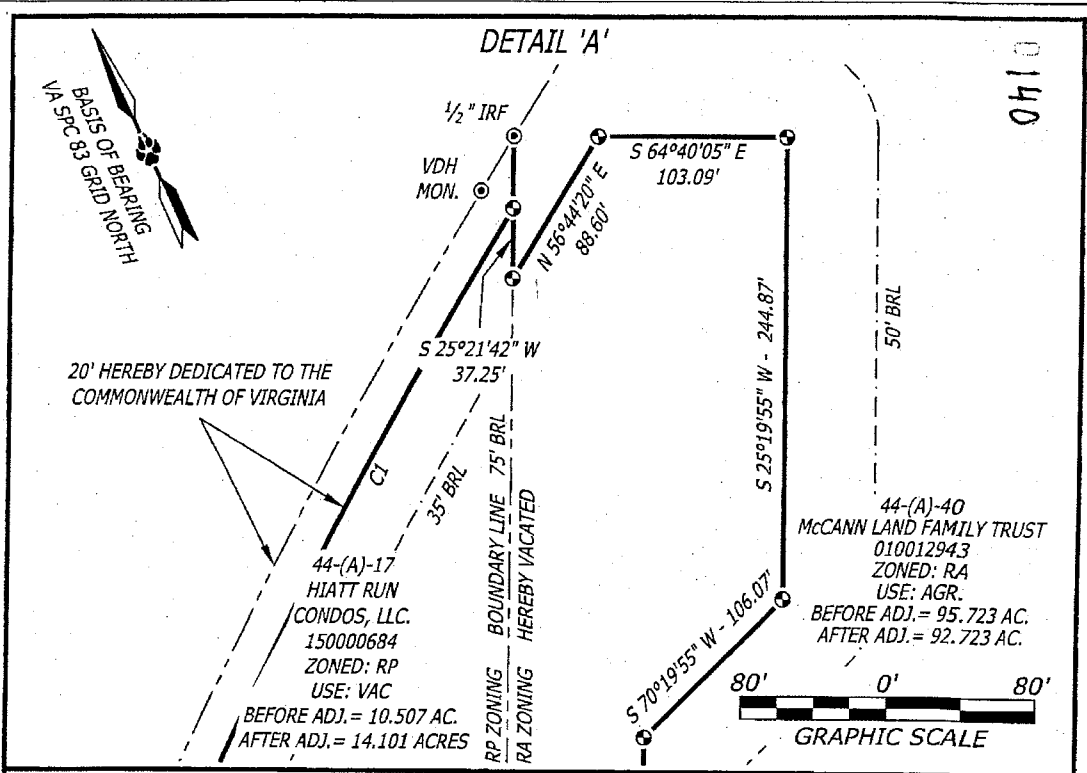
44-(A)-17, 44-(A)-10, & 44-(A)-40

STONEWALL MAGISTERIAL DISTRICT, FREDERICK COUNTY, VIRGINIA

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GreyWolfeInc@aol.com
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540-545-4001 FAX

0140



CURVE	RADIUS	ARC LENGTH	DELTA ANGLE	CHORD LENGTH	CHORD BEARING
C2	955.61'	47.62'	2°51'18"	47.61'	N 66°16'34" W
C3	1005.61'	50.30'	2°51'57"	50.29'	S 66°16'14" E



FINAL PLAT OF LOT CONSOLIDATION, EASEMENT DEDICATION, AND BOUNDARY LINE ADJUSTMENT OF TAX PARCELS

44-(A)-17, 44-(A)-10, & 44-(A)-40

STONEWALL MAGISTERIAL DISTRICT, FREDERICK COUNTY, VIRGINIA

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GreyWolfeInc@aol.com
540-667-2001 OFC
540-545-4001 FAX

1410

VIRGINIA: FREDERICK COUNTY, SCT.

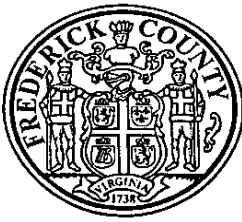
This instrument of writing was produced to me on

8-21-15 at 12:39 p.m.

and with certificate acknowledgement thereto annexed
was admitted to record. Tax imposed by Sec. 58.1-802 of

\$ 20⁰⁰, and 58.1-801 have been paid, if assessable.

Rebecca P. Hogan, Clerk



AMENDMENT

Action:

PLANNING COMMISSION: October 7, 2015 - Recommended Approval

BOARD OF SUPERVISORS: October 28, 2015 APPROVED DENIED

AN ORDINANCE AMENDING

THE ZONING DISTRICT MAP

REZONING #05-15 HIATT RUN CONDOS, LLC

WHEREAS, Rezoning #05-15 Hiatt Run Condos, LLC, submitted by GreyWolfe, Inc., to rezone 3.00 acres of land from the RA (Rural Areas) District to the RP (Residential Performance) District with proffers dated June 24, 2015, last revised on September 10, 2015, was considered. The property is located on the eastern side of Martinsburg Pike (Route 11) just before Old Charlestown Road (Route 761). The property is further identified with PIN 44-A-17 in the Stonewall Magisterial District; and

WHEREAS, the Planning Commission held a public hearing on this rezoning on October 7, 2015 and recommended approval; and

WHEREAS, the Board of Supervisors held a public hearing on this rezoning on October 28, 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 3.00 acres of land from the RA (Rural Areas) District to the RP (Residential Performance) District with proffers. The conditions voluntarily proffered in writing by the applicant and the property owner are attached.

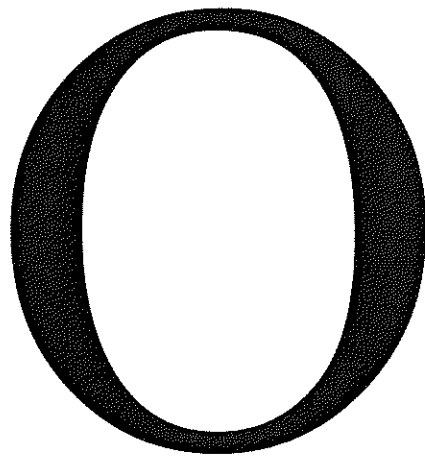
This ordinance shall be in effect on the date of adoption.

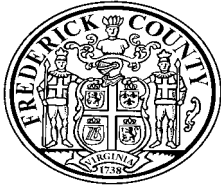
Passed this 28th day of October, 2015 by the following recorded vote:

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





REZONING APPLICATION #09-15

Artillery Business Center – Proffer Amendment

Staff Report for the Board of Supervisors

Prepared: October 22, 2015

Staff Contact: John A. Bishop, AICP, Deputy Director-Transportation

	<u>Reviewed</u>	<u>Action</u>
Planning Commission:	10/21/15	Public Hearing Held; Recommended Approval
Board of Supervisors:	10/28/15	Pending

PROPOSAL: To amend proffers on 57.6+/- acres made up of parcels 75-A-1 and 75-A-1F. The rezoning would modify proffers approved by the Board of Supervisors on February 18, 2008 as part of Rezoning Application #07-08. The proffer revisions address the timing and commitments for transportation proffers.

LOCATION: The property is located approximately 1,500 feet south of Route 37 on the east side of Shady Elm Drive (Rt. 651) and across from Soldier's Rest Lane.

STAFF CONCLUSIONS FOR THE 10/28/15 BOARD OF SUPERVISORS MEETING:

This is an application to modify proffers on 57.6+/- acres of land currently zoned M1, (Light Industrial).

Please note that this report responds to the most recent proffer draft dated October 5, 2015.

The proposed modified proffers replace transportation commitments for improvements to Shady Elm Road, \$250,000.00 in cash transportation proffers, and right-of-way provision across 74-A-68 with a commitment to participate in revenue sharing to complete Renaissance Drive from its existing terminus near Prosperity Drive to Shady Elm Road. Building permits are limited to 2 on the property (1 per parcel) until such time as the applicant enters into a revenue sharing agreement with the County.

A motion was made, seconded, and passed to recommend approval by the Planning Commission with a suggestion that the Applicant include within the proffers a deadline for road construction to reflect 24 to 36 months.

While there are still items that could potentially lead to the ultimate roadway being delayed in its construction such as the right-of-way acquisition process or potential difficulties achieving a rail crossing, the proffer modifications return equivalent value to provisions that are being replaced and move forward the implementation of the Comprehensive Plan and the Eastern Road Plan.

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

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

	<u>Reviewed</u>	<u>Action</u>
Planning Commission:	10/21/15	Public Hearing Held; Recommended Approval
Board of Supervisors:	10/28/15	Pending

PROPOSAL: To amend proffers on 57.6+/- acres made up of parcels 75-A-1 and 75-A-1F. The rezoning would modify proffers approved by the Board of Supervisors on February 18, 2008 as part of Rezoning Application #07-08. The proffer revision addresses the timing and commitments for transportation proffers.

LOCATION: The property is located approximately 1,500 feet south of Route 37 on the east side of Shady Elm Drive (Rt. 651) and across from Soldier's Rest Lane.

MAGISTERIAL DISTRICT: Back Creek

PROPERTY ID NUMBERS: 75-A-1 and 75-A-1F

PROPERTY ZONING: M1 (Light Industrial)

PRESENT USE: Vacant/Agricultural

ADJOINING PROPERTY ZONING & PRESENT USE:

North: M1 (Light Industrial)	Use: Industrial
South: RA (Rural Areas)	Use: Agricultural
East: B3 (Industrial Transition)	Use: Commercial/Vacant
West: RA (Rural Areas)	Use: Agricultural
M1 (Light Industrial)	Vacant

REVIEW EVALUATIONS:

Virginia Dept. of Transportation: *Please see attached communication dated October 13, 2015 and September 25, 2015, from Lloyd A. Ingram, VDOT Land Development Engineer.*

Frederick County Attorney: *Please see attached communication dated October 21, 2015 and September 28, 2015, from Roderick B. Williams, County Attorney.*

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 A-2 (Agricultural General). The County's agricultural zoning districts were subsequently combined to form the RA (Rural Areas) District upon adoption of an amendment to the Frederick County Zoning Ordinance on May 10, 1989. The corresponding revision of the zoning map resulted in the re-mapping of the subject property and all other A-1 and A-2 zoned land to the RA District. This property was rezoned with proffers to M1, (Light Industrial) District, on February 13, 2008.

2) Comprehensive Policy Plan

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

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

Land Use

The property is located within the County's Sewer and Water Service Area (SWSA). The Sewer and Water Service Area defines the general area in which more intensive forms of planned commercial, and industrial development will occur. The Land Use Plan and the Eastern Frederick County Long Range Land Use Plan designate this area for industrial land use. The Plan recognizes the desire to provide for industrial uses along the CSX Railroad.

The application of quality design standards for future development is also an objective of the Plan; in particular, along business corridors. These include landscaping, screening, and controlling the number and size of signs.

Transportation

The Frederick County Eastern Road Plan provides the guidance regarding future arterial and collector road connections in the eastern portion of the County by identifying needed connections and locations. Plans for new development should provide for the right-of-ways necessary to implement planned road improvements and new roads shown on the road plan should be constructed by the developer when warranted by the scale, intensity, or impacts of the development. Existing roads should be improved as necessary by adjacent development to implement the intentions of the plan (*Comprehensive Plan 7-6*).

The Eastern Road Plan of the Comprehensive Policy Plan call for Shady Elm Road to be improved to a major collector road. In addition, a new east and west major collector road connecting Shady Elm Road to Route 11 is identified. The County's Eastern Road Plan further defines the appropriate typical section for these major collector roads as an urban divided four-lane facility.

The Plan also states that proposed industrial and commercial development should only occur if impacted roads function at Level of Service (LOS) Category C or better.

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. The Frederick County Engineer has referenced the potential for wetlands to exist on this site based upon the presence of an existing pond. Also, the Frederick County Engineer has identified that a detailed geotechnical analysis will be needed as part of the detailed site plan design as this area is also known for karst topography.

4) Potential Impacts

The primary impact of the proposed proffer revision would be to shift resources from implementing an additional lane of Shady Elm Road and \$250,000 cash proffer for transportation to a commitment to revenue sharing for the full connection of Renaissance Drive.

5) Proffer Statement

Clean and redline versions of the proffer statement are attached to this report.

Changes are as follows:

1. \$250,000 cash proffer toward transportation has been removed.
2. Additional right lane on north bound Shady Elm has been removed.
3. Commitment to enter into revenue sharing agreement to provide local match for the

completion of Renaissance Drive from its current terminus to Shady Elm Road has been added.

4. Limitation of 1 building permit per parcel 2 permits total until such time as a revenue sharing agreement has been executed has been added.
5. Right-of-way dedication along Shady Elm Road has been removed due to its completion.
6. Right-of-way obligation across parcel 74-A-68 (Carbaugh) has been removed.
7. Five year limitation on warehouse and distribution has been removed.
8. Internal access road proffer has been removed due to redundancy with the ordinance.

PLANNING COMMISSION SUMMARY AND ACTION FROM THE 10/21/15 MEETING:

Staff reported this rezoning is a proffer modification to Rezoning #07-08 which was approved by the Board of Supervisors on February 18, 2008. The proffer revisions address the timing and commitments for transportation proffers.

Staff explained the proposed proffer modifications replace transportation commitments for improvements to Shady Elm Road, \$250,000 in cash transportation proffers, and the right-of-way provision across 74-A-68 with the commitment to participate in revenue sharing in the completing of Renaissance Drive from the current ending location to Shady Elm Road. Staff noted building permits are limited to 2 on the property (1 per parcel) until the Applicant enters into a revenue sharing agreement with the County.

Staff noted there are items that could delay the completion of the roadway such as the right-of-way acquisition and acquiring a rail crossing. Commissioner Unger requested that Mr. Bishop clarify the shift in proffers from Shady Elm and cash to the revenue sharing agreement. Mr. Bishop emphasized that the full connection of Renaissance Drive offers greater value to the County than Shady Elm improvements. Commissioner Oates noted a concern about there not being a time requirement for entering into the revenue sharing agreement in addition to the building permit trigger. Mr. Bishop agreed a time frame would be beneficial due to the timeline for availability of funds from VDOT.

A motion was made, seconded, and passed to recommend approval by the Planning Commission with a suggestion that the Applicant include within the proffers a deadline for road construction to reflect 24-36 months.

Absent: Crockett

STAFF CONCLUSIONS FOR THE 10/28/15 BOARD OF SUPERVISORS MEETING:

This is an application to modify proffers on 57.6+/- acres of land currently zoned M1, (Light Industrial).

Please note that this report responds to the most recent proffer draft dated October 5, 2015.

The proposed modified proffers replace transportation commitments for improvements to Shady Elm Road, \$250,000.00 in cash transportation proffers, and right of way provision across 74-A-68 with a commitment to participate in revenue sharing to complete Renaissance Drive from its existing terminus near Prosperity Drive to Shady Elm Road. Building permits are limited to 2 on the property (1 per parcel) until such time as the applicant enters into a revenue sharing agreement with the County.

A motion was made, seconded, and passed to recommend approval by the Planning Commission with a suggestion that the Applicant include within the proffers a deadline for road construction to reflect 24 to 36 months.

While there are still items that could potentially lead to the ultimate roadway being delayed in its construction such as the right-of-way acquisition process or potential difficulties achieving a rail crossing, the proffer modifications return equivalent value to provisions that are being replaced and move forward the implementation of the Comprehensive Plan and the Eastern Road Plan.

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

PROPOSED PROFFER STATEMENT

REZONING: RZ. # _____
Light Industrial (M1) to Light Industrial (M1)

PROPERTY: 57.6 acres +/-;
Tax Map Parcels 75-A-1F ("Land Bay 1") and 75-A-1 ("Land Bay 2")
[collectively, the "Property"]

RECORD OWNER: NW Works, Inc. ("Land Bay 1 Owner");
Venture I of Winchester, LLC ("Land Bay 2 Owner")

APPLICANTS: NW Works, Inc. & Venture I of Winchester, LLC

PROJECT NAME: Artillery Business Center

ORIGINAL DATE OF PROFFERS: February 7, 2008

REVISION DATE(S): September 2, 2015; September 24, 2015; October 5, 2015

The undersigned hereby proffers that the use and development of the subject property ("Property"), as described above, shall be in strict conformance with the following conditions, which shall supersede all other proffers that may have been made prior hereto. In the event that the above referenced M1 conditional rezoning is not granted as applied for by the applicant ("Applicant"), these proffers shall be deemed withdrawn and shall be null and void. Further, these proffers are contingent upon final rezoning of the Property with "final rezoning" defined as that rezoning which is in effect on the day following the last day upon which the Frederick County Board of County Supervisors (the "Board") decision granting the rezoning may be contested in the appropriate court. If the Board's decision is contested, and the Applicant elects not to submit development plans until such contest is resolved, the term rezoning shall include the day following entry of a final court order affirming the decision of the Board which has not been appealed, or, if appealed, the day following which the decision has been affirmed on appeal. The headings of the proffers set forth below have been prepared for convenience or reference only and shall not control or affect the meaning or be taken as an interpretation of any provision of the proffers. The term "Land Bay 1 Owner" as referenced herein shall include within its meaning all future owners and successors in interest for Tax Map Parcel 75-A-1F. The term "Land Bay 2 Owner" as referenced herein shall include within its meaning all future owners and successors in interests for Tax Map Parcel 75-A-1. When used in these proffers, the "Generalized Development Plan," shall refer to the plan entitled "Generalized Development Plan, Artillery Business Center" dated February 6, 2007 revised August 14, 2015 (the "GDP").

1. Monetary Contribution

- 1.1 The Land Bay 2 Owner shall contribute to the County of Frederick the sum of \$5,000.00 for fire and rescue purposes prior to issuance of a certificate of occupancy for the first building constructed on Land Bay 2, as depicted on the GDP.
- 1.2 The Land Bay 2 Owner shall contribute to the County of Frederick the sum of \$2,500.00 for Sheriff's office purposes prior to issuance of a certificate of occupancy for the first building constructed on Land Bay 2, as depicted on the GDP.

- 1.3 The Land Bay 2 Owner shall contribute to the County of Frederick the sum of \$2,500.00 for general government purposes prior to issuance of a certificate of occupancy for the first building constructed on Land Bay 2, as depicted on the GDP.

2. **Site Development**

- 2.1 Direct access to the Property from Shady Elm Road shall be limited to a maximum of 2 entrances as shown on the GDP with entrance improvements subject to VDOT review and approval. (See 1 on GDP).

- 2.2 The Land Bay 2 Owner shall design a future East-West Collector Road utilizing an 80 foot right of way as depicted on the GDP from Point A to Point B as a Rural 4 Lane Divided (R4D) cross section. The Land Bay 2 Owner shall then dedicate 80 feet of right of way and construct the ultimate two westbound lanes of the Collector Road for a minimum of 1100 feet as shown from Point A to Point B on the GDP upon any of the following conditions, whichever occurs first: (See 2 on GDP)

- Prior to issuance of a certificate of occupancy for any structure located in Land Bay 2.
- Prior to issuance of a certificate of occupancy for any structure with associated land area, as depicted by site plan, within Land Bay 2.
- Upon commencement of construction of a railroad crossing as shown on the GDP for the East-West Collector Road.
- Prior to December 31, 2020.

- 2.2.1 Prior to issuance of a second building permit within Land Bay 1 or a second building permit within Land Bay 2, the Land Bay 2 Owner shall enter into an agreement with Frederick County for the funding of the design and construction as well as right of way acquisition, if necessary, for the East-West Collector Road as depicted on the GDP. Frederick County, at the time of the filing of this proffer, has entered into a Project Administration Agreement with the Commonwealth of Virginia Department of Transportation, which provides for the construction of the East-West Collector Road from Valley Pike (Rt. 11) to Shady Elm, and which further provides for a cost share of the design and construction costs for said East-West Collector Road. The agreement between the Land Bay 2 Owner and Frederick County to be entered into (if it has not already done so prior to the approval of this proffer amendment) shall provide for the participation in and funding of the design and construction of the East-West Collector Road, which provides for the payment of the County match portion of the Project Administration Agreement between Frederick County and the Commonwealth. It is the understanding of the Land Bay 2 Owner that Frederick County intends to seek additional revenue sharing funds for the completion of the East-West Collector Road, including potential right of way acquisition costs.

- 2.2.2 The Land Bay 2 Owner shall construct a maximum of two entrances on the portion of the East-West Collector Road constructed by the Land Bay 2 Owner as shown on the GDP.

- 2.4 A geotechnical analysis shall be prepared and submitted to Frederick County for any structures prior to site plan approval.

2.5 Development of the Property shall not exceed a 0.4 Floor Area Ratio (FAR).

3. **Landscape Buffers, Hiker/Biker Facilities, & Additional Right of Way**

3.1 Within the 25 foot parking setback between on-site parking areas and the proposed right of ways for Shady Elm Road and the East-West collector as required by § 165-202.01D(6)(c) of the *Frederick County Code*, the Applicant shall construct a 10 foot asphalt trail. In addition, the Applicant shall provide a densely planted landscape screen as depicted by attached Exhibit A, as revised July 15, 2015, consisting of street trees planted 50 feet on center between the proposed right of way and the asphalt trail as well as a double row of evergreen trees with a minimum density of three plants per 10 linear feet and a minimum height of four feet at time of planting located between the proposed trail and any parking areas.

4. **Design Standards**

4.1 Any building façade fronting Shady Elm Road or the proposed East-West Collector shall be constructed of one or a combination of the following : cast stone, stone, brick, architectural block, glass, wood, dry vit or stucco.

5. **Historic Resources**

5.1 The Land Bay 2 Owner shall complete a survey documenting any historic structures on Land Bay 2 in general accordance with the guidelines established by the Preliminary Information Form from the Department of Historic Resources. Any documentation created as part of said survey shall be provided to Frederick County Planning Staff and shall be completed prior to demolition of any historic buildings located on the Property.

5.2 The Land Bay 2 Owner shall contribute to the County of Frederick the sum of \$5,000.00 for purposes associated with historic Star Fort prior to issuance of a certificate of occupancy for the first building constructed on Land Bay 2.

SIGNATURE(S) APPEAR ON THE FOLLOWING PAGE(S)

Venture I of Winchester, LLC

By: *Gerald F. Smith*

Date: 10/15/15

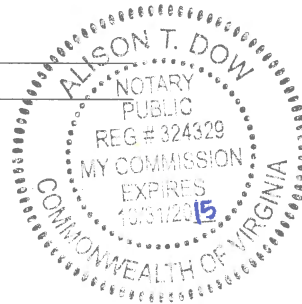
STATE OF VIRGINIA, AT LARGE
FREDERICK COUNTY, To-wit:

The foregoing instrument was acknowledged before me this 15th day of October, 2015, by Gerald F. Smith, Jr., Manager of Venture I of Winchester, LLC.

Alison T. Dow, Notary Public

My commission expires 10/31/15

Notary Public Alison T. Dow



NW Works, Inc

By:

Date:

[Signature], CEO for NW Works
10/14/15

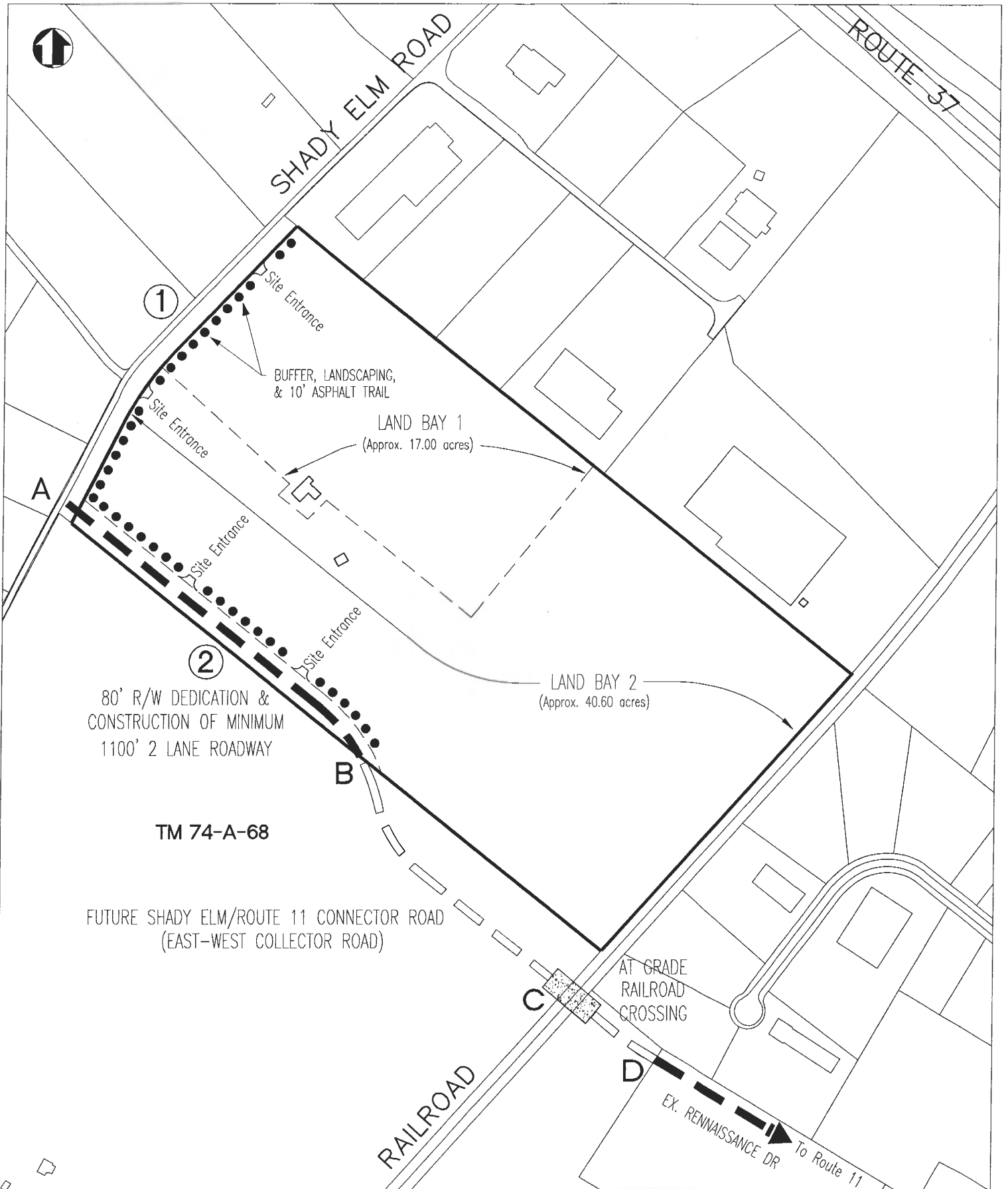
STATE OF VIRGINIA, AT LARGE
FREDERICK COUNTY, To-wit:

The foregoing instrument was acknowledged before me this 14th day of October,
2015, by H. PAIGE MANUEL.

My commission expires
Notary Public

July 31, 2016
[Signature]
REG. # 229287





①

Site Entrance

BUFFER, LANDSCAPING,
& 10' ASPHALT TRAIL

LAND BAY 1
(Approx. 17.00 acres)

Site Entrance

Site Entrance

Site Entrance

②

80' R/W DEDICATION &
CONSTRUCTION OF MINIMUM
1100' 2 LANE ROADWAY

LAND BAY 2
(Approx. 40.60 acres)

TM 74-A-68

FUTURE SHADY ELM/ROUTE 11 CONNECTOR ROAD
(EAST-WEST COLLECTOR ROAD)

AT GRADE
RAILROAD
CROSSING

EX. RENNAISSANCE DR
To Route 11

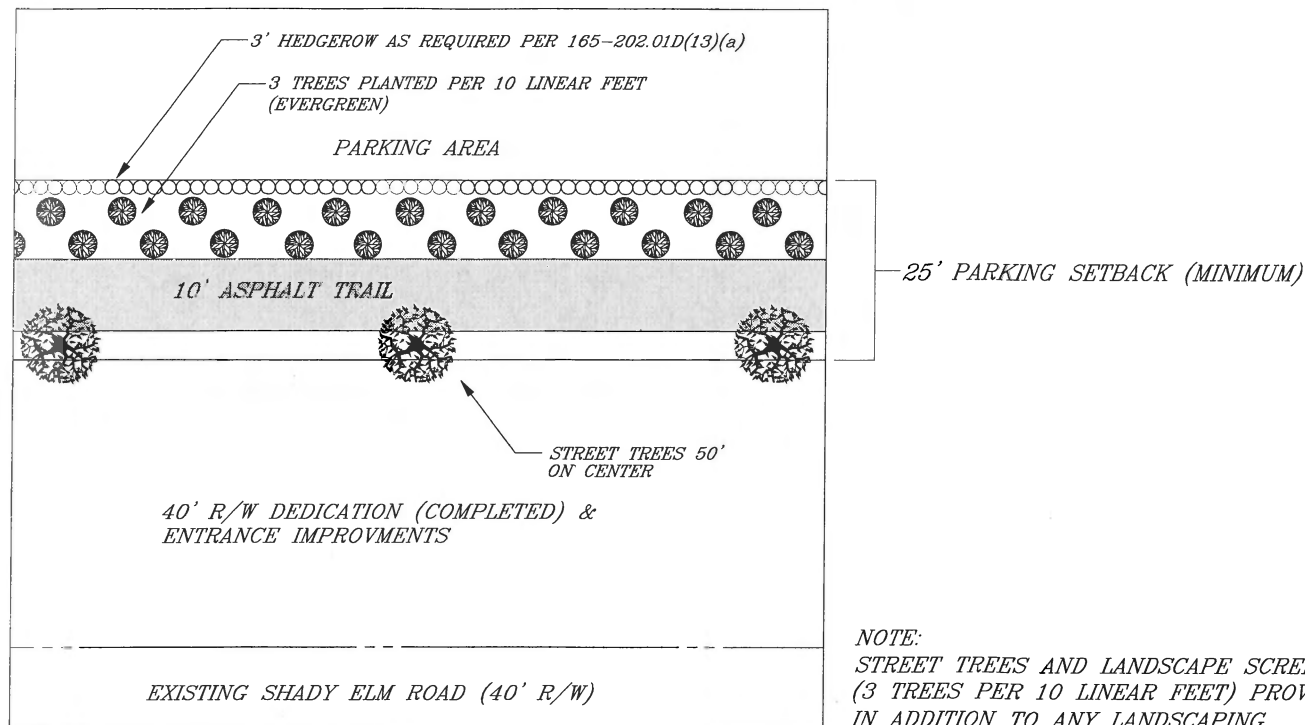
Revised
8/14/15
2/6/07
1"=400'

ARTILLERY BUSINESS CENTER
GENERALIZED DEVELOPMENT PLAN

FREDERICK COUNTY, VIRGINIA

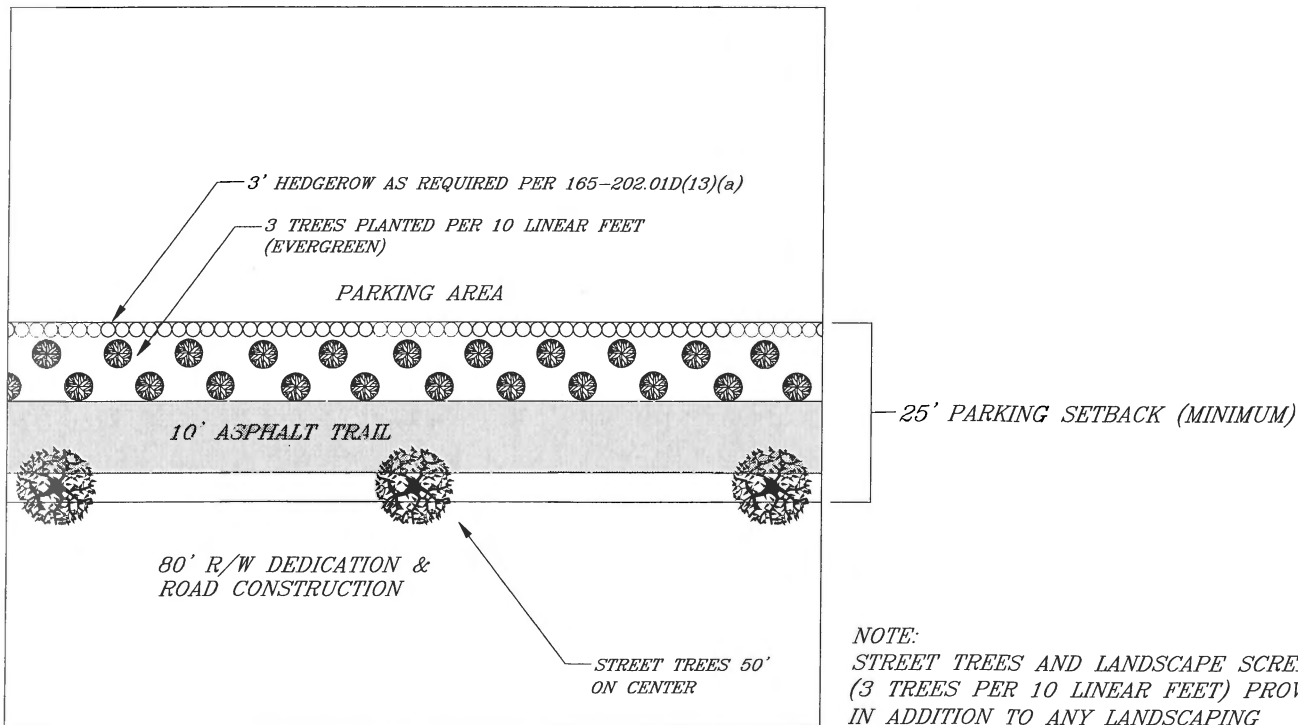
Pennoni Associates, Inc.
117 E. Picadilly St. Winchester, Virginia 22601
VOICE: (540) 667-2139 FAX: (540) 665-0493

SHADY ELM ROAD



NOTE:
STREET TREES AND LANDSCAPE SCREEN (3 TREES PER 10 LINEAR FEET) PROVIDED IN ADDITION TO ANY LANDSCAPING OTHERWISE REQUIRED BY ORDINANCE

EAST-WEST COLLECTOR ROAD



NOTE:
STREET TREES AND LANDSCAPE SCREEN (3 TREES PER 10 LINEAR FEET) PROVIDED IN ADDITION TO ANY LANDSCAPING OTHERWISE REQUIRED BY ORDINANCE

NTS
 11/15/07
 7/15/15
 Revised

ARTILLERY BUSINESS CENTER
 EXHIBIT A
 FREDERICK COUNTY, VIRGINIA

Pennoni Associates, Inc.
 117 E. Picadilly St. Winchester, Virginia 22601
 VOICE: (540) 667-2139 FAX: (540) 665-0493

PROPOSED PROFFER STATEMENT

REZONING: RZ. # _____
Light Industrial (M1) to Light Industrial (M1)

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Tax Map Parcels 75-A-1F (“Land Bay 1”) and 75-A-1 (“Land Bay 2”) [collectively, the “Property”]

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Venture I of Winchester, LLC (“Land Bay 2 Owner”)

APPLICANTS: NW Works, Inc. & Venture I of Winchester, LLC

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ORIGINAL DATE OF PROFFERS: February 7, 2008

REVISION DATE(S): September 2, 2015; September 24, 2015; **October 5, 2015**

The undersigned hereby proffers that the use and development of the subject property (“Property”), as described above, shall be in strict conformance with the following conditions, which shall supersede all other proffers that may have been made prior hereto. In the event that the above referenced M1 conditional rezoning is not granted as applied for by the applicant (“Applicant”), these proffers shall be deemed withdrawn and shall be null and void. Further, these proffers are contingent upon final rezoning of the Property with “final rezoning” defined as that rezoning which is in effect on the day following the last day upon which the Frederick County Board of County Supervisors (the “Board”) decision granting the rezoning may be contested in the appropriate court. If the Board’s decision is contested, and the Applicant elects not to submit development plans until such contest is resolved, the term rezoning shall include the day following entry of a final court order affirming the decision of the Board which has not been appealed, or, if appealed, the day following which the decision has been affirmed on appeal. The headings of the proffers set forth below have been prepared for convenience or reference only and shall not control or affect the meaning or be taken as an interpretation of any provision of the proffers. The term “Land Bay 1 Owner” as referenced herein shall include within its meaning all future owners and successors in interest for Tax Map Parcel 75-A-1F. The term “Land Bay 2 Owner” as referenced herein shall include within its meaning all future owners and successors in interests for Tax Map Parcel 75-A-1. When used in these proffers, the “Generalized Development Plan,” shall refer to the plan entitled “Generalized Development Plan, Artillery Business Center” dated February 6, 2007 revised August 14, 2015 (the “GDP”); ~~and shall include the following:~~

1. Monetary Contribution

- 1.1 The Land Bay 2 Owner shall contribute to the County of Frederick the sum of \$5,000.00 for fire and rescue purposes prior to issuance of a certificate of occupancy for the first building constructed on Land Bay 2, as depicted on the GDP.
- 1.2 The Land Bay 2 Owner shall contribute to the County of Frederick the sum of \$2,500.00 for Sheriff’s office purposes prior to issuance of a certificate of occupancy for the first building constructed on Land Bay 2, as depicted on the GDP.

- 1.3 The Land Bay 2 Owner shall contribute to the County of Frederick the sum of \$2,500.00 for general government purposes prior to issuance of a certificate of occupancy for the first building constructed on Land Bay 2, as depicted on the GDP.

2. Site Development

- 2.1 Direct access to the Property from Shady Elm Road shall be limited to a maximum of 2 entrances as shown on the GDP with entrance improvements subject to VDOT review and approval. (See 1 on GDP).

- 2.2 The Land Bay 2 Owner shall design a future East-West Collector Road utilizing an 80 foot right of way as depicted on the GDP from Point A to Point B as a Rural 4 Lane Divided (R4D) cross section. The Land Bay 2 Owner shall then dedicate 80 feet of right of way and construct the ultimate two westbound lanes of the Collector Road for a minimum of 1100 feet as shown from Point A to Point B on the GDP upon any of the following conditions, whichever occurs first: (See 2 on GDP)

- Prior to issuance of a certificate of occupancy for any structure located in Land Bay 2.
- Prior to issuance of a certificate of occupancy for any structure ~~located in Land Bay 1 but with associated land area located in Land Bay 2 as depicted by site plan with associated land area, as depicted by site plan, within Land Bay 2.~~
- Upon commencement of construction of a railroad crossing as shown on the GDP for the East-West Collector Road.
- Prior to December 31, 2020.

- 2.2.1 ~~Prior to issuance of a second building permit within Land Bay 1 or a second building permit within Land Bay 2, the Land Bay 2 Owner shall enter into an agreement with Frederick County for the funding of the design and construction as well as right of way acquisition, if necessary, for the off-site portions of the East-West Collector Road from Point B to Point D as depicted on the GDP. Frederick County, at the time of the filing of this proffer, has entered into a Project Administration Agreement with the Commonwealth of Virginia Department of Transportation, which provides for the construction of the East-West Collector Road from Valley Pike (Rt. 11) to Shady Elm, and which further provides for a cost share of the design and construction costs for said East-West Collector Road. The agreement between the Land Bay 2 Owner and Frederick County to be entered into (if it has not already done so prior to the approval of this proffer amendment) shall provide for the participation in and funding of the design and construction of the East-West Collector Road, which provides for the payment of the County match portion of the Project Administration Agreement between Frederick County and the Commonwealth. It is the understanding of the Land Bay 2 Owner that Frederick County intends to seek additional revenue sharing funds for the completion of the East-West Collector Road, including potential right of way acquisition costs. In the event that right of way at least 80' in width is made available across Tax Map Parcel 74-A-68 as generally depicted on the GDP from Point B to Point C and Frederick County obtains the right to an at grade railroad crossing and the Land Bay 2 Owner has entered into a revenue sharing agreement with Frederick County, which in turn has secured matching funds with the State~~

~~to allow for a cost share dollar for dollar match of State funds to pay for the construction of the completion of Renaissance Drive (a copy of the proposed revenue sharing agreement as signed by the Land Bay 2 Owner is attached as Exhibit A, or such other form of document as may be agreed to between the County and Land Bay 2 Owner), then the Land Bay 2 Owner shall design the East-West Collector Road as a Rural 4 Lane Divided (R4D) cross section and construct the ultimate two westbound lanes of the roadway, including the at grade railroad crossing, from Point B to the existing terminus of Renaissance Drive as shown on the GDP as Point D. If the right of way across Tax Map Parcel 74-A-68 and rights to an at grade railroad crossing are made available prior to commencement of the design of the East-West Collector Road from Point A to Point B, then completion of the design and construction of the roadway segment from Point B to Point D and the railroad crossing shall be subject to the same triggers provided by Proffer 2.2. Otherwise, design and construction of said improvements shall occur within 5 years from the date that the right of way and rights to an at grade railroad crossing are made available. An alternative to the R4D cross section for portions or all of the East-West Collector Road may be permitted if desired and confirmed in writing by both Frederick County and the Land Bay 2 Owner.~~

2.2.2 The Land Bay 2 Owner shall construct a maximum of two entrances on the portion of the East-West Collector Road constructed by the Land Bay 2 Owner as shown on the GDP.

~~2.3 Within their respective land bays, Land Bay 1 Owner and/or Land Bay 2 Owner may construct an internal access road, if necessary, to meet the requirements for lot access as identified by §144-24C of the *Frederick County Code*, to serve the Property to Virginia Department of Transportation standards with a minimum pavement width of 26 feet, provided they have obtained the prior written approval of the other Land Bay Owner. In the event that the internal access road traverses both Land Bay 1 and Land Bay 2, the location of the internal access road shall be subject to written approval of both the Land Bay 1 Owner and Land Bay 2 Owner.~~

2.4 A geotechnical analysis shall be prepared and submitted to Frederick County for any structures prior to site plan approval.

2.5 Development of the Property shall not exceed a 0.4 Floor Area Ratio (FAR).

3. Landscape Buffers, Hiker/Biker Facilities, & Additional Right of Way

3.1 Within the 25 foot parking setback between on-site parking areas and the proposed right of ways for Shady Elm Road and the East-West collector as required by § 165-202.01D(6)(c) of the *Frederick County Code*, the Applicant shall construct a 10 foot asphalt trail ~~to Department of Recreation Standards~~. In addition, the Applicant shall provide a densely planted landscape screen as depicted by attached Exhibit ~~BA~~, as revised July 15, 2015, consisting of street trees planted 50 feet on center between the proposed right of way and the asphalt trail as well as a double row of evergreen trees with a minimum density of three plants per 10 linear feet and a minimum height of four feet at time of planting located between the proposed trail and any parking areas.

4. **Design Standards**

4.1 Any building façade fronting Shady Elm Road or the proposed East-West Collector shall be constructed of one or a combination of the following : cast stone, stone, brick, architectural block, glass, wood, dry vit or stucco.

5. **Historic Resources**

5.1 The Land Bay 2 Owner shall complete a survey documenting any historic structures on ~~the Property~~ Land Bay 2 in general accordance with the guidelines established by the Preliminary Information Form from the Department of Historic Resources. Any documentation created as part of said survey shall be provided to Frederick County Planning Staff and shall be completed prior to demolition of any historic buildings located on the Property.

5.2 The Land Bay 2 Owner shall contribute to the County of Frederick the sum of \$5,000.00 for purposes associated with historic Star Fort prior to issuance of a certificate of occupancy for the first building constructed on Land Bay 2.

SIGNATURE(S) APPEAR ON THE FOLLOWING PAGE(S)

Venture I of Winchester, LLC

By: _____

Date: _____

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

The foregoing instrument was acknowledged before me this _____ day of _____, 2015, by _____.

My commission expires _____
Notary Public _____

NW Works, Inc.

By: _____

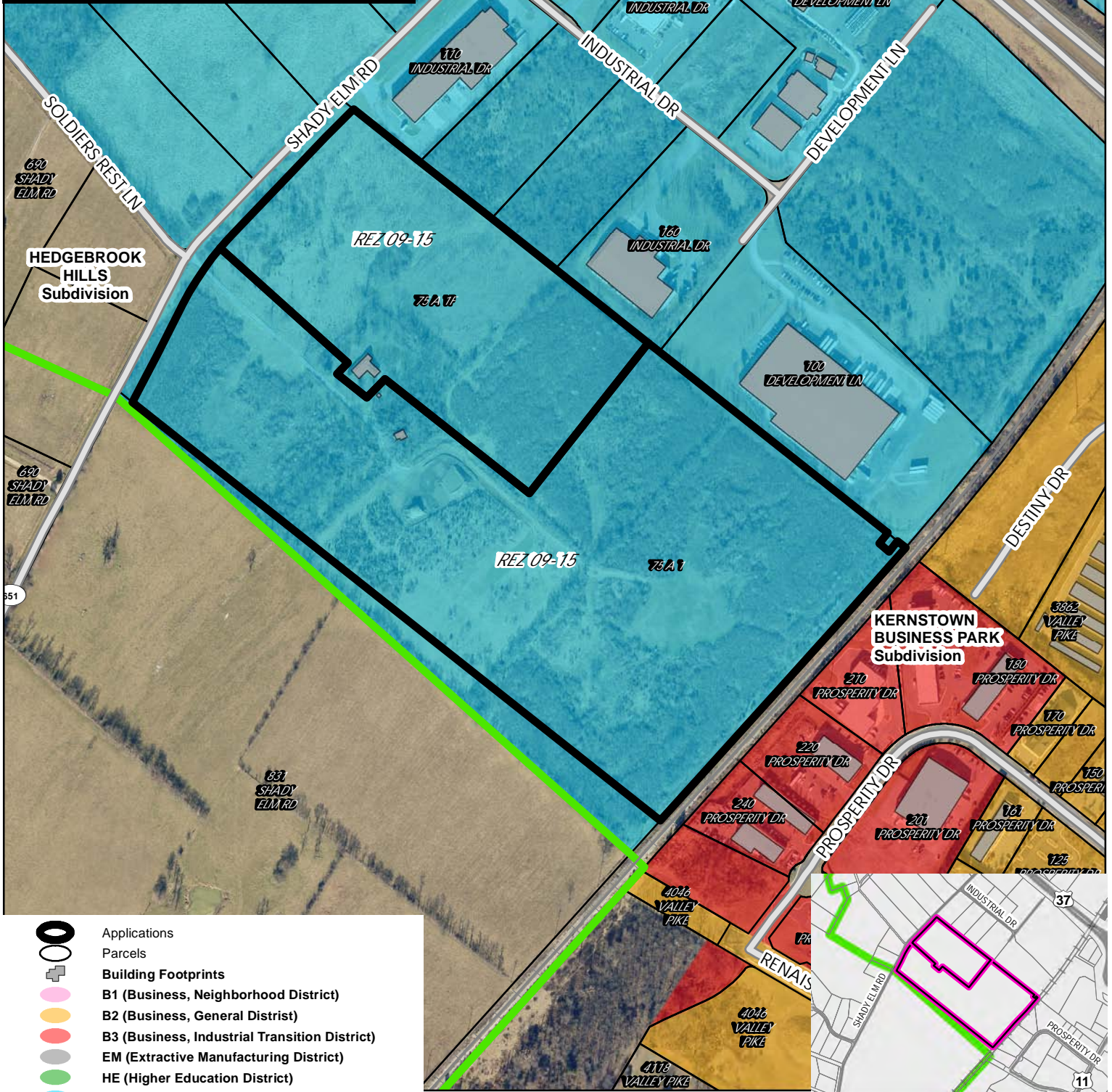
Date: _____

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

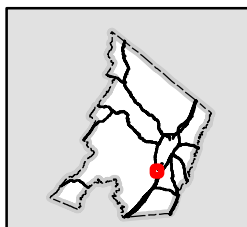
The foregoing instrument was acknowledged before me this _____ day of _____, 2015, by _____ .

My commission expires _____
Notary Public _____

REZ # 09 - 15
Artillery Business Center
 PINs:
 75 - A - 1, 75 - A - 1F
 Revise Proffers

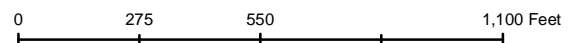


-  Applications
-  Parcels
-  Building Footprints
-  B1 (Business, Neighborhood District)
-  B2 (Business, General District)
-  B3 (Business, Industrial Transition District)
-  EM (Extractive Manufacturing District)
-  HE (Higher Education District)
-  M1 (Industrial, Light District)
-  M2 (Industrial, 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)

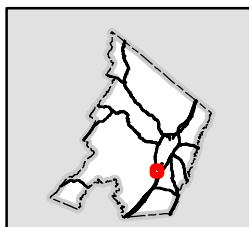
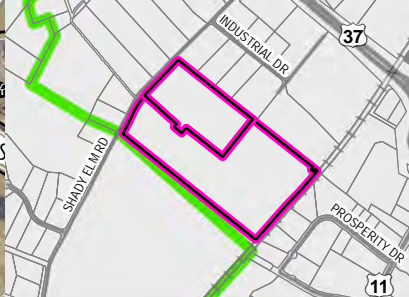
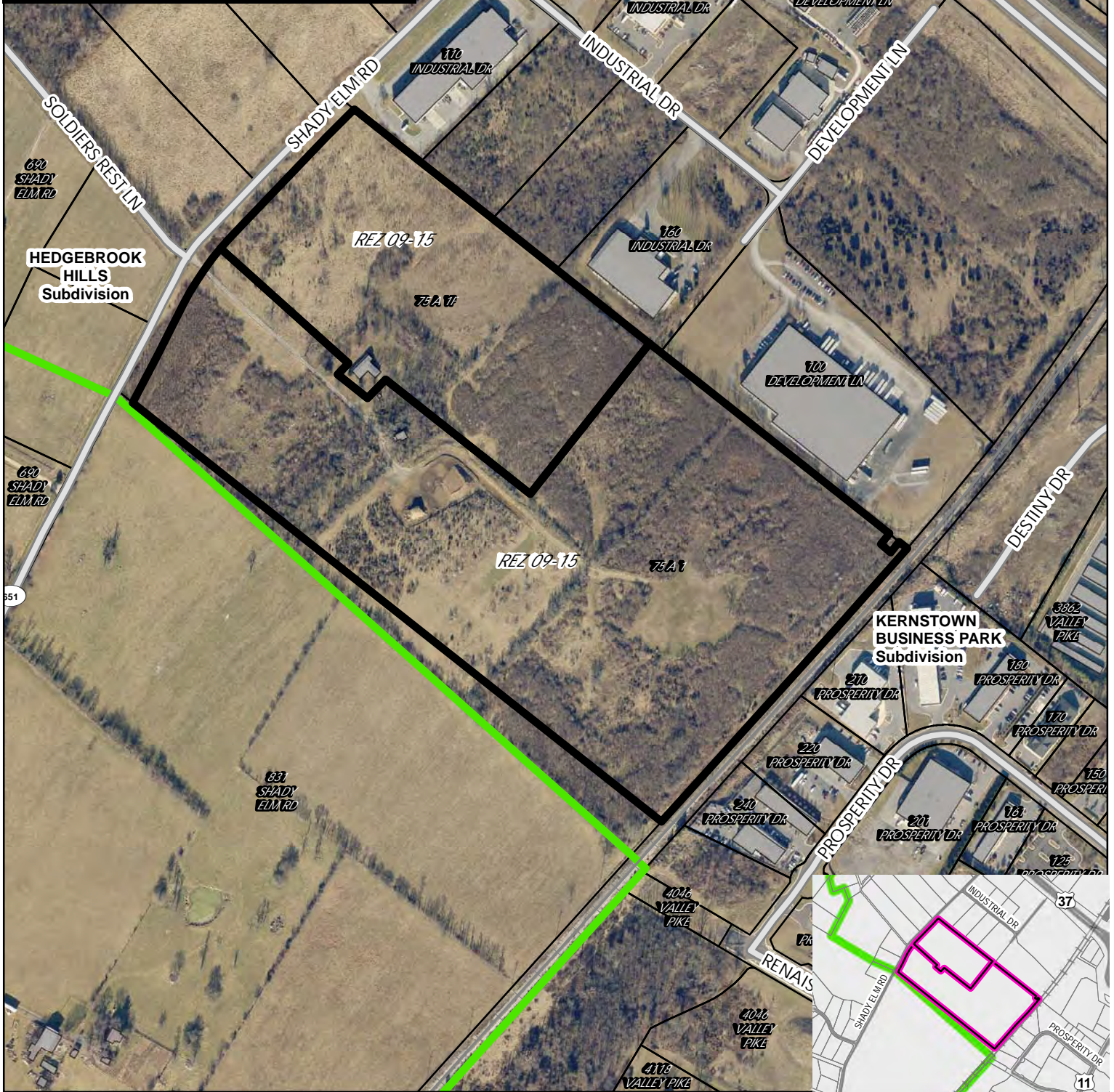





REZ # 09 - 15
Artillery Business Center
 PINs:
 75 - A - 1, 75 - A - 1F
 Revise Proffers

Note:
 Frederick County Dept of
 Planning & Development
 107 N Kent St
 Suite 202
 Winchester, VA 22601
 540 - 665 - 5651
 Map Created: September 29, 2015
 Staff: jbishop



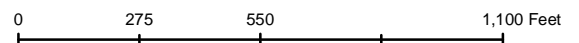
REZ # 09 - 15
Artillery Business Center
 PINs:
 75 - A - 1, 75 - A - 1F
 Revise Proffers



-  Applications
-  Parcels
-  Building Footprints

REZ # 09 - 15
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 Revise Proffers

Note:
 Frederick County Dept of
 Planning & Development
 107 N Kent St
 Suite 202
 Winchester, VA 22601
 540 - 665 - 5651
 Map Created: September 29, 2015
 Staff: jbishop





AMENDMENT

Action:

PLANNING COMMISSION: January 16, 2008 - Recommended Denial

BOARD OF SUPERVISORS: February 13, 2008 APPROVED DENIED

AN ORDINANCE AMENDING

THE ZONING DISTRICT MAP

REZONING #08-07 OF ARTILLERY BUSINESS CENTER

WHEREAS, Rezoning #08-07 of Artillery Business Center, submitted by Patton Harris Rust & Associates to rezone 58.7 acres from RA (Rural Areas) District to M1 (Light Industrial) District, with proffers, for Light Industrial Uses, was considered. The property is located east and adjacent to Shady Elm Road, approximately 1,500 feet south of Route 37, in the Back Creek Magisterial District, and is identified by Property Identification Number 75-A-1.

WHEREAS, the Planning Commission held a public hearing on this rezoning on January 16, 2008; and

WHEREAS, the Board of Supervisors held a public hearing on this rezoning on February 13, 2008; and

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


NOW, THEREFORE, BE IT ORDAINED by the Frederick County Board of Supervisors that Chapter 165 of the Frederick County Code, Zoning, is amended to revise the Zoning District Map to change 58.7 acres from RA (Rural Areas) District to M1 (Light Industrial) District, for Light Industrial Uses, subject to the attached conditions voluntarily proffered in writing by the applicant and the property owner.

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

Passed this 13th day of February, 2008 by the following recorded vote:

Richard C. Shickle, Chairman	<u>Aye</u>	Gary A. Lofton	<u>Aye</u>
Gary W. Dove	<u>Aye</u>	Bill M. Ewing	<u>Aye</u>
Gene E. Fisher	<u>Aye</u>	Charles S. DeHaven, Jr.	<u>Nay</u>
Philip A. Lemieux	<u>Aye</u>		

A COPY ATTEST



John R. Riley, Jr.
Frederick County Administrator

PROPOSED PROFFER STATEMENT

REZONING: RZ. # 08-07
Rural Areas (RA) to Light Industrial (M1)

PROPERTY: 58.7 acres +/-;
Tax Map Parcels 75-A-1 [the "Property"]

RECORD OWNER: Venture I of Winchester, LLC

APPLICANT: Venture I of Winchester, LLC

PROJECT NAME: Artillery Business Center

ORIGINAL DATE
OF PROFFERS: December 26, 2006

REVISION DATE(S): 2/6/07; 3/22/07; 4/3/07; 4/24/07; 5/1/07; 5/24/07; 6/28/07;
8/1/07; 8/17/07; 9/14/07; 9/19/07; 9/21/07; 10/9/07; 11/5/07;
11/6/07; 11/15/07; 12/21/07; 1/15/08; 2/7/08

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 that may have been made prior hereto. In the event that the above referenced M1 conditional rezoning is not granted as applied for by the applicant ("Applicant"), these proffers shall be deemed withdrawn and shall be null and void. Further, these proffers are contingent upon final rezoning of the Property with "final rezoning" defined as that rezoning which is in effect on the day following the last day upon which the Frederick County Board of County Supervisors (the "Board") decision granting the rezoning may be contested in the appropriate court. If the Board's decision is contested, and the Applicant elects not to submit development plans until such contest is resolved, the term rezoning shall include the day following entry of a final court order affirming the decision of the Board which has not been appealed, or, if appealed, the day following which the decision has been affirmed on appeal. The headings of the proffers set forth below have been prepared for convenience or reference only and shall not control or affect the meaning or be taken as an interpretation of any provision of the proffers. The term "Applicant" as referenced herein shall include within its meaning all future owners and successors in interest. When used in these proffers, the "Generalized Development Plan," shall refer to the plan entitled "Generalized Development Plan, Artillery Business Center" dated February 6, 2007 revised February 7, 2008 (the "GDP"), and shall include the following:

1. Monetary Contribution

- 1.1 The Applicant shall contribute to the County of Frederick the sum of \$5,000.00 for fire and rescue purposes upon issuance of the first building permit.
- 1.2 The Applicant shall contribute to the County of Frederick the sum of \$2,500.00 for Sheriff's office purposes upon issuance of the first building permit.
- 1.3 The Applicant shall contribute to the County of Frederick the sum of \$2,500.00 for general government purposes upon issuance of the first building permit.

- 1.4 The Applicant shall contribute to the County of Frederick the sum of \$250,000.00 for the design and/or construction of the future East-West Collector Road or for any other transportation improvements as deemed necessary by Frederick County and VDOT. Said monetary contribution shall be made within 60 days of issuance of the first Certificate of Occupancy for any structure located on the Property.

2. Site Development

- 2.1 The Applicant shall dedicate 40 feet of right of way for Shady Elm road along the Property frontage as depicted on the GDP prior to issuance of the first building permit. Additionally, the Applicant shall widen the existing northbound lane to a total width of 24 feet of pavement as measured from the center line of Shady Elm Road along the Property frontage with Shady Elm Road to provide for a continuous right turn lane along the Property frontage with Shady Elm Road. Direct access to the Property from Shady Elm Road shall be limited to a maximum of 2 entrances as shown on the GDP. The Applicant shall provide a double stripe lane marking for the centerline of Shady Elm Road along the Property frontage with Shady Elm Road (See 1 on GDP)
- 2.2 The Applicant shall design a future East-West Collector Road utilizing an 80 foot right of way as depicted on the GDP from Point A to Point C, assuming an at grade railroad crossing, as a Rural 4 Lane Divided (R4D) cross section prior to issuance of the first Certificate of Occupancy for any structure located on the Property. The Applicant shall then dedicate 80 feet of right of way and construct the ultimate two westbound lanes of the Collector Road for a minimum of 1100 feet as shown from Point A to Point B on the GDP upon any of the following conditions, whichever occurs first: (See 2 on GDP)
- Prior to issuance of the fourth building permit for the Property.
 - Prior to the issuance of a building permit for any structure located in Land Bay 2.
 - Prior to issuance of a certificate of occupancy for any structure located in Land Bay 1 but with associated land area located in Land Bay 2 as depicted by site plan.
 - Upon commencement of a railroad crossing as shown on the GDP for the East-West Collector Road.
 - Prior to December 31, 2013.
- 2.2.1 The Applicant shall make available an 80' wide tract of land across Tax Map Parcel 74-A-68 as depicted on the GDP from Point B to Point C in conformance with the road design provided by Proffer 2.2 for the future extension of the East-West Collector Road. The Applicant shall provide said property at no cost to the County, after December 31, 2008 and within 90 days of receiving written request from the County.
- 2.2.2 The Applicant shall construct a maximum of two entrances on the portion of the East-West Collector Road constructed by the Applicant as shown on the GDP.

- 2.2.3 Land Bay 2 as shown on the GDP shall have access via the easternmost entrance located on the portion of the East-West Collector Road constructed by the Applicant as shown on the GDP.
- 2.3 The Applicant shall construct an internal access road, if necessary to meet the requirements for lot access as identified by §144-24C of the *Frederick County Code*, to serve the Property to Virginia Department of Transportation standards with a minimum pavement width of 26 feet.
- 2.4 A geotechnical analysis shall be prepared and submitted to Frederick County for any structures prior to site plan approval.
- 2.5 Development of the Property shall not exceed a 0.4 Floor Area Ratio (FAR).
- 2.6 The Property shall contain a minimum of three users upon final build-out.
- 2.7 No warehouse-distribution facility greater than 200,000 square feet shall be constructed on the Property within 5 years of the Date of Final Rezoning.
- 2.8 Should the County or others obtain the rights to an at grade railroad crossing for the proposed East-West Collector Road as identified on the GDP, the Applicant shall fully fund the design of said at grade crossing.
3. Landscape Buffers, Hiker/Biker Facilities, & Additional Right of Way
- 3.1 Within the 25 foot parking setback between the proposed right of ways for Shady Elm Road and the East-West collector as required by § 165-27E(5) of the *Frederick County Code*, the Applicant shall construct a 10 foot asphalt trail to Department of Recreation Standards. In addition, the Applicant shall provide a densely planted landscape screen as depicted by Exhibit A as revised 1/15/08 consisting of street trees planted 50 feet on center between the proposed right of way and the asphalt trail as well as a double row of evergreen trees with a minimum density of three plants per 10 linear feet and a minimum height of four feet at time of planting located between the proposed trail and any parking areas.
4. Design Standards
- 4.1 Any building façade fronting Shady Elm Road or the proposed East-West Collector shall be constructed of one or a combination of the following : cast stone, stone, brick, architectural block, glass, wood, dry vit or stucco.
- 4.2 Freestanding business signs shall be limited to one monument style sign per lot that shall not exceed 20 feet in height. In addition, the Applicant may construct one main entrance/tenant directory sign along either Shady Elm Road or the proposed East-West Collector as a monument style sign that shall not exceed 30 feet in height. If revisions to the *Frederick County Zoning Ordinance* are made which would limit the size and/or number of signs to a greater extent than the aforementioned standards, then the Applicant shall conform with the sign ordinance standards in existence at the time of issuance of a permit for any sign located on the Property.

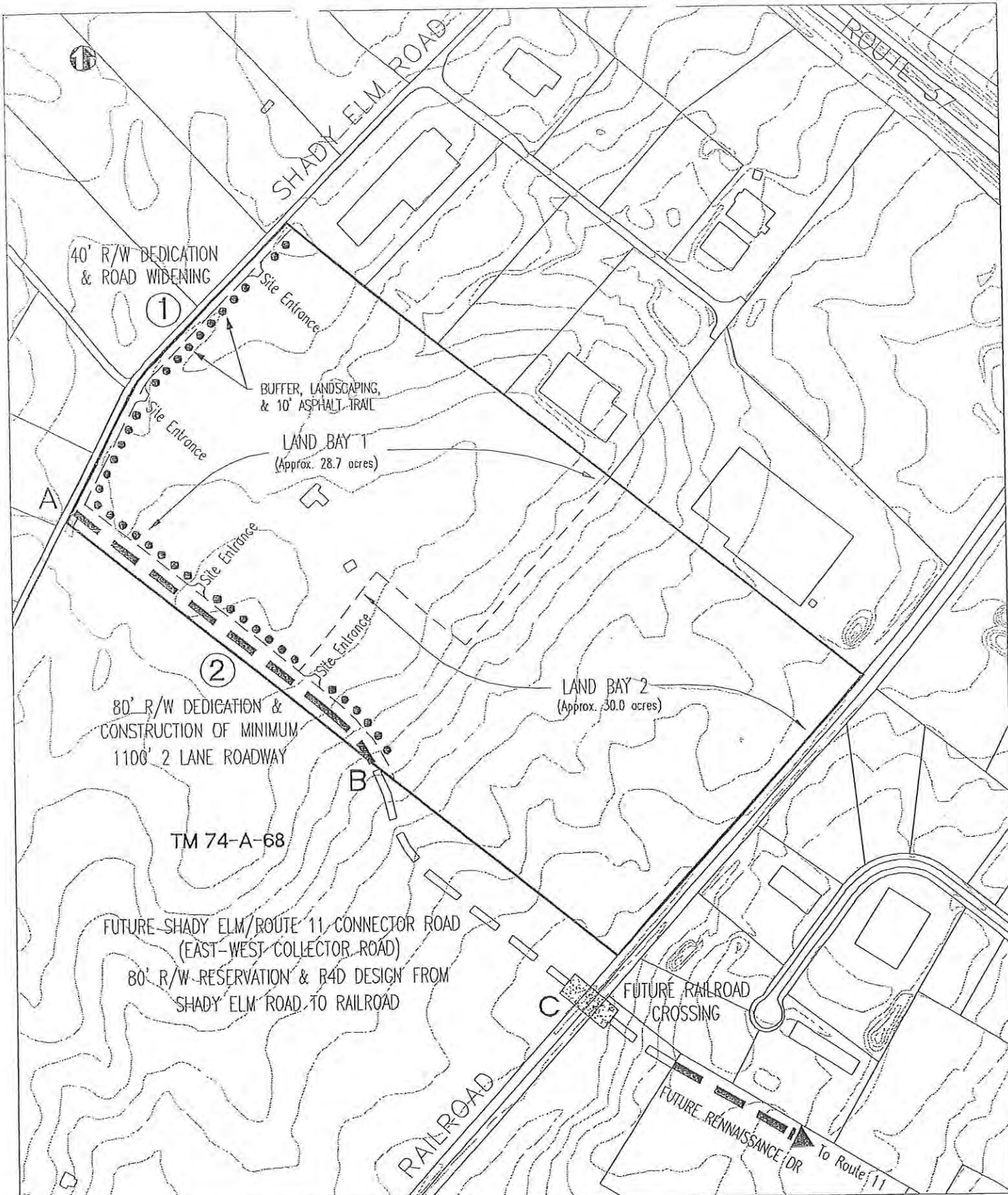
5. Historic Resources

- 5.1 The Applicant shall complete a survey documenting any historic structures on the Property in general accordance with the guidelines established by the Preliminary Information Form from the Department of Historic Resources. Any documentation created as part of said survey shall be provided to Frederick County Planning Staff and shall be completed prior to demolition of any buildings located on the Property.
- 5.2 The Applicant shall contribute to the County of Frederick the sum of \$5,000.00 for purposes associated with historic Star Fort prior to issuance of the first building permit.

6. Escalator Clause

- 6.1 In the event the monetary contributions set forth in the Proffer Statement are paid to the Frederick County Board County Supervisors ("Board") within 30 months of the approval of this rezoning, as applied for by the Applicant, said contributions shall be in the amounts as stated herein. Any monetary contributions set forth in the Proffer Statement which are paid to the Board after 30 months following the approval of this rezoning shall be adjusted in accordance with the Urban Consumer Price Index ("CPI-U") published by the United States Department of Labor, such that at the time contributions are paid, they shall be adjusted by the percentage change in the CPI-U from that date 24 months after the approval of this rezoning to the most recently available CPI-U to the date the contributions are paid, subject to a cap of 6% per year, non-compounded.

SIGNATURE(S) APPEAR ON THE FOLLOWING PAGE(S)



TM 74-A-68

ARTILLERY BUSINESS CENTER
GENERALIZED DEVELOPMENT PLAN

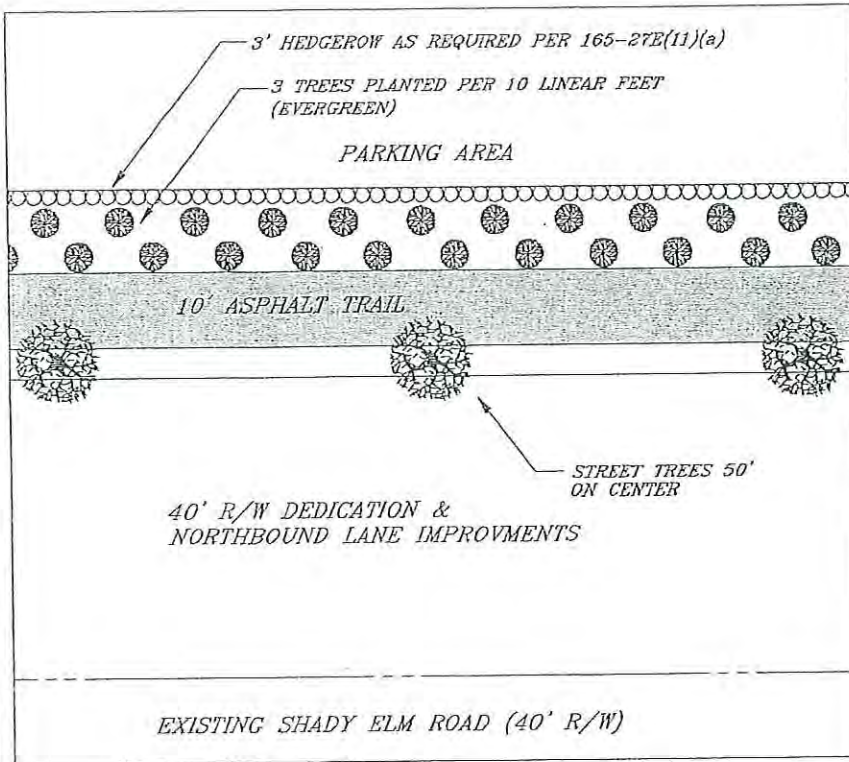
FREDERICK COUNTY, VIRGINIA

Potton, Harris, Rust & Associates, pc

117 E. Picadilly St. Winchester, Virginia 22601
VOICE: (540) 667-2139 FAX: (540) 665-0493

Revised
2/7/08
2/6/07
1"=400'

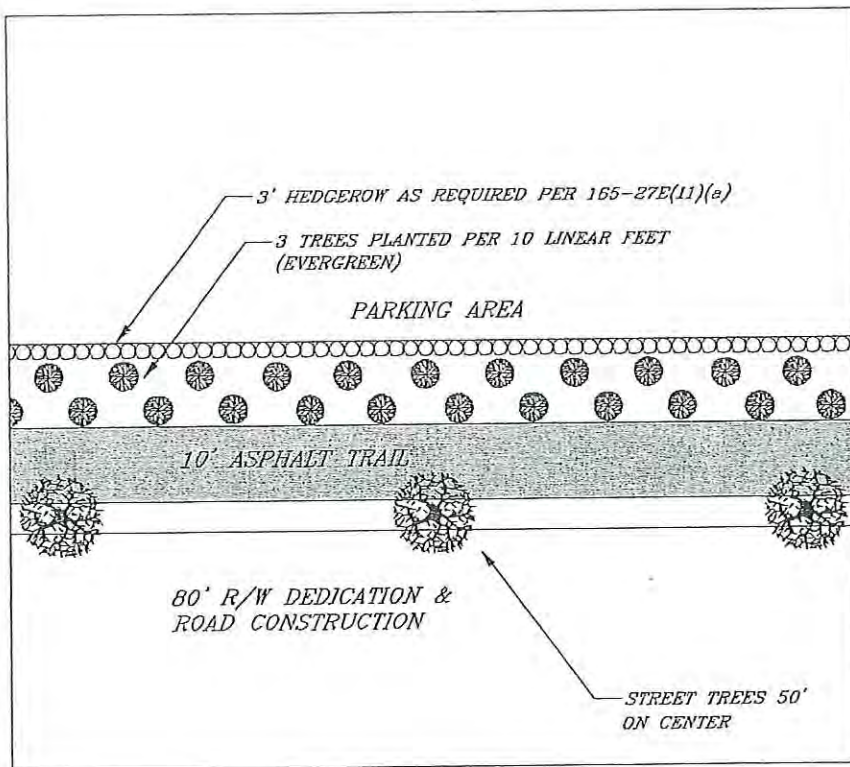
SHADY ELM ROAD



25' PARKING SETBACK (MINIMUM)

NOTE:
STREET TREES AND LANDSCAPE SCREEN (3 TREES PER 10 LINEAR FEET) PROVIDED IN ADDITION TO ANY LANDSCAPING OTHERWISE REQUIRED BY ORDINANCE

EAST-WEST COLLECTOR ROAD



25' PARKING SETBACK (MINIMUM)

NOTE:
STREET TREES AND LANDSCAPE SCREEN (3 TREES PER 10 LINEAR FEET) PROVIDED IN ADDITION TO ANY LANDSCAPING OTHERWISE REQUIRED BY ORDINANCE

ARTILLERY BUSINESS CENTER

EXHIBIT A

FREDERICK COUNTY, VIRGINIA

Patton, Harris, Rust & Associates, pc

117 E. Picadilly St. Winchester, Virginia 22601

VOICE: (540) 667-2139 FAX: (540) 665-0493

NTS
 11/15/07
 Revised
 1/15/08

Venture I of Winchester, LLC

By: [Signature]

Date: FEBRUARY 7, 2008

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

The foregoing instrument was acknowledged before me this 7th day of February,
2008 by Paige Maxwell

My commission expires
Notary Public [Signature]

LILA M. TRIPLETT
NOTARY PUBLIC
Commonwealth of Virginia
Reg. #335897
My Commission Expires Aug. 31, 2011

Pam Deeter

From: John Bishop
Sent: Tuesday, October 13, 2015 1:39 PM
To: Pam Deeter
Cc: Eric Lawrence
Subject: FW: Artillery Business Center - VDOT Comments to Proffer Amendment dated 10.05.2015
Attachments: Scanned from EDNXerox.pdf

Just came in for Artillery

From: Funkhouser, Rhonda (VDOT) [<mailto:Rhonda.Funkhouser@VDOT.Virginia.gov>] **On Behalf Of** Ingram, Lloyd (VDOT)
Sent: Tuesday, October 13, 2015 1:25 PM
To: John Bishop; Mike Ruddy
Cc: Patrick Sowers; Smith, Matthew, P.E. (VDOT); Ingram, Lloyd (VDOT)
Subject: Artillery Business Center - VDOT Comments to Proffer Amendment dated 10.05.2015

The documentation within the application to rezone this property appears to have a significant impact on Route 651 (Shady Elm Road). This route is the VDOT roadway which has been considered as the access to the property referenced.

VDOT is cautiously satisfied that the transportation proffers offered in the Artillery Business Center rezoning application dated October 5, 2015 address transportation concerns associated with this request.

If you wish to discuss these comments, please contact me.

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

Patrick Sowers

From: Funkhouser, Rhonda (VDOT) <Rhonda.Funkhouser@VDOT.Virginia.gov> on behalf of Ingram, Lloyd (VDOT) <Lloyd.Ingram@VDOT.virginia.gov>
Sent: Friday, September 25, 2015 12:58 PM
To: Patrick Sowers
Cc: 'John Bishop'; mruddy@fcva.us; Smith, Matthew, P.E. (VDOT); Ingram, Lloyd (VDOT)
Subject: Artillery Business Center - VDOT Comments to Proffer Amendment

The documentation within the application to rezone this property appears to have a significant impact on Route 651 (Shady Elm Road). This route is the VDOT roadway which has been considered as the access to the property referenced.

VDOT is **not** satisfied that the transportation proffers offered in the Artillery Business Center rezoning application dated September 2, 2015 address transportation concerns associated with this request.

- The existing approved Artillery Business Center rezoning, dated February 7, 2008, is superior in addressing the future transportation needs of both Shady Elm Road and the extension of Renaissance Drive.
- A proffer is not required for the applicant to apply for Revenue Sharing funds to fulfill the required transportation improvements.

If you wish to discuss these comments, please contact me.

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

Diane Walsh

From: Eric Lawrence
Sent: Wednesday, October 21, 2015 9:33 AM
To: Diane Walsh
Subject: FW: Artillery rezoning

From: Rod Williams
Sent: Tuesday, October 20, 2015 2:47 PM
To: 'Patrick Sowers'
Cc: Eric Lawrence; John Bishop
Subject: Artillery rezoning

Patrick,

I have now had the opportunity to review the revised proffer statement, dated October 5, 2015, for the above matter and have three items to offer in terms of ensuring that the proffer statement would be legally sufficient as a proffer statement under state law and county ordinances:

- In Proffer 2.2.1, some of the language regarding revenue sharing remains troublesome, in the context of the legal prohibition on contract zoning. Therefore, I would suggest the rephrasing the first sentence of Proffer 2.2.1 to read as two sentences, as follows: "Prior to the earlier to occur of the issuance of a second building permit within Land Bay 1 or a second building permit within Land Bay 2, the Land Bay 2 Owner shall enter into an agreement with Frederick County by which the Land Bay 2 Owner provides for right of way acquisition, if necessary, and the funding of the design and construction of the East-West Collector Road as depicted on the GDP. The Land Bay 2 Owner may, pursuant to such agreement, use Virginia Department of Transportation cost sharing funds for the design and construction costs of the East-West Collector Road." Likewise, I would suggest the rephrasing of the current third sentence of Proffer 2.2.1 to read as follows: "The Land Bay 2 Owner shall provide in the agreement with Frederick County for the Land Bay 2 Owner's funding of the design and construction of the East-West Collector Road, to cover the County match portion of the Project Administration Agreement between Frederick County and the Commonwealth."
- In the last signed version of the proffers, I noticed that the signature on behalf of NW Works was by a director of that entity. Ordinarily, an individual director does not have the power to enter into a binding agreement on behalf of an entity. It would appear that the signature should be by an officer of the entity.
- Finally, the document contains the word "Proposed" in its title. We would need to receive a signed version without that word in order for it to be suitable for recording.

Rod

Roderick B. Williams
County Attorney
County of Frederick, Virginia
107 North Kent Street, 3rd Floor
Winchester, Virginia 22601



COUNTY of FREDERICK

Roderick B. Williams
County Attorney

540/722-8383

Fax 540/667-0370

E-mail:

rwillia@co.frederick.va.us

September 28, 2015

VIA E-MAIL – psowers@pennoni.com – AND REGULAR MAIL

Mr. Patrick Sowers
Pennoni Associates Inc.
117 East Piccadilly Street, Suite 200
Winchester, Virginia 22601

Re: Rezoning Application – Artillery Business Center
Tax Parcel Numbers 75-A-1 and -1F, consisting of 57.6± acres (the
“Property”)
Proposed Proffer Statement dated September 2, 2015

Dear Patrick:

You have submitted to Frederick County for review the above-referenced proposed proffer statement (the “Proffer Statement”) for the proposed rezoning of the Property, in the Back Creek Magisterial District, from the M1 (Light Industrial) Zoning District, with proffers (2008 Proffer Statement), to the M1 (Light Industrial) Zoning District, with revised 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:

- As a general comment for staff, I note that the Proffer Statement seeks to retract a number of previous proffers or to shift the obligations entailed. While proffer amendments to limit or shift proffer obligations are not themselves unusual (in particular where one or two proffers, such as the timing of transportation improvements, are modified), the Proffer Statement contains a number of proposed rescissions and/or shifts, not all of which are noted in the cover letter accompanying the Proffer Statement.
- Introductory paragraph – The last sentence contains the phrase “and shall include the following:”, which does not appear to be appropriate there. The sentence refers to the 2015 Generalized Development Plan (the “Revised GDP”), but the

Revised GDP does not include Proffer Statement; to the contrary, the Proffer Statement includes the Revised GDP.

- Proffers 1.1 through 1.3 – Staff should be aware that these Proffers would shift the obligations therein solely to the owner of Land Bay 2. Therefore, Land Bay 1 could fully develop without the County receiving any of the monetary contributions. The Proffers do not propose a proportionate split of the monetary contributions between the two land bays.
- Proffer 2.1 – Staff should be aware that the Proffer eliminates the previous commitment to construct the widening of Shady Elm Road along the Property frontage.
- Proffer 2.2 – With respect to the second bullet point, it is unclear what a “structure located in Land Bay 1 but with associated land area located in Land Bay 2” would be. Does this refer to a structure itself located in both land bays, a structure with parking in the other or both land bays, a structure with buffer areas located in the other or both land bays, a structure with associated facilities (such as stormwater management facilities) in the other or both land bays? With respect to the third bullet point, it is unclear what “Upon commencement of a railroad crossing” means. Does this mean “Upon commencement of construction of a railroad crossing”?
- Proffer 2.2.1 – The Proffer is at least in part contingent upon the Land Bay 2 Owner entering into a revenue sharing agreement with the County. This would create inappropriate contract zoning, in which the landowner’s obligations would only vest upon the County undertaking certain commitments (entry into the revenue sharing agreement and performance by the County of obligations therein). In this regard as well, staff should be aware that the Proffer Statement eliminates the Applicant’s full construction obligations for the railroad crossing, in Proffer 2.8 of the 2008 Proffer Statement. Also, under Proffer 2.2.1 of the 2008 Proffer Statement, the County is already entitled to request, at no cost to the County, an 80-foot right-of-way across the Property. The proposed Proffer would eliminate that right and therefore raises an issue as to whether the County can agree to concede such an interest in real property without a separate public hearing on the same. See Va. Code § 15.2-1800(B).
- Proffer 2.3 – The proffer to construct an internal access road commits to do what is already an ordinance requirement (and a practical requirement for use of the Property) and therefore may be misleading in the Proffer Statement, other than to the extent that a road of less than 26-foot minimum pavement width could otherwise be constructed. Also, with respect to the second sentence (making the location of the internal access road subject to approval of both land bay owners), the provisions of the first sentence (requiring prior written approval of the other land bay owner to construct an internal access road) render it superfluous.

- Proffer 3.1 – The Proffer could clarify that the 25-foot parking setback area is between the right-of-ways for Shady Elm Road and the East-West collector, on the one hand, and the parking areas, on the other hand; Shady Elm Road and the East-West collector would intersect at an approximately a right angle, so the setback area is not between Shady Elm Road and the East-West collector themselves. Also, the Proffer refers to “Department of Recreation Standards” for the trail system; staff may need to confirm the existence of such standards.
- Proffer 5.1 – The Proffer would require a historic resources study only for Land Bay 2. The 2008 Proffer did not limit the study to Land Bay 2 and staff should be aware that it is Land Bay 1 that has a structure present.
- Proffer 5.2 – Staff should be aware that this Proffer would shift the obligation therein solely to the owner of Land Bay 2. Therefore, Land Bay 1 could fully develop without the County receiving any of the monetary contribution. The Proffers do not propose a proportionate split of the monetary contribution between the two land bays.
- Staff should be aware that the Proffer Statement eliminates the escalator clause (see Proffer 6.1 of the 2008 Proffer Statement).

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 review will be done by staff and the Planning Commission.

Sincerely,



Roderick B. Williams
County Attorney

cc: Michael T. Ruddy, AICP, Deputy Planning Director (via e-mail)

**REZONING APPLICATION FORM
FREDERICK COUNTY, VIRGINIA**

To be completed by Planning Staff:

Zoning Amendment Number	<u>09-15</u>	Fee Amount Paid \$	<u>10,050.00</u>
PC Hearing Date	<u>10-21-15</u>	Date Received	<u>9/28/15</u>
		BOS Hearing Date	<u>11/12/15</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. Applicants:

Name: Pennoni Associates Telephone: (540) 667.2139
c/o Patrick Sowers

Address: 117 East Piccadilly Street
Winchester, Virginia 22601

2. Property Owner (if different than above)

Name: NW Works, Inc. Telephone: (540) 667-0809
Address: 3085 Shawnee Drive
Winchester, VA 22601

Name: Venture I of Winchester, LLC Telephone: (540) 665-0050
Address: 549 Merrimans Lane
Winchester, VA 22601

3. Contact person(s) if other than above

Name: Patrick Sowers Telephone: (540) 667.2139

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

Location Map (See GDP)	<u>X</u>	Agency Comments	<u>X</u>
Plat	<u>X</u>	Fees	<u>X</u>
Deed of property	<u>X</u>	Impact Analysis Statement	<u>X</u>
Verification of taxes paid	<u>X</u>	Proffer Statement	<u>X</u>

5. 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:

NW Works, Inc.

Venture I of Winchester, LLC

- 6. A) Current Use of the Property:** Vacant (entitled Industrial)
B) Proposed Use of the Property: Industrial

7. Adjoining Property: SEE ATTACHED.

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

The Property is located east and adjacent to Shady Elm Road (Rt 651) approximately nine tenths of a mile south of the intersection of Shady Elm Road (Rt 651) and Apple Valley Road (Rt 652).

In order for the Planning Staff to use its capital facilities impact model, it is necessary for the applicant to provide information concerning the specifics of the proposed use. Otherwise, the planning staff will use the maximum possible density of intensity scenario for the proposed Zoning District as described on page 9 of the application package.

9. Parcel Identification/Location: Parcel Identification Number: 75-A-1 and 75-A-1F

Districts

Magisterial:	<u>Back Creek</u>	High School:	<u>Sherando</u>
Fire Service:	<u>Stephens City</u>	Middle School:	<u>James Wood</u>
Rescue Service:	<u>Stephens City</u>	Elementary School:	<u>Orchard View</u>

10. Zoning Change: List the acreage included in each new zoning category being requested.

Acres	Current Zoning	Zoning Requested
57.6	M1	M1
57.6	Total acreage to be rezoned	

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

Number of Units Proposed

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

Square Footage of Proposed Uses

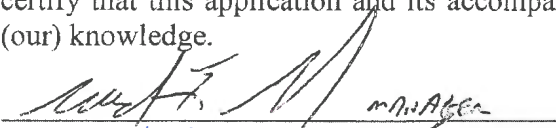
Office	_____	Service Station	_____
Retail	_____	Manufacturing	_____
Restaurant	_____	Flex - Warehouse	_____
		Other (Industrial)	<u>1,003,622</u>

12. 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)  Matt Ager

Date 9/25/15

Venture 1 of Winchester, LLC

Applicant(s)  Patrick

Date 9/25/15

Adjoining Property Owners – Artillery Business Center

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 Property Identification Number (PIN)	Address
Name: Henry J. Carbaugh Trustee c/o Bank of Clarke Trust Department Property #: 74-A-68	202 N Loudoun Street Winchester, VA 22601
Name: Kitty Hockman Nicholas and Robin H. Eddy Property #: 74-3-3; 74-3-2; 74-3-1	690 Shady Elm Road Winchester, VA 22602
Name: Bowman-Shoemaker Companies, Inc. Property #: 63-7-5; 63-7-4; 63-7-5	P.O. Box 480 Stephens City, VA 22655
Name: Synergy Investments, LLC Property #: 75-A-1A	416 Battaile Dr Winchester, VA 22601
Name: FVC Properties, Inc. c/o Frank Cuppo Property #: 75-A-1D; 75-A-1E; 75-A-1B	500 N Broadway, Suite 123 Jericho, NY 11753
Name: Corrugated Container Corp. Property #: 75-A-1C	100 Development Lane Winchester, VA 22602
Name: Frederick County Sanitation Authority Property #: 75-A-1G	107 N Kent St Winchester, VA 22601
Name: Prosperity Drive Development Group, LLC Property #: 75A-6-B-41A	180 Prosperity Dr, Suite 3 Winchester, VA 22602
Name: Prosperity Properties of Winc, LLC Property #: 75-A-2M	180 Prosperity Dr, Suite 5 Winchester, VA 22602
Name: Prosperity 81, LLC Property #: 75-A-2P	1306 Squire Ct, Unit B Sterling, VA 20166
Name: Lyle P. Strosnider, Inc Property #: 75-A-2F	220 Prosperity Dr Winchester, VA 22602
Name: Pippin Enterprises, LLC Property #: 75-A-2Q	164 Meadow Trace Ln Middletown, VA 22645
Name: Renaissance Commercial Center, Inc. Property #: 75-A-2R	P.O. Box 480 Stephens City, VA 22655



**Special Limited Power of Attorney
County of Frederick, Virginia
Frederick Planning Web Site: www.co.frederick.va.us**

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

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

(Name) NW Works, Inc. (Phone) (540) 667-0809

(Address) 3085 Shawnee Drive, Winchester, VA 22601

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

Instrument Number: 08005981 and is described as

Tax Map Parcel 75-A-1F Subdivision: _____
do hereby make, constitute and appoint:

(Name) Pennoni Associates (Phone) (540) 667-2139

(Address) 117 E. Piccadilly Street, Suite 200, Winchester, Virginia 22601

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

- Rezoning (including proffers)**
- Conditional Use Permits**
- Master Development Plan (Preliminary and Final)**
- Subdivision**
- Site Plan**

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

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

In witness thereof, I (we) have hereto set my (our) hand and seal this 22nd day of Sept, 2015.

Signature(s) _____

State of Virginia, City/County of Frederick, To-wit: _____

Rebecca Jenkins, a Notary Public in and for the jurisdiction aforesaid, certify that the person(s) who signed to the foregoing instrument personally appeared before me and has acknowledged the same before me in the jurisdiction aforesaid this 22nd day of Sept, 2015.

Rebecca Jenkins My Commission Expires: April 30, 2018
Notary Public # 7589155



RESOLUTION

Action:

PLANNING COMMISSION: October 21, 2015 - Recommended Approval

BOARD OF SUPERVISORS: October 28, 2015 APPROVED DENIED

AN ORDINANCE AMENDING

THE ZONING DISTRICT MAP

REZONING #09-15 ARTILLERY BUSINESS CENTER – PROFFER AMENDMENT

WHEREAS, Rezoning #09-15 Artillery Business Center – Proffer Amendment submitted by Pennoni Associates, to amend the proffers associated with Rezoning #07-08 relating to the timing and commitments for transportation proffers was considered. The proffer amendment, original proffer statement dated February 7, 2008 with a final revision dated October 5, 2015 applies to parcels 75-A-1 and 75-A-1F owned by Venture I of Winchester, LLC and NW Works, Inc., respectively and is located approximately 1,500 feet south of Route 37 on the east side of Shady Elm Drive (Rt. 651) and across from Solider’s Rest Lane in the Back Creek District. The proposed amended proffers replace transportation commitments for improvements to Shady Elm Road, \$250,000.00 in cash transportation proffers, and right-of-way provision across 74-A-68 with a commitment to participate in revenue sharing to complete Renaissance Drive from its existing terminus near Prosperity Drive to Shady Elm Road. Building permits are limited to 2 on the property (1 per parcel) until such time as the applicant enters into a revenue sharing agreement with the County; and

WHEREAS, the Planning Commission held a public hearing on this rezoning on October 21, 2015, and forwarded a recommendation of approval; and

WHEREAS, the Board of Supervisors held a public hearing on this rezoning on October 28, 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 amend the proffers associated with Rezoning #07-08 relating to the timing and commitments for transportation proffers. This proffer

amendment, original proffer statement dated February 7, 2008 with a final revision dated October 5, 2015, replaces transportation commitments for improvements to Shady Elm Road, \$250,000.00 in cash transportation proffers, and right-of-way provision across 74-A-68 with a commitment to participate in revenue sharing to complete Renaissance Drive from its existing terminus near Prosperity Drive to Shady Elm Road. Building permits are limited to 2 on the property (1 per parcel) until such time as the applicant enters into a revenue sharing agreement with the County.

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

Passed this 28th day of October, 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

P



MEMORANDUM

TO: Frederick County Board of Supervisors

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

SUBJECT: Discussion – **I-81 Distribution Park - Stonewall (Stonewall Industrial Park)**

DATE: October 6, 2015

At the October 28, 2015 Board of Supervisors meeting, staff will present the site plan for the I-81 Distribution Park - Stonewall site for review. This site plan is being presented due to its implications on the planned route for Route 37. The site is located in the Stonewall Industrial Park in the Stonewall Magisterial District. The property is located at the corner of Tyson Drive and Welltown Road and contains a 330,050 square foot warehouse structure that is within the path of Route 37. The plans for Stonewall Industrial Park do not accommodate the Route 37 right-of-way.

An 11" x 17" copy of sheet 2 from the site plan has been included in your agenda, along with a map that shows the planned route for Route 37, in regards to the location of this property. Action on the site plan is not required; this site plan is being brought for informational purposes only.

In an effort to keep the Planning Commission and Board of Supervisors apprised of the Route 37 right-of-way, site plans and subdivisions that impact the right-of-way are presented to the Planning Commission and the Board of Supervisors for their review. This site plan was presented to the Planning Commission at their September 16, 2015 meeting.

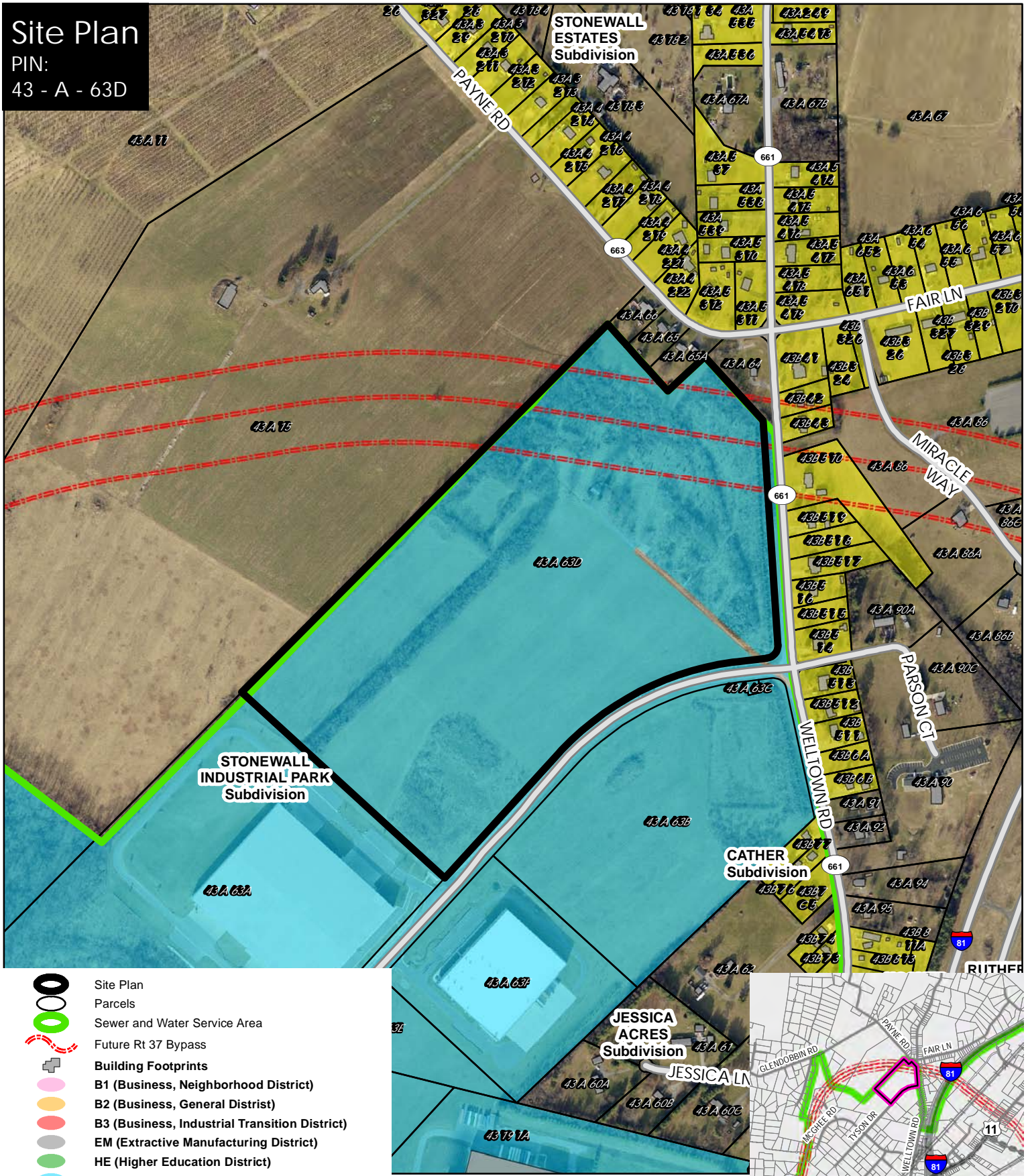
Please contact staff if you need additional information. A representative from Dice Engineering will be present at the meeting.


CEP/pd

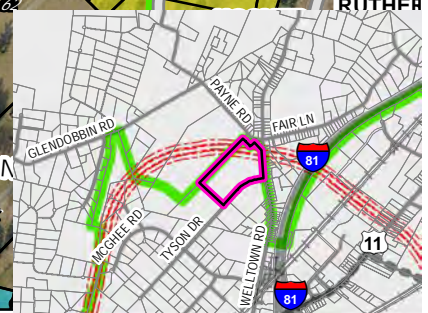
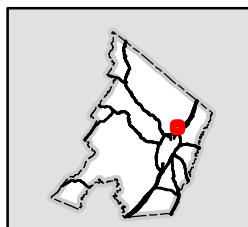
Attachments

Site Plan

PIN:
43 - A - 63D



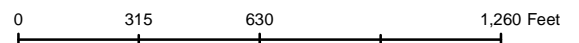
-  Site Plan
-  Parcels
-  Sewer and Water Service Area
-  Future Rt 37 Bypass
-  Building Footprints
-  B1 (Business, Neighborhood District)
-  B2 (Business, General District)
-  B3 (Business, Industrial Transition District)
-  EM (Extractive Manufacturing District)
-  HE (Higher Education District)
-  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)



Site Plan

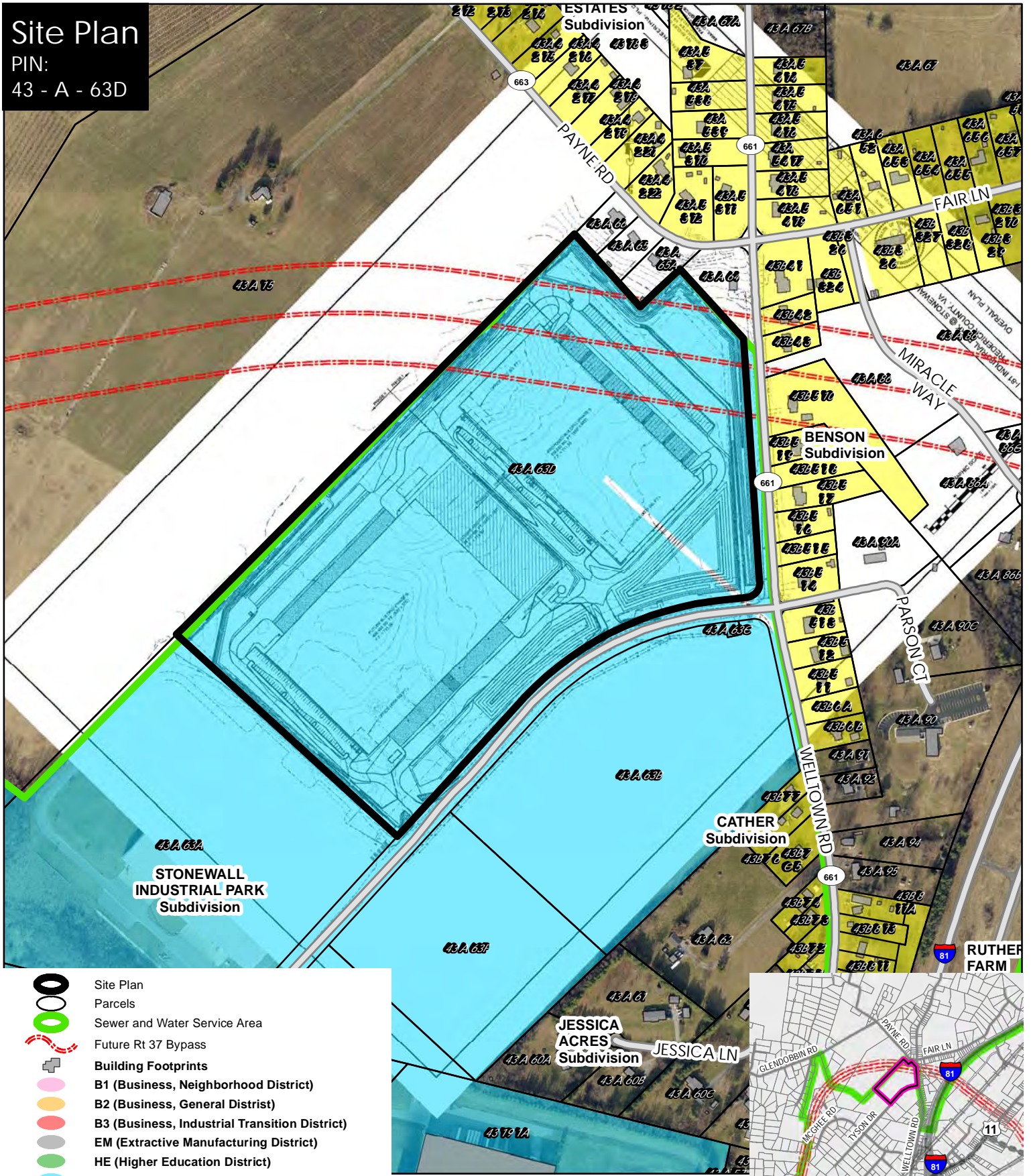
PIN:
43 - A - 63D

Note:
Frederick County Dept of
Planning & Development
107 N Kent St
Suite 202
Winchester, VA 22601
540 - 665 - 5651
Map Created: August 10, 2015
Staff: cperkins

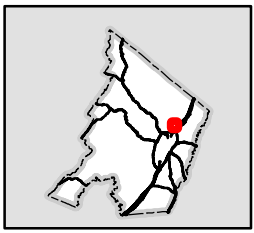
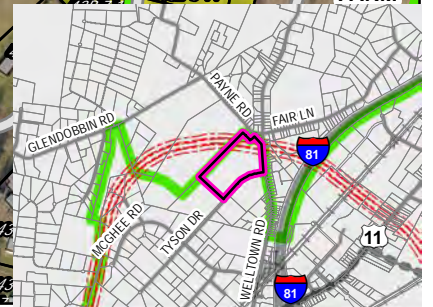


Site Plan

PIN:
43 - A - 63D



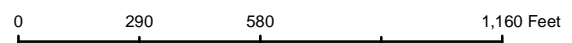
-  Site Plan
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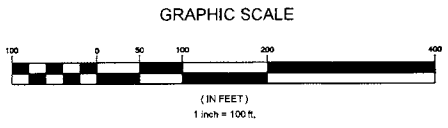
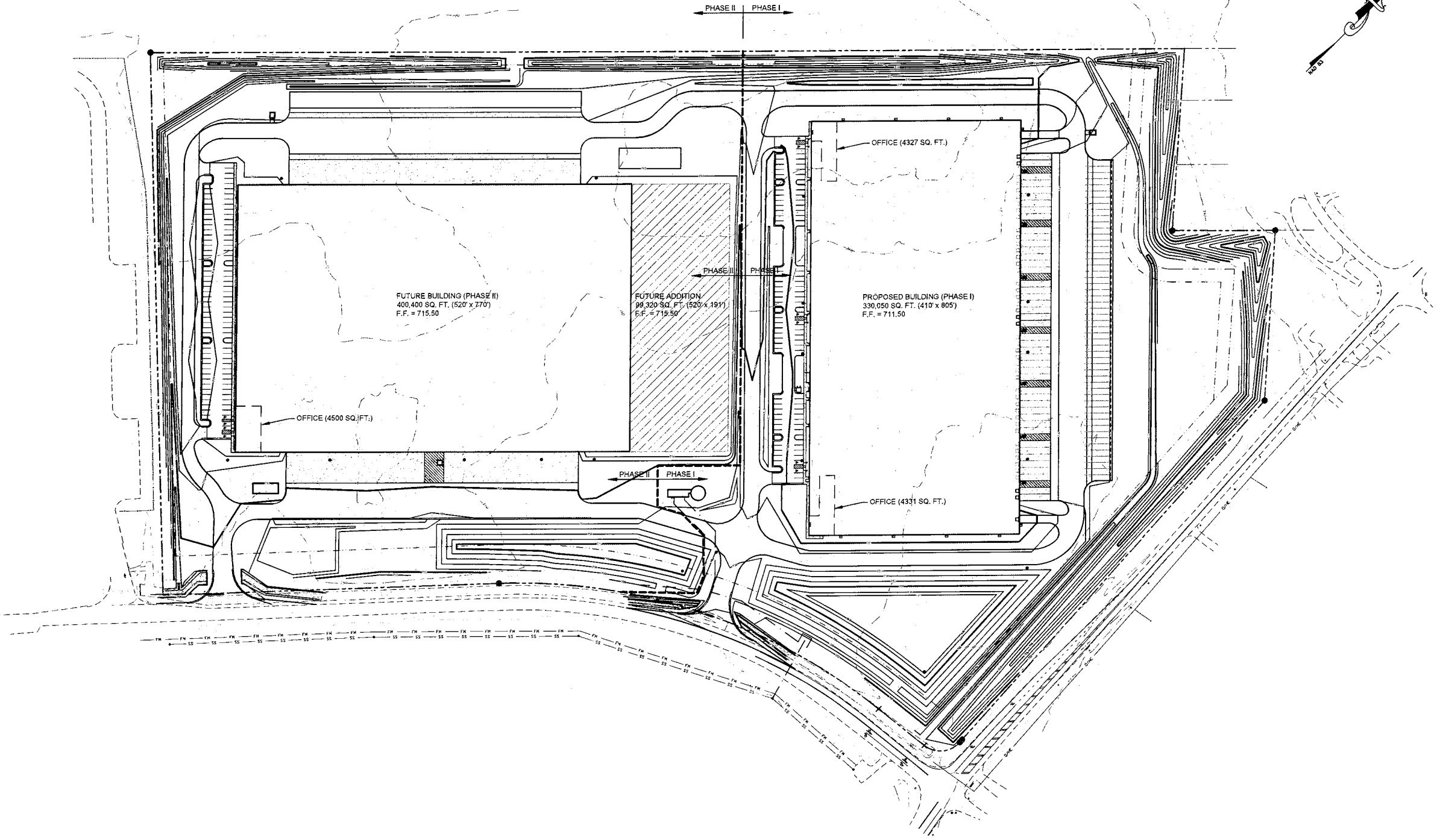


Site Plan

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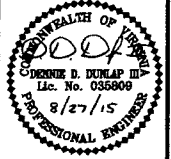




DICE ENGINEERING, PLC
 101 SHELBY CT.
 WINCHESTER, VA 22602
 PHONE: 540.974.5157
 FAX: 540.723.4888
 EMAIL: OFFICE@DICE-ENG.COM

REV.	DATE	DESCRIPTION
1	08-27-2015	REVISIONS PER FREDERICK COUNTY AGENCY COMMENTS

CADD FILE: C-04.DWG
 DRAWN BY: DDD
 CHECKED BY: DDD
 DATE: 07-20-2015
 SCALE: 1" = 100'



I-81 INDUSTRIAL PARK @ STONEWALL
 FREDERICK COUNTY, VA
 OVERALL PLAN

SHEET NUMBER:
C-04
 JOB NO.: 15-01

Q



MEMORANDUM

TO: Frederick County Board of Supervisors

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

SUBJECT: Ordinance Amendment – Supplementary Use Regulations – Setback Extensions

DATE: October 6, 2015

In 2011 the RP (Residential Performance) District setbacks and dimensional requirements were revised to introduce setbacks for unroofed decks and structures. With that revision, the allowance for extensions into the setback within the supplementary use regulations was changed to eliminate the RP and R4 (Residential Planned Community) Districts. Since the RP dimensional requirements also apply to the R5 District, the R5 (Residential Recreational Community) District should also have been removed from the supplementary use regulations extension provision (leaving only the RA and MH1 in the supplementary use section).

Staff has prepared a minor revision to remove the R5 from the supplementary use regulation setback extension to ensure that R5 developments (Lake Holliday, Lake Frederick, Shawneeland, and Mountain Falls) all utilize the RP Zoning District deck and stoop setback extension as intended.

The DRRC discussed this amendment at their August 2015 meeting. The DRRC agreed with the proposed changes as drafted and the item was forwarded to the Planning Commission for discussion. The Planning Commission discussed this item on September 9, 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.

- Attachments:**
- 1. Revised ordinance with additions shown in bold underlined italics and deletions in strikethrough.**
 - 2. RP District (single family small lot) dimensional requirements.**
 - 3. Resolution.**

CEP/pd

Original language

Draft revisions

Article II

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

Part 201 – Supplementary Use Regulations

§ 165-201.02 Setback requirements.

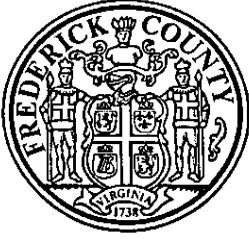
F. Extensions into setback yards. The following features may extend into setback yards as described:

- (1) Air conditioners and similar equipment. Air conditioners, heat pumps and similar mechanical equipment that are attached to the primary structure may extend three feet into any side or rear yard area but shall not be closer than five feet to any lot line.
- (2) Architectural and structural features. Cornices, canopies, awnings, eaves, gutters or other similar overhanging features which are least eight feet above the grade may extend three feet into any required yard setback area. Chimneys, sills, headers, belt courses and similar structural features may extend three feet into required yard setback areas.
- (3) Porches and related features. In the RA **and** MH1, ~~and R5~~ Zoning Districts, balconies, porches, stoops, decks, bay windows, steps and stairways which comprise less than 1/3 of the length of the wall of the primary structure may extend three feet into a required setback yard. In no case shall such features be closer than five feet to a lot line.

E. Height	
E1 Principal building (max)	35 feet
E2 Accessory building (max)	20 feet
F. Supplemental Regulations	
F1 A maintenance easement of 10 feet in width must be obtained on the lot adjacent to the zero lot line side.	
F2 The opposite side yard must be maintained clear of any obstructions other than a three-foot eaves encroachment, swimming pools, normal landscaping, removable patio covers extending no more than five feet or garden walls or fences. In no case shall any encroachment other than a fence be placed within the required maintenance easement.	
F3 The zero lot line side must not be adjacent to a road right-of-way.	

- F. **Single-family small lot.** This dwelling type consists of a single-family detached or attached residence on an individual lot. No more than two units may be attached together. Dimensional requirements shall be as follows:

A. Lot Dimensions		
A1 Minimum lot area	3,750 square feet	
B. Building Setbacks		
B1 From public or private road right-of-way	25 feet	
B2 The front setback may be reduced to 15 feet, provided that the residential unit utilizes a rear alley for access and there are no driveways on the private or public road fronting the residential unit.		
B3 Side	Detached option: 5 feet	Attached option: 10 feet
B4 Rear	15 feet	
B5 Minimum building spacing	Attached option: 20 feet	
C. Setbacks for unroofed decks, stoops, landings and similar features		
C1 Front from private/public road	15 feet	Rear alley option: 10 feet
C2 Side (end unit)	5 feet	
C3 Rear	10 feet	
C4 Rear (from open space)	5 feet	
D. Minimum Parking		
D1 Required off-street parking	2 per unit	
E. Height		
E1 Principal building (max)	35 feet	
E2 Accessory building (max)	20 feet	
F. Supplemental regulations		



Action:

BOARD OF SUPERVISORS: October 28, 2015 APPROVED DENIED

RESOLUTION

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

**ARTICLE II – SUPPLEMENTARY USE REGULATIONS, PARKING,
BUFFERS, AND REGULATIONS FOR SPECIFIC USES
PART 201 – SUPPLEMENTARY USE REGULATIONS
§165-201.02 – SETBACK REQUIREMENTS**

WHEREAS, an ordinance to amend Chapter 165, Zoning to remove the R5 District from the supplementary use regulations setback extension provision; and

WHEREAS, The Development Review and Regulations Committee (DRRC) reviewed the changes at their August 27, 2015 meeting and agreed with the proposed changes and sent the proposed amendment forward for review by the Planning Commission and Board of Supervisors; and

WHEREAS, the Planning Commission discussed the changes at their regularly scheduled meeting on September 9, 2015 and agreed with the proposed changes; and

WHEREAS, the Board of Supervisors discussed the changes at their regularly scheduled meeting on October 28, 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 remove the R5 District from the supplementary use regulations setback extension provision.

Passed this 28th day of October, 2015 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

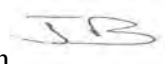
Brenda G. Garton
Frederick County Administrator

R



MEMORANDUM

TO: Board of Supervisors

FROM: John A. Bishop AICP, Deputy Director - Transportation 

RE: Rail Access Funding Application for Trex

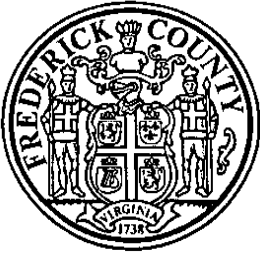
DATE: October 20, 2015

As you are aware, the Virginia Department of Rail and Public Transportation maintains a rail access funding support program similar to VDOT's industrial access program for roads. This program offers funding support to industries making significant investments in providing rail access to their operations which results in significant reductions in truck traffic on local roadways. Unlike the highway access program which requires the County to apply, the rail access application is submitted by the industry themselves. Only a resolution of support is needed from the County Board of Supervisors.

This application is requesting \$300,000.00 in rail access funding in support of a \$2.7 million project. The project will provide for the installation of a sidetrack and two additional tracks for storage, loading, and unloading of materials. This includes the installation of three rail switches. In addition to the construction investment of the rail improvements themselves, this project will result in a capital outlay to construct and equip the proposed new facility of \$3 million, 155 additional rail carloads of material to be handled, and 125 new jobs. Attached, please find the supporting documentation provided by Trex as well as a resolution for your consideration. The Transportation Committee will consider this item at their on October 26, 2015 meeting and staff will update the Board of their recommendation at the October 28, 2015 Board of Supervisor's meeting.

JAB/pd

Attachment



**RESOLUTION OF SUPPORT
BY THE
FREDERICK COUNTY BOARD OF SUPERVISORS
OF THE UTILIZATION OF INDUSTRIAL ACCESS
RAILROAD TRACK FUNDS**

The Board of Supervisors of Frederick County, during their regular meeting on the 28th day of October 2015, adopted the following:

WHEREAS, Trex has expressed its intent and desire to the Board of Supervisors to locate its commercial, business, or industrial operations in Frederick County; and,

WHEREAS, Trex and its operation will require rail access; and,

WHEREAS, the Officials from Trex have reported to Frederick County their intent to apply for Industrial Access Railroad Track Funds from the Commonwealth of Virginia’s Department of Rail and Public Transportation in the amount of \$300,000.00; and,

WHEREAS, Trex has requested that the Board of Supervisors provide a Resolution supporting its application for said funds which are administered by the Virginia Department of Rail and Public Transportation.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of Frederick County, Virginia, hereby endorses and supports the application of Trex for \$300,000.00 in Industrial Access Railroad Track Funds; and,

BE IT FURTHER RESOLVED, that the Board of Supervisors hereby makes known its desire and intent to assist the Commonwealth Transportation Board in providing the maximum financial assistance to Trex for the purpose of locating its business, commercial, or industrial facility in Frederick County.

ADOPTED this 28th day of October, 2015.

This resolution was approved 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

**Department of Rail and Public Transportation
Industrial Access Railroad Tracks Program Application**

Application Date: September 3, 2015

Applicant: Trex Company, Inc.

Description of Applicant's Organization (City, County, Economic Development Authority, Etc.): Corporation with headquarters and a manufacturing plant in the City of Winchester, Frederick County

Industry/Business to be served by the proposed Industrial Access Track: Trex Company, Inc. in support of composite decking sales and recycled plastic pellet sales

Contact Person

Name: Frank Klepeisz

Title: Director of Logistics

Phone Number: 540-542-6334

Email Address: fklepeisz@trex.com

Address: 160 Exeter Drive

Winchester, VA 22603

Proposed or Existing Location:

Trex Winchester Plant

3229 Shawnee Drive

Winchester, VA 22602

Project Description:

This project will provide for the installation of a sidetrack and two additional tracks for storage, loading, and unloading of materials. This will include the installation of three rail switches – one installed on the mainline and two on our tracks. The project will include all the earthwork, Sub-Ballast, and Ballast required to install the rails.

Additionally, the project will provide for rain and storm water runoff control, as well as paving around the rails to allow for access and staging of materials.

Length of proposed Track: 4438 ft center line Estimated Cost: \$2,713,000

Requested amount of Industrial Rail Access Funds: \$300,000

The approximate capital outlay to construct and equip the proposed new facility:

\$3,000,000

Estimated annual number of carloads already handled on existing tracks:

95

Estimated annual number of carloads to be handled on the proposed new track:

250

Rail carloads as percentage of overall inbound/outbound traffic (forecasted estimated for first three years after project completion): 6%

If a new industry, the estimated number of people to be employed:

If an existing industry, the number of people currently employed: 361

And the estimated additional employment to be created by the expansion: 125

Railroad that will serve the business/industry: CSX

Planning, Design, and Engineering Completion: 6/15/15

Construction Start Date: 12/15/15

Construction Completion Date: 7/1/16

The following documentation is to be included with the application:

1. Resolution from the Local Governing Body supporting the project and requesting the Rail Industrial Access Funds.
2. Location sketch showing the location of the site on an area map.
3. Drawing of the proposed track project showing the clear point(s).
4. Signed applicant/industry certification.
5. A company W-9 with federal ID number/EIN.
6. Documentation that the railroad owning the main line to which the proposed access track will connect has agreed to:
 - A. Serve the industry or business;
 - B. Approve and/or participate in the construction of the proposed access track;
 - C. Making the facilities available for use by all common carriers using the railway system to which the industrial access track connects;
7. Background information about the business

Trex Company, Inc. Summary

Trex Company is the world's number one decking and railing company, and leader in high-performance, low-maintenance outdoor living products with more than 20 years of experience. Recognized for its quality, aesthetics and green principles by industry professionals, Trex® is sold in more than 6,700 retail locations in 42 countries worldwide. The wood-alternative decking is high-performance, capped composite made from 95% recycled materials and comes with a 25-Year Fade and Stain Warranty. In addition to decking and railing, Trex also offers Elevations Steel Deck Framing, Outdoor Lighting, Outdoor Storage, Pergolas, Furniture and Fencing. All Trex products are designed to be high-performance, low maintenance and environmentally responsible. Trex decking and railing are made in the U.S. in Winchester, Virginia, where the company is headquartered, and in Fernley, Nevada.

In the 20 years the Trex Company has been located in Winchester, VA, customer orders for our decking product requested to be shipped via railcars have been loaded via a third party transloader. This was done at a fairly significant cost to our customers, however, due to the volume, it was decided to be the best course of action.

In 2015, Trex entered into a new business in which plastic pellets are produced from recycled plastic. These plastic pellets are then sold to customers to use in place of virgin plastic thereby providing an economical and environmentally beneficial alternative. These customers, however, are accustomed to receiving their product via railcar.

Looking at our total business, it now becomes feasible to construct a rail spur at our Winchester plant to accommodate both of these businesses. We expect the following benefits from this rail spur...

- Support to our new pellet business which will add 80 jobs over the next two years
- A less expensive rail alternative to our decking customers which should increase the number of rail car orders and expand the area we service via rail (expectation is we will service our Midwestern US customers more via rail when the transloading cost is eliminated)

The goal is to have the rail spur operational in 2016.

Applicant/Industry Certification

Trex Company, Inc.

Trex Company, Inc. hereby certifies to the Commonwealth of Virginia that the Applicant will provide the Right-of-Way for and assume liability of any railroad tracks and associated facilities, financed by the Railroad Industrial Access Fund, that are built on its Frederick County plant site and subsequent operations. This includes any claims or attempts to hold liable the Commonwealth of Virginia, for any matter concerning the tracks, as a result of the Commonwealth's Contingent Interest in the tracks.

Also, Trex Company, Inc. agrees to assume sole responsibility for the continuous maintenance of tracks financed by the Railroad Industrial Access Fund.



Signature

J. E. Cline

Printed Name

President and CEO

Title

August 25, 2015

Date

Request for Taxpayer Identification Number and Certification

Give form to the
 requester. Do not
 send to the IRS.

Print or type See Specific Instructions on page 2.	Name (as shown on your income tax return) Trex Company Inc	
	Business name, if different from above	
	Check appropriate box: <input type="checkbox"/> Individual/Sole proprietor <input checked="" type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Limited liability company. Enter the tax classification (D=disregarded entity, C=corporation, P=partnership) ▶ <input checked="" type="checkbox"/> Exempt payee <input type="checkbox"/> Other (see Instructions) ▶	
	Address (number, street, and apt. or suite no.) 160 Exeter Drive	Requester's name and address (optional)
	City, state, and ZIP code Winchester VA 22603	
List account number(s) here (optional)		

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on Line 1 to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Social security number
or
Employer identification number
54 : 1910453

Note. If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
3. I am a U.S. citizen or other U.S. person (defined below).

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. See the instructions on page 4.

Sign Here	Signature of U.S. person ▶	Date ▶ 1/13/15
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General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Purpose of Form

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

Note. If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

The person who gives Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States is in the following cases:

- The U.S. owner of a disregarded entity and not the entity,

CSX
TRANSPORTATION
Todd Faulkner
Reg. Mgr. Site Design
Regional Development

1610 Forest Ave, Suite 120
Richmond, VA 23288
(804)226-7509
E-mail: Todd_Faulkner@CSX.com

Sept. 1, 2015

Mr. Jeremy Latimer
Manager of Rail Industrial Access Programs
Department of Rail and Public Transportation
600 East Main Street, Suite 2102
Richmond, Virginia 23219

Dear Mr. Latimer

Trex Company, Inc. will apply for the Virginia Industrial Access Railroad Fund for the construction of industrial railroad tracks in Winchester, Virginia. A preliminary sidetrack design has been discussed and when the final drawings are submitted and approved by CSX Transportation, Inc. (CSXT) a sidetrack agreement between Trex Company, Inc. and/or its nominee and CSXT will be executed.

CSXT is aware of the provision of the Code of Virginia, Section 33.1-22.1:1F which provides for common carrier access of tracks constructed or rehabilitated with Industrial Access Railroad Funds. Currently, CSXT will be the only railroad connecting with the track to serve Trex Company, Inc.. However, it is understood that if, in the future, another common carrier constructs trackage to connect with the sidetrack or obtains trackage rights over CSXT's mainline tracks that would enable it to provide service to Trex Company, Inc.'s facility, it will have access to and be entitled to use the sidetrack.

CSXT recommends the use of Industrial Access Railroad funds for the construction of the sidetrack facility to serve Trex Company, Inc. in Winchester, Frederick County, Virginia. CSXT will serve Trex Company, Inc., on this sidetrack once the site plan is approved, constructed, inspected and a sidetrack agreement is duly executed.

Respectfully,



Todd Faulkner
Regional Mgr. Site Design

CONSTRUCTION PLAN FOR TREX COMPANY RAIL EXTENSION FREDERICK COUNTY, VA SHAWNEE MAGISTERIAL DISTRICT

DEVELOPER
TREX COMPANY, INC.
3229 SHAWNEE DRIVE
WINCHESTER, VA 22602
PHONE (540) 542-6852

LAND OWNER
TREX COMPANY, INC.
3229 SHAWNEE DRIVE
WINCHESTER, VA 22602
PHONE (540) 542-6852

ENGINEER
STOWE ENGINEERING, PLC
103 HEATH COURT
WINCHESTER, VA 22655
PHONE (540) 686-7373



SCALE 1" = 2000'

LEGEND

EXISTING FEATURES		PROPOSED FEATURES	
INDEX CONTOUR	--- 780 ---	PROPOSED INDEX CONTOUR	————— 860
COUNTOUR	---	PROPOSED CONTOUR	—————
WATER METER	•	WATER LINE	—W—
WATER LINE	—	WATER METER	•
SANITARY MANHOLE	⊙	SANITARY MANHOLE	●
SANITARY PIPE	—S—	SANITARY PIPE	—S—
FENCE	—X—	SANITARY LATERAL	—S(LAT) PL
GAS LINE	—G—	PAVEMENT	▭
OVERHEAD UTILITIES	—O—	LIMITS OF CONSTRUCTION	—X—X—X—
POLE	⊙		
TREE	⊙		
TREE LINE	~		
GRAVEL	▭		
PAVEMENT	▭		

SHEET INDEX

- 1 TITLE SHEET
- 1A SURROUNDING PROPERTIES, ROADS AND LAND USES
- 2 - 2A TYPICAL SECTIONS AND NOTES
- 3 SITE PLAN
- 4 TRACK PLAN STATION 0+00 - 11+00
- 4A GRADING PLAN STATION 0+00 - 11+00
- 4B & C PH 1 & 2 EROSION & SEDIMENT CONTROL
- 5 TRACK PLAN STATION 11+00 - 21+44.81
- 5A GRADING PLAN STATION 11+00 - 21+44.81
- 5B & C PH 1 & 2 EROSION & SEDIMENT CONTROL
- 6 RAIL PROFILE - TRACK 2
- 7 RAIL PROFILE - TRACKS 3 AND 4
- 8 STORM COMPUTATIONS
- 9 STORM PROFILES
- 10 STORM WATER MANAGEMENT PLAN
- 11 BIORETENTION PLAN AND DETAILS
- 11A BIORETENTION DETAILS
- 12 EROSION & SEDIMENT CONTROL NARRATIVE AND DETAILS
- 13 EROSION AND SEDIMENT CONTROL DETAILS
- 14 DETAILS

UTILITY SERVICE PROVIDERS

WATER AND SEWER FREDERICK CO. SANITATION AUTH.
P.O. BOX 1877
WINCHESTER, VA 22604-8377
540.868.1061

ELECTRICITY RAPPAHANNOCK ELECTRIC COOP
137 KELLEY COURT
FRONT ROYAL, VA 22630
800.552.3904

TELEPHONE VERIZON
404 HILLDALE LANE
WINCHESTER, VA 22602
540.665.3153

PROPERTY INFORMATION	Trex Company, Inc.	
	Rail siding and rail storage	Composite decking manufacturing and rail siding
Proposed Project Description		
Property Identification Number (PIN)	63 A B7	63 A 110
Total Area (AC)	11.83	56.02
Developed Area (Existing AC)	0.00	56.02
Developed Area (after this project AC)	5.49	56.02
Woodlands Disturbed (%)	0.00	0.00
Zoning	M2	M2
Existing Use	Industrial	Industrial
Proposed Use	Industrial	Industrial

STOWE ENGINEERING, PLC
103 Heath Court
Winchester, VA 22602
(540) 686-7373
fax (540) 301-1100

NO.	DATE	DESCRIPTION	BY
1	6/15/15	agency review comments	

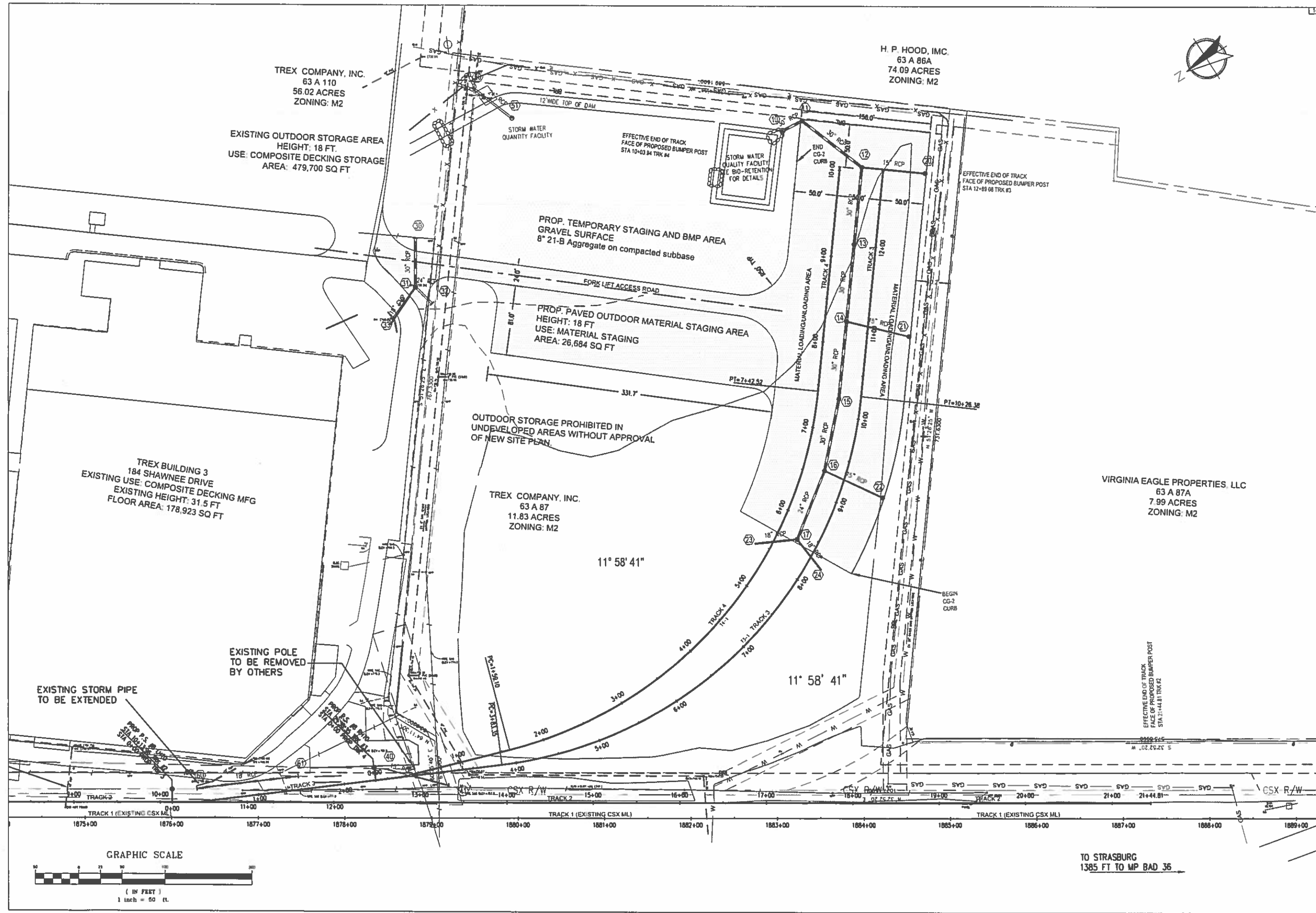
TITLE SHEET
TREX COMPANY, INC.
SHAWNEE MAGISTERIAL DISTRICT
FREDERICK COUNTY, VIRGINIA



FREDERICK CO., VA APPROVAL

APPROVED BY:	DATE: MAR 24, 2014
SIGNATURE:	SCALE: AS SHOWN
DATE:	DESIGNED BY: TS
	DRAWN BY: TS
	CHECKED BY: TS
	PROJECT #: 1109.0
	SHEET 1

PLAN VALID FOR FIVE YEARS FROM APPROVAL DATE.



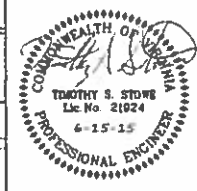
STOWENGINEERING, PLC

103 Heath Court
Winchester, VA 22602
(540) 666-7373
fax (540) 301-1100

NO.	DATE	DESCRIPTION	BY
1	5/15/15	agency review comments	

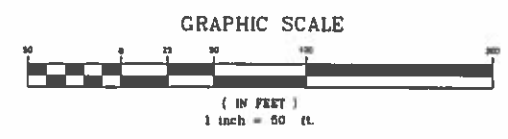
SITE PLAN

TREX COMPANY, INC.
SHAWNEE MAGISTERIAL DISTRICT
FREDERICK COUNTY, VIRGINIA



DATE: MAR 24, 2015
SCALE: AS SHOWN
DESIGNED BY: TS
DRAWN BY: TS
CHECKED BY: TS
PROJECT #: 1109.0
SHEET 3

TO STRASBURG
1385 FT TO MP BAD 36



S



MEMORANDUM

TO: Board of Supervisors
FROM: John A. Bishop AICP, Deputy Director - Transportation *JAB*
RE: Revenue Sharing Application Support
DATE: October 20, 2015

Each year, the County applies for funding through the State Revenue Sharing program. Currently, the maximum application amount is \$10 million. This is dollar for dollar matching program, so an application for \$10 million in funding would be in support of \$20 million in projects. Staff is seeking a resolution of support for a total application amount of \$10 million to support the following projects.

1. \$500,000.00 in balance to complete funds for Route 11 North between Exit 317 and Route 37. Proffer funds to provide the match.
2. \$550,000.00 in balance to complete and right-of-way funds for Renaissance Drive. Expected match from Artillery development.
3. \$8,950,000.00 in minor design and construction funding for Jubal Early Extension and interchange with Route 37. Expected match from Willow Run Development.

The Transportation Committee is considering this item at their October 26, 2015 meeting and staff will update the Board as to their recommendation at the October 28, 2015 Board of Supervisor's meeting.

JAB/pd

Attachment



**RESOLUTION OF SUPPORT
FREDERICK COUNTY BOARD OF SUPERVISORS
“REVENUE SHARING PROGRAM” FOR
FISCAL YEAR 2016 - 2017**

Action:

BOARD OF SUPERVISORS: October 28, 2015 APPROVED DENIED

WHEREAS, the County of Frederick desires to submit an application for an allocation of funds of up to \$10,000,000 through the Virginia Department of Transportation Fiscal Year 2016 - 2017, Revenue Sharing Program; and

WHEREAS, \$10,000,000 of these funds are requested to complete funds for Route 11 North between Exit 317 and Route 37, complete and right-of-way funds for Renaissance Drive and minor design and construction funding for Jubal Early Extension and interchange with Route 37.

NOW, THEREFORE, BE IT RESOLVED THAT, the Frederick County Board of Supervisors hereby supports this application for an allocation of up to \$10,000,000 through the Virginia Department of Transportation “Revenue Sharing Program”.

ADOPTED, this 28th day of October 2015.

This resolution was approved 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